

## LL.B. III Term

### LB-3031 – MEDIA LAW AND CENSORSHIP (INCL. SELF REGULATION)

#### Prescribed Readings:

Basu, Dr. Durga Das, *Law of The Press*, 5<sup>th</sup> Ed, Lexis Nexis, 2010

Bloy, Duncan & Hadwin, Sara, *Law and the Media*, 2nd Ed., Sweet & Maxwell, 2013

Divan, Madhavi Goradia, *Facets of Media Law*, Eastern Book Company, 2010

Paul, Sebastian, *Ethics and The Media*, 3<sup>rd</sup> Ed., Lexis Nexis, 2015

Prasad, Kiran, *Media Law in India*, Kluwer Law International, 2011

Shukla, V.N., *Constitution of India*, 11th Ed., Eastern Book Company, 2011

Sorabjee, Soli J., “Constitution, Courts and Freedom of the Press and the Media”, B.N. Tirpak et al (eds.), *Supreme But Not Infallible : Essays In Honour Of The Supreme Court Of India*, 2000

#### 1. Different forms of Media, Theories, History of Legislative Efforts (2 Lectures)

1.1. *Forms-Print media; Broadcast media; Social media*

1.2. *Theories of media*

1.3. *History of legislative efforts in India*

#### 2. Media, Free Speech and the Constitution

2.1. **Freedom of speech** and expression under Article 19 (1) (a) and the Reasonable restrictions under Article 19 (2); Derivative rights - right to know/right to receive information, right to advertise, right to broadcast; Hate Speech (**2 Lectures**)

1. *Bennett Coleman & Co. v. Union of India*, AIR 1973 SC 106

2. *Prabha Dutt v. Union of India*, 1982 SCR (1) 1184

3. *Secy., Ministry of Broadcasting v. Cricket Association of Bengal*, (1995) 2 SCC 161

4. *ABP Pvt Ltd. v. Union of India*, (2014) 3 SCC 327 01

5. *Shreya Singhal v. Union of India*, (2015) 5 SCC 1 23

#### 2.2. Privacy, defamation and the sting operations (7 Lectures)

Privacy: Define “privacy”; right to privacy versus freedom of expression; Differentiating between right to privacy of a public figure and private figure; information in the public

domain; is there an expectation of reasonable amount of privacy; Paparazzi; Publishing information obtained illegally; Right of Publicity

6. *Rajagopal v. State of Tamil Nadu*, 1994 SCC (6) 632 44

Media and acts of defamation: Against public person; Publishing with knowledge of falsity or with reckless disregard for the truth; Right to Reply

7. *Swatanter Kumar v. The Indian Express Ltd*, 207 (2014) DLT 221 57

Sting Operations: Investigative Journalism; Leveson Report

8. *R.K.Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106 78

9. *Rajat Prasad v. CBI*, (2014) 6 SCC 495 94

Ref: *Consultation Paper-cum-Questionnaire on Undercover Sting Operations*, Law Commission of India

### 2.3. Right to Information (2 Lectures)

How far does public access to information go; Is there a right to gather news or attend meetings; Fairness doctrine and access to the media; Compelling journalist to disclose information related to crime and source

10. *CPIO, Supreme Court of India v. Subhash Chandra Aggarwal*, AIR 2010 Delhi 159 101

### 2.4. Trial by media and fair trial (2 Lectures)

Pre-trial publicity; Cameras in Courtroom; Restrictive Orders

11. *M P Lohia v. State of West Bengal*, (2005) 2 SCC 686 118

12. *Naveen Jindal v. Zee Media Corporation Ltd*, (2014) 2 SCC 1 120

Ref: *Trial by Media: Free Speech and Fair Trial under Criminal Procedure Code*, 1973, 200<sup>th</sup> Report, Law Commission of India

### 3. Contempt of Court (4 Lectures)

Scandalising, vilification of institution of Court; Unverified reporting; Fair comment and criticism

13. *In re S. Mulgaokar v. Unknown*, 1978 SCR (3) 162 135

14. *Rajendra Sail v. Madhya Pradesh Bar Association*, (2005)6 SCC109 155

15. *Sanjoy Narayan Editor-in-Chief Hindustan v. Hon. High Court of Allahabad through R.G.*,

2011 (9) SCALE 532 167

16. *Rajeev Dhawan v. Gulshan Kumar Mahajan*, (2014) 41 SCD 785, Contempt P. (CrI.)2/1994 169

Ref: Articles 129, 142 (2), 215; entry 77, List I, Seventh Schedule, Constitution of India

The Contempt of Court Act, 1971 (as amended)

Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the Contempt of Courts (Amendment) Bill, 2004 (Twelfth Report)

Paras 3.8.1 and 7.4, Report of the National Commission for the Review of the Working of the Constitution

#### **4. Media & Its Regulation (7 Lectures)**

Regulation can occur at the Central, State, local or self-regulatory level

##### **4.1. Regulation of the print media**

Ref: Press Council of India Act

Resolution for a Media Council, Press Council of India, 2012

##### **4.2. Regulation of the Broadcasting sector (Public and Private)**

*Secy., Ministry of Broadcasting v. Cricket Association of Bengal*, (1995) 2 SCC 161

17. *In re Destruction of Public and Private Properties*, (2009) 5 SCC 119

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Ref: Prasar Bharti Act 1990; Report of the Prasar Bharati's Expert Committee, 2013; Cinematography Act 1952; Cable T.V. Networks (Regulation) Act of 1995

Consultation Paper on the Proposed Draft of the Broadcasting Services Regulation, MI&B,

Self Regulatory Measures-BCCC Guidelines on Self Regulation; BCCC Report to the MI&B; BCCC Orders and Advisories; NBSA Regulations; NBA Code of Ethics

##### **4.3. Regulation of the Social Media**

Sections 6,7, 8 and other relevant provisions of Information Technology Act, 2001

*Shreya Singhal v. Union of India*, (whether it would be asserted again- a need of such power)

Ref: Section 66A, Information Technology Act of 2001;

- 52<sup>nd</sup> Report of the Parliamentary Standing Committee on Information Technology

- 31<sup>st</sup> Report of the Parliamentary Standing Committee on Subordinate Legislation, 2012-13
- Advisory on Implementation of Section 66-A of the Information Technology Act, 2000, Department of Electronics and Information Technology, 9 January, 2013
- Convergence Bill; Regulatory commissions of new media; Indian Telegraph Act of 1885

## 5. Media, Advertisement & the Law (2 Lectures)

5.1. Commercial speech: Commercial Speech Doctrine and protection provided under Art 19(1) (a); Regulating what is false or misleading / may regulate even truthful advertising

5.2. Government advertisements and the media: broadcasting political messages

18. *Ajay Goswami v. Union of India*, AIR 2007 SC 493 178

19. *Common Cause v. Union of India*, (2015) 42 SCD 686 199

Ref: Advertisement Act of 1954

Indecent Representation (Prohibition) Act, 1986

The Drugs and Magic Remedies (Objectionable) Advertisements Act of 1954

## 6. Media, Censorship and the Gag Orders (6 Lectures)

Pre- and Post Restraint; Cinema and censorship; Variable obscenity - differing standards for obscenity - adults/minors; Gag orders, print/broadcasting/social media; restraint on reporting of judicial proceedings; Reporting on Women/ Juveniles

20. *Odyssey Communications Pvt Ltd. v Lokvidayan Sanghatana*, 1988 SCR Supp. (1) 486 210

21. *S. Rangarajan v. P. Jagjivan Ram*, 1989 SCR (2) 204 213

22. *Bobby Art International v. Om Pal Singh Hoon*, (1996) 4 SCC 1 229

23. *Union of India v. Motion Picture Association*, AIR 1999 SC 2334 238

24. *Devidas Ramachandra Tuljapurkar v. State of Maharashtra*, 14 May 2015 (Criminal Appeal No. 1149 of 2010)

*Shreya Singhal v Union of India*, 24 March 2015

(whether it would be asserted again-need for such power)

25. *Reliance Petrochemicals Ltd v. Proprietors of Indian Express Newspapers, Bombay Pvt Ltd.*, 1988 SCR Supp. (3) 212 247

26. *Sahara India Real Estate Corp. Ltd. v. Securities & Exchange Board of India*, (2012) 10 SCC 603 262

Ref: The Dramatic Performances Act, 1876

Section 5D of the Cinematograph Act relating to the establishment and functioning of Film Certification Appellate Tribunal

Section 228 A, Indian Penal Code, 1860; Sections 4 and 7, Contempt of Courts Act

Section 151, Civil Procedure Code; Section 14, Official Secrets Act, 1923

Section 22, Hindu Marriage Act, 1955; Section 53, Indian Divorce Act, 1869

Section 33, Special Marriages Act, 1954; Section 33, Parsi Marriage and Divorce Act

## 7. Reporting of Legislative Proceedings (1 Lecture)

27. *Jatish Chandra v. Hari Sadhan*, AIR 1951 SC 613

28. *MSM Sharma v. Krishna Sinha*, AIR 1959 SC 395

29. *C K Dapthary v. O P Gupta*, (1971) 1 SCC 626

30. *Jawaharlal Darda v. M G Kapsikar*, (1998) 4 SCC 112

Ref: Article 361 A, Constitution of India

Parliamentary Proceedings (Protection of Publication) Act, 1977

## 8. Media and other contemporary issues (5 Lectures)

### 8.1. Paid news

31. *Ashok Shankarrao Chavan v. Madhavrao Kinhalakar*,  
(2014) 7 SCC 99

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Ref: Report on Paid News, PCI, 2010

Report of the Committee on Electoral Reforms, MoL&J, 2010

47<sup>TH</sup> Report of the Parliamentary Standing Committee on Information Technology,  
Issues Related to Paid News

### 8.2. Poll surveys

Ref: Guidelines on Pre-Poll and Exit Poll, PCI, 1996

### 8.3. Cross ownership: diversification of ownership

Ref: Recommendations on Issues relating to Media Ownership, TRAI, 12 August 2014

Recommendations on Cross Media Holdings, TRAI, 25 February 2009

TRAI Consultation Paper on Cross Media Ownership, 15 March 2013

Report of the Administrative Staff College of India, July, 2009 (MI&B)

**8.4.** Competition issues

**8.5.** Licensing issues; responsibility of licensee

**8.6.** Copyright issues

*The List of statutes and references are indicative of the scope of the subject.*



