


Media Laws And Ethics
(BAJMC-104)
Unit – 1
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Unit I: [Freedom of Press and Indian Constitution] L: 12

1. Legal terminology
2. Press laws before and after Independence
3. Bill to Act: Case study of Lokpal
4. Freedom of Press and the Indian Constitution

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Lesson-1
Legal terminology

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 **Legal Terminology**


- **Bill**-A Bill is the draft of a legislative proposal which has to pass through various stages before it becomes an Act of Parliament.
- **Act**- An Act is a **decree that is passed by the respective legislature**, such as the State Legislative Assembly or the Parliament of India.
- **Affidavit**-An affidavit is a written statement which you swear is true and which may be used as evidence in a court of law.
- **Accused** - one charged with an offense

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 **Legal Terminology**


- **Defendant**-A defendant is a person who has been accused of breaking the law and is being tried in court.
- **Evidence**- "Evidence" means and includes—(1) all statements which the Court permits or requires to be made before it by witnesses...; such statements are called oral evidence (2) all documents produced for the inspection of the Court; all such documents are called documentary evidence.
- **Acquittal**- a judgement or verdict that a person is not guilty of the crime with which they have been charged.

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 **Legal Terminology**


- **Plaintiff**- A plaintiff is a person who brings a legal case against someone in a court of law.
- **Prosecution**- Prosecution is the action of charging someone with a crime and putting them on trial.
- **Prime Facie**- The term Prima Facie is a legal term that represents a legal scenario where enough evidence is presented by the prosecution to prove that the defendant is guilty.
- **Sub Judice**- When something is sub judice, it is the subject of a trial in a court of law.

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 **Legal Terminology**


- **ORDINANCE**- An ordinance is a law enacted by a municipal body, such as a city council or county commission
- **Regulations**- A rule of order having the force of law, prescribed by a superior or competent authority, relating to the actions of those under the authority's control.
- **Statute**- A statute is a written law passed by a legislature on the state or federal level. Statutes set forth general propositions of law that courts apply to specific situations.

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 **Legal Terminology**

- **Code**- A collection of written laws gathered together, usually covering specific subject matter.
- **Norms**- popular account of norms describes them as reasons to act, believe or feel.
- **Conventions**- It is an unwritten understanding about how something should be done, which, although, not legally enforceable, is almost universally observed. Eg. You must use the zebra crossing.
- These are not framed by the legislature, so don't acquire status of law or rules.


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Lesson-2


Press Laws Before and After Independence

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 **Press Laws Before Independence**

- It is important for the democracy to have certain laws to regulate the freedom of press.
- Even before independence, there were certain laws made to regulate the freedom of press.
- Post independence, certain laws were dissolved and new press laws were made. Some laws still exist, like Press & Registrations of Books Act.
- Press laws in India had unbreakable relationship with the struggle for independence.
- Newspapers in India were catalysts that brought out the national spirits of Indians.

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 **Press Laws Before Independence**


1. The Gagging Act-1857

- Sought to regulate the establishment of printing presses and to restrain the tone of all printed matter.
- The press had to take approval of the government before publication of any manuscript.

2. Indian Penal Code 1860(The Bharatiya Nyaya Sanhita):

- Action against any obscene publication, defamatory publication, advertisement, content promoting enmity, hatred, or ill between classes or others.


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 **Press Laws Before Independence**

3. Press & Registration of Books Act 1867:

- Most serious legislation and is valid till date.
- Pertains to regulations of printing presses and newspapers and their registration.
- Around 95,000 periodicals, newspapers, publications were passed from across India since the Act have been passed since British rule.
- **Objective before independence:** to curb the thoughts against govt, to preserve copies of newspapers, to offer registration of press.
- **Objective after independence:** to include digital media under its ambit, books to be published only with authors and publishers name., n.ps with publishers name.

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 **Press Laws Before Independence**


4. Dramatic Performances Act 1876:

- Act to better control public dramatic performances
- Gives power to the government to prohibit public dramatic performances which are derogatory, defamatory, scandalous, or obscene.

5. Vernacular Press Act (1878):

- Stronger laws than the Gagging Act
- The government had authority to call upon any publisher of newspaper to enter into a bond, undertaking not to publish certain kind of material.
- The govt. could also confiscate it if any material seemed objectionable, by submitting all the proofs.


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 **Press Laws Before Independence**

6. The Indian Telegraph Act 1898:

- Pillar of telecom laws in India.
- Name is telegraph, but act covers all other forms of telecommunications as well, including landline telephones, mobile phones, satellite radio, etc.
- The govt. to monitor or intercept information, eg. phone tapping
- Also to allow the govt. to establish and maintain all forms of wired and wireless telecommunications within Indian territory.


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 **Press Laws Before Independence**

7. Newspapers (incitement to offences) Act 1908:

- Went a step ahead and allowed even the local authorities to take action against the editor of any newspaper publishing any matter resulting in provoking of the people.
- Strict censorship, curtailing freedom in vernacular press.


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 **Press Laws Before Independence**

8. The Police (Incitement and Disaffection) Act 1922:

- In this Act, the expression “member of a police-force” means any person appointed or enrolled for the performance of police duties.
- Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards the Government established by law in India amongst the members of a police-force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both.


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 **Press Laws Before Independence**

9. Official Secrets Act 1923:

- It states that actions involved in helping an enemy, or state against India are strongly condemned
- Also states that one cannot approach, inspect, or even pass over a government site or area.

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 **Press Laws After Independence**


1. The Press (Objectionable Matters) Act, 1951:

- To penalize the abuse of the freedom of press by publication of matter involving encouragement of violence or sabotage or incitement to certain other very grave offences.

2. The (Newspaper Prices and Pages) Act 1956:

- An act empowering the government to regulate the price of newspapers and to regulate the allocation of space to be allotted for advertising matter.

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 **Press Laws After Independence**


3. Delivery of Books and Newspapers (Public Libraries) Act 1955:

- An Act that requires the publishers of books and newspapers to deliver, free of cost, a copy of every published book to the National Library at Calcutta and one copy each to three other public libraries specified by the government.

4. Civil Defence Act 1968:

- An act that allows the government to make rules for the prohibition of the printing and publication of any book, newspaper or other document detrimental to the civil defence.

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 **Press Laws After Independence**

5. Press Council Act 1978:

- An act that reconstituted the Press Council of India to maintain and improve the standards of newspapers and news agencies in India.

6. Defence of India Act 1962:

- Act to restrict freedom of press empowering the government of India to issue rules to prohibit publication of communication harmful to the civil defence/military operations, prevention of harmful reports, and to prohibit printing or publishing any matter in any newspaper.

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 **Press Laws After Independence**


7. The Copyright Act 1957:

- An act to understand and protect the copyright to the harmful owners. Eg. literary, dramatics, etc. in print media.
- Objective is to prevent plagiarism and unfair exploitation of creative work.

8. The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955:

- An Act that lays down the minimum standards of service conditions for newspaper employees and journalists.


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 **Press Laws After Independence**

8. Contempt of Courts Act 1971:

- The objective is to safeguard the public interest for faith in courts.
- Anyone for contempt of court can be fined and/or imprisonment for up to 6 months.


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 **Summary**

Summary:

- There have been many Laws made, executed, amended and dissolved for keeping a fair check on the Freedom of the Press.
- Laws have been made to safeguard the working rights of the journalists.
- But there are laws which aim at restricting the boundary of the Press for some valid and indispensable reasons, pertaining to the prestige of the Nation and the judiciary.


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Lesson-3

Bill To Act


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Bill To Act

- A Bill is the draft of a legislative proposal. It has to pass through various stages before it becomes an Act of Parliament.
- **First Reading-** The legislative process starts with the introduction of a Bill in either House of Parliament—Lok Sabha or Rajya Sabha.
- **Reference of Bill to Standing Committee-**After a Bill has been introduced, Presiding Officer of the concerned House can refer the Bill to the concerned Standing Committee for examination and make report thereon.


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Bill To Act

- **Second Reading-** It has two stages
 - ❖ **First stage:** The first stage consists of general discussion on the Bill as a whole when the principle underlying the Bill is discussed.
 - ❖ **Second Stage:** The second stage of the Second Reading consists of clause-by-clause consideration of the Bill as introduced or as reported by Select/Joint Committee.


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Bill To Act


- **Third Reading-** At this stage the debate is confined to arguments either in support or rejection of the Bill without referring to the details thereof further than that are absolutely necessary.
- **Bill in the other House-** After the Bill is passed by one House, it is sent to the other House for concurrence with a message to that effect, and there also it goes through the stages described above except the introduction stage.

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 **Bill To Act**


- **Publication in Gazette-** The Gazette of India (*Bharat kaa Rajpatra भारत का राजपत्र*) is an authorized legal document and official journal of Government of India containing the mode of operations under the law of the land .

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 **Case Study-Lokpal Bill**


- A bill is a proposed law under consideration by the legislature.
- A bill does not become a law until it is passed by the legislature whereas a bill when passed by the legislature is called an Act.
- For example, The Lokpal Bill was first introduced by Adv. Shanti Bhushan in 1968 and passed the 4th Lok Sabha in 1969.
- But before it could be passed by Rajya Sabha, the Lok Sabha was dissolved and the bill lapsed. Subsequent versions were re-introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and in 2008, but none of them were passed.

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 **Case Study-Lokpal Bill**


- In 2011, during the Parliament's Winter Session, the Lok Sabha passed the controversial Lokpal Bill, but could not be passed by Rajya Sabha due to shortage of time in the winter session of 2011.
- The Government tabled the Lokpal Bill in the Rajya Sabha on 13 December 2013 and the debate was adjourned till 16 December 2013.
- The Lokpal Bill was finally passed on 17 December 2013 in the Rajya Sabha. It was passed in the Lok Sabha on 18 December 2013.

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 **Lesson-3**


Freedom of the Press and the Indian Constitution

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 **Freedom of the Press and the Indian Constitution**


- Freedom means-Right to live independently without any restrictions.
- It is synonymous to unchained and uncontrolled.
- India is a diverse country. By constitution, everyone has right to live, move, and grow in.
- Freedom is not only for the citizens, but for the 4th pillar of the country as well.
- The idea of freedom of press was started by James Augustus Hickey to express ideas freely in press.

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 **Freedom of the Press and the Indian Constitution**


- **The question arise-where the press has to draw a line?**
- A responsible press must not take advantage of the freedom granted, but sometimes the press ignores the responsible front and cross the line.
- Hence, it is important to have freedom of press.
- **Need of freedom:** Media is bridge between government and people, and hence must be transparent.
- The previous Chairman of PCI, **Markandey Katju** believed freedom of press must be crushed if its functioning leads to backwardness amongst people.

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 **Freedom of the Press and the Indian Constitution**


- People are more important than journalists, he believes and it is the duty of journalists to secure their rights.
- Eg raising awareness during Nirbhaya case is appreciable.
- More importance is given to cricket and Bollywood.
- Issues related to underemployment, poverty, lowering quality of education, health, environment, downfall of ethical and moral values in the ethical system in the country.

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 **Freedom of the Press and the Indian Constitution**


- Freedom of press is **implicit** in the right of Freedom of speech & Expressions
- Democracy survive under care & guidance of public opinion
- Freedom of the press is included in the fundamental right of freedom of expression guaranteed under **Article 19 (1) (a) of the constitution.**

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 **Freedom of the Press and the Indian Constitution**


- At the same time, in Indian constitution there are some restrictions imposed on the freedom of press or freedom of speech & expressions given in article 19-1(a). These are given in clause (2) of Article 19.
- After the amendment in 1951, a law which imposed reasonable restrictions in the interest of public order was also covered by the protection afforded by the clause (2) article 19.

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 **Freedom of the Press and the Indian Constitution**


- Thus, it is seen that the kind of freedom of expression that is guaranteed to the American citizen under the First Amendment just does not exist in India but that he is liable to "reasonable restrictions".
- Freedom of speech and expression, past and future laws are saved which relate to libel, slander, defamation, contempt of court, or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow the State.

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 **Freedom of the Press and the Indian Constitution**


- Whether a restriction is reasonable or not is not left to the determination of the legislature or the executive but it is again an objective consideration which has got to be determined by the court of law. Only such a restriction would be reasonable as the court thinks as reasonable.

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 **Clause (2) of Article 19 of the Indian constitution**


- Security of the State,
- Friendly relations with foreign States,
- Public order,
- Decency and morality,
- Contempt of court,
- Defamation,
- Incitement to an offence
- Sovereignty and integrity of India

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 **Freedom of the Press and the Indian Constitution**


- Freedom of the Press flows from the freedom of expression which is guaranteed to 'all citizens' by Article 19 (1)(a)
- The Press stands on **no higher footing than any other citizen, and cannot claim any privilege** (unless conferred specifically by law), as such, as distinct from those of any other citizen.

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 **Freedom of the Press and the Indian Constitution**


- The guarantee under Art. 19(1)(a) is confined to 'citizens', **a non-citizen, running a Press**, is not entitled to the benefit of the liberty of the Press.

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 **Freedom of press inclusions**

1. The freedom to not confine or limit to political or public affairs. It is open for all issues which seeks information for the benefit of the society.
2. The right to circulate published material to any other party.
3. The right to comment on public affairs and to criticise public men and measures.
4. The right to collect information relating to public affairs or the right of access to the source of such information. But it does not have the right of special access to information which is not available to the public generally.
5. The right to collect information from diverse sources which gives the opportunity to be free from any monopolistic control from the government.

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 **Freedom of press inclusions**

6. The freedom not to publish any news, article, correspondence or any other matter nor include any thing at the dictate of any authority.

7. The right to refuse any advertisements, including a Government advertisement. It is also important to know that if the newspaper accepts Government advertisement, it would be bound to abide by the terms and conditions of the contract or law relating to such contracts.


8. The choice in the matter of employment and unemployment.

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 **Freedom of press inclusions**


9. The immunity from any tax specially imposed on the press or on advertisements in a newspaper which was calculated to limit its circulation.

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 **Conclusion**

- The right to free expression has won constitutional recognition in democracy. But there is an understanding that the freedom of press should be used to further interest of the society & the nation.


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 **Indian Constitution and Freedom of Press**

“A free Press stands as one of the great interpreters between the Government and the people. To allow it to be fettered is to fetter ourselves”


- ‘Freedom’ means absence of control, interference or restriction.
- The expression ‘freedom of the Press’ means the right to print and publish without any interference from the State or any public authority

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 **Indian Constitution and Freedom of Press**

- Freedoms, cannot be absolute but is subject to well-known exceptions acknowledged in the public interest, which in India are enumerated in Art. 19 of the Constitution
- It is a basic human right; and has also been called a ‘preferred’ right.
- Freedom of the Press is the same as that for freedom of speech, with a stronger appeal arising from the special features of printed matter

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 **Indian Constitution and Freedom of Press**

- A printed matter records the ideas in a permanent form, which speech cannot.
- larger the audience to a speech may be, a newspaper or book has a larger circulation than spoken words.
- As is clear from Art. 19(1)(a) of our Constitution, the Press, as an institution, has no constitutional or legal privilege. What is known as the freedom of the Press is nothing but the freedom of expression of every citizen.

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