
UNIT 1 FREEDOM OF SPEECH AND EXPRESSION AND MEDIA RESPONSIBILITY

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1.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the rationale of freedom of speech and expression;
- explain the need for social responsibility of the media;
- list and describe the various agencies which keep a vigil on the contents and performance of the media.

1.1 INTRODUCTION

In the previous block we dealt with international communication particularly with regard to Third World countries. This unit introduces you to the need of having freedom of expression. We shall also discuss why reasonable restrictions on this freedom are required. In the next unit we shall discuss salient features of our Constitution.

Activity 1

Before you start going through this Unit, let us ground ourselves to the realities that exist in our locality on freedom of speech.

- a) Make ten copies of the following questionnaire and interview ten people in your locality on each of these questions.
- b) Record (note down in the questionnaire) the answers. You may also give the copies of the questionnaire to the respondents and ask them to tick their answers.
- c) Tabulate the data and see what people think on the freedom of expression and the responsibilities of the press.

Questionnaire

1) Do you think that there should be freedom of speech and expression in our society ?

Yes No

2) Do you think that our newspapers/magazines/journals should have total freedom of speech and expression?

Yes No

If yes, why? If no, why not?

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.....
.....

3) Is our Press biased?

Yes No

**1.2 FREEDOM OF SPEECH AND EXPRESSION :
HISTORICAL DEVELOPMENT**

Having completed the small activity, let us proceed with the unit. Freedom of speech and expression is an issue, which, for various socio-political and economic reasons, has not yet taken the shape it should have acquired. Nonetheless, it is an issue. The more we are aware of it, the better it is for our society to pursue its democratic principles.

Through the ages, man has expressed his ideas through several media like symbols, signals, speech, script and print, and now computer language. Man's greatest invention is language. The invention of the script has helped mankind to preserve human thought and learning. It has helped society to conquer both space and time.

Since information and ideas are so important for the growth and survival of a free and democratic society, such a goal cannot be achieved unless every citizen has a fundamental right to give expression to his ideas and opinions. This came to be known as the right to free speech and expression. With the advent of printing technology, freedom of the press was included in the freedom of expression.

1.2.1 Enemies of Freedom

An important product of the script was the book, though in the early stages, its circulation was restricted to only a few literate persons. The books helped older civilisations like the Chinese and the Indian civilisations to preserve heritage. Books spread ideas which set people thinking, as a prelude to individual and group action. For this reason, they met opposition from guardians of political and religious doctrines. The report of a United Nations Commission, popularly known as Sean McBride Commission report, says:

“Debates on the possible boundaries of freedom, in the India of Asoka are known to have taken place; dissident Hebrew sects took refuge in caves and hid their scrolls; in Athens, Socrates paid with his life for “corrupting the young”

Throughout history, we see kings, tribal chiefs, dictators, the State and the Church intervening, sometimes in the name of God, to choke voices of articulate people and to prevent ideas and information from reaching intended audiences. These groups had to justify the restrictions they placed on the freedom of speech and expression. They found in the ideas of learned men like Plato, Machiavelli, Thomas Hobbes and George Hegel a justification for State intervention to regulate the freedom of expression.

Plato argued that wise men alone could rule and this right could not be distributed equally among the people. In his book titled **The Republic**, Plato wrote that in a collectivist society, the State would control education, in all its aspects—literature, art, music and even gymnastics, because citizens themselves belonged to the State.

For Machiavelli, the security of the State was supreme and it could be realised only by a realistic policy of the rulers. George Hegel regarded State as the embodiment of morality.

All these theories in essence, went against the right of the individual to freely express ideas, thoughts and views.

The book, as a medium of a society—wise debate received a boost with the advent of printing. Very soon pamphlets and newspapers took their birth. They posed a challenge to established authority and attracted State control in the form of licences, patents, registration, seizures, prosecution, etc.

1.2.2 Champions of Freedom

But these attempts to suppress freedom of expression never went unchallenged. They gave birth to champions of freedom of expression and speech. John Milton (1608-1674) in **Areopagitica** (1644) gave a solid reason for the freedom of the Press. According to him, in a free and open encounter in public view between truth and falsehood the truth shall prevail. In his essay **On Liberty** (1859), John Stuart Mill (1806-1873), proclaimed that liberty was the right of the individual. “All action should aim at creating, maintaining and increasing the greatest happiness of the greatest number”. He said “If all mankind minus one, were of one opinion and only one person were to be of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind”.

1.2.3 Recognition

Today freedom of expression and speech are internationally recognised rights. The LEAGUE OF NATIONS made the first organised attempt at the international level to proclaim rights of speech and expression by launching a series of conferences at Geneva, Copenhagen and Madrid, between 1927 and 1933. In just first few years of its birth, the United Nations approved the UN Declaration of Freedom of Information (1946) and the Universal Declaration of Human Rights (1948).

Before India gained independence, there were laws in the country to restrict freedom of speech and expression. These laws were a response to the birth and growth of the Indian Press, beginning with the publication of the well-known Hickey's **Bengal Gazette**. The first press law required that every newspaper should publish the names of the editor, printer and publisher. It also required that all material to be published be submitted to pre-censorship. Then came the Indian Penal Code making defamation, obscenity, sedition, etc. equal to Offences. Among other important laws restricting press freedom were Official Secrets Act and Press and Registration of Books Act. The latter required that a copy of every book and newspaper published in the country be supplied to the government.

All these laws were intended to stifle individual and collective expression, specially in the context of our independence struggle. They were also a reaction not only to the mainstream Indian newspapers in English and Indian Languages but also to such journals whose exclusive focus was to overthrow the colonial government, as Annie Besant's **Young India**, Gandhiji's **Harijan**, Tilak's **Kesari** and so on. The laws made

by the British in India mostly aimed at protecting the State from legitimate criticism of its oppressive rule.

1.2.4 Article 19(1) (a)

With the gaining of independence, freedom of speech and expression were recognised as fundamental rights and were included in the Indian Constitution. In the Article 19(1) (a) of our Constitution, it is stated: "All citizens shall have the right to freedom of speech and expression".

Article 19(2) provides reasonable restrictions on freedom of expression. Article 19(2) says that the State can impose reasonable restrictions on the exercise of the freedom of expression and speech in the interests of (a) sovereignty and integrity of India; (b) the security of the State; (c) friendly relations with foreign states; (d) public order; decency or morality; (f) contempt of court; (g) defamation and (h) incitement to an offence. It means that the law has to limit itself to the eight areas mentioned above. The restrictions imposed on the freedom of speech and expression must be reasonable.

Article 361A of our Constitution says:

No person shall be liable to any proceedings, civil or criminal in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of the Legislature of a State, unless the publication is proved to have been made with malice.

The Supreme Court delivered judgements in a few cases proclaiming that freedom of speech and expression included freedom of the press also. An important case was that of the **Sakal** decided by the Supreme Court in 1962. In that case, the Supreme Court held that the right to propagate one's ideas was inherent in the concept of freedom of speech and expression and that for the purpose of propagating his ideas, every citizen had a right to publish, disseminate and circulate them.

In two earlier cases, **Romesh Thapar Vs. State of Madras (1950)** and **Brij Bhushan Vs. State of Delhi (1950)**, the Supreme Court held that the freedom of speech and expression included freedom of propagation of ideas and that freedom was ensured by the freedom to circulate the ideas. It also declared that freedom of the press was an essential part of the right to freedom of speech and expression.

1.2.5 First Amendment

In the USA, freedom of the press was very clearly recognised for the first time in the Virginia Bill of Rights in 1776 which said "freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments." In 1791, the First Amendment to the American Constitution clearly stated that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances". Later, several court judgements supplied substance to this bare American declaration and delivered judgements which have covered every inch of the territory of press freedom from prior restraint to disclosure of source of information.

1.2.6 Unwritten Law

Unlike the USA, Britain has no written Constitution. But it has been the fountain of all philosophy concerning freedom of speech, expression and the press, as John Milton did most of his work in Britain. A myriad of laws made by British Parliament and rulings of its courts provide the basic framework for restricting freedom of expression in Britain. The rights of free speech, expression and the press are in a constant process of evolution.

1.2.7 Press Freedom : Absolute Vs. Limited

When the media began to address wider audiences, sociologists and other researchers began studying the influence of these media on individuals and the society. As governments became more complicated and power conscious, these developments led to debates everywhere, including Britain, the United States and India, on whether these freedoms are absolute or limited by variables such as the citizen's right to

privacy, or the need to preserve public peace or protect national culture from invasion, etc. Today, freedom of speech and expression is recognised and protected in all civilised countries in the world. On the one hand, democratic forces in the world are getting stronger and assertive and freedom of speech and expression have been recognised internationally as fundamental human rights. On the other hand, there are forces opposed to the free flow of information and ideas.

Check Your Progress 1

Note : i) Please give your answers in the space provided below.
ii) Wherever required please tick (✓) the right answer.
iii) Complete your answers with the ones given at the end of the Unit.

1) Who do you think give us a sound basis for press freedom?

Plato : []

John Milton : []

John Stuart Mill : []

2) Indicate the persons who opposed freedom of speech and expression.

Plato : []

John Milton : []

John Stuart Mill : []

George Hegel : []

3) Indicate the provisions relating to freedom of speech and expression.

Article 19 (1) (a) []

Article 19 (2) []

Article 352 []

Article 361A []

Article 368 []

- 4) Name the two United Nation's Declarations on freedom of speech and expression.
.....
.....
- 5) Tick the current year of First Amendment of the American Constitution.
- 1776
- 1791

1.3 FREEDOM OF THE PRESS : CONSTITUTIONAL GUARANTEES AND ITS LIMITATIONS

Earlier, we had discussed the philosophic foundation as well as constitutional provisions concerning freedom of speech, expression and the press. Now, we shall discuss the concept of freedom of the press in greater detail and the limitations on the exercise of such right. Essentially, from the beginning, the struggle was to win legitimacy for the right of free expression. But when the printing press offered opportunities to increase the reach and durability of the message, governments immediately saw a great threat to their power.

They began placing restrictions on the ownership of printing units, and insisting on pre-censorship, etc. By the 18th century, the battles for the freedom of the press were won in America, Britain and in most of Europe. Generally whatever restrictions were placed on the press were said to be in the interest of citizens (like protection against defamation, slander or libel) or the interests of the society (like banning of obscene literature or material that would produce social conflict) or the interests of the State (like prohibiting treasonable writing or disclosure of official secrets of damage to relations with a friendly country, etc. These restrictions were not regarded as assaults on the freedom of the press anywhere, though with regard to sedition and official secrets, a debate is continuing for greater freedom of the press.

1.3.1 Meaning of Freedom

In our country the concept of freedom of the press evolved over the years as a result of the struggle, first under the British rule against restrictive press laws and after independence against such laws as the Press Objectionable Matter Act, 1951. Both in the United States and India, constitutional provisions do not define freedom of the press.



In general press freedom means freedom, unless specifically prohibited by law, to gather, print and publish information and to set up technologies in pursuit of such objectives, to claim and gain access to information. This freedom extends to press photographers too. In practice, freedom of the press means freedom of the owner of a newspaper. Journalists enjoy only that much freedom as is given to them by the owner of their newspaper/magazine.

Generally, freedom always means freedom from government. But, it is recognised that there are other agencies too that threaten this freedom, for example, militants, language chauvinists and regional pressure groups. Freedom of the press sometimes is also threatened by big advertisers, as they are an important source of newspaper income. The freedom is also threatened by the newspaper proprietor's other businesses.

1.3.2 Basis of Democracy

From the beginning, freedom of the press was sought and obtained on the ground that it was a prerequisite to democracy. Without the medium of the press, people had no means of judging the performance or credentials of aspirants to power in a democracy. Even otherwise, people depend on the press on a daily basis for a variety of needs. It goes without saying that all other freedoms become irrelevant without freedom of the press because denial of this freedom means the strangling of democracy.

The press, including individual journalists and media organisations, demand freedom because of the functions they discharge for the benefit of the society. Both society and the State need information on a day-to-day basis. Though governments have their own machinery to gather information, they rely on the media as barometers of public opinion. The public or the citizenry depend on the media for fair and impartial information regarding the government's activities. As watchdogs and neutral observers, the media are in an advantageous position to monitor and disseminate information relating to government activities.

In today's context, freedom of the press is only an extension of the citizen's right to freedom of speech and expression. It is the press alone which can thwart the attempts of any government to deny this right to the citizen. Daily hundreds of decisions are taken by the government which affect the citizens directly. It is the press alone which analyses and interprets the consequences of these decisions for the citizens. In every country, its population is dependent on the press and other mass media for information, advice and guidance on a daily basis. Without freedom, they cannot discharge the functions that the society expects from them.

Today, the press, the electronic media (radio and television) wherever they operate privately, have information-gathering networks spread all over the world. They are the eyes and ears of the people everywhere. In addition, they exist solely for the purpose of collecting and disseminating information unlike the government which has more important responsibilities like administration, security of the State, education, health, agriculture, economy, etc. The media, therefore, cannot collect and distribute information unless they enjoy freedom for themselves as institutions, as do individual journalists employed by them. The media accept certain restrictions on these freedoms if they impinge on the freedoms of other individuals, or if they are in the public interest.

1.3.3 Reasonable Restrictions

In connection with the limitations on the freedom of the press, the very first thing we must remember is that the right of the freedom of the press is only an extension of the citizen's right to freedom of speech and expression. Therefore, all those laws imposing restrictions on this right of the citizen apply to the press too. It has no special privilege that the citizens do not enjoy in this area. Since a newspaper is generally brought out by a company, one may ask if the rights of the citizen could be extended to the company also. There is some fuzziness about judicial pronouncements on this matter and, therefore, the Second Press Commission recommended that all Indian companies engaged in the business of communication and whose shareholders are citizens of India should be deemed to be Indian citizens for the purpose of the relevant clauses of Article 19.

In all western societies and in India, the Constitutions as well as the general laws of the countries, set the limits for the exercise of freedom of the press. Therefore, it goes without saying that with regard to freedom, the press is not on any higher footing than the ordinary citizen, because it is an extension of the individual's right. Since the press is also a business and an industry, all those laws which apply to business and industry, also apply to newspaper organisations. The press cannot plead exemption from laws like the Industrial Disputes Act, the Provident Fund Act, the Working Journalists Act and several other laws which apply to corporate bodies.

Check Your Progress 2

Note : i) Give your answers in the space provided below.
ii) Check your answers with those given at the end of this unit.

1) What is meant by freedom of the Press?

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2) In a democracy, why is press freedom necessary?

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1.4 RESPONSIBILITIES AND SOCIAL OBLIGATIONS OF THE PRESS

Pt. Jawaharlal Nehru once said, "There is no such thing as absolute freedom. Freedom is always accompanied by responsibility. Freedom always entails an obligation, whether it is a nation's freedom or individual's freedom or a group freedom or the freedom of the Press".

In a society everyone has a responsibility to each other. Individual and institutional rights are to be exercised in a manner that they do not hurt the reasonable rights of other individuals or institutions. In a democracy, the State is accountable to an elected legislature. Each member of the legislature is accountable to his constituency. The theory of responsibility is simple — that everyone is responsible for the consequences of his actions. An old legal maxim says, "no rights without responsibilities".

Therefore, freedom of the press is also linked with responsibilities. At least, the freedom should not be abused.

Activity 2

Take today's newspaper or a fairly recent one. Take a piece of paper and a pencil. List down the headlines of all the news items in the front page. Try to analyse all the words which have been used in the headlines. You may use the space given below.

- Are they giving a tilt in favour of the Government?
- In favour of the opposition? Or are they neutral?

1.4.1 Responsibility and its Rationale

Here, there is a need to distinguish between responsibility and accountability. When we say that somebody is responsible, we mean that he has a duty to do something; when we say someone is accountable, we mean that if he fails to do what is his duty, he is accountable to some person or an institution or the State. Thus, the right to freedom of speech and expression carries with it, among other things, a duty not to disturb public peace. If he so disturbs it he is accountable to the State for such breach of responsibility.

The press and other media derive their rights to free speech and expression because they do a service to the society. The rights arise from the role and functions the media are entrusted with, in a society and responsibility and accountability co-exist with these rights. Since the media circulates information for the obvious consumption of individual members of the society, it is natural that they should be responsible (judicious) in the dissemination of the information. With every increase in the power of the media, this responsibility towards the society also increases.

The principle of rights and responsibilities is evident from Article 19 of our own Constitution. Article (19) (a) confers the right to free speech and expression. On the other hand, Article 19 (2) defines areas where the media have to keep in mind several interests like that of the sovereignty and integrity of India while they exercise the right conferred by Clause (1).

1.4.2 Unwritten Understanding

We often hear editors and others saying that they have a right to inform the public. You may call these self-imposed responsibilities. These arise from an unwritten understanding between the media and society. The public has several information needs, the most important being the need to know how the government is functioning. This knowledge helps them to take correct decisions in relation to the government. From the early days, the media assumed this responsibility to inform the public. On that basis the media have fought for and gained the right to free speech and expression.

Just as the press has assumed certain responsibilities, the State too assumes responsibilities to benefit the society. As a result, the State imposes certain responsibilities on the press. For example, it is the duty of the States to maintain public order. Therefore, the State imposes an obligation (responsibility) on the media not to publish anything that leads to, or has a tendency to lead to, a breakdown of public order. These are responsibilities imposed in addition to, and sometimes in contrast to, self-imposed responsibilities. Thus, the State imposes on the media such responsibilities which are in the end intended to protect individuals and institutions from libel, defamation or invasion of privacy.

1.4.3 Press Commissions of India

The First Press Commission appointed in 1952 was asked to look into factors which influence the establishment and maintenance of high standards of journalism in India. The Commission was appointed because after independence the role of the press was changing. It was fast turning from a mission to business.

The Commission found that there was a great deal of scurrilous writing often directed against communities or groups, of indecency and vulgarity and personal attacks on individuals. The Commission also noted that yellow journalism was on the increase in the country and was not particularly confined to any area or language. The Commission, however, found that the well-established, newspapers, on the whole, had maintained a high standard of journalism.

It remarked that whatever the law relating to the press may be, there would still be a large quantity of objectionable journalism, which, though not falling within the purview of the law, would still require some checking. It felt that the best way of maintaining professional standards of journalism would be to bring into existence a body of people principally connected with the industry whose responsibility it would be to arbitrate on doubtful points and to ensure the punishment of any one guilty of infraction of good journalistic behaviour. An important recommendation of the Commission was the setting up of a Statutory Press Commission at the national level, consisting of press people and lay members. It did not say though that the Council should have teeth.

The Government of India appointed a Second Press Commission in 1978 after the internal emergency in the country ended. During the emergency the press had to face heavy curbs on its freedom.

The Second Press Commission wanted the press to be neither a mindless adversary nor an unquestioning ally. The Commission wanted the press to play a responsible role in the development process. The press should be widely accessible to the people if it is to reflect their aspirations and problems. The question of urban bias too has received the attention of the Commission. The Commission said that for development to take place, internal stability was as important as safeguarding national security. The Commission also highlighted the role (and, therefore, responsibility) of the press in preventing and deflating communal conflict. The positive role of the press in bringing together diverse elements in the nation's life was as important as the avoidance of objectionable or communal writing. The Commission, by majority, recommended that the Press Council of India should be given statutory power to recommend actions against the newspapers, which consistently violated the Council's rulings.

Both Press Commissions of India included several respectable members from the press.

The recommendations of the First Press Commission for the first time provided an idea of what a responsible press should be. The Second Press Commission formulated in a clear manner that development should be the central focus of the press in a country which is building itself to become a self-reliant and prosperous society. The Commission declared that a responsible press can also be a free press and vice versa. Freedom and responsibility are complimentary but not contradictory terms. From the role that the two Commissions recommended for the press, we can summarise the responsibilities of the press thus:

- Help the country in its development process both by making constructive suggestions as well as criticism of delays and distortions in the development process;
- Give the widest possible access to people, reflecting the pluralistic composition of Indian society;
- Maintain internal stability and safeguard external security;
- Prevent and deflate social conflict.

1.4.4 Press and Social Responsibility in the USA

Now, let us see some developments of a similar nature in the press system of the USA. The United States, where the press and other media have been free for long, also witnessed intermittent debates on the performance of the press. The Pulitzer-Hearst circulation war which ended in the Spanish-American war, the New York Sun's hoax about a new form of life on the moon (1835) and the press tirade against President Roosevelt in the 1930s led to some introspection. On the initiative of *Time Magazine*, Robert Hutchins, Chancellor of the University of Chicago at that time, and several others studied the performance of the US Press and came out with a report in 1946. The report shocked the American public and angered many editors. The Hutchins report was the first scientific study of the press in the USA and first scientific formulation about its responsibilities. This report became the basis for the social responsibility theory formulated by Theodore Paterson, Fred S. Siebert and Wilbur Schramm in their book *Four Theories of the Press*. The Hutchins Commission Report said that the freedom of the press was in danger in the United States, "because in the hands of a few gigantic business units, the media of mass communication vital to the life of our democracy, have failed to accept the full responsibility to the public". The Commission observed that freedom of the press in America was in danger because "those who controlled" the press did not facilitate the communication of a wide spectrum of ideas.

The American view of responsibility as contained in the Hutchins Report required that:

- The Press should accept certain responsibilities towards the society;
- These responsibilities can be discharged by giving a true, accurate, objective and balanced picture of the world;

- The Press should regulate itself, though within the context of law and other social institutions;
- The Press should reflect the pluralistic character of the society;
- The Press should play a positive role in regulating crime, violence and social conflict;
- The Press should be accountable to the society as well as to employers and the market;
- The Press should work for public good.

Thus, we see rights and responsibilities go together. Nobody, individual or institution, is exempt from responsibilities. Responsibility arises from the consequences of communication. In every country, there were always sections of the press which misused the right to freedom of the press with undesirable consequences to the society and the State. These led to such inquiries as the Hutchins Commission in the United States and the two Press Commissions in India. While the Hutchins Commission suggested self-regulation on a voluntary basis, the first Press Commission in India recommended the constitution of a statutory Press Council.

1.4.5 Press and Social Responsibility in Britain

In India the concept of Press Council came from Britain. Therefore, it is necessary for us to have a brief discussion about the British Press.

In Britain, as early as in the 1930s it was felt that there must be a voluntary organisation of press persons to self-regulate the press. A report of an organisation called Political and Economic Planning, gave its recommendations in this regard.

After the Second World War, the First Royal Commission on the Press recommended the setting up of a voluntary press council in Britain. At first, the press resisted but later submitted due to great parliamentary pressure. Thus, a voluntary Press Council was established in 1953.

The Council has now been replaced by a voluntary Press Complaints Commission. One of the major difference between the Council and the Commission is that the Commission does not venture into the areas of protecting press freedom. The Council used to venture into these areas.

In Britain and the USA the major problem is how to check invasion into individual's privacy by the press, whereas in India the major problem is how to check communal writings in the press.

Check Your Progress 3

- Note :
- i) Give your answers in the space provided below.
 - ii) Check your answers with the ones given at the end of this unit.
 - iii) Tick the correct answer.

1) Why was the First Press Commission of India appointed?

[] Yellow journalism was on the rise.

[] Role of press was changing from a mission to business.

2) What is the most significant contribution of the Hutchin's Commission?

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3) What is the major problem of the press in India?

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1.5 CODE OF CONDUCT FOR JOURNALISTS: SELF-REGULATION BY THE PRESS

From time to time, complaints are heard throughout the world that a section of the press functions without regard to its responsibilities to the society. The law of the land generally takes care of any breach of violation of a specific law by the press. But there are always areas which are outside the jurisdiction of law. There is a vast area not covered by any legal regime. Media ethics apply mostly to cases not specifically covered by law. For instance, there is no law laying down principles of objectivity. Since a picture of public affairs, not informed by objectivity, is likely to mislead the audience, media organisations have voluntarily accepted objectivity as a sacred media tradition.



As you have seen earlier in this unit, a lot of irresponsible journalism in the United States provoked the appointment of the Hutchins Commission and introspection among the leading media organisations. The nagging question was whether there was objectivity in the US press. The birth of journalism schools and departments and the sudden surge in communication research together imparted a great boost to the ideal of objectivity. Of course, one can always trace the birth of objectivity to the birth of news agencies whose primary obligation was reporting only facts. However, facts themselves sometimes could lead to social conflict. In such cases, objectivity alone does not save a situation.

This is where responsibility too should be an important element of journalism.

1.5.1 New Conditions

The advances in communication and information technologies have imparted greater power to communication and, therefore, a sharper edge to its consequences. A moving and talking picture of an event is a hundred times more impactful than a printed word or a still picture. This has imparted a new urgency to the entire debate of responsibility and the need to draft and re-draft existing codes of ethics. Today, the magnitude and the economics of mass media operations have resulted in primacy being accorded to market objectives. Consequently, there has been a reshuffle in media priorities. The editor's role is governed by the advertisement and circulation department needs.

Let us look at the Indian situation. The growth of investigative journalism, after the internal emergency, led to a new phenomenon. This new phenomenon has done a lot of service to Indian public life, but no less dis-service too. The Press Institute of

India recently cautioned the Fourth Estate against a decline in professional and ethical standards, half-baked investigative reporting and poor editing. Its Director said that journalists were no more as committed to the profession as they used to be. He was very-critical of what he called partisan reporting in Indian newspapers.

Some of the recent findings of the Press Council call for a return to objective journalism. The Council mildly chided the **Times of India** for its reporting of Indira Gandhi's assassination. The Council advised that in reporting on or writing about communal or other sensitive matters, newspapers should exercise proper restraint and caution.

In recent times, **The Illustrated Weekly of India** was sued by former Orissa Chief Minister, J.B. Patnaik for damages worth rupees one crore. **The Sunday Observer** was in trouble for linking the sister of a famous film actor with the Prime Minister of Pakistan in a romantic manner. Performance by such leading newspapers was what compelled the Press Institute of India to make those remarks about investigative journalism. The United States was rocked in the 1980s, by a woman (Janet Cooke) who wrote a piece of fiction in the **Washington Post** and managed to win the Pulitzer Prize for the story. In fact, it was the **Post** which later found that the piece was a fiction.

Such sub-standard journalism exists everywhere. Therefore, responsible journalists called for a variety of agencies to ensure responsible performance by the press. They are the codes of ethics, press council and press ombudsman.

1.5.2 Code of Ethics

Vir Singhvi, Editor of **Sunday**, wrote in **The Illustrated Weekly of India** 14 September, 1986: "Never before has the Indian press been as much in the news as it is today. Few people have addressed themselves to the central question of a code of ethics. At present journalists operate without any guidelines at all".

Writing in the issue of 14 February, 1987 issue of **The Illustrated Weekly of India**, the late D.R. Mankekar wrote: "A poll taken in the USA some years ago, though on a limited scale, confined to 28 editors and 25 public officials and civic leaders, showed that 65 per cent of public representatives concluded that newspapers are not to be trusted because they carry half-told or misleading stories resulting from lax standards of reportorial research and backgrounding of news stories". That charge could be equally levelled against much of Indian reporting. Suggesting a Code of Ethics for Indian newspapers, Mankekar said, "A Code of Ethics for journalists will not, however, be worth the paper on which it is written unless we can graft teeth onto such a code so as to make it enforceable by an appropriate, recognised authority. The obvious and appropriate authority for that purpose is the Press Council of India, as recommended by the First Press Commission.

The Second Press Commission too observed that one of the functions entrusted to the Press Council was the building up of a code of conduct for newspapers, news agencies and journalists in accordance with high standards of journalism. But in a number of reports, the Press Council preferred to build a code of conduct based on its previous decisions rather than frame a code. The Council claims that attempts at framing an exhaustive code for professional bodies of journalists in various countries, including India, have either proved futile or resulted in the mere enunciation of certain basic principles in general terms that had not proved helpful when it came to applying the principles to individual cases.

In his doctoral thesis on "Self regulation of the Press: a Study of the British and Indian Experience", Dr. Santosh Kumar Tewari has concluded that the Press Council of India is deliberately not declaring a code of practice for journalists. He has said that the Council fears that if it would declare the code the government might have given the code a statutory clothing.

The Second Press Commission lists a number of codes drafted in India, the USA and Britain through the years. The All-India Newspaper Editors' Conference formulated a Code of Ethics and a Charter for Editors in 1953. During the emergency,

17 editors drafted a similar code. The National Union of Journalists (1981), the All-India Small and Medium Newspapers Association (1975) had all drafted similar codes. But the Editors Guild of India refused to draft any code arguing that responsible people do not need such a formal code. The Second Press Commission said that it would not be desirable to draw up a code of ethics for newspapers.

Some senior editors who regard journalism as a public service have suggested some guidelines. Vir Singhvi has suggested that any Code of Ethics must cover five basic areas: defamation and privacy; the acceptance of gifts and hospitality; conflict of interest; the willingness of the investigative reporter to accept 'leaks'; and the role of the proprietor. According to him all the five areas are gray areas at the moment. Whatever codes exist are on paper only and are known to very few journalists.

Mankekar says: The universally accepted tenets are (1) the story must be of public interest, i.e., it conforms to the universally accepted human rights; the right to know or the right of information; (2) the story should not violate a person's right to privacy (even a criminal condemned to be hanged is entitled to his right to privacy); (3) the story should not infringe on the country's security; and (4) the story is not subjudice and is privileged for publication. To these may be added: The story shall not incite communal discord and violence.

The Code of Ethics (1953) of All-India Newspaper Editors' Conference asks journalists to serve and guard public interest; to be alive to fundamental human and social rights; to observe restraint in reports dealing with tensions leading to or likely to lead to public disorder; to assume responsibility for all information published; to respect confidence; to voluntarily correct inaccurate information; and to give fair publicity to such correction; not to exploit their status for non-journalistic purposes; not to allow personal interest to influence professional conduct; not to demand or accept bribe; and not to give currency to rumours or loose talks affecting the private life of individuals. The National Union of Journalists' Declaration of 1981 is also largely on similar lines.

1.5.3 Ombudsman

There is no effort by professional bodies or other agencies to monitor whether the existing codes are being observed. Meanwhile, the **Times of India** set a new trend by appointing Justice P.N. Bhagwati, former Chief Justice of the Supreme Court of India, as its internal ombudsman, but the paper does not regularly publicise this fact in the paper.

The **Nav Bharat Times**, a Hindi daily of the **Times of India** group, also appointed, Mr. T.N. Chaturvedi, former Comptroller and Auditor General of India, as its ombudsman.

The idea of an ombudsman is of Swedish origin. In Sweden the Press ombudsman at the national level is not appointed by any newspaper organisation, but by all the newspaper organisations together. Ombudsman generally means an intermediary, investigating complaints by private citizens against government officials or agencies. However, at present private or voluntary organisations are also having ombudsmen to decide public complaints made against themselves or their members. In India the Lok Ayuktas in some states are ombudsmen.

Though both the word and concept of 'ombudsman' originated in Sweden, it was first adopted by the press in the USA. In 1967 an ombudsman was appointed for **Counter-Journal** and its sister publication, **Louisville Times**, and thus for the first time in the world, newspaper ombudsmanship came into existence.

At present there are now about forty press ombudsmen in the USA and Canada. Among other countries that have this institution are Britain, Sweden and Japan.

1.6 PRESS COUNCIL

The world's first Press Council took its birth in Sweden in 1916. There are now nearly fifty Press Councils all over the world. In the USA, a Press Council (National News Council) worked for 11 years.



1.6.1 Press Council of India

The Press Council of India was set up on July 4, 1966 following an Act passed by the Parliament on November 12, 1965. Justice J.R. Mudholkar, a Judge of the Supreme Court, was its Chairman. Its 25 members consisted of editors, working journalists, proprietors, eminent persons from the fields of education, science, literature, law and culture. The Council has been created for the purpose of preserving press freedom and for maintaining and improving the standards of newspapers and news agencies in India.

In 1970, news agencies were also put under its jurisdiction. The Council was abolished during the internal emergency. However, after the emergency, it was restored in 1978. The present Council has powers to levy a graded fee on newspapers and news agencies to meet its expenditure and to reduce its dependence on government's financial support.

1.6.2 Complaints Procedure

The complaints to the Press Council of India can be from the press or against the press. The complainant should first write to the editor of the newspaper by drawing attention to what the complainant considers to be a breach of journalistic ethics or an offence against public taste. If he fails to evoke a reply from the editor, he should mention this fact in his complaint to the Council. Otherwise, if the complainant is not satisfied with the reply or rejoinder or explanation of the newspaper, he should send to the Council all the correspondence between him and the editor and show to the satisfaction of the Council that the matter published had been objectionable. If it is a complaint by the press against a State agency, the newspaper or journalist should state whether the action of the agency had interfered with press freedom. Trivial complaints and sub-judice matters are not taken up by the Council.

A complaint to the Council is considered by an inquiry committee, which is a body of the members of the Council. The committee gives a hearing to the parties, considers the materials on record and arrives at a conclusion. The committee's conclusions are forwarded to the full Council in the form of a recommendation. The

Council takes a decision and the complaint is finally disposed of. The Council has no power to take legally enforceable punitive action. The Council enjoys complete autonomy and independence in the performance of its functions. It does not charge any fee from the complainants.

Anyone of you, who wish to make a complaint against a paper, may contact the Council. The address is: Press Council of India, Faridkot House (Ground Floor), 1, Copernicus Marg, New Delhi-110001.

Check Your Progress 4

Note : i) Give your answers only in the space provided for that purpose.
ii) Check your answers with the ones given at the end of this unit.

1) What are the main functions of the Press Council of India?

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2) Why is the Press Council of India not declaring a code of conduct for journalists and newspapers?

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1.7 NATIONAL INTEGRATION COUNCIL CODE

In June, 1962 the National Integration Council (NIC) drafted a Code of Conduct for the media which goes beyond the traditional responsibilities of the press. Accordingly, the press should:

- take all active steps to develop a feeling of unity, solidarity and cohesion in the hearts of the people and should create a sense of common citizenship and a feeling of loyalty to the nation;
- subordinate group loyalties based on caste, community, religion, region or language to national interest;
- condone no move of any person, party or group to divide the country or to create tension between its peoples;
- condemn unreserved incitement to violence or advocacy of violence as a means of settling conflicts;
- withhold publication of unverified news, which would tend to create discord, and refrain from giving prominent display to such news;
- contradict or rectify all inaccurate reports or comments relating to such news;
- highlight all activities whether of the State or of the public which promote the progress of the nation and the unity of the country.

The logic behind the NIC guidelines is clear. That is, there are certain national tasks which are the responsibility not only of the government and the society in general but also of the press. The press, as a part of the society, has as much duty to foster a sense of national unity and integration as the government. The country continues to tackle communalism, regionalism, secessionism, etc. The press can play voluntarily a role in highlighting and fighting these tendencies. Any glorification of violence, whether for political or commercial reasons, is to be abjured. Bhindranwale and Velu Prabhakaran owe their "stature" to media charity.

The fifth guideline stated here directly relates to the new trend of investigative journalism which seems to flourish on the assurance that people in general or even politicians have little time or inclination to go on repudiating every word of media

fiction. The Press Council came down heavily on the performance of a section of the press in relation to the Ayodhya-Babri Masjid coverage. Earlier, the Council observed that the **Times of India** had suppressed facts on a complaint from a non-resident Indian industrialist (Indian Express, New Delhi, Dec. 11, 1987).

We find that irresponsible journalism has always been there like any other social phenomenon. Consequently, there were demands both from the public and sections of the press itself asking journalists to accept some norms of ethics.

Check Your Progress 5

- Note : i) Give your answers in the space provided below.
ii) Check your answers with the ones given at the end of this unit.

1) When did the NIC draft a code of conduct for the press?

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2) What is the logic behind the NIC's guidelines for the press?

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1.8 LET US SUM UP

The media industry has proven to be both a public service and profitable business. Media content can do good to the public as well as harm. Because of this dual character, the idea that the media should function in a responsible manner has gained acceptance throughout the civilised world. The Media are indispensable for a democracy. Their right to free expression has won constitutional recognition in India. But there is an understanding that the freedom of the press should be used to further the interests of the society and the nation. There are three types of agencies which seek to ensure that the media honour their obligations to the society. They are the State, press councils and ombudsmen. The State intervenes through legislation. A press council may be voluntary or statutory. In India we have a statutory press council. The present system of employing a press ombudsman is a voluntary arrangement by the press.

In the next unit, i.e. Unit 2 we will deal with the salient features of the Indian Constitution.

1.9 FURTHER READING

Ahuja, B.N. (1988): *Story of Press, Press Laws and Communications*, Surjeet Publications; Delhi.

Trikha, N.K. (1986) : *The Press Council*, Somaiya Publications; Bombay.

Jones, R. Claments (1980) : *Mass Media Code of Ethics and Councils*, UNESCO; Paris.

Goodwin, H. Eugene (1987): *Groping for Ethics in Journalism*, Iowa (USA) Iowa State University Press, Iowa (USA).

Article 19 (1993) : *The Article 19 Freedom of Expression Hand Book: International and Comparative Law, Standards and Procedures, Article 19*, London.

1.10 CHECK YOUR PROGRESS : MODEL ANSWERS

Check Your Progress 1

- 1) Milton and Mill
- 2) Plato, Machiavelli and Hegel
- 3) Articles 19(1) (a), 19(2) and 361A.
- 4) ● United Nations Declaration of Freedom of Information (1946)
● United Nations Declaration of Human Rights (1948)
- 5) 1791

Check Your Progress 2

- 1) Press freedom generally means freedom, unless specifically prohibited by law, to gather, print and publish any information/opinion.
- 2) In a democracy newspapers are eyes and ears of the government as well as that of the people.

Check Your Progress 3

- 1) Role of the press was changing from a mission to business.
- 2) Hutchin's report emphasis that newspapers should be a socially responsible.
- 3) Dealing with communalism is a big problem of the Indian Press.

Check Your Progress 4

- 1) To defend press freedom and to adjudicate public complaints against the press.
- 2) The Council fears that the government would give its code a statutory clothing.

Check Your Progress 5

- 1) 1962
- 2) The logic behind the NIC guidelines is that there are certain national tasks which are the responsibility not only of the government and the society in general, but also of the press.