



# MASTER OF ARTS MASS COMMUNICATION AND JOURNALISM CENTRE FOR OPEN AND DISTANCE LEARNING (CODL)



## MMC 201: MEDIA AND LAW AND ETHICS BLOCK II

CENTRE FOR OPEN AND DISTANCE LEARNING  
TEZPUR UNIVERSITY (A CENTRAL UNIVERSITY)  
TEZPUR, ASSAM - 784028  
INDIA

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# **MMC 201: MEDIA LAW AND ETHICS**



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**TEZPUR UNIVERSITY (A CENTRAL UNIVERSITY)**  
**TEZPUR, ASSAM-784028**  
**INDIA**

## **MMC-201: MEDIA LAW AND ETHICS**

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Published by Director on behalf of the Centre for Open and Distance Learning, Tezpur University, Assam.

# BLOCK II

## MODULE III: MEDIA ETHICS

UNIT 9: ETHICS AND JOURNALISTIC PROFESSIONALS

UNIT 10: MEDIA AND SOCIAL RESPONSIBILITY

UNIT 11: RIGHTS AND DUTIES OF MEDIA PROFESSIONALS

## MODULE IV: ISSUES IN REPORTING

UNIT 12: MEDIA AND CONFLICT REPORTING

UNIT 13: CYBER LAWS

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## **COURSE INTRODUCTION**

This course, Media Law and Ethics (MMC 201) addresses the different aspects of judicial systems particularly in relation to Indian media. The basic objective of this course is to discuss the ethical issues in journalism in context to existing laws and policies. This course includes topics like legal system in India, media laws, media ethics, and issues in reporting, etc. This course is divided into two Blocks and each block includes of two modules.

The **Block I** includes **Module I** and **Module II** which deal with the topics of Legal system in India and Media Laws respectively. On the other hand the **Block II** consists of **Module III** and **Module IV** which further comprise topics such as Media Ethics and Issues in Reporting respectively.

The **Module I** of this course include four units based on the topic named as **Legal system in India**. This module introduces to legal system and gives an idea about the rights , rules and laws, judicial system in relation to media and constitutional obligation, etc. discussed within these four units.

The **Module II**, is named as **Media Laws** which contains five units including Laws Related to Media Profession (Unit 5) , Public Interest Litigation and Defamation (Unit 6), Media Laws relating to Women & Children (Unit 7) and Freedom and accountability of the Media (Unit 8) . This module is all about teaching the students to understand the different existing laws in relation to media for practicing journalistic duties and responsibilities.

Under **Block II** , the **Module III** and **Module IV** include **Media Ethics** and **Issues in Reporting** respectively. The third module discusses about ethics in journalism , social responsibilities of the journalists, and rights and duties of the journalists. On the other hand **Module IV** consists of different issues related to journalism such as Media and Conflict Reporting (Unit 12) , Cyber Laws (Unit 13) and Intellectual Property Rights ( Unit 14). From these units you will know the exiting provisions to practice ethics in the media profession in order to maintain social equilibrium.

## **MODULE III: MEDIA ETHICS**

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## **UNIT 9: ETHICS AND JOURNALISTIC PROFESSIONALS**

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### **UNIT STRUCTURE**

9.1. Introduction

9.2. Objectives

9.3. Introduction to Ethics

9.4. Press Council's norms of journalistic conduct

9.5. Air news policy for broadcast media

9.6. Broadcasting Code

9.7. Summing up

9.8. Questions

9.9. Recommended Readings

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### **9.1. INTRODUCTION**

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In this unit, we shall discuss the concept of ethics. We shall also discuss some of the code of ethics prescribed for media professionals. We are also going to discuss about the Norms of Journalistic Conduct of the Press Council and the All India Radio News Policy for Broadcast Media. The unit also introduces you to the various Broadcasting Codes.

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### **9.2. OBJECTIVES**

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The objective of this unit is as follows:

- To understand what is ethics
- To know about the Press Council Norms of Journalistic Conduct
- To know about AIR News Policy for Broadcast Media
- To know about the Broadcasting Code

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### 9.3. INTRODUCTION TO ETHICS

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Ethics is a code of moral standards of conduct for what is “good” and “right” as opposed to what is “bad” or “wrong”. It is the moral rules of conduct that guide one’s decisions.

Media ethics is the subdivision of applied ethics dealing with the particular proposition of ethics and excellence of media, which count the transmit media, film, playhouse, the arts, print media and the internet. Varying from war journalism to Benetton advertising the field covers numerous diversified and extremely disputable subject matters. The law seeks to stabilize competing aims like ethics. In most countries, there are some laws stopping the media from saying definite things and from doing definite things when this would excessively violate the rights of another person. For example, libel and slander are the two types of defamation, which is a tort. When a person’s good name is unfairly stammered slander occurs. When a person’s reputation or name is attracted in the written form it constitutes libel. A crucial area of dispute is between the general people ‘right to know’ or the freedom of the press and the right to privacy of an individual. This confrontation often occurs concerning reporting into the personal and individual lives of the public figures. There are limitations in most of the countries on the publishing of indecent materials, especially where it portray nudity, violation of religious objects or symbols (profanity), brutal or sensual.

One of the highest well-defined branches of media ethics is the ethics of journalism. The Society of Professional Journalists’ code of ethics has four main tenants: a) Seek truth and report it, b) Minimize harm, c) Act independently and d) Be accountable and transparent. The subject of ethics in journalism has to deal with a variety of things like manipulation of content (by governments, corporate or by journalists themselves or their organizations), distinction between public interest and privacy of individuals or confidentiality (for guarding the rights of individuals or securing national

interests), and conflict with the law of the land regarding protection of news sources.

Journalists have to act independently not only for the sake of maintaining ethical standards but for zealously guarding their freedom and their constitutional rights. Journalists everywhere play a vital role in providing the public with knowledge and understanding. To the matters or issues such as fairness, correctness, accuracy and responsibility the journalist consequently remain sensitive. Throughout the different phase of their investigation, the reporters continually need to ask themselves ethical questions and they must be prepared to explain their decisions to the editors, their colleagues and the general public. Usually, the ethical way of achieving tasks is tougher, but all reporters should be willing to confront such a challenge if they want to protect the sanctity of their media.

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#### **9.4. PRESS COUNCIL'S NORMS OF JOURNALISTIC CONDUCT**

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To serve the people with news, statements, views and information on the issues of the interest of the general public is the basic objective of journalism. The comments, news, information and views should be in a just and fair, impartial, exact, accurate, correct and in a proper manner. Towards this end, the press is awaited to perform itself in keeping with definite norms of professionalism which are identified universally. The norms listed below and other particular recommendations added subsequently when applied with the required discernment and adaptation to the different situation of each case will help the journalist to self-regulate his or her conduct.

- i. Exactness and Just - The publishing of imprecise, incorrect, groundless, deceptive or twisted materials shall be deliberately avoided by the press. Both sides of the stories or the issue or the subject should be reported. Unjustified hearsay and conjecture should not be attributed to reality.

- ii. Verification before pre-publishing - When a report or an article of the public interest is receipt and benefit containing imputations or comments against a citizen, the editor should check with due care and attention its factual accuracy - apart from other authentic sources with the person or the organization concerned to elicit his/her or its version, comments or reaction and publish the same with due amendments in the report where necessary. In the event of lack or absence of a response, a footnote to that effect should be appended to the report.
- iii. Awareness against defamatory writings - Anything which is manifestly defamatory or libellous against any individual organization should not be published by a newspaper unless, after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.
- iv. Limitation of the right of the Press to remark on the acts, behaviour and performance of public officials - So far as the government, local authority and other organs/institutions exercising governmental power are concerned, they cannot maintain a suit for damages for acts and conduct relevant to the discharge of their official duties unless the official establishes that the publication was made with reckless disregard for the truth. However, the judiciary which is protected by the power to punish for contempt of court and the parliament and legislatures, protected as their privileges are by Articles 105 and 194 respectively, of the constitution of India, represent an exception to this rule.
- v. Interviews recording and conversation on phone - Anyone's conversation cannot be tape-recorded by the press 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.

- vi. Guessing, comment and fact - An opinion or conclusion cannot be formed on the basis of incomplete information. A newspaper should not pass on or raise, conjecture, suspicion or comment as a declaration of reality or actuality. All these classifications should be distinctly emphatically expressed.
- vii. Newspapers to forgo suggestive guilt - By association, the newspapers should forgo suggestive guilt. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime when they are totally innocent and a reference to them is not relevant to the matter reported.
- viii. Legislature's Proceedings Reporting
- ix. a) Awareness in criticizing judiciary actions b) Reporting News pertaining to the proceedings of the court.
- x. Rectification - The newspaper should publish the rectification punctually when any genuine mistake or error is noticed or established, the newspaper with required eminence and with apology or expression of regrets in a case of significant failure.
- xi. Right of Respond - With required importance and punctually the newspaper should publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/clarification or rejoinder sent to the

editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall be at liberty to add separately at the end a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.

- xii. Letters to the editor - When an editor, is determined to open his columns for letters on a controversial subject, he is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.
- xiii. Vulgar and indecency to be denied - Anything which is obscene, vulgar or offensive to public good taste shall not be published by a journalist or a newspaper. Newspapers shall not display advertisements which are vulgar or which, through the depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.
- xiv. Inspiring and Glorification of social wrong to be denied - Newspapers shall not permit or let their columns to be exploited for writings which inspires or glorify social wrong like *Sati Pratha* or obtrusive or conspicuous celebrations.



- xv. Brutality cannot be glorified - The presenting of the acts of violence, armed robberies and terrorist activities by a journalist or a newspaper should be avoided which in a manner glorifies the perpetrators' acts, declarations or death in the eyes of the public.
- xvi. Covering of confrontation and communal disputes - News, views or comments relating to communal or religious disputes/clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the state. Giving community-wise figures of the victims of communal riot, or writing about the incident in a style which is likely to inflame passions, aggravate the tension, or accentuate the strained relations between the different groups or section of people or religious groups concerned, or which has a possibility to aggravate the difficulty, shall be avoided.
- xvii. The headings should not be astonishing and provoking and must explain the printed matter under them - In general and particularly in the context of communal disputes or clashes -
  - a. Provocative and sensational headlines are to be avoided; b. Headings must reflect and justify the matter printed under them; c. Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotation marks.

- xviii. References of the Caste, religion or community - The recognition of the caste or class of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste. Newspapers are advised against the use of word 'scheduled caste' or 'Harijan' which has been objected to by some persons.
- xix. Paramount national interest - As a matter of self-regulation, the newspapers shall exercise due restraint and caution in presenting any news, comment or information which is likely to jeopardize, endanger or harm the paramount interests of the state and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the constitution of India.
- xx. Misuse of diplomatic immunity may be exposed by newspapers - Every possible effort shall be made by the media to build bridges of co-operation, friendly relations and better understanding between India and foreign states. At the same time, it is the duty of a newspaper to expose any misuse or undue advantage of the diplomatic immunities.
- xxi. Standards and limitation of Investigative journalism - There are three fundamental elements of Investigative reporting a. It has to be the work of the reporter, not of others he is reporting; b. The subject should be of public importance for the reader to know; c. An attempt is being made to hide the truth from the people.
- xxii. Trust to be admired - If the information is received from a confidential source, the confidence should be respected. The

journalist cannot be compelled by the Press Council to disclose such source, but it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the council by the journalist who considers it necessary to repel effectively a charge against him/her.

- xxiii. Insensitive commercialism to be avoided by the newspapers
  - While newspapers are authorized to safeguard, enhance, upgrade or strengthen their financial viability by all lawful ways, the press shall not engage in insensitive commercialism or improper cut-throat commercial competition with their competitor in a manner repulsive to highest standards of professionalism and good taste.
- xxiv. Plagiarism - Utilizing or passing off the writings or ideas of another as one's own, without attributing the origin, is a crime against the ethics of journalism.
- xxv.** Advertisements - Journalistic responsibility demands that advertisements must be distinctly distinguishable from editorial matters carried in the newspaper.

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## **9.5. AIR NEWS POLICY FOR BROADCAST MEDIA**

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The Ministry of Information and Broadcasting to AIR and DD issued the news policy for the broadcast media on 4<sup>th</sup> May 1992.

- News and views should be clearly distinguished. There should be no editing of news; it should be real, accurate, objective and truthful.
- News values should be the basis or the point of selecting news.
- The presentation of news should be according to the audience and the medium.

- Try must be made in order to give the background of the news.
- AIR and Doordarshan should not broadcast any news on the point of its being published in a newspaper or magazines. There should be the excessive phase of authority and responsibility in broadcast news. They should evolve their own origin for the verification of occurrence and happenings.
- AIR and Doordarshan need to peak news on evolution and growth, its relevance, its achievement and difficulty. Other than that AIR & DD should also prompt and drive the people to take part participates in progress action.
- AIR and Doordarshan cannot be like that of newspaper due to the restrictions of time.
- The news concerned to the execution of the government programmes should get the required coverage.
- The programmes related to the current affairs should be to inform the people on diverse features of social, economic political and cultural growth. The treatment of the subjects should be inclusive forecasting variety of viewpoints. It should point at providing sufficient background for a real comprehension and explanation of issues and occurrences' and happenings. Internal evaluation of news and current affairs programmes after their transmitting should be their daily exercise.
- The way of language of transmit medium should be ear pleasant and not eye-pleasant like the print media.
- AIR and Doordarshan should attempt to keep stability while presenting the viewpoints of both the sides in case of politically debated news. If a variation of viewpoints cannot be forecasted in the same bulletin, the stability should be attained within an equitable time period.
- News of developing countries, mainly from that of our neighbours should get the prime concern in case of the international news.

- AIR and Doordarshan should direct at generating an informed public opinion on international events and developments. While preparing news, national interest must be always given importance and priority.
- It is a must for the daily examination of the language of the bulletins. There has to be a much substantial prominence on specialization and training of the news personnel inside AIR and Doordarshan.
- The professional power and the ability of the people who run the news and current affairs programmes are essential and foremost because they have an extremely considerable part in the execution of these policies and norms. An expert in the field must have had training in the working on news. He should be skilful to choose the good things and write the stories again to fit the medium. Professional training and admiration and respect of the role of the media in a democratic society will give him the trust and belief to hold the decisions which are just and fair.

### ASSESS YOUR PROGRESS

1. According to you in the present scenario how effective is the press council of India. Give Opinions. \_\_\_\_\_  
\_\_\_\_\_
2. Discuss the various issues and challenges of broadcasting media. \_\_\_\_\_  
\_\_\_\_\_

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## 9.6. BROADCASTING CODE

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The broadcasting code of ethics stipulated by the Government of India forbade as listed below:

- I. Censure or condemnation of friendly countries;
- II. Strike or ambush of the communities or religious;
- III. Anything which is indecent or libellous;

- IV. Motivating to crime or anything which is opposed to the continuance or preservation of law and order;
- V. Anything which amounts to the disrespect to the court;
- VI. Attacking the political party by the name;
- VII. Vilification against the nobility of the president, Governorship and the Judiciary;
- VIII. Anything which affects the probity of the nation and condemnation by the name of any person;
- IX. Anything which shows disregard for the Constitution or recommending a change in the Constitution by brutality; but recommending changes in a constitutional way cannot be excluded.

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### **9.7. SUMMING UP**

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- Ethics is the moral rules of conduct that guide one's decisions. Journalists have to act independently not only for the sake of maintaining ethical standards but for zealously guarding their freedom and their constitutional rights.
- The Ministry of Information and Broadcasting to AIR and DD issued the news policy for the broadcast media on 4<sup>th</sup> May 1992. It set the various regulations to be followed by the AIR and DD while broadcasting.

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### **9.8. P QUESTIONS**

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1. Discuss the norms of journalistic conduct for the Press Council.
2. Briefly discuss the News Policy for broadcast media.
3. Write short notes on:
  - a) Broadcasting Codes
  - b) Ethics

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### **9.9.RECOMMENDED READING**

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- Handbook of Journalism and Mass Communication by Vir Bala Aggarwal & V.S. Gupta

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## **UNIT 10: MEDIA AND SOCIAL RESPONSIBILITY**

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### **UNIT STRUCTURE**

10.1. Introduction

10.2. Objectives

10.3. Media and pressure groups

10.3.1. Major pressure groups in India

10.3.2. Functions of pressure groups

10.3.3. Methods or techniques used by pressure group to achieve their goals

10.4. The Prasar Bharati Act, 1990

10.4.1. Objectives of the corporation

10.5. The broadcasting code governing AIR

10.5.1. AIR Broadcast code

10.5.2. Code of commercial broadcasting

10.5.3. News policy for broadcast media

10.6. Summing up

10.7. Questions

10.8. Recommended readings



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## **10.1. INTRODUCTION**

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Media draws its basic nutrients from the society to produce its contents. To survive, the media gets its audience from society. Society uses media for educating and informing its individuals both need a harmonious interrelation for their co-existence. In this unit, we will discuss about the media and pressure, the Prasar Bharati act and the broadcasting code governing AIR. These codes are very important for the smooth running of the media and society.

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## **10.2. OBJECTIVES**

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Listed below are the objectives of this unit:

- Understanding Media and Pressure Groups
- Understand the Prasar Bharati Act, 1990
- To know about the Broadcasting Code Governing AIR

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## **10.3. MEDIA AND PRESSURE GROUPS**

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Pressure groups are forms of organizations, which exert pressure on the political or administrative system of a country to extract benefits out of it and to advance their own interests. In the present context, these forms of organizations are broadly referred to as Civil Society Organizations (CSO). The term 'pressure group' refers to any interest group whose members because of their shared common attributes make claims on the other groups and on the political process. They pursue their interests by organizing themselves and by influencing the governmental policies. Their aim is to see that laws or government's actions are favorable to their interests. Pressure groups have become a very important part of an administrative system.

In revealing the different occurrence or incidents of politics and the general people the role of mass media is very essential and an indispensable. The mass media such as the television, radio, films and the newspaper are very

strong means of changing a society in a country like India. These disclose all the activities and action of the government and act as pressure groups for the interest of the general people. Through the mass media, the common people can place their opinions and viewpoint in particular circumstances and they also condemn and censure the government. Moreover, mass media assist to create and initiate a common stage or a platform which attempt to give attention on the key and basic requirement and issues in the society. So the role of media is as much significant in affecting the activities of the political parties as that of the other pressure groups which are working to endeavour and aspire certain determined aims and objectives. Media proceed as a representative of change concentrating on the evolution and the growth of the society. Consequently, the role of media in coercing government given its nature of pressure group is of indispensable significance.

#### **10.3.1. MAJOR PRESSURE GROUPS IN INDIA**

- Business Groups – FICCI, CII, ASSOCHAM, AIMO, FAIFDA etc. (institutional groups).
- Trade Unions – AITUC, INTUC, HMS, CITU, BMS etc.
- Agrarian Groups - All India Kisan Sabha, Bharatiya Kisan Union etc.
- Student's Organisations - ABVP, AISF, NSUI etc.
- Religious Groups – RSS, VHP, Bajrang Dal, Jamaat-e-Islami etc.
- Caste Groups – Harijan Sevak Sangh, Nadar Caste Association etc

- Linguistic Groups – Tamil Sangh, Andhra Maha Sabha etc
- Tribal Groups – NSCN, TNU, United Mizo federal org, Tribal League of Assam etc.
- Professional Groups – IMA, BCI, IFWJ, AIFUCT etc
- Ideology based Groups – Narmada Bachao Andolan, Chipko Movement, Women Rights Organisation, India Against Corruption etc.
- Anomic Groups – ULFA, Maoists, JKLF, All-India Sikh Student's Federation etc.

### **10.3.2. FUNCTIONS OF THE PRESSURE GROUPS**

- The Pressure Groups execute the task of teaching the general people about particular and determine subject or issues.
- Assemble and induce the opinions of the citizens on important issues and encourage discourse and discussion.
- Autonomous involvement, diversity and pluralism can be increased and strengthen by the pressure groups.
- The issues which may not be meeting by the different political parties due to their reactivity can be articulate and lifted by the groups.
- For those who are searching for rectify of injustice the pressure groups can provide and extend a significant ingress point.
- The pressure groups represent the one who cannot represent themselves i.e. the minorities.
- In executing changes to the policies of the public the groups play a very important role.

- Inside the system of politics, the groups uplift a decentralization of the powers.
- The ability, capacity and the potential of the executives are examines a dispassionate by the pressure groups.

### **10.3.3. METHODS OR TECHNIQUES USED BY PRESSURE GROUPS TO ACHIEVE THEIR GOALS**

Pressure groups organize strikes, dharnas, non-cooperation, public demonstrations, signature campaign and other modes of mass mobilization. Some of the techniques used by pressure groups are as follows:

- Lobbying government and parliament: Persuading public officers to adopt and enforce policies of their interest.
- Proceeding throughout a political party: techniques engaged nearly and solely by the inside groups. Pressure groups are more probable to place extensive pressure on the opposition parties as numerous groups lobby government.
- Legal Action: The Judicial branch of government can also be used by advocacy groups to exert influence, especially in states that have codified constitutions (such as the United States).
- Direct Action: Civil Disobedience
- Modern Methods: Using Social Media for mass mobilization

The pressure groups working for human causes like peace, environment protection and human rights etc. adopt a method of building enlightened public opinion and creating a good sense of compassion and reasoning. They work through organizing occasional national campaigns and international solidarity activities. The movement against AIDS, Terrorism, nuclear bomb etc. is the examples of such campaigns.

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#### **10.4. THE PRASAR BHARATI ACT, 1990**

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Providing independence to the electronic media is the principal aim of the Prasar Bharati Act. The electronic media includes the All India Radio and Doordarshan which was under the control and authority of the government till the passing of the Act. On September 12<sup>th</sup>, 1990 the Act received the acceptance of the President of India. The Act applies to entire India except for the State of Jammu and Kashmir.

The corporation under the Sec. 3 (2) of the Act is a corporate body by the name above-stated, having a common seal and everlasting progression or succession with the capability to obtain, hold and discard of property, which can be either immovable or movable property, and to agreement and shall be sue or be sued by the said name.

Sec. 3 (3) of the Act states that the head quarters of the corporation shall be at New Delhi. The corporation may also establish offices, stations or kendras at other places in India and, with the prior permission of the Central Government, outside India.

Under the Sec. 3 (5) of the Act, it is mentioned that the board shall consist of a Chairman, one Member of Executive, one Finance Member, one Member from Personnel, six Members who are part-time, Director General of Akashvani and Doordarshan (ex-officio), Union Ministry of Information and Broadcasting's one representatives to be recommended by that Ministry, and two employees representative of the corporation. Of these two, one shall be nominated by the staff of engineering from among them and the other one must be nominated by the other employees from themselves.

This Act also empowers the Corporation to establish certain committees as and when required for management of the corporation. On the suggestion of a three-member committee excluding the ex-officio members the President of India appoints the members, under Sec. 4 (1) of the Act. The President shall also have the power to remove the members in case such member is

adjudged insolvent, is of unsound mind, hold the office of profit or is involved in an offence relating to moral turpitude. The board shall meet at least six times in a year. The Chairman shall preside over all board meetings.

Sec. 5 states that the executive member shall act as the chief executive officer of the corporation who shall (subject to the control and supervision of the Board) exercise such powers and discharge such functions of the Board as it delegates to him/her.

The chairman shall be a part-time member and shall hold the office for six years term starting from the date on which s/he enters upon his office, under Sec. 6 (1). Sec. 6 (2) states that the executive member, member of Finance and member of Personnel shall be whole-time members and all such members shall hold the office for six years term from the date of entering the office or until he attains sixty-two years of age.

#### **10.4.1. OBJECTIVES OF THE CORPORATION**

The Corporation under Sec. 12 (2) of the Prasar Bharati Act of 1990 is established with certain objectives, which are mention below:

- (a) Supporting the values enhanced by the Indian Constitution and the unity and probity of the country;
- (b) On all the matters of the interest of the public, national or international the general people's right to be informed generously, truthfully and objectively should be protected and defended and consequently giving a just, equitable and objective flow of the information contrasting perspective without prescribing any viewpoints or creed of its own;
- (c) Particular attention to be rewarded to the ground of education and advancing of literacy, agriculture, the growth of the rural, environment, family well-being and the health of the people, science and technology;
- (d) Sufficient coverage should be provided to the various languages and the cultures of the diverse regions of the country by transmitting suitable programmes;

- (e) To motivate a healthy competition and the spirit of sportsmanship sports and games should be provide sufficient coverage;
- (f) Holding in view the extra requirement of the youth proper and suitable programmes need to be provided;
- (g) Giving extra consciousness and attention to the raising of women by notifying and stimulating the national awareness in regard to the difficulty, issues and the status of the women;
- (h) Advancing the well-being of the weaker class of the society by encouraging social justice and fighting misuse, ill-treatment, imbalance, inequity and such other wrongdoing as untouchability.
- (i) Advancing the well-being and protecting the rights of the working classes of the people.
- (j) Helping the rural and the weak class of the people and those who inhabit the frontier regions, backward or distant areas;
- (k) Holding the particular needs of the tribal communities and the minorities appropriate programmes need to be broadcasted;
- (l) In order to safeguard the interest of the children, one who cannot see the old, the handicapped and the other unsafe and endangered sections of the people remarkable and particular steps should be apprehended.
- (m) Encouraging national integration by transmitting in a way that makes communication smoother in the Indian languages, and enabling the distribution issuing of regional telecasting services in every State in the State languages;
- (n) Giving complete telecast presentation through the option of proper technology and the best utilization of the broadcast prevalence available and safeguarding higher standard acceptance;
- (o) In order ensuring that radio and television telecast technology are always updated research and development activity are to be encouraged; and
- (p) Enlarging telecasting facilities by initiating extra channels of communication at different levels.

The act also provides for the establishment of Parliamentary Committee which exists of twenty-two members out of this fifteen shall represent House of people. The committee is established with a purpose to supervise the Corporation function in furtherance of the provisions of the Act. Apart from this, there shall be a broadcasting council which exists of the President of India and other members who shall receive complaints pertaining to the Corporation.

Since the day of enforcement of the Act, all the property, debts, liabilities, suits, money etc. of Corporation vested with Central Government shall be transferred to the Corporation. In order to enable the corporation to run smoothly, the government shall reserve funds for the corporation. The corporation shall possess its own individual fund from which its expenditures shall be taken care of. The corporation shall prepare its annual financial statement and shall maintain proper accounts. Comptroller General of India audits the accounts of the corporation.

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## **10.5. THE BROADCASTING CODE GOVERNING AIR**

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Since its establishment All India Radio as one of India's national broadcaster and also as the leading public service broadcaster has been helping to educate, notify, inform and entertain the general people, sincerely living up to its motto—Bahujan Hitayaa: Bahujan Sukhaya. One of the huge telecasting corporation of the world in terms of the number of languages of telecasted, the range of socio-economic and cultural variety it performs, AIR's home service contain 420 stations in the present time which are situated in different parts of the country. In 23 languages and 146 dialects, all India Radio initiate programming.

### **10.5.1. AIR BROADCAST CODE**

The broadcasting code of ethics stipulated by the Government of India forbade as listed below:

- I. Censure or condemnation of friendly countries;
- II. Strike or ambush of the communities or religious;



- III. Anything which is indecent or libellous;
- IV. Motivating to crime or anything which is opposed to the continuance or preservation of law and order;
- V. Anything which amounts to the disrespect to the court;
- VI. Attacking the political party by the name;
- VII. Vilification against the nobility of the president, Governorship and the Judiciary;
- VIII. Anything which affects the probity of the nation and condemnation by the name of any person;
- IX. Anything which shows disregard for the Constitution or recommending a change in the Constitution by brutality; but recommending changes in a constitutional way cannot be excluded.

To interpret whether the code is breached or contravene or not the right person authorized to do exercise this is the Station Director. The Station Director has the immediate ability to decline the broadcast if the transmitter does not take the point of views of the Station Director.

The situation will be mentioned to the Minister of Information and Broadcasting if in case there is undecided differentiation of point of views between the Minister of a State Government and the Station Director, regarding the explanations of the code. Minister of Information and Broadcasting will determine ultimately whether or not there is required of any alter in the broadcasting to obey and follow it to the code.

#### **10.5.2. CODE OF COMMERCIAL BROADCASTING**

The common regulations of conduct in advertising, discussing the procedures for the implementations of the code, are spells out by the code for commercial advertising; it gives an extract from the code of ethics issued by the Advertising Council of India and includes the codes of quality in relation to the advertisement of treatment and the medicines. It also highlights the quality of practice for Radio and Television advertising and for advertising agencies.

Listed below is the important point of the code:

- Advertising should not affront against the decorum, dignity, ethics, and the religious sensitivity of the people. Advertising should be produced in conferring with the law and order of the country.
- No advertisement should be permitted:
  - which mocks at any race, class, colour, religion or citizenship excluding for the particular motive of productive exaggeration in fighting bias
  - which is against any of the object, concept, or provisions of the Constitution
  - which motivates people to violent or to motivate disorder, crime or contravention of the law
  - which place misconduct as desirable or embellish details of violence or initiation thereof
  - which is probable to adverse influence friendly relations with foreign states
  - which use national emblems, the Constitution, or the person or character of national leaders or State dignitaries.
  - On cigarettes and tobacco brands.

### **10.5.3. NEWS POLICY FOR BROADCAST MEDIA**

Radio and Television both play a significant character in the formation of the views of the general people. So, the Indian Government solemnly perceived that there should be distinct a well-defined news policy for broadcast media.

The Ministry of Information and Broadcasting provided the listed below news policy for the broadcast media to the All India Radio and the Doordarshan:

- News and views should be clearly distinguished. There should be no editing of news; it should be real, accurate, objective and truthful.
- News value should be the basis or the point of selecting news.
- The presentation of news should be according to the audience and the medium.
- Try must be made in order to give the background of the news.

- AIR and Doordarshan should not broadcast any news on the point of its being published in a newspaper or magazines. There should be the excessive phase of authority and responsibility in broadcast news. They should evolve their own origin for the verification of occurrence and happenings.
- AIR and Doordarshan need to peak news on evolution and growth, its relevance, its achievement and difficulty. Other than that AIR & DD should also prompt and drive the people to take part participates in progress action.
- AIR and Doordarshan cannot be like that of newspaper due to the restrictions of time.
- The news concerned to the execution of the government programmes should get the required coverage.
- The programmes related to the current affairs should be to inform the people on diverse features of social, economic political and cultural growth. The treatment of the subjects should be inclusive forecasting variety of viewpoints. It should point at providing sufficient background for a real comprehension and explanation of issues and occurrences' and happenings. Internal evaluation of the news and the current affairs programmes after their transmit should be their daily exercise.
- The way of language of transmit medium should be ear pleasant and not eye-pleasant like the print media.
- AIR and Doordarshan should attempt to keep stability while presenting the viewpoints of both the sides in case of politically debated news. If a variation of viewpoints cannot be forecasted in the same bulletin, the stability should be attained within an equitable time period.
- News of developing countries, mainly from that of our neighbors should get the prime concern in case of the international news.
- AIR and Doordarshan should direct at generating an informed public opinion on international events and developments. While preparing news, national interest must be always given importance and priority.

- It is a must for the daily examination of the language of the bulletins. There has to be a much substantial prominence on specialization and training of the news personnel inside AIR and Doordarshan.
- The professional power and the ability of the people who run the news and current affairs programmes are essential and foremost because they have an extremely considerable part in the execution of these policies and norms. An expert in the field must have had training in the working on news. He should be skilful to choose the good things and write the stories again to fit the medium. Professional training and admiration and respect of the role of the media in a democratic society will give him the trust and belief to hold the decisions which are just and fair.

Identifying the enormous potential of both the radio and the television for both good and the evil dignified responsibilities are set upon the broadcasters.

- To safeguard and protect the equitable presentation of the news and just and impartial remark;
- To encourage the improvement of culture and the education;
- In all the programs dignity and decency should be raised and higher quality and excellence should be maintained;
- To issue programmes for the young which by diversity and contended will implant the concept of proficient citizenship;
- To impart communal harmony, religious forbearance and international comprehension.
- To serve disputable public matter in an unbiased and impassive way;
- To have regards to human virtues and dignity.

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## 10.6. SUMMING UP

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- A pressure group is the interest groups which try to secure their interests by influencing the formulation and administration of public policy. Pressure groups are also called Advocacy groups, lobby

groups, campaign groups, interest groups, or special interest groups. Pressure groups use various forms of advocacy in order to influence public opinion and/or policy. Pressure group promotes national and particular interests constitute a link of communication between citizen and the government. They provide necessary information and keep the nation politically alive.

- The Prasar Bharti Act was an important step towards liberalizing media. The Act works on the principles of checks and balance, on one hand it gives enormous powers to the corporation but also keeps a check to prevent it from turning into an autocratic body.
- AIR being one of the huge telecasting corporation of the world in terms of the number of languages of telecasted, the range of socio-economic and cultural variety it performs, AIR's home service contain 420 stations in the present time which are situated in different parts of the country. In 23 languages and 146 dialects, all India Radio initiate programming.

#### **ASSESS YOUR PROGRESS**

1. Discuss the duties and the responsibilities of the pressure group within a democracy. \_\_\_\_\_

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#### **10.7. PROBABLE QUESTIONS**

1. Discuss media as a pressure group.
2. What are the powers and function of the Prasar Bharati (Corporation of India) Act, 1990
3. Briefly discuss the News Policy of the Radio and the Television.

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#### **10.8. RECOMMENDED READINGS**

- The Indian Administrative year book, Book 1990 by Shriram Maheshwari

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## **UNIT 11- RIGHTS AND DUTIES OF MEDIA PROFESSIONAL**

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### **UNIT STRUCTURE**

11.1. Introduction

11.2. Objectives

11.3. Politics and elections

11.4. Investigative reporting

11.4.1. Sources of Investigative Reporting

11.4.2. The elements of Investigative Reporting

11.4.3. Importance of Investigative Reporting

11.4.4. Limitations of Investigative Reporting

11.5. Court Reporting

11.5.1. Exceptions to Court Reporting or reporting Judicial Proceedings

11.5.2. Ethical responsibilities for every court reporter

11.6. Summing Up

11.7. Question

11.8. Recommended Readings

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### **11.1. INTRODUCTION**

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The unit introduces you to the basic concepts of the rights and duties of media professionals. The purpose of this unit is to help understand the students on the idea of politics and election, investigative reporting and court reporting.

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## 11.2. OBJECTIVES

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The objective of this unit is as follows:

- To know about politics and elections
- to know about investigative reporting
- to know about court reporting

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## 11.3. POLITICS AND ELECTION

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The word Politics is derived from the Greek word “Polis” which means ‘affairs of the cities’. Politics is the most important activity of organized life in society. **Indian Politics** refers to the activities of the political parties associated with the governance and administration of India at every level, viz. national, state, and district and panchayat level. A Politician is a person who is professionally involved in politics. Usually, he has good influence over the general people.

A political party is a group of like-minded people who hold similar views on political issues of the country. It is an organized group seeking to gain power through democratic means. In pursuit of this objective, political parties field their candidates in the election held for the public offices of the country. A political party can only function when all its members are united on basic issues and policy matters. The political party should follow some rules and regulations and maintain a certain discipline. It should work through democratic means to attain its objective.

A political party is recognized as a national party if it is already recognized in four or more states. Besides this, the candidates set up by a party should secure 6% of the total valid votes. Article 19 of the Indian Constitution guaranteed the fundamental rights to form associations, which safeguard the political parties from extreme harassment.

### 11.3.1. ELECTION PROCESS IN INDIA

The election is the foundation stone of democracy. With a parliamentary system of the formation, India is a constitutional democracy which holds regular, just and free elections. The composition of the government is determined by these elections, the membership of the two houses of the parliament, the state and union territory legislative assemblies, and the Presidency and vice-presidency. Thus, elections help to solve the problem of succession in leadership and contribute to the continuation of democracy.

**Election Process:** Announcement of Elections, Nomination Phase, Scrutiny of Nominations, Withdrawal of Candidates, campaigning, polling and counting.

The Election Commission of India: Constitution of India in Art 324 provides for an Election Commissioner and other Election commissioners, who are decided by the president. The preeminent election commissioner functions as the chairperson of the commission. Art 325 provides for the creation of a single election roll for entire country. At the National level, there is the Election Commission of India. At the State level, there is the State Election Commission to conduct the electoral process of India. Accountable for conducting all the electoral processes in the Republic of India the Election Commission of India is an independent and constitutionally accepted federal authority. At uniform intervals and as per the idea reinforced in the Indian Constitution fair, just and equitable elections are held in India beneath the direction and administration of the Commission.

The Election Commission has the authority of leadership, direction and command over of all elections to the Parliament of India and the state legislatures and of elections to the office of the President of India and the Vice-President of India. According to the constitutional provisions, election is controlled and managed by the laws formed by the parliament. The Representation of the People Act, 1950, is the vital law which is mostly concern with the arrangement and revision of the electoral rolls. The Act deals in details with all the features of the conduct of the elections and the



disputation of post elections. According to the Supreme Court of India the Election Commission under the Constitution of India has the excessive powers to act in a suitable way where the enacted laws make inadequate provisions to deal with a specific situation in the conduct of election.

For Lok Sabha elections the country is divided into 543 constituencies chosen by direct election President can nominate 2 members from the Anglo-Indian community. Each constituency has roughly equal population living within it. The member elected from each constituency is called 'Member of Parliament' or 'MP'. Each state is sub-divided into Assembly constituencies- The elected representatives are called - 'Members of Legislative Assembly' or 'MLA'. Each village or town is sub-divided into 'wards'. Thus, each parliamentary constituency has within it several assembly-constituencies, within which are several wards.

The Rajya Sabha or Council of States is the upper house of the- Parliament of India. Membership is limited to 250 members, 12 of whom are nominated by the President of India for their contributions to art, literature, science, and social services. The remainder of the body is elected by the state and territorial legislatures indirectly. The terms of the members are for six years. In every two years one-third of the members get retired.

**Election Campaign:** At first before the elections the dates of nomination, polling and counting are notified by the election commissioner. From the day the dates are declared the model code of conduct comes into impact. There is two weeks' time between the declaration of candidates and- the polling of votes. During this period candidates and their followers contact their voters; prominent political leaders address election meetings of their candidates and mobilize their supporters. During this period T.V., radio and newspapers are full of election related events. The code of conduct stipulates that campaigning be stopped 48 hours prior to polling day.

**Terms and conditions for election campaign:** No place of worship can be used for election campaign by any party, political parties should remain within certain limits while criticizing the opposite party, during an election

campaign no government transport, official aircraft, machinery or personnel could be used by a political party. There is a legal boundary to the amount of money which a candidate can expend during their campaigning for the election which is firm by the Election Commission. From time to time this limit has been increased. The Election Commission retains an eye on the individual account of the election expenditure by nominating an observer. Within thirty days of the announcement of the result of the election, the contestants are needed to give details of the expenditure made by the contestants.

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#### **11.4. INVESTIGATIVE REPORTING**

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According to De Burgh (2000):

"An investigative journalist is a man or woman whose profession it is to discover the truth and to identify lapses from it in whatever media may be available. The act of doing this generally is called investigative journalism and is distinct from apparently similar work done by police, lawyers, auditors and regulatory bodies in that it is not limited as to target, not legally founded and closely connected to publicity".

The purpose of journalism in a democratic society is to give information to the general public. Investigative journalism is perhaps the most powerful way journalists can serve the public. Investigative journalist enormously explores a topic of interest occasionally involving offence, deceit, political or any other wrongdoing or misconduct. It also looked into the difficulty and issues of the government, business or any other sectors.

A significant period of time is spent on research and then preparing a report by an investigative journalism. A daily reporter or a weekly news reporter writes news regarding instantly accessible and obtainable news whereas the time spent by an investigative journalism may sometimes be a month or years together. Newspapers and freelance journalist primarily do investigative journalism. An expose may be the final report of an investigative journalism.

Ida Tarbell one of the first investigative journalists, he exposed Standard Oil's monopolistic practices and helped dissolve Standard Oil's monopoly

David Halberstam exposed the truth about the lack of success against North Vietnam and won a Pulitzer in 1964 for Vietnam coverage. "The job of the reporters in Vietnam was to report the news, whether or not the news was good for America."

Bob Woodward and Carl Bernstein broke the Watergate story. Led to the indictment of 40 administration officials. Led to the resignation of President Nixon.

### **Methods of Investigation**

Listed below are some of the methods of investigation for fact-finding used by a reporter:

- Learning from the sources which are abandoned such as records, address book, records of tax and the license records.
- Speaking to the nearby people around.
- Meeting with the pertinent stakeholders.
- Utilizing the different and varied contribution of research sources.
- Going undercover, secret or covert.

#### **11.4.1. THE ELEMENTS OF INVESTIGATIVE REPORTING**

Some of the elements of investigative reporting are as follows:

- It is about digging deep into an issue or topic
- The issue or topic has to be of public interest
- It is a process, not an event
- It is original and proactive
- It should produce new information or put together previously available information in a new way to reveal its significance
- It should be multi-sourced

#### **11.4.2. SOURCES OF INVESTIGATIVE REPORTING**

- i. Have a documents state of mind
  - ii. Secondary sources
    - idea generation
    - background information
    - Pre-existing reports can be a roadmap for a new investigation
  - iii. Human Sources
    - Start with the obvious, but go beyond
    - “Formers” can give valuable info.
- Cross-check information with documents and other human sources for verification.

#### **11.4.3. IMPORTANCE OF INVESTIGATIVE REPORTING**

Given below is some of the importance of investigative reporting:

- To encourage transparency and accountability in the public office thus forcing public office holders to be on their toes
- To make the media more credible in the eyes of the society when they expose injustice and the negative effects of government policies and actions on the people
- To help the media to play the watchdog role through its painstaking efforts at investigating and exposing corruption in the society
- To increase competition among the media as the public tend to get more attracted to new media that are noted for thorough investigative reporting
- To widen the scope of journalistic freedom as the reporter has the ability to explore various areas and places in search of facts.

#### **11.4.4. LIMITATIONS OF INVESTIGATIVE REPORTING**

The various limitations or challenges which an investigative reporter may go through are as given below:

- i. Proprietorial interference
- ii. Media gatekeepers
- iii. Political interference
- iv. Economic constraints
- v. Technological limitations
- vi. Limited skilled manpower

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#### **11.5. COURT REPORTING**

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Justice must not be done but seen to have been done is the basic principle of justice. Publicity of court cases performs as a paramount motive for the public. It increases public understanding and admiration of the working of the law and the regulation of justice. There is a curative value to the general people in perceiving criminal laws in action, purifying the society of the indignation experience with the commission of an offence. It is therefore not only in the interest of the general people in perceiving just and real or genuine conducted in the administration of justice. It notifies the general public about matters of public interest and it is thus, an essential coordinator of the right to information to the citizens. Openness is a protection against the judicial mistake, fallacy and wrongdoing or delinquency. It is also an effectual disincentive against perjury by witnesses.

On the other hand, sensationalism and unjustified exposure may be caused by press reporting. The journalist's comprehension of the arrangement of commanding of justice can be superficial and reporting can be inadequate, deformed or erroneous and this does not discharge to the interest of the general people. Moreover, the entire aim beyond open trials is to aid in the regulation of justice. It is requisite to protect and guard that the publicity does not have the damaging or detrimental consequence of subverting justice. A judge should be accomplishing to objectively determine the excellence and

standard of a court case and in an environment clarified by the opinion of the public. Living in the highlight of the public condemnation can avert or stop a judge from picking an impartial or unbiased stand.

### **Case study:**

In **Saibal Kumar V. B.K.Sen** AIR 1961 SC 633, The Supreme Court held that when a man has been arrested for a crime it would be malicious on the part of a newspaper to comprehensively conduct an investigation into the crime and to publicize the outcome or the result of that investigation. This is because when a court case by one of the efficient tribunals of the country is in process, trial by a newspaper must be averted. The point of this view is that the course of justice is interfered or obstructed when such action is tendered on the part of the newspaper.

The principle of open justice pertains to courts as well as to judicial and quasi-judicial tribunals. Under Article 19 1(d) of the Indian Constitution there is a fundamental right to attend proceedings in court and the right to publicize a precise and accurate report of the proceeding seen and observed and heard in the court as also in quasi-judicial and judicial tribunals.

When there are issues and factors of privacy the open system of justice must be given way. The identity and the name of the riot sufferer, rape victims or any person who has suffered from domestic violence or mistreatment must be safeguarded. If their name and identity are revealed and the trial is publicized the victims may be unwilling or resistant to complain against it. The victims might be frightening, intimidated, or uncomfortable. The name of the rape victims must be safeguarded not just to protect the victims from public embarrassment but to safeguard and protect the accessible proof which the victim may not be in a state to give if she is in the stare of the public. In order that the children are safeguarded from the undue and unnecessary publicity the disputes associated with the family necessitate a degree of solitude and privacy.

Normal resident are not permitted to freely enter in the manner the press does, they do not enjoy the advantage of sitting on the press bench as the journalists do.

#### **11.5.1. EXCEPTIONS TO COURT REPORTING OR REPORTING JUDICIAL PROCEEDING**

Publicity of court proceedings is not an unquestionable rule. A number of law and regulations control and limit, authorize or need the court to limit acceptance or recognition to definite court proceedings and the dissemination or communication of such proceedings. For instance:

- i. According to section 228-A of the Indian Penal Code the announcement or the publication of the name of a victim of a sexual crime is forbidden and thus there cannot be publication of the court proceeding associated with such crime. The declaration of the victim's name would be resistant from accountability where there is an order in written from the officer in charge of the police station or an investigating officer who is acting in bona fides for the cause of the investigation, where the declaration is by the victim herself or with her written authorization, or where she is deceased, is a minor or of unstable mind, by her family. The publication of such proceedings may be permitted with the prior consent of the court. Under this provision, the publication of a High Court or Supreme Court judgement would not amount to an offence.
- ii. The Indian Divorce Act, 1869 impart pledge the complete or any part of the proceedings under the Act must be heard beyond the closed doors in certain situations when it is concerned to matrimonial cases between persons maintaining Christian faith.
- iii. Section 33 of the Special Marriage Act, 1954 imparts that if either of the party wish or want or if the District Court believes it to be suitable to direct proceedings under the Act shall be conducted in camera.

- iv. Section 43 of the Parsi Marriage and Divorce Act, 1936 impart that if only either of the parties so wish or want a suit favored under the Act shall be tried inside the closed door.
- v. Section 22 of the Hindu Marriage Act, 1955 proclaim that the proceeding under the Act shall be administered in camera only if the court believes it to be suitable or if either party wishes or want. It forbid the printing or publishing of any matter concerning to such proceedings without the prior authorization of the court.
- vi. Section 14 of the Official Secrets Act, 1923 authorize the court to debar the public from proceedings under the Act by an order made on the ground that the publication of any proof stated or any statement to be formed in the way of the proceedings would be detrimental to the welfare of the State.
- vii. Section 30 of the Prevention of Terrorism Act, 2002 allowed that where the life of the witness is in hazard or risk the proceedings should be held in camera.

#### **11.5.2. ETHICAL RESPONSIBILITIES FOR EVERY COURT REPORTER**

- i. Be fair and impartial toward each participant in all aspects of reported proceedings, and always offer to provide comparable services to all parties in a proceeding. Guard against not only the fact but also the appearance of impropriety.
- ii. Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the reporter by any of the parties in a proceeding.
- iii. Do not allow any discounting of prices to one side of a case which would imply a bias.
- iv. Always protect the information you obtain through testimony and/or exhibits related to a proceeding.
- v. Know the local laws.



- vi. Accuracy – Ensure that everything gets right. Check names, spellings, titles and responsibilities. Fair and accurate journalism is the basic requirement.
- vii. Disciplined reporting- It is not particularly skilful to report everything that has been said. It is much more skilful to use only the most interesting and significant parts of a trial.
- viii. Be read with the background. Big stories need big coverage. Before the trial, discover as much background as you can and have it ready for publication after the verdict.

Aside from these statutory peculiarities, publicity of proceedings can be limited 'in regard to justice'. In **Naresh Shridhar Mirajkar V. State of Maharashtra** AIR 1967 SC1. The Supreme Court held that under Section 151 of the Civil Procedure Code the court has the innate power to order a trial to be held in camera. But this power can be utilized only if the court is pleased beyond uncertainty that if the case were to be tried in open court the end of justice would be vanquished.

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## 11.6. SUMMING UP

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- Courts are usually open to the public; journalists are free to report what goes on there. Reports are protected against defamation, as long as they are:
  - Fair
  - Accurate
  - Without malice
- Publicity of court cases performs as a paramount motive for the public. It increases public understanding and admiration of the working of the law and the regulation of justice. Openness is a protection against the judicial mistake, fallacy and wrongdoing or delinquency. It is also an effectual disincentive against perjury by witnesses.

- Politicians should be free from violated politics. They should have a constructive view in respect of the welfare of mass. They would always try to eradicate the corruption from the national life by root and branch and at the same time, they can reach their honest goal by hearkening to the inconveniences of the public.

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### **11.8. QUESTIONS**

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1. What is politics? Discuss the election process in India.
2. What is Investigative Reporting? Discuss the limitations of Investigative Reporting.
3. Elaborate on the ethical responsibilities of a court reporter.

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### **11.7.RECOMMENDED READINGS**

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- “The Investigative Reporter’s Handbook” by Brant Houston and Investigative Reporters and Editors, Inc.
- Facets of Media Law by Madhavi Goradia Divan

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## **MODULE IV: MEDIA ETHICS**

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## **UNIT 12 MEDIA AND CONFLICT REPORTING**

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### **UNIT STRUCTURE**

12.1. Introduction

12.2. Objectives

12.3. Conflict scenario in North-East

12.3.1. Causes of conflict in North-East

12.3.2. Media coverage of ethnic conflict

12.4. Ethical issues in conflict reporting

12.4.1. Responsibilities of a conflict reporter

12.5. International Humanitarian Law

12.5.1. Fundamental principles of International Humanitarian Law

12.5.2. Fundamental rules of International Humanitarian Law

12.6. Summing Up

12.7. Questions

12.7. Recommended readings

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### **12.1. INTRODUCTION**

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After studying this unit you will come to know about the conflict scenario in the north east. We will also discuss about the ethical issues in conflict reporting. It will also help students to learn about the International Humanitarian Law.

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### **12.2. OBJECTIVES**

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Listed below are the objectives of this unit:

- To understand the conflict scenario of North East
- To learn of the ethical issues in conflict reporting

- To know the International Humanitarian Law

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### 12.3. CONFLICT SCENARIO IN NORTH EAST

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Compact Oxford English Dictionary defines Conflict:

“As a serious disagreement or argument or a prolonged armed struggle or an incompatibility between opinions, principles. Conflicts take place at various levels in society. These could be among individual, within a family, among families or groups that come together for various common interests”.

Conflict is multidimensional. It is stabilizing of vectors of potential and ability, of power to fabricate the result, outcome or the consequence. Conflict is a confrontation of power. It is not an equilibrium or equality of the powers. Conflict is the thrusting and tugging, the rendering and picking, the affaire of discovering the stability between powers. Basically, conflict is the correlative to power. Power merely is the ability to fabricate the consequences; it is the way of power meeting and stabilizing. To comprehend what powers become triumph need understanding their conflict; to apprehend conflict require unravelling the powers associated.

The eight states namely Assam, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Arunachal Pradesh and Sikkim comprise the Northeast region of India. A region which is poorly attached to the Indian mainland by a small passage and neighbouring by many countries like Myanmar, China, Bhutan and Bangladesh, is the surroundings for an abundance of conflict that erode the idea of India as a flourishing and operating democracy.

One of the elderly unsettled and undetermined armed conflicts in the world is the Naga Insurgence or outbreak which started in the year 1950. It is known as the mother of North- East insurgencies. At least in the year between 1990 -2000 Assam, Manipur, Tripura and Nagaland have in total seen scales of conflict that could be marked as low potency or intense conflicts. Some form of conflict influence nearly most of the states of the region. From separatist movement to inter-community, communal and inter-

ethnic conflict the reasons for the specific and particular cause of conflict are broad ranging.

Conflict in the region has been an all prevalent occurrence. Conflict in its brutal confirmation has not only affected the territorial and political sovereignty of the Indian state but has also affected the lives of the different people inhabiting in the region in unintelligible and unaccountable terms. In an extreme and feared perception, there is a “culture” of conflict and sadly, people have yielded to such an existent. The Indian government’s former and existing procedure of national integration, state-building and democratic connection has further annoyed the conflict scenario in the region.

### **12.3.1. CAUSES OF CONFLICT IN NORTH EAST**

Ethnic violence is a common phenomenon almost in every nation and dates back to the history of human civilization. Some of the causes of conflict in the North-East are as given below—

- due to nationalistic patriotism
- relative developmental differences
- economic isolation, continuous
- discrimination by the ruling class
- remoteness and isolation of various social groups
- lack of representativeness in administration and difficulty in communicating grievances,
- non-representation in the ruling government

The violence in whatever form ultimately leads to the loss of property and human life and generate various related socio-economic issues including the demographic restructuring that has further social and economic implications. It generally takes back the society backward in the trend of development path which may not always be linear as perceived to be.

### 12.3.2. MEDIA COVERAGE ON ETHNIC CONFLICT

Media has a major part to play in containing the spread of conflict by disseminating knowledge to the public with the widest coverage. While it is believed that the media can move issues to the centre stage or keep them out of public view, it seems logical to examine how it could be an instrument which could foster change. Communicating conflict through the media has been divisive because of the diverse stakeholders associated with it viz, affected individuals, social activists and journalists. It becomes even more perplexing because each of them has their own unique ways of looking at it. It is gauged that media whether print or audio-visual can help mitigate conflict.

Media play a crucial part throughout:

- i. **Pre-Conflict Phase:** With a perspective to notify the usual grounds for a negotiated resolution of dissimilarity and consequently lifting request for peace, the media communicate the rival interest of the parties to the conflict, which may head to a conflict case or condition.
- ii. **The Conflict Period:** The media at this phase conduct to fore its human, social, political and economic collision and hence fortify the requirement for peace; and
- iii. **The Post-Conflict Condition:** In this state, the media retain an eye on the imposition of peace accord that has been set in position by competing parties and protect that they are being executed or applied wisely and prudently.

It is only when the media pursue the doctrine of power and responsibility; exactness and impartiality in covering different features of a conflict the media can execute its role of peace agent. Media can also guide to advance of conflicts and at times become an origin of brutality and cruelty in the society when there is the lack of objective reporting. A single message by the media in this age of information can generate and produce elicit

acknowledgement, which can both be positive as well as negative, depending on the manner the message has been formulated.

The biggest challenge for the media is to ensure balanced reporting with a view to preventing escalation of the conflict. The way in which journalists report on conflict can drastically affect the audiences' perception of the situation and thus may aggravate the situation. Furthermore, it becomes all the more difficult in upholding one's journalistic objectivity and reporting events with an attitude towards conciliation.

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#### **12.4. ETHICAL ISSUES IN CONFLICT REPORTING**

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In the first journalism course in any journalism curriculum, a journalism student learns the elements of newsworthiness. These include elements of conflict, oddity, proximity, magnitude, prominence, and human interest. Reporting on conflict and war is not at all a direct progressive duty. Because of the corporal differentiation and the peril and hazard associated with it, journalist will have single incomplete data. It is not at all simple for the journalist to differentiate reality and actuality from fabrication and attain stability and equilibrium in reporting. In reporting conflict there are a few fundamental responsibilities that *conflict correspondent should stick to at all times while reporting a conflict condition or location*.

Ethical Reporting on Conflicts - War journalism often lessen the number of parties to two, so anyone who is not a companion is automatically deemed as foe or an opponent. It needs comprehensible victor and losers. It also disregards or hides calm vitality from the other part or the third parties, specifically any choice for the result or consequence of non-violence which does not give entire success to its particular part.

Ethical reporting of war or conflict not only query the ability of 'objectivity' of reporting or journalism, but it also emphasizes on the affirmative part which a journalist can play for stopping and averting brutality and violence



and to encourage restful agreement and reunion or conciliation. Ethical journalism also subscribes to the empowerment of civil society.

At any phase of a conflict absence of knowledge and data can form people desperate, uneasy and simple to operate. The capacity to form a knowledgeable resolution, nourished society and encourage the advancement of economic, democratic formation and the affirmative viewpoint on the future.

A conflict journalist should:

- a. Be accustomed to the virtue of reporter;
- b. When the reporter's human rights are breached or contravened; a conflict journalist should perceive and realize whom to address;
- c. Realize about the way and manner, how to protect and guard the welfare of the journalists;
- d. Be accustomed to the principle of the journalist codes of conduct.

#### **12.4.1. RESPONSIBILITIES OF A CONFLICT REPORTER**

Discussed below are the fundamental duties that the reporters on conflict should stick to while reporting a conflict state or condition.

Responsibility to understand and apprehend the genuine nature and dynamics of the conflict: To reporting on conflict a conflict reporter has to comprehend and apprehend the conception of conflict or dispute or war and resolve conflict in common. The journalist or a reporter should comprehend how out of a condition or state of conflict solution to the conflict can arise or appear. The 'rules of war' is important for a reporter to know. He must enlighten himself with calm studies and with the procedure of development and advancement of resolve.

Responsibility to report in a just way from the conflict area: It is the duty and the responsibility of a conflict reporter to report in a just, open-minded, equitable, truthful and unbiased or impartial way. The reporter must report the problems or the complications and variations of the conflict condition or

the state and should cover the whole gamut of viewpoints of all groups and sub-factions associated with the conflict.

Responsibility to report the backdrop and profound reasons for the conflict: The reporter is in the duty to exactly place both the lawful and recognized the injury of all the parties who are associated with the conflict.

Responsibility to present the human impact of a conflict: A conflict reporter must represent the distress and the stories of the sufferer in the conflict. It is nevertheless significant that the reporter does it in a just, equitable and professional way.

Responsibility to report on peace initiatives in the war or dispute area: The reporter has the duty to report on the attempt of the persons who are working on peace and conciliation activity. The reporter has to look beneath the bipolar politics and search for origin beneath the primary actors in the war or disputes. He needs to recognize the existing peace attempt.

Responsibility to identify the effect and the influence of the media on the conflict state or condition: The reporter must be conscious that his coverage or reporting will have an influence and effect on the conditions and state of conflict and hit or touch the lives of the people involved in the war or the dispute. Hence it is his responsibility to be always watchful and evade being utilized by another party associated with the conflict and to reveal any attempt at media manipulation that he may be challenged with.

Responsibility right and accurate and persist sensitive to public's reactivity and responsiveness: The reporters must utilize legislatively right language or terminology and reduce the use of inflammatory or controversial languages. The journalist must not do this in the regard of journalistic unprejudiced and fairness but because in any state or condition of conflict a lot of public's sensitivities are associated.

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## **12.5. INTERNATIONAL HUMANITARIAN LAW**

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The International Humanitarian Law(IHL) aims to limit the humanitarian effects of war. It defines the rules and permitted behaviour applicable with regards to the protection of unarmed civilians, prisoners, the ill and the injured in times of war.

IHL is a set of rules which pursue, for a humanitarian cause, to restrict the result or the consequence of armed conflict. It safeguards and protects persons who are not or are no more taking part in the malice or antagonism and limits the ways and process of war, combat or fighting. It is also noted as the law of conflict or warfare or the law of armed conflict.

IHL is a wedge of international law, which is the anatomy of regulations which governs the relations between States. International law hold in accord or accordance between States – treaties or conventions – in conventional regulations, which composed of State use or execution which are deemed by them as lawfully irrevocable, and in prevalent propositions or ideas.

IHL appertain to armed dispute. This does not balance or modulate whether a State shall literally utilize strength or power; this is ruled or command by a principal, but clear, segment of international law placed in the United Nations Charter.

Customs and the Treaties are the prime origins of international law. In respect to IHL, the most principal treaties are the Geneva Conventions of 1949, the Additional Protocols of 1977, and the so-called Hague Conventions.

### **12.5.1. FUNDAMENTAL PRINCIPLES OF INTERNATIONAL HUMNITARIAN LAW**

- i. Terminate the hurt or ache generated or prompt by war by thrusting the parties who are engaged in a conflict;
- ii. Participate in restricted techniques and methods of fighting or war;
- iii. Distinguish between civilian people and combatants, and work to extra civilian public and penury;
- iv. Refrain from injury or hurt or murdering an opponent who submit or capitulate or who can no longer take part in a battle or fighting;

- v. Desist from bodily and inwardly tormenting or executing brutal confinement on opponent or rival.

#### **12.5.2. FUNDAMENTAL RULES OF IHL**

- i. Persons hors de combat and those who not taking part in antagonism shall be safeguarded and regarded compassionately.
- ii. It is prohibited to murder or hurt an opponent or foe who had surrendered or who is hors de combat.
- iii. The injured and ill person shall be taken charge of and safeguarded by the parties to the conflict which has them in its ability. The emblem of the "Red Cross," or of the "Red Crescent," shall be needed to be regarded as the indication of defence.
- iv. No person shall be caused to abuse, bodily confinement or brutal or humiliating treatment.
- v. Parties to a dispute shall at all times differentiate between the general public and the fighters. Attacks shall be administered only against military aim and intention.

Examples: examples of such rules incorporate: The forbidding on attacking doctors or ambulances displaying a Red Cross.

- It is also barring to fire at a person or vehicle having a white flag, because that, being contemplating the flag of peace, specify aim and purpose to yield or a wish to commune.
- In either cases the persons safeguarded by the Red Cross or the white flag are presumed to keep impartiality, and they may not absorb in a conflict like activity themselves; in fact, fetching in conflict or dispute act under a white flag or a red cross is itself a breach of the laws of war.

### ASSESS YOUR PROGRESS

1. Bodo V. Illegal Migrant Issue- The case of 2012.

Discuss. \_\_\_\_\_

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### 12.6. SUMMING UP

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- To reduce conflict effort should be made to bring in positive peace that is enduring and welfares in nature. The groups, as well as people at large, must be made to realize that all problems can be solved through peaceful talks.
- Reporting on a conflict condition or situation the reporter had to follow some key responsibilities and stick to it while reporting in situations of conflict.
- The International Humanitarian Law aims to limit the humanitarian effects of war. It defines the rules and permitted behavior applicable with regards to the protection of unarmed civilians, prisoners, the ill and the injured in times of war.

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### 12.6. QUESTIONS

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1. Discuss the conflict scenario of North East. Do the media play an active role in the coverage of ethnic conflict?
2. Discuss the responsibilities and challenges in conflict reporting.
3. Define International Humanitarian Law. Discuss its fundamental principles.

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### 12.8. RECOMMENDED READING

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- Governing North East by Samir Kumar Das

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## **UNIT 13: CYBER LAWS**

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### **UNIT STRUCTURE**

13.1. Introduction

13.2. Objectives

13.3. Information Technology Act, 2000

13.3.1. Objectives of the IT ACT, 2000

13.3.2. The IT ACT, 2000 will not be applicable to

13.3.3. Digital signature

13.4. Cyber crimes

13.4.1. Crime scene in India

13.4.2. Division of cyber crimes

13.4.3. Protect your system

13.5. Cyber Crimes Relating to women and children

13.5.1. Cybercrimes relating to children

13.5.2. Steps to protect your kids from cyber crime

13.6. Summing up

13.7. Questions

13.8. Recommended readings

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### **13.1. INTRODUCTION**

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Cyber laws are the Law governing the cyberspace. Cyber law encompasses laws relating to Cyber Crimes. In this unit, we will discuss about the Information Technology Act, 2000. You will be able to understand cybercrimes and the various cybercrimes. We will also learn about the various cybercrimes related to women and children.

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### **13.2. OBJECTIVES**

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Listed below are the objectives of this unit:

- To learn Information Technology Act, 2000
- To understand about cyber crimes
- To know about cybercrimes relating to women and children

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### **13.3. INFORMATION TECHNOLOGY ACT, 2000**

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IT Act, 2000 provides legal identification for the transactions which are transferred by means of electronic data exchange and other ways of electronic communication, generally named as ‘electronic commerce’. It includes the utilization of substitution to paper-based procedure of communication and storage of data in order to make electronic filing of documents with the government agencies.

IT Act, 2000 is rooted on United Nations Commission on International Trade Law. The Act has ninety-four sections, thirteen chapters and four schedules. The first fourteen sections dispense with legal features regarding Digital Signature. There are sections which are assigned with competent authority that is permitted to give a certificate of the digital signature. Punishments and compensations are furnished in section 43-47. Tribunals and Appeal to the High Court are discussed from section 48-64 offences are dispense in section 65 to section 79 of the Act and section 80 to section 94 of the Act deals with miscellaneous.

### **13.3.1. OBJECTIVES OF THE IT ACT, 2000**

- Permitting legal identification for transaction fetched out by way of electronic information exchange and other methods of electronic;
- Giving legal identification to digital signature and transmission; verifying the electronic signature for receiving of any data or information or any matters which need acquiring verify under any law;
- Enabling electronic storage of information or data;
- Assisting electronic of documents with the government departments;
- Helping and rendering legal authority to transferring of the electronic fund between financial organizations and banks;
- Giving legal identification for possession of books of accounts by bankers in the electronic shape.

### **13.3.2. THE IT ACT, 2000 WILL NOT BE APPLICABLE TO**

- A Negotiable Instrument
- A Power of Attorney
- A Trust
- A Will
- A contract for the disposal or transportation of immovable property

### **13.3.3. DIGITAL SIGNATURE**

For revealing the originality of a digital communication or a message or documents, the digital signature is an electronic measure or programme. Digital signature entrusts the receiver with a reasonable ground to trust that the message sent was created by a familiar sender and that it was not changed in transit. For software dispensation, financial dealing and in cases where it is of significance to perceive and notice emulation or interfere digital signature are often used.

**The Originality of Digital Signature:** A digital signature shall be generated and verified by cryptography that involved itself with changing electronic



data or information. It can be operated to verify the origin of the messages. When possession of a digital signature confidential key is bounce to a particular user, a reasonable signature manifest that the message was sent by that user. The significant of high confidence in sender originality is apparent in a financial ambience. As for instance, a bank branch office dispatch command or an order to the central office seeking an adjustment in the balance of an account. When the central office is not satisfied that the message is honestly sent from a permitted or approved head, acting on such a request could be a barrow error.

ITA 2008, as the new version of Information Technology Act 2000 is often referred, has provided additional focus on Information Security. The Act had attached various new sections on offences containing Cyber Terrorism and Data Safety and Security.

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#### **13.4. CYBER CRIMES**

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Cybercrime is a word used to narrate predominantly offending and delinquent action in which a device, a prey, or a site of wrongdoing or delinquent is the computer networks or the computers. It comprises entirely from electronic splitting to refusing of service ambush. It is also used to include conventional wrongdoing in which computer networks are utilized to allow a permit for the illegal actions. Computer wrongdoing basically exists of unsanctioned entry to computer structure, information changing, destroying information and stealing of intellectual property. In the scene of national security cybercrime may include chopping, hacking, conventional espionage, or data combating and other associated actions. Menacing e-mails, conceiting other's individuality, pornography, sexual intimidation, scandal or vilification, junk-email and phishing are instances where for performing offences computers are utilized. On the other hand, some instances where the computers become the prey of the offences involve viruses, worms and industrial surveillance, software plagiarism and loping.

### **13.4.1. CRIME SCENE IN INDIA**

Service Denial, vandalizing of websites, junk e-mails, pornography, computer worms and virus, cyber hunching, cyber stalking and phishing are the leading cyber offences reported in India. According to a report published in The Hindu, on 27<sup>th</sup> October, 2007- nearly 69 percent of the data are stolen by the present existing employees or ex-workers of organization or an institution, and hackers contribute only 31 percent of the data theft. Thus India has to go a long process of safeguarding the important data and information. In cyber offences, India ranked in 11<sup>th</sup> position which represents three percent of the world cyber.

### **13.4.2. DIVISION OF CYBER CRIMES**

They are three divisions of cybercrimes. Listed below are the divisions of cybercrimes.

#### **I. Cybercrimes against an individual**

Offences and crimes like the conveyance of child pornography, annoyance and intimidation of anyone with the utilization of a computer such as an e-mail include cybercrimes enacted or executed against an individual.

- The trafficking, distribution, posting, and dissemination of obscene material including pornography and indecent exposure, is one of the most important Cybercrimes known today in the genre.

#### **II. Cybercrimes against property**

These crimes include:

- Computer vandalism (destruction of others' property);
- Transmission of harmful programmes;
- Siphoning of funds from financial institutions;
- Stealing secret information & data.

### **III. Cybercrimes against the government**

- Terrorism through the cyber is one particular kind of offence in this classification.
- The channel of cyberspace is utilized by different interested groups and persons to terrify the international government as also to frighten the general public of a country.
- When a person cracks into a military or government perpetuated or consumed website this offence manifests itself into terrorism.

#### **13.4.3. PROTECT YOUR SYSTEM**

- To keep the system update use anti-virus software.
- With the deprecatory security updates and repair keep your performing system updated.
- When mails or any other attachments are send from any unknown origin do not open it.
- Put passwords which are rigid and cannot be imagined.
- Support or aid your computer data and the information frequently on compact disks.
- Don't share access to your computers with strangers.
- If you have a Wi-Fi network, password protects it.
- Disconnect from the Internet when not in use.
- Re-evaluate your security on a regular basis.

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### **13.5. CYBER CRIMES RELATING TO WOMEN AND CHILDREN**

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Cyber offences are a worldwide occurrence and in this current form of offence women are the sloppy prey. For economic and the national safeguard it is appearing as a great problem. Between the different crimes committed against a person and the society at large, offences that are particularly targeted are listed below:

- a. **Cyber-stalking** - The word “stalking” means "pursuing stealthily". In the contemporary world cyber stalking is one of the most worldwide crimes associated with the internet. It basically happens with the women who are followed hound by men, or even children who are stalked by adult predators. It thus implicates conquering or occupying the solitude by following an individual's motion over the cyberspace. This is done by attaching messages on the boards, invading the chat rooms regularly by the sufferer, continually shelling the sufferer with e-mails or messages with indecent language.

**Ritu Kohli Case** - The first case of cyber stalking was the case of Ritu Kohli. Ritu Kohli complaint against an individual to the police who was utilizing her identification to speak over the cyberspace in a website continuously for four long days mainly in Delhi. The person was talking on the internet by using her name and address and he was also speaking indecent words. He was also intentionally issuing her telephone number to the different chatters motivating them to speak to Ritu Kohli at a strange time. Ritu Kohli accordingly accepted near to about forty phone calls in three days at different strange time. The phone calls generated a destruction and devastation in the private life of the plaintiff. Hence the Internet Protocol addresses were followed and the police examined the whole case and finally arrested the offender. A lawsuit was lodged under Section 509 of the Indian Penal Code. This was the first time when a case was reported on cyber stalking.

- b. **Cyber Bullying-** Any transmission which is affix or attached or posted by a minor online, over instant messenger, e-mail, Social Networking site, websites, diary site, online profile, interactive game, handheld device, mobile phones or other influencing device which is deliberated to scare, uncomfortable or plague another person who is a minor. Worldwide India is third in cyber bullying behind China and Singapore. Over the past period of time many suicide cases associated with cyber bullying have fattened.

- c. **Morphing**— It is editing the authentic image by an uncertified user. When any person who does not have the authority with any forgery name or identification downloads the picture of the other person and then he uploading or reloading them after editing is considered as morphing.
- d. **Email spoofing**— A spoofed e-mail is one which misinterprets or misstates its inception. It represents the original to be dissimilar from the original source. A favoured manner of scamming online is e-mail spoofing. It is an expression which is used to narrate dishonest or illegal e-mail action in which the person sending the mail, his address and other parts of the email header are changed to be visible as that the email originated from a well-known or permitted source.
- e. **Cyber Defamation**— Another most usual crime against women in the cyber space is the cyber tort which incorporates defamation and libel. When defamation takes place with the aid of the internet or the computer networks cyber defamation take place. As for instance if a person states any defamatory material of staff about another person on a website or if he sends mails which hold defamatory data and information to all the other friends in the person list, the person is said to defame the other person.

Some selected sections of the Information Technology Act, Indian Penal code and Criminal Procedure Code deals with the safeguard and security from the cyber offences.

#### **13.5.1. CYBER CRIMES RELATING TO CHILDREN**

Information and Communication Technologies have developed at an increasingly fast rate over the last two decades. Recent rapid advances in ICTs have provided both children and adults with benefits and opportunities

in terms of socialization, education, and entertainment. In particular, the development of ICTs has provided children and adolescents using the Internet and associated technologies with new spaces to interact and form social relationships with others, such as chat rooms, peer-to-peer (P2P) websites, and social networking sites. Such technological innovations simultaneously have allowed violence to be committed by, with, and through the use of ICTs, including violence against children. Accordingly, children using the Internet and associated technologies become vulnerable to ICT-facilitated child abuse and exploitation and such child abuse and exploitation are often difficult to detect and address.

### **Types of cybercrime against children**

- a. Child Trafficking – Illegal deal or trade in children. Child trafficking, according to UNICEF is defined as “any person under 18 who is recruited, transported, transferred, harboured or received for the purpose of exploitation, either within or outside a country”. There have been many cases where children just disappear overnight, as many as one every eight minutes, according to the National Crime Records Bureau. In India, there is a large number of children trafficked for various reasons such as labour, begging, and sexual exploitation. India is a prime area for child trafficking to occur, as many of those trafficked are from, travel through or destined to go to India
- b. Pornology – the depiction of erotic behaviour (as in pictures, videos or writing) intended to cause sexual excitement. Under The Information Technology (Amendment) Act, 2008, crime of Child Pornography under Section 67-B say’s, Whoever publishes or transmits or causes to be published or transmitted material in any electronic form that depicts children engaged in sexually explicit act or conduct or creates text or digital images, collects, seeks, browses, downloads, advertises, promotes,

exchanges or distributes material in any electronic form. Depicting children in obscene or indecent or sexually explicit manner. Induces children to an online relationship with one or more children for and on sexually explicit act. In a manner that may offend a reasonable adult in the computer resource. Facilitates abusing children online or records in any electronic form pertaining to sexually explicit act with children is known as child pornography.

- c. Morphing – change smoothly from one image to another by computer animation techniques. Morphing is a special effect in motion pictures and animations that changes (or morphs) one image or shapes into another through a seamless transition.
- d. Kidnapping- abduct and hold them captive, typically to obtain a ransom. In criminal law, kidnapping is the unlawful taking away or transportation of a person against that person's will, usually to hold the person unlawfully. This may be done for ransom or in furtherance of another crime, or in connection with a child custody dispute.
- e. Exploitation- the act or fact of treating someone unfairly in order to benefit from their work. Women victims often compliant of mobile phone harassment. This includes repeated calls, SMSs, blank calls, threatening calls and even sending lewd MMSs

**School children in India victims of cybercrime** - "Almost every school-going child has access to social media these days, but shockingly hardly any of them know about the privacy settings on their profiles. With details of their personal lives going public, they make themselves vulnerable to all sorts of cyber harassment". An international study done by software giant Microsoft in 2012 revealed that 53% of India's children have been bullied

online. AP recorded the second highest number of cases in cyber-related crimes (429) in 2012.

### **13.5.2. STEPS TO PROTECT YOUR KIDS FROM CYBER CRIME**

- i. Use parental control software.
- ii. Place the computer in a highly trafficked area.
- iii. Bookmark for safety.
- iv. Avoid downloads.
- v. Set limits on late-night use.
- vi. Establish rules and take control.

#### **ASSESS YOUR PROGRESS**

1. Cyber Crimes against Women in India. Discuss with suitable case laws. \_\_\_\_\_  
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### **13.6. SUMMING UP**

- IT Act, 2000 provides legal identification for the transactions which are transferred by means of electronic data exchange and other ways of electronic communication, generally named as ‘electronic commerce’. IT Act, 2000 is rooted on United Nations Commission on International Trade Law. The Act has ninety-four sections, thirteen chapters and four schedules.
- Cybercrime is a word used to narrate predominantly offending and delinquent action in which a device, a prey, or a site of wrongdoing or delinquent is the computer networks or the computers. They are three divisions of cybercrimes which included – cybercrime against an individual, cybercrime against property and cybercrime against the government.



- Cybercrimes relating to women are emerging as a challenge. India is moving steadily on the path of cyber legislation activity; the country has established itself as the Information Superpower and with the amendment in 2008 in the cyber law.

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### **13.7. QUESTIONS**

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1. Discuss the basic features of the Information Technology Act, 2000.
2. What is a cybercrime? What are the divisions of cybercrime?
3. What are the various crimes relating to women and children?  
Discuss.

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### **13.8. RECOMMENDED READINGS**

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1. Handbook on Information Security Awareness by Centre for Development of Advanced Computing(CDAC)

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## **UNIT 14: INTELLECTUAL PROPERTY RIGHTS**

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### **UNIT STRUCTURE**

#### 14.1. Introduction

#### 14.2. Objectives

#### 14.3. Copyright Act, 1957

##### 14.3.1. The objective of Copyright Law

##### 14.3.2. Ownership of copyright

##### 14.3.3. Registration of copyright

##### 14.3.4. Terms of copyright

##### 14.3.5. Infringement of copyright

##### 14.3.6. Exceptions to an action for infringement

##### 14.3.7. Civil remedies for infringement

##### 14.3.8. Criminal prosecution

#### 14.4. Design Act, 1911

##### 14.4.1. Features of Design

##### 14.4.2. Registration of design

##### 14.4.3. Prohibition of design registration

##### 14.4.4. Cancellation of registered design

##### 14.4.5. Remedies against plagiarism of design

#### 14.5. Trade and Merchandise Act, 1958

##### 14.5.1. Procedure/steps for trademark registration

##### 14.5.2. Case of trademark infringement

## 14.6. Patent Act, 1970

14.6.1. Stages from filing to grant of a patent

14.6.2. Rights of a patentee

14.6.3. Entitlement of a patentee

14.6.4. Suits concerning infringement of patents

14.7. Summing up

14.8. Questions

14.9. Recommended reading

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## 14.1. INTRODUCTION

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The formation and the creation of the imagination of the mind i.e. origination, innovation, industrial designs for objects or products, any written or literacy and creative or artistic works, sign, mark, symbols, logo etc is named as the Intellectual Property. Intellectual property can include Patents, Trademarks, Copyright, Trade secrets, Geographical indications, etc. In this unit, we will discuss the various laws govern by the Intellectual Property Right namely the copyright Act, 1957, the Design Act, 1911, the Trade and Merchandise Act and the Patent Act, 1970.

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## 14.2. OBJECTIVES

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Listed below are the objectives of this unit:

- To understand Copyright Act, 1957
- To learn the Design Act, 1911
- To know about the Trade and Merchandise Act, 1958
- To know about the Patent Act, 1970

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### **14.3. COPYRIGHT ACT, 1957**

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The Indian Copyright Act was passed in the year 1914 and it was predominantly rooted on the Copyright Act of United Kingdom, 1911.

Copyright is a kind of safeguard given to the original creator of the work of authorship which includes dramatic, literary, artistic and musical works. The significance of copyright was identified only after the printing press was innovated, which permit and authorize the reproduction of the books in great amount. The first Copyright law is considered to be England's "Statute of Anne".

In India, this law currently controls the copyright system. In the years 1983, 1984, 1992, 1999 and lately in 2012 the Copyright Act was amended.

To bring the Act in compliance with Wipo Copyright treaty and Wipo Performances and Phonograms; to safeguard the Film industry and the music industry and approach its effect; to approach the concerns of the bodily incapacitate and to safeguard the interest of the author of any literary work; subsidiary amend; to detach operative provisions and impositions of rights were the prime reasons for the amendment of the Copyright Act. In India, the Office of the Copyright falls beneath the Ministry of Human Resource Development.

#### **14.3.1. THE OBJECTIVE OF COPYRIGHT LAW**

In order to stop and avert plagiarism and unfair and inequitable misuse or exploitation of the creative works of a creator, the law of copyright is deliberated. Under Article 19 (1) (a) of the Constitution of India, it is a natural extension of the freedom of speech and expression. Be it in the form of dramatic, literary, artistic, musical or sound recordings a person must also be guaranteed safeguard of his intellectual property in his expression if freedom of speech and expression is adored by a person.

Copyright exists in the works listed below according to Section 13 of the Copyright Act, 1957

- a. Dramatic, literary, musical and artistic works which are authentic and real.
- b. Cinematographic films.
- c. Recordings of sound.

Conditions for subsistence of copyright:

The conditions necessary for the subsistence of copyright are:

- I. The work must be first produced and published in India, where the work is published. When the work is first published or produced outside India, the author must be an Indian citizen on the date of publishing. In case when the author of the work is dead at the time of his death he must be an Indian citizen.
- II. Where the work is unpublished, the author must be an Indian citizen or a residence in India on the date of the making of the work. But this does not pertain to the work of architecture.

#### **14.3.2. OWNERSHIP OF COPYRIGHT**

- It is necessary to identify the owner of a copyright in order to know who has the right to license the use of the copyright, whose rights are to be protected and who has the power to take action for infringement.
- The first owner of the copyright in terms of literary and dramatic work is the author of the work; it is the composer in terms of musical work, the producer in terms of a sound recording and a cinematographic film; in case of a photograph it is the person who takes the photo; in terms of artistic or any other computer initiated work it is the copyright lies with the person who produces the work.
- Through allocation and assignment also ownership of copyright may emerge. The first or any subsequent possessor or the holder of the copyright may allocate or allot his copyright to another individual in which case, the copyright vests in the assignee.
- An owner retains certain special rights in his creative work even after he has assigned the copyright in his work. These rights include the

right to profess authorship of the work and to prevent or assert compensation in respect of any deformation, disfigurement or moderation of the work of the work carried out before the term of the copyright expires, if such act prejudices his honour or reputation.

#### **14.3.3. REGISTRATION OF COPYRIGHT**

It is not compulsory for a copyright owner to register his copyright with the Copyright Office. There is no provision under the Act which deprives an author of his rights merely for non-registration of his copyright. The registration of a work is neither compulsory nor a condition precedent to sue for damages for infringement of copyright.

#### **14.3.4. TERMS OF COPYRIGHT**

Prior to the 1992 Amendment to the Copyright Act, the term of copyright in dramatic, musical, literary and artistic work produced when the author is alive or in existence lasted for fifty years the death of the author. But it does not apply to photograph work. Pursuant to the enactment of the Copyright (Amendment) Act, No13 Of 1992 it has been extended to 60 years. When the work is in join authorship period from the demise of the last surviving author. In terms of posthumous works which have not been published during the author's lifetime, the term of copyright is 60 years from the production of the work at first. In the case of anonymous or pseudonymous works, the term of copyright is 60 years from the production of the work at first.

#### **14.3.5. INFRINGEMENT OF COPYRIGHT**

Section 51 of the Copyright Act, 1957 lays down various acts, the doing of any of which without the permission or authority by the possessor or the holder of the copyright or the statutory authority or in contravention of the terms of such a license would constitute an 'infringement of the copyright' in a work.

Section 52 enumerates various acts, the commission of which would not constitute such infringement. These are in the nature of exceptions to the

exclusive rights conferred upon the copyright owner and also serve as defences in an action for infringement.

The following acts amount to acts of infringement of copyright when committed by a person not authorized by a license from the owner or the competent authority under the Act:

- a. If the defendant reproduces the work in any material in a paper, journals or alike periodical or by transmitting, in a cinematograph film or by ways of pictures or images.
- b. If the defendant makes a cinematograph film by reproducing or converting a substantial portion of the plaintiff's novel or drama.

#### **14.3.6. EXCEPTIONS TO AN ACTION FOR INFRINGEMENT**

Listed below are the acts which will not amount to a violation of the copyright according to Section 52 of the Act:

- The work of music, literacy, artistic and dramatic which is for the motive of just and fair dealing in personal study or research. Evaluation or censure of that works not a violation of the right.
- When the work is for the reason of communicating contemporary happenings or occurrences it does not amount to a violation of copyright.
- The replication of the work of artistic, dramatic, music and literacy for the motive of describing of an official or legal proceeding.
- The replication of the work of music, literacy, and dramatic in a particular copy made or furnished in conforming to the law of the time being in power.

- The studying or recitation in public of any sensible or rational obtains from a literary or dramatic work which is published.

#### **14.3.7. CIVIL REMEDIES FOR INFRINGEMENT**

The civil remedies available to the owner of the copyright for infringement include:

- (i) Damages for the loss suffered by the plaintiff by reason of infringement.
- (ii) Damages for conversion by the defendant of the violating copies.
- b. An injunction restraining the defendant from further selling any copy of the offending prints and from passing off goods in any manner.
- c. An order directing the defendant to render an account of all profits made by him through the sale of the infringing copies.
- d. An order directing the defendant to deliver to the plaintiff the unsold copies of the offending prints.
- e. Prohibition of import of infringing copies.

#### **14.3.8. CRIMINAL PROSECUTION**

In order to launch a criminal prosecution under the Copyright Act, it would have to be established that the accused has knowingly infringed or abetted the violation of a copyright in the work or other right given under the Act. Such a person is penalized with confinement for a term of six months minimum and three years maximum and be fined between rupees fifty thousand and rupees two lacks.

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#### **14.4. DESIGN ACT,1911**

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According to Section 2(5) of the Design Act, 1911, design means only the quality or attribute of form design, decoration, accessory or formation of lines or shades put to any object, things or product whether in two aspect or feature or in three aspect or in both shape by any factory industrial procedure or ways whether manual, mechanical or chemical separate or combined which in the complete or finalize things or object attractive to and are determine only by the eye but does not comprise any style or concept of



construction or anything which is in material are mechanical device. It does not comprise a trademark or property or mark or an artistic work.

#### **14.4.1. FEATURES OF DESIGN**

- i. Attractive to the eyes:** Design Act 1911 and 2000 narrate that the complete and finalized object or things must be attractive to the eye. It should be capable of being determined only by the eyes.
- ii. Originality and creativity:** A design must be original and new and it must not be produced in India for the cause of registration. Introducing a normal commerce variation into an old design cannot make it original and new.

**The Assumption of Originality:** When the plaintiff filed the statement of novelty in respect of shape, configuration and surface design particularly the ridged side of the container the originality was not affirmed either in relation to the amount of the colour and the shape used. Consequently, dissimilarity in the part or portion of the container and the dissimilarity in colours between the plaintiff's containers and the defendant containers are irrelevant as nor the colour neither the amount were an element of the design which is registered.

**No previous production or publications:** The request for registration of a design should be for an original and a new product or thing. It should not be produced or published in India before.

#### **14.4.2. REGISTRATION OF DESIGN**

The controller of the Designs for the purpose of the Act will be the Controller-General of Patents, Designs and Trade Marks, who is appointed by the Central Government. For obtaining registration of the Design a request or an application is to be given. The owner or the possessor of the original and new design for the purpose of registration must be: (i) either the owner or possessor of the design; or (ii) Any other person who obtains the

design or who has the right to put the design to any object or thing; or iii) when a person has developed or yield such rights.

The request or the application needs to be assisted with four copies of the design properly signed by the person who is applying for the registration.

#### **14.4.3. FORBIDDEN OF DESIGN REGISTRATION**

The following designs cannot be registered:

- When the design is not original and new
- Anywhere in India, if the design is already produced or published before the general public
- Any design which contains, hold or embrace improper or indecent stuff.

#### **14.4.4. CANCELLATION OF REGISTERED DESIGN**

Listed below are the grounds for the cancellation of the registered design:

- If the design is not original and new
- If the design is produced or published in India previously to the date of registration
- If the design is registered in India before.

#### **14.4.5. REMEDIES AGAINST PLAGIARISM OF DESIGN**

Following are the remedies against plagiarism of Designs:

- i. Injunctions ii) Damages iii) Delivery of Infringing Articles

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### **14.5. TRADE AND MERCHANDISE ACT, 1958**

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An Act to furnish for the registration and superior defence and safeguard of trademarks and for the prevention of applying and utilization of the use of dishonest and fraudulent marks or merchandise.

Trademark means a trade mark which is registered or a mark utilized or used in relation to goods for the reason of designating or so as to designate a connection in the way of trade between the goods and persons having the right as owner or possessor to use and utilize the mark.

The Act confers jurisdiction on the High Court situated in the local limits of the Trade Mark registry constituted under the Act. The Central Government is authorized under the Act to appoint the Controller General of Patents, Designs and Trade Marks to act as the Registrar of Trade Marks to discharge the duties as specified to them. The Act provides for the composition of Trademarks Registry, the functions of which are determined by the Central Government. A register shall be maintained in which information like name, address, description of the owner and such other details will be entered. The conditions and restrictions on the registered trademark shall also be mentioned in the register. The register shall be administered and managed by the registrar under the supervision of the Central Government.

#### **14.5.1. PROCEDURE/STEPS FOR TRADEMARK REGISTRATION**

- A person claiming to be the owner or the possessor of a trademark shall file an application for registration in the Trademark Registry office, in India within the territorial boundary of the place of his business.
- The registrar examines the application of the person for registration of trademark to discover whether it is distinguishing and does not dispute with any prevailing registered or trademark which is undetermined and examination report is not furnished.
- Before or after acceptance of the application publication of the application is to be made in the Trademark Journal.

- After publication in the Trademark Journal if any individual gives notice of his objection to the registration within three months which can be increased to the minimum of one month.
- Of the objection has been pronounced in favour of the person giving the application for the registration of a trademark, the trademark shall be registered by the Registrar.
- A Trademark Registration shall be granted by the Registrar to the applicant on registration of the trademark.

The Act prohibits the registration of certain marks which would mislead or make confusion to the public, the mark against the principles of any existing law, mark consisting outrageous or obscene theme, a mark against the religious community etc.

The person who claims to be the owner of a mark shall file an application before the registrar for registration. The registrar shall either accept or reject the application, but where the application is rejected the registrar shall record the reason for such rejection in writing.

The right over the trademark to the registered owner is vested for a term of ten years. But on the payment of the ordered fee, the owner will have the chance to renew. Within six months from the date of the expiry of the registration of the trademark an application should be furnished for the renewal of the trademark.

The possessor or the owner of the trademark may put a legal action against a person who contravenes or breach its registration. Such wrongdoing or offences will be penalized with confinement for a minimum period of six months and it may also increase to three years and with a minimum fifty thousand rupees fine but it may also increase to two lack rupees or more.

### **14.5.2. CASE OF TRADEMARK INFRINGEMENT**

In the year 2007 ‘Amul’ won the case of Trademark in the High Court of Gujarat. It was terminated that Utterly Butterly Delicious Amuls name cannot be utilized by any other owner, holder or possessor even if the company is selling goods other than that sold by the holder, possessor or the owner, who has registered the trademark. The High Court of Gujarat in a remarkable judgment has ruled that a user of a registered trademark has the right to limit others from utilizing their trademark for various goods or class. High court’s judgment was in relation with a case where the Kaira District Co-operative Milk Producers Union generally Amul Dairy and the Gujarat Co-operative Milk Marketing Federation (GCMMF) had register trademark violation cases in the District Court against two local shop owners, AmulChasmaghar and Amul Cut Piece Stores. While Kaira Union possesses brand Amul, GCMMF control and run the brand. The district High Court on 25th April, 2007 had passed an order that it was a distinct case of violation and stopped the two from using the trademark of Amul. In the High Court Amulchasmaghar still confronted the interim injunction of the District Court, where the ruling of the District Court was validated and confirm by Justice D N Patel.

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### **14.6. PATENT ACT, 1970**

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A patent is an absolute rights permitted or allowed by a state (national government) to a creator or an originator or to their diplomat for a particular time period, prohibiting the others from manufacturing, creating, production, utilizing, vending and bringing the patented commodity or product or procedure which produces that product or the commodity for these motive. A patent is not granted for an idea or principle as such, but it is granted for some article or the process of making the same article. The term of every patent is 20 years and it maintains by paying the renewal fees at every succeeding year.

In India, the grant of patents is governed by the patent act 1970 and rules 1972 which is operative in the whole of India. It has 23 chapters and 162 sections.

The objective of the patent is to motivate inventions by encouraging their safeguard and used in order to bestow and give to the industrial growth and expansion, which in return grant to the advancement of transformation and revolution in technology and to the transfer and distribution of technology.

Following criteria must be met by a product to be patentable:

- i. Originality: Before the date of filing of the application for the patent the matter revealed in the description is not to be produced or published in India or anywhere else.
- ii. Creative step: The origination is not apparent to a person experience in the art in the light of the prior production, publication, document, knowledge.
- iii. Industrially applicable: The invention must have industrial applicability

Listed below are not regarded as patentable inventions according to Indian Patents Act 1970:

- i. A procedure or technique used for horticulture and agriculture;
- ii. Any procedure or action used for the surgical, curative, medicinal, prophylactic or any other therapy or treatment of human or any procedure for an alike animal or plant treatment to provide them disease-free or to enlarge the value of the economy or that of the products;
- iii. There are two kinds of patents: process patents and product patents.
- iv. Equipment or object of substance produced by manufacture or the process of manufacture of an article or its improvement.
- v. The Act permits product patents for all inventions except food, medicines, drugs and substances produced by chemical processes.

#### **14.6.1. STAGES FROM FILING TO GRANT OF A PATENT**

- i. File an application for Patent
- ii. Formality Check
- iii. Publication
- iv. Request for Examination
- v. Examination
- vi. Issue of First Examination Report (FER)
- vii. Response from the Applicant
- viii. Pre-grant Opposition
- ix. Examination of FER
- x. Consideration of FER
- xi. Grant of a Patent

#### **A patent can expire in the following ways:**

- i. The patent has lived its full term.
- ii. The patentee has failed to pay the renewal fee.

The validity of the patent has been successfully challenged by an opponent by filing an opposition either with the patent office or with the courts.

#### **14.6.2. RIGHTS OF A PATENTEE**

The patent act confers upon the patentee the following rights:

- i. Right to exploit the patent- The patentee has a right to stop or avert the third parties, from exploiting the patented invention.
- ii. Right to grant license- The patentee has the power to assign rights or grant license.
- iii. Right to surrender- The patentee is given the right to surrender the patent by giving notice in the prescribed manner to the controller.

- iv. Right to sue for infringement- A patentee is given the right to institute a proceeding for infringement of the patent in a district court.

#### **14.6.3. ENTITLEMENT OF A PATENT**

- i. The first and the original inventor
- ii. An assignee by the original owner of the patent
- iii. The legal representative of a departed assignee and the inventor of the original work.

#### **14.6.4. SUITS CONCERNING INFRINGEMENT OF PATENTS**

- i. Any person may institute a suit for a declaration that the use by him of any process, or the making, use or sale of any article by him does not, or would not; constitute an infringement of a claim of a patent against the patentee or the holder of an exclusive license under the patent.
- ii. Where any person threatens any other person by circulars or advertisements or by communications, oral or in writing addressed to that or any other person, with proceedings for infringement of a patent, any person aggrieved thereby may bring a suit against him.

#### **ASSESS YOUR PROGRESS**

1. What is Intellectual Property Rights (IPR)? What are the legislation covering IPR's in India? \_\_\_\_\_  
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2. What does copyright cover? If an independent third party develops a program for a company, who owns the copyright? \_\_\_\_\_  
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## 14.7. SUMMING UP

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- Copyright protection and a guarantee of material benefit to the creator of an original work are essential to ensure encouragement of creative work in all walks of life so that society can make cultural progress. Lack of such safeguard and security would discourage the creative artists and have a terrifying consequence on inventive and creative action.
- The object of the Designs Act is to protect new or original designs so created to be applied or applicable to a particular article to be manufactured by industrial process or means. The design should be authentic, original and genuine.
- The Trade and Merchandise Marks Act, 1958 is an earlier legislation that governed the trademarks law in India. The main intention behind the legislation was to furnish registration and legal safeguard of trademarks and control the use of illegal, unlawful and corrupt products and marks.
- A patent is a permit from the government which bestows on the guarantee for a specific time period the absolute advantage of producing, vending and utilizing the invention for which a patent has been granted. The purpose of getting a patent is to enjoy the exclusive rights over the invention. The patent is to ensure commercial returns to the inventor for the time and money spend in generating a new product.

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#### **14.8. QUESTIONS**

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1. What do you understand by the term copyright? What are the major provisions of the Copyright Act, 1957?
2. What is design under the Design Act, 1911? What are the benefits of design registration?
3. Define the term 'Trademark'. What are the Procedure/Steps for Trademark Registration?
4. What is a Patent? Explain the Stages from Filing to Grant of a Patent.

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#### **14.9. RECOMMENDED READINGS**

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- Intellectual Property Right by Neeraj Pandey & Khushdeep Dharni
- Facets of Media Law by Madhavi Goradia Divan

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Programme	Eligibility	Programme Coordinator
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