

**Media Laws And Ethics**  
**(BAJMC-104)**  
**Unit – 3**  
by  
**Bhaskar Abhigyan**  
(Associate Professor, BVICAM, New Delhi)  
  
2024

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**Unit 3: [Media Act And Laws]** **L: 12**

1. Press & Registration of Books Act 1867 and 1955, Copyright Act 1957.
2. Working Journalists Act 1955 & 1958, Young Persons Harmful Publications Act 1956.
3. Prasar Bharati Act 1990 and Cinematograph Act 1952.
4. Official Secrets Act 1923 and Right to Information Act 2005 (Case studies) 5. Defamation, Libel & Slander (Case studies).

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**Lesson-1**

**The Press and Registration  
of Books Act, 1867**

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 **Introduction**

- ❖ Act is for the regulation of press & Newspaper for the preservation of copies of books & newspaper printed in India:-
- Main Objectives:-
  - a) To preserve copies of books & Newspaper
  - b) To Prevent publication of anonymous literature
  - c) To secure information & maintain record relating to- A printer, A Publisher, An Editor.

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 **Introduction (contd.)**

- ⊙ Particulars to be printed on books & Newspaper Sec-3
  - ❖ Name of Printer
  - ❖ Place of printing
  - ❖ Name of Publisher
  - ❖ Place of publication
- ⊙ A Declaration of printing or Publishing must be filed before the competent authority- DM,SDM
- ⊙ The publisher furnish detail to press registrar in prescribed manner Sec 5(2)

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 **Important Provisions**

- The title of the newspaper;
- The language in which the newspaper is published;
- periodicity of the publication of the newspaper;
- The name of the editor, printer and publisher of the newspaper;
- The place of printing and publication;
- The average number of pages per week;

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 **Important Provisions (contd.)**

- ⊙ The number of days of publication in the year;
- ⊙ The average number of copies printed, the average number of copies sold to the public and the average number of copies distributed free to the public, the average being calculated with reference to such period as may be prescribed;
- ⊙ Retail selling price per copy;
- ⊙ The names and addresses of the owners of the newspaper and such other particulars relating to ownership as may be prescribed;
- ⊙ any other particulars which may be prescribed;

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 **Contents of Memoranda of Books**

- The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language;
- The language in which the book is written;
- The name of the author, translator or editor of the book or any part thereof;

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 **Contents of Memoranda of Books**

- ⊙ The date of issue from the press or of the publication;
- ⊙ The number of sheets, leaves or pages;
- ⊙ The size;
- ⊙ The first, second or other number of the edition;
- ⊙ The number of copies of which the edition consists;
- ⊙ The price at which the book is sold to the public; and
- ⊙ The name and residence of the proprietor or the copyright or of any portion of such copyright.

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 **Contents of Memoranda of Books**

- The subject;
- The place of printing and the place of publication;
- The name of firm of the printer and the name or firm of the publisher;

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 **Lesson-1**

**The Copyright Act, 1957**

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 **Introduction**

- ❖ Copyright is the right which a person acquires in a work which is the result of his intellectual labor.
- ❖ The primary function of the law of copyright is to protect from annexation by other people of the fruits of a man's work, labor, skill or test.

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 **Infringement of copyright**

- In the case of a literary, dramatic or artistic the proprietor of a newspaper, magazine or similar periodical under a contract of a service or apprenticeship, for the periodical, the said proprietor shall, in the absence of any agreement to contrary, be the first owner of the copyright in the work

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 **Infringement of copyright**

- In the case of any address or speech delivered in public, the person who has delivered such speech shall be the first owner of the copyright
- In the case of a government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright

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 **Infringement of copyright**

- In the case of a work made or first published by or under the direction or control of any public undertaking such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright

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 **Infringement of copyright**

- Contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act
- Literal imitation of the copyright work with some variations here and there
- Presentation and Treatment differently so that the subsequent work becomes a completely new work

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 **Certain Acts not to be infringed**

- The purpose of reporting current events.
- The purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding.
- Any work prepared by the Secretariat of a Legislature.
- Certified copy made or supplied in accordance with any law for the time being in force.

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 **Certain Acts not to be infringed ( Contd..)**

- The reading or recitation in public of any reasonable extract from a published literary or dramatic work
- Published literary or dramatic works, not themselves published for the use of educational institutions
- Reproduction by Teacher, Examiner & In questions papers

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 **Certain Acts not to be infringed ( Contd..)**

- The performance for the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution.
- sound recordings of that work have been made by or with the license or consent of the owner of the right in the work .

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 **Certain Acts not to be infringed ( Contd..)**

- ⦿ The performance is given to a non-paying audience, or for the benefit of a religious institution
- ⦿ The publication in newspaper, magazine or other periodical of a report of a lecture delivered in public
- ⦿ The making of not more than three copies of a book by or under the direction of the person in charge of a public library for the use of the library if such book is not available for sale in India;

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 **Certain Acts not to be infringement ( Contd..)**

- Dramatic or musical work kept in a library, museum or other institution to which the public has access.
- The production or publication of a translation in any Indian language of an Act of a Legislature .

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**Lesson-2**  
**Working Journalist Act,  
1955 & 1958**

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**Introduction**

- The Act provides for regulation for certain conditions of service of working journalists and other persons employed in newspaper establishments.
- The Act provides that for the purpose of fixing or revising rates of wages in respect of working journalists, the Central Government as and when necessary shall constitute Wage Board.

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**Definitions**

- a) "Newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as many, from time to time, be notified in this behalf by central Government in the official Gazette.
- b) "Newspaper Employees" means any working Journalists and includes any other person employed to do any work in or in relation to any newspaper establishment.
- c) "Newspaper Establishment" means an establishment under the control of any person or body of persons, whether incorporated or not for any production or publication of one or more newspaper or for conducting any news agency or syndicate.

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 **Definition (contd..)**

- "Working Journalists" means a person whose principal avocation is that of a journalist and (who is employed as such, either whole-time or part-time in, or in relation to, one or more newspaper establishment), and includes an editor, a leader writer, news-editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who:-
  - is employed mainly in a managerial or administrative capacity or
  - being employed in a supervisory capacity, performs, either by the nature of duties attached to his office or by reasons of the power vested in him, and function mainly of a managerial nature.

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 **Important Provisions**

Sec 25-f of the aforesaid act, in its application to working journalist, shall be construed as in Cl. (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods in relation to the retrenchment of a working journalist has been substituted, namely:-

- six months in case of an editor,
- three months, in case of any other working Journalists.

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 **Important Provisions**

- **Termination of Service without notice- Effect thereof :-**

where a journalist was permitted to continue into employment even after he has attained the age of superannuating, but later on his service was terminated without giving him notice or retrenchment compensation, it was held by the court that the action of the management of the company in terminating the services was illegal and improper.

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 **Young Persons Harmful Publications Act 1956**

- An Act to prevent the dissemination of certain publications harmful to young persons.
- Harmful Publication means any book, magazine, publication newspaper or other like publication, leaflets which consists of stories told with the aid of the pictures or without the aid of pictures or wholly in pictures, being stories portraying wholly or mainly:-
  - ❖ The commission of offence
  - ❖ The acts of violence or cruelty
  - ❖ Incidents of a repulsive or horrible nature

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**Lesson-2**

**Prasar Bharati Act (1990)**

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 **Prasar Bharati Act (1990)**

- The **Ram Vilas Paswan Committee** was set up for this purpose in 1995. It submitted a 104-page working paper with 46 recommendations on public and private electronic media, newspapers, news agencies, and film.
- The Committee had hammered out consensus on National Media Policy. Some of the recommendations were incorporated in the Broadcasting Bill introduced in parliament in May 1997.
- The **Nitish Sengupta Committee** (1996) was constituted in 1996 to have another look at the Prasar Bharati Act and to suggest amendment it submitted its report in August of the same year.

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 **Prasar Bharati Act (1990)**

- The **Nitish Sengupta Committee (1996)** was constituted in 1996 to have another look at the Prasar Bharati Act and to suggest amendment it submitted its report in August of the same year.

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 **Introduction**

- A regulation aimed to give autonomy to the Public Broadcasting System, was introduced in December 1989, passed in September 1990, and notified in 1997.
- The need for an autonomous public broadcast system was first felt in 1977 soon after the emergency when the Indira Gandhi government widely misused the public broadcaster.
- B.G. Varghese Committee formed after the Emergency recommended the establishment of an autonomous PBS in India.

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 **Introduction (contd..)**

- It provided for the formation of an autonomous Broadcasting Corporation that would manage Doordarshan and AIR, discharging all powers previously held by the Information and Broadcasting Ministry

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 **Structure**

- Prasar Bharati Board consist of 15 members
- Directors-General of the two organisations and two representatives from amongst the employees
- Recommendations of the selection committee headed by the President

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 **Objectives**

- Safeguarding the citizen's right to be informed freely, truthfully, and objectively, on all matters of public interest
- Paying special attention to fields that commercial broadcasters may ignore e.g. education, agriculture, rural development, women's empowerment, traditional arts, health and family welfare, etc

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 **Primary Duties**

- To organize and conduct Public Broadcasting Services
- To inform, educate & entertain the public and ensure a balanced development of broadcasting on Radio & TV
- Act provides for grant of autonomy to electronic media, namely, AIR and Doordarshan, which was under the Government control before enactment of this law
- The main aim of the act is that Media should be under the control of the public as distinct from Government

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 **Functions**

- Safeguarding the rights of the working classes and advancing their welfare.
- Serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas
- Providing suitable programmes keeping in view the special needs of the minorities and tribal communities.
- Promoting national integration by broadcasting in a manner that facilitates communication in the languages in India; and facilitating the distribution of regional broadcasting services in every State in the languages of that State.

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 **Functions**

- Upholding the unity and integrity of the country and the values enshrined in the Constitution.
- Providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes.
- Providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship.
- Providing appropriate programmes keeping in view the special needs of the youth

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**Lesson-3**

**Cinematograph Act, 1952**

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 **Objective**

- An Act to make provision for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.

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 **Important Provisions**

- Board of film censors sec-3.
- The Central Government constitutes a Board to be called the Board of Film Certification for the purpose of sanctioning films for public exhibition.
- The Board consist of 25 members and a Chairperson.

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 **Examination of films**

- **Sec-4:-**
- 1. Any person desiring to exhibit any film shall in the prescribed manner make an application to the board for a certificate in respect there thereof, and the Board may, after examining or having the film examined in the prescribed manner-
- Sanction the film for unrestricted public exhibition.
- Sanction the film for public exhibition restricted to adults.

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 **Examination of films sec-4 (Contd..)**

- Sanction the film for public exhibition restricted to members of any profession or any class of persons, having regard to the nature, content and theme of the film.
- Direct the applicant to carry out such modifications in the film as it thinks necessary before sanctioning the film for public exhibition under any of the foregoing clauses; or
- Refuse to sanction the film for public exhibition.

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 **Advisory panels**

- **Sec-5:-**
- For the purpose of enabling the Board to efficiently discharge its functions under this Act, the Central Government may establish at such regional centers as it thinks fit, advisory panels each of which shall consist of such number of persons, being persons qualified in the opinion of the Central Government to judge the effect of films on the public, as the Central Government may think fit to appoint thereto.
- At each regional center there shall be as many regional officers as the Central Government may think fit to appoint, and rules made in this behalf may provide for the association of regional officers in the examination of films.
- The Board may consult in such manner as may be prescribed, any advisory panel in respect of any film for which an application for a certificate has been made.

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 **Advisory panels**

- It shall be the duty of every such advisory panel whether acting as a body or in committees as may be provided in the rules made in this behalf to examine the film and to make such recommendations to the Board as it thinks fit.
- The members of the advisory panel shall not be entitled to any salary but shall receive such fees or allowances as may be prescribed.

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 **Certification of films**

- **Sec- 5A:-**
- After examination of films, the Board grants certificate to the person applying for
- The film suitable for unrestricted public exhibition is granted "U" certificate
- The film suitable for unrestricted public exhibition with an endorsement of the nature is granted "UA" certificate
- The film is not suitable for unrestricted public exhibition but is suitable for public exhibition restricted to members of any profession or any class of persons, it shall grant to the person applying for a certificate in respect of the film an "A" certificate or, as the case may be ,a "S" certificate.

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 **Certification of films**

- A certificate granted or an order refusing to grant a certificate in respect of any film shall be published in the Gazette of India.
- A certificate granted by the Board under this section shall be valid throughout India for a period of ten years

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**Lesson-4**

**Official Secrets Act, 1923**

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 **Introduction**

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

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 **Official Secrets Act, 1923**

- **Section-3:-**  
If any person for any purpose prejudicial to the safety or interests of the State—

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or-note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

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 **Official Secrets Act, 1923**

- Obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy.
- he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years.

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 **Official Secrets Act, 1923**

- There have not been many cases of prosecution under this act.
- In India, it has been widely demanded that section 3 of the official Secrets Act, which inhibits free reporting, should be done away with.
- It prescribes a punishment with imprisonment upto five years or fine or with both for a person who voluntarily receives or communicates any official secret.
- The Act does so without defining an official secret.

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 **Official Secrets Act, 1923**

- The question involved here is between the public's right to open government and government's need for secrecy.
- The law does not recognize the fact that it may be in the public interest to punish certain information, which, in the opinion of the authorities, should not be revealed.
- Thus, there is a clash of public interest.

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**Lesson-4**  
**Right to Information**  
"A Powerful Tool for  
Strengthening Democracy and  
Enhancing Good Governance"

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**What is Good Governance?**

- "Formulation and implementation of policies and programmes that are equitable, transparent, non-discriminatory, socially sensitive, participatory and above all accountable to the people at large.
- Good governance can help secure human well being and sustainable development.
- Poor governance could erode individual capabilities as well as institutional and community capacities to meet sustenance needs."

(Excerpt from the 10th Five Year Plan Document)

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**Good Governance – Key Attributes**

- Transparency
- Responsibility
- Accountability
- Participation and
- Responsiveness (to the needs of the people)

"Good governance creates an enabling environment conducive to the enjoyment of human rights and prompts growth and sustainable human development."

Source- (UN Commission on Human Rights – Charter Body attached to ECOSOC that monitors human rights situation in all member countries of the UN)

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 **Right to Information & Good Governance**

**“Good Governance –**

- crucial to the achievement of Plan targets
- People’s participation at all stages of planning, implementation and monitoring is a pre-requisite of good governance.
- Policy and procedural reforms will be effective only when people know that such changes have been made
- Task of development administration will become easier if steps are taken to make information available as a matter of right to the citizens

(Excerpt from the *10th Five Year Plan Document*)

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 **What is Right to Information?**

- Asking for and being given information as a matter of right is called “Right to Information”
- The Right to Information is a fundamental right under the Constitution of India
- Information is necessary for protection of the right to life and liberty. It is therefore a part of Article 21.
- Information is necessary to form and express opinions, dissent or support on any matter. It is therefore a part of Article 19 (1)(a)
- The Right to Information Act –
- Establishes a process for accessing information held by public authorities.
- Ordinarily places an obligation on them to give information.
- Provides a grievance redressal mechanism for citizens who have been denied information in an unreasonable manner.

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 **What is Right to Information?**

- ❖ **The Right to Information Act –**
- ❖ **Establishes a process for accessing information held by public authorities**
- ❖ **Ordinarily places an obligation on them to give information**
- ❖ **Provides a grievance redressal mechanism for citizens who have been denied information in an unreasonable manner**

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 **Right**

**Right:-**

- to inspect works, documents, records.
- to take notes, extracts or certified copies.
- to information whose disclosure is in the public interest.
- to obtain information in electronic form.
- to take samples.

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 **Record**

- Any document, manuscript and file.
- Any microfilm, microfiche and facsimile copy of a document.
- Any reproduction of image or images embodied in such microfilm (whether enlarged or not).
- Any other material produced by a computer or any other device

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 **Public Authority**

- Any body constituted under the Constitution or law made by Parliament / State Legislature.
- Any body constituted by notification issued by Central /State Govts.
- Any other body owned or controlled by the Central / State Govts.

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 **Public Authority**

**Duty of Proactive Disclosure:-**

**Every Public Authority must publish these on a regular basis:-**

1. Particulars of its organization, duties and functions.
2. Powers and duties of its officers and employees.
3. Procedure to be followed in its decision-making process, including channels of supervision and accountability.
4. Norms set out by it for discharge of its functions.

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 **Public Authority**

5. Information about rules, regulations, instructions, manuals & records used by its employees for discharging its functions.
6. Statement of the categories of documents held by it or under its control.
7. Details of any arrangement for consultation or representation by members of public in relation to policy formulation and implementation.

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 **Public Authority**

8. List of boards, councils committees and other bodies consisting of 2 or more persons for getting advice including whether their meetings are open to the public or if minutes of meetings are accessible to them.
9. Directory of its officers and employees.
10. Monthly remuneration received including the system of compensation as provided in its regulations.
11. Budget allocated to each of its agencies, indicating particulars of all plans, proposed expenditure and reports of disbursements.

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 **Public Authority**

**Every Public Authority must publish these on a regular basis -**

12. Manner of implementation of subsidy programmes including the amounts allocated, the beneficiaries and other details.
13. Details of any concessions, permits or authorizations granted.
14. Details of information held by it which is in electronic form.

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 **Public Authority**

**Every Public Authority must publish these on a regular basis -**

15. Particulars about facilities available to citizens, including working hours.
16. Names, designation, and other particulars of the PIOs.
17. Any other information of public use.

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 **Public Authority – Other Duties**

**Every Public Authority must:-**

- Publish all relevant facts while formulating important policies or announcing decisions which affect the public.
- Provide reasons for its administrative or quasi-judicial decisions to affected persons.

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 **Public Information Officer (PIO)**

As soon as the RTI Bill is enacted–

- PIOs must be designated in each Public Authority at the level of its administrative units or offices under it and
- Asst. PIOs must be designated at sub-divisional or sub-district level.

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 **Public Information Officer (PIO)**

**Duties:-**

- ✓ Accepts requests and give information within time limit.
- ✓ Assist those who cannot read and write to fill up application.
- ✓ Give information in the format requested.
- ✓ If granting partial access, gives reasons why and the materials on the basis of which this decision was taken.

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 **Public Information Officer (PIO)**

- ✓ If information is held by another public authority, transfer the application within 5 days and inform the citizen in writing.
- ✓ If information is received from third party (includes any other public authority) then give 10 days to file representation against disclosure.
- ✓ If refusing to give information, give reasons in writing and inform requestor about Appellate Authority and time limit for filing appeals.

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 **Appellate Authority**

**First Appeal(Internal):-**

- > To the officer senior in rank to the PIO in the concerned public authority.
- > Within 30 days from the date of refusal letter but delay may be condoned if sufficient cause is shown.
- > Time limit = 30 days

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 **Appellate Authority**

**Second appeal (External):-**

- > To Central / State Information Commission.
- > Within 90 days from the date of decision of first Appeal but delay may be condoned if sufficient cause is shown.
- > No time limit for Central / State Information Commission to decide on appeals.
- > Decision of Central / State Information Commission is binding.
- > Burden of proof lies on PIO for justifying denial of information.
- > Appeal against Central / State Information Commission decision can be filed in High Courts/Supreme Court, not lower courts.

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 **What can not be disclosed?**

**No obligation to give any citizen information :-**

- ✓ that would prejudicially affect the sovereignty, integrity, security, scientific or economic interest and relation with a foreign state.
- ✓ that would lead to the commission of an offence.
- ✓ whose release is forbidden by a court or tribunal or if disclosure might constitute contempt of court.

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**What can not be disclosed?**

- ✓ whose disclosure may lead to breach of privileges of Parliament or State Legislatures.
- ✓ whose release is likely to impede investigation or prosecution process.
- ✓ if it is available to a person in his fiduciary relationship – except in public interest.
- ✓ **whose disclosure may endanger life and safety of a person.**

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**What can not be disclosed?**

**Information:-**

- ✓ such as commercial and trade secrets, IPRs etc. except in public interest.
- ✓ About source of information or assistance given in confidence for law enforcement or security purposes.
- ✓ Of a personal and private nature unless required in the larger public interest.
- ✓ Cabinet papers including deliberations of Council of Ministers, Secretaries and other Officers.
- ✓ **But decisions of Council of Ministers and materials based on which they are taken must be made public after the decision is taken and the matter is completely over.**

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**Guiding principles for disclosure**

- **Information which cannot be denied to Parliament or Legislature of a State shall not be denied to any person**  
[Sec. 8(1)]
- **All exemptions subject to public interest over ride**  
access must be allowed if public interest outweighs harm to the protected interests – to be decided by PIO or appellate body.  
[Sec. 8(2)]
- **Partial Disclosure**
  - Entire file/record is not exempt even if it contains exempt information. Non-exempt portions may be released after severing exempt parts.  
[Sec. 10(1)]

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**Guiding principles for disclosure**

➤ **Time bound disclosure**  
 All information about any event, occurrence or matter must be given after 20 years.

- Except...
- Information relating to sovereignty, security, integrity, scientific and economic interest of the State.
- Information that may lead to commission of an offence.
- Cabinet papers and records of deliberations of Council of Ministers, Secretaries and other officers.
- Information that may lead to breach of privileges of Parliament and State Legislatures. [Sec. 8(3)]

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**Application Process**

- ❖ Apply in person or electronically. ➔ request in English or local official language.
- ❖ Time limit for giving information. ➔ 30 days
- ❖ If information concerns life and liberty of a person ➔ must be given within 48 hrs.
- ❖ If information is given by third party then invite objections if any ➔ add 10 extra days
- ❖ No action on application for 30 days ➔ deemed refusal

(Reasons for seeking information shall not be asked)

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**Fees payable**

- No fees for Below Poverty Line applicant.
- Application fees prescribed by appropriate Govt. (Rs.10/
- Cost of giving information may be charged on the information seeker.
- (Details of fees and how the figure was arrived at, must be given in writing.)
- Rs. 2/- per page; Rs. 50/- per floppy, others and samples - actual cost; inspection – 1<sup>st</sup> hour free, Rs. 5/- every subsequent 15min.
- Information seeker may seek review of the fees from the Appellate Authority if it is unreasonable.
- Time between date of dispatch of intimation about fees and actual payment excluded while calculating 30 day time limit.
- **If information is not given within time limit it must be given free of cost.**

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**Central Information Commission**  
[Sec. 12-14]

**Sec-12:- Constitution of Central Information Commission**

- ❑ The **Central Government** shall, by notification in the Official Gazette, constitute a body to be known as the **Central Information Commission** to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- ❑ The Central Information Commission shall consist of-
  - a) the Chief Information Commissioner; and
  - b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.
- ❑ The Chief Information Commissioner and Information Commissioners shall be appointed by the
  - ❑ President on the recommendation of a committee consisting of-
    - a) the Prime Minister, who shall be the Chairperson of the committee;
    - b) the Leader of Opposition in the Lok Sabha; and
    - c) a Union Cabinet Minister to be nominated by the Prime Minister.
 (where the Leader of Opposition in the House of the People has not been recognized as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.)

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**Central Information Commission**  
[Sec. 12-14]

- ❑ The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners.
- ❑ The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- ❑ The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- ❑ Headquarters of the Central Information Commission shall be at Delhi.

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**Central Information Commission**  
[Sec. 12-14]

**Sec-13:- Term of office and conditions of service**

- The Chief Information Commissioner shall hold office [for such term as may be prescribed by the Central Government] and shall not be eligible for reappointment.
- No Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.
- Every Information Commissioner shall hold office [for such term as may be prescribed by the Central Government] or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner.
- Every Information Commissioner shall, on vacating his office shall be eligible for appointment as the Chief Information Commissioner.
- The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office.

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**Central Information Commission**  
[Sec. 12-14]

**Sec-14:- Removal of Chief Information Commissioner or Information Commissioner.**

- Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.
- The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court.

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**Central Information Commission**  
[Sec. 12-14]

- President may by order remove from office the Chief Information Commissioner or any Information Commissioner if he Chief Information Commissioner or a Information Commissioner :-
  - is adjudged an insolvent.
  - has been convicted of an offence which, in the opinion of the President, involves moral turpitude.
  - Engages during his term of office in any paid employment outside the duties of his office.
  - is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body
  - has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

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**State Information Commission**  
[Sec. 15-17]

**Sec-15:- Constitution of State Information Commission**

- Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- The State Information Commission shall consist of—
  - i. the State Chief Information Commissioner, and
  - ii. such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.
- The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a **committee** consisting of:-
  - i. the **Chief Minister**, who shall be the Chairperson of the committee
  - ii. the **Leader of Opposition** in the Legislative Assembly; and
  - iii. a **Cabinet Minister** to be nominated by the Chief Minister.

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**State Information Commission**  
[Sec. 15-17]

- The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

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**State Information Commission**  
[Sec. 15-17]

**Sec-16:- Term of office and conditions of service**

- The State Chief Information Commissioner shall hold office [for such term as may be prescribed by the Central Government] and shall not be eligible for reappointment.
- Provided that no **State Chief Information Commissioner** shall hold office as such after he has attained the age of **sixty-five years**.
- Every **State Information Commissioner** shall hold office [for such term as may be prescribed by the Central Government] or till he attains the age of **sixty-five years**, whichever is earlier, and shall **not be eligible** for **reappointment** as such State Information Commissioner.
- **Every State Information Commissioner shall, on vacating his office, be eligible for appointment as the State Chief Information Commissioner.**
- **where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.**

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**State Information Commission**  
[Sec. 15-17]

- State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office.

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**State Information Commission**  
[Sec. 15-17]

**Sec-17:- Removal of State Chief Information Commissioner or State Information Commissioner.**

- The State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.
- The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court.

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**Information Commission (Central and State)**

**Sec-18:- Powers and functions of Information Commissions.**

- ❖ **Duty to receive complaints –**
  - ✓ If requests cannot be filed because PIO is not appointed.
  - ✓ If APIO refuses to receive/forward information requests/appeals.
  - ✓ When first AA upholds PIO's decision of refusal.
  - ✓ If there is no response on request within time limit.
  - ✓ If requestor thinks fees charged are unreasonable.
  - ✓ If requestor thinks information given by PIO is incomplete, false or misleading.
  - ✓ Any other matter relating to obtaining information under this law.

All records (including those covered by exemptions) must be given to IC during inquiry for examination. [Sec. 18]

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**Information Commission (Central and State)**

- **ICs have powers of Civil Court to conduct inquiry:-**
  - a. summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things.
  - b. requiring the discovery and inspection of documents;
  - c. receiving evidence on affidavit;
  - d. requisitioning any public record or copies thereof from any court or office;
  - e. issuing summons for examination of witnesses or documents; and.

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 **Information Commission (Central and State)**

**Sec-19:- Appeal**

- Any person who, does not receive a decision within the time specified, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be.
- Such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- A second appeal against the decision shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission. **(Delay can be condoned on sufficient cause).**

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 **Information Commission (Central and State)**

- In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
- An appeal shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof as the case may be, for reasons to be recorded in writing.

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 **Penalty Provisions**

**Sec-20:- Penalties**

- Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, **without any reasonable cause**, refused to receive an application for information or **has not furnished information within the time specified** or **malafidely denied the request** for information or **knowingly given incorrect, incomplete or misleading information** or **destroyed information** which was the subject of the request or **obstructed** in any manner in furnishing the information,
- **it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees.**

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**Penalty Provisions**

- Where the **Central Information Commission or the State Information Commission**, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the **Central Public Information Officer or the State Public Information Officer**, as the case may be, has, **without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or mala fide denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information** which was the subject of the request or obstructed in any manner in furnishing the information,
- It shall recommend for disciplinary action against the **Central Public Information Officer or the State Public Information Officer**, as the case may be, under the service rules applicable to him.

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**Act not to apply in certain organisations**

**Sec-24:- Act not to apply in certain organisations**

- Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government.
- Example:- IB & RAW, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau.

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**Role of Government – 'to do' list**

- ✓ **Formulate an Action Plan** → with specific time line for implementation
- ✓ **Identify public authorities** in all departments → Secretariat to field level
- ✓ **Identify public authorities** in other bodies – → constituted, established, owned, controlled or substantially financed directly or indirectly
- ✓ **Designate PIOs, APIOs and DAAs** → in every public authority
- ✓ **Constitute the Information Commission** → appoint CIC/SCIC and ICs and provide funds and staff
- ✓ **Compile Public Information Directory/ Handbook** → for every public authority – Sec. 4 : proactive disclosure

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**Role of Government – 'to do' list**

- ✓ **Notify rules**
  - Stipulate application fee
  - Stipulate rates for calculating additional fees.
  - Determine mode and cost of dissemination of Public Information Directory/Handbook.
  - Determine procedure for IC to decide on appeals.
- ✓ **Open budget heads** → For monies received and spent under RTI Act.
- ✓ **Prescribe formats, registers** → For applications, receipt, fee intimation, rejection order, appeals etc.
- ✓ **Notify exempt organizations** → Intelligence and security agencies under Sec. 24(4)
- ✓ **Lay down procedures** →
  - for inspection
  - for collection of samples

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**Role of Government – 'to do' list**

- ✓ **Develop basic practice manuals** → For APIOs, PIOs.
- ✓ **Lay down procedures** → For deciding 'partial access' under Sec. 10 & 11
- ✓ **Develop basic guidelines** → For interpreting exemptions and 'public interest' under Sec. 8
- ✓ **Undertake sensitisation and training programmes** → For APIOs, PIOs and IC staff first (later for all officials)
- ✓ **Develop a User Guide for the benefit of citizens** → In the official language within 18 months
- ✓ **Undertake programmes for public education** → For citizens, with particular attention to the disadvantaged communities.

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**Lesson-5**

**Defamation -Libel and Slander**

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**Defamation**

- Defamation is the making of a false statement concerning a person or business that damages that person's or business's reputation.
- It is an **injury to the reputation of a person** resulting from a statement which is **false**.
- **Reputation is a like a personal property, damage to it** liable under the provision of law.
- In some jurisdictions, defamation is treated as a crime rather than a civil wrong.
- In India, Defamation can be filed under either **criminal law or civil law or cyber crime law, together or in sequence**.
- Different countries has different laws to handle defamation cases.
- Defamatory statements can be made in two ways:
  - written (known as libel)**
  - spoken (known as slander)**
- A person who defames another may be called a "defamer", "libeler", "slanderer", or rarely a "famacide".

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**Defamation using Social Media**

- With increase of internet demand, defamation on Social media platforms has increased significantly.
- Social media defamation refers to a libelous or slanderous statement which is made on a social media platform
- Social media defamation causes significant harm or damage, because of its ability to go viral.
- Social media platforms which can spread defamations:
  - ❖ letters to the editor of local newspapers.
  - ❖ public comments on media (i.e., newspaper or magazine) web sites.
  - ❖ blogs and comments to blog postings.
  - ❖ social media like Facebook, LinkedIn, and Twitter.
  - ❖ chat rooms or listservers.

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**Defamation using Social Media**

- **The statement made must be defamatory**  
Publication of a statement which tends to lower a person in the estimation of right thinking members of society generally
- **The statement must refer to the plaintiff**  
In an action for defamation, the plaintiff has to prove that the statement of which he/she complains referred to him/her.
- **The statement must be published:**  
Publication means making the defamatory statement known to some person other than the person defamed, and unless that is done, no civil action for defamation lies. Communication to the plaintiff himself is not enough.

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**Implications of defamation**

- Defamation is based on common law, but has recently been codified by the Defamation Act 2013. In a case of someone making a statement about you on social media, you are must establish that the statement complained of is defamatory.
- Under the Indian Penal Code and the law governing information technology , those found guilty of defamation can be asked to pay a fine a serve up to three years in jail. Indian law, however , does not have specific provisions relating to social media.
- Under Indian law there is no distinction between libel and slander and both are treated as criminal offenses under section 499 IPC, libel and slander are treated equally.
- In social media defamation internet or computer is used as a method for harming reputation of a person/group
- In case of marriage defamation, In the eyes of law, both husband and wife are one person and the communication of a defamatory matter from the husband to the wife or vice versa is no publication and will not come within the purview of section 499. Section 122.
- Provisions governing social defamation in India IPC section 499, IPC section 500, IPC section 469, IT act 2000 section 66A.

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**Prevent social media defamation**

- Think carefully about what you're writing.
- Be specific.
- Don't post anything when you're angry or emotional.
- It may look like a fact, make sure whatever you're writing is true.
- Make it clear when a statement is opinion or joke rather than fact.
- Avoid making criminal allegations or associating people with terrorist/hate groups.
- Be cautious when writing about private citizens.
- Be careful when adding hashtags to the end of your tweets.
- Avoid sharing false news, modified photos, videos
- Be prepared to issue a correction or apology.

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**Exceptions**

- Imputation of truth for the public good
- Fair comments on the public conduct of public servants.
- Fair comment on the conduct of any person touching any public question.
- Publications of reports of court proceedings.
- Comments on the merits of cases in Court or conduct of witnesses.
- Criticism of literature.
- Censure passed by a lawful authority on another

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