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Class-B.A. (Hons.) Mass communication III Year

Sub.: Indian Constitution & Media Law

SYLLABUS

Class – B.A. (Hons.) Mass Communication III Year

Subject: Indian Constitution & Media Law

UNIT – I	Salient features of Indian constitution
UNIT – II	Fundamental Rights Fundamental duties
UNIT – III	Laws relating to the freedom & press Right to information
UNIT –IV	Defamation Contempt of court
UNIT -V	History of press laws in India Human rights



UNIT-I

Salient Features of Indian Constitutions

- 1) **Longest Constitution** – Indian constitution is the longest written constitution, consist of 395 articles and 12 schedules. It's basic framework is taken from British Constitution.
- 2) **Sovereignty** – It declares the country as a sovereign state. It means there will be no foreign interruption in the nation's affairs.
- 3) **Socialistic approach** – India is a socialist and secular country. These words are added in the preamble by 42nd amendment.
- 4) **Democracy** – The concept of democracy, i.e. "for the people, of the people by the people" is mentioned in it.
- 5) **Mixture of Rigidity & Flexibility** – The Indian constitution is partly rigid & partly flexible. Flexibility means some parts of it could be amended easily by simple majority of votes. But some parts are difficult to be amended.
- 6) **A republic** – The constitution declare India to be a republic country. It means the highest official post of the country, i.e. the president, is not a hereditary post and he is elected for a fixed term.
- 7) **Parliamentary system** – The Indian parliamentary system is based on British parliamentary system. In this system, the execution is responsible to the legislature, it remains in power only as long & it enjoys the confidence of the legislature. The executive head is Prime Minister While actual head in president.
- 8) **A Federation** – India is a union of states. State is federal when there is two sets of government & the powers are distributed between them. The judiciary is independent which settles disputes between the centre & the states.
- 9) **Single Citizenship** – The Indian constitution recognizes single citizenship. It is either by birth or could also be earned in some special conditions, mentioned in details in the constitution. This provision promotes unity & integrity of the nation.
- 10) **Fundamental rights** – These are mentioned in the part III of the constitution and are described in details from article 12-35. These are adopted from the constitution of United States of America.
- 11) **Fundamental duties** – These are adopted from the constitution of the then USSR & they are mentioned in the article 51(A).
- 12) **Concept of directive principle:** These are mentioned in part IV, from article no 36-51. They are adopted from constitution of Ireland.



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13) **Adult Franchise** – It means every adult citizen of India can cast the vote in the elections. Balance between judiciary and parliamentary supremacy.

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UNIT II

Fundamental Rights –

The fundamental rights are the most important part of Indian constitution which are mentioned in part III. There are initially seven fundamental rights but the “Right to property” was removed from the list by 44th amendment (1978). Hence right now there are six fundamental rights. They are determined by a committee which was head by Sardar Vallabh Bhai Patel.

By 86th amendment the right to education also became a fundamental right according to it Free & compulsory education will be a fundamental right for the children from 6-14 years are group.

The basic fundamental rights are as follows –

Right to equality – this is most important right which are mentioned from article 14-18. They are as follows.

- Article 14 - Equality before law and equal protection of law
- Article 15 - Prohibition of discrimination on grounds only of religion, race, caste, sex or place of birth
- Article 16 - Equality of opportunity in matters of public employment
- Article 17 - End of untouchability
- Article 18 - Abolition of titles, Military and academic distinctions are, however, exempted.

Right of Freedom –

- Article 19 – It guarantees the citizens of India the following six fundaments freedoms –
 1. Freedom of speech and expression.
 2. Freedom of assembly
 3. Freedom of form associations
 4. Freedom of movement
 5. Freedom of Residence and settlement
 6. Freedom of profession, occupation, trade and business.
- Article 20 - Protection in respect of conviction for offences
- Article 21 - Protection of life and personal liberty
- Article 22 - Protection against arrest and detention in certain cases

Right against Exploitation –

- Article 23 - Traffic in human beings prohibited
- Article 24 - No child below the age of 14 can be employed.

Right to Freedom of Religion –

- Article 25 - Freedom of conscience and free profession, practice and propagation of religion
- Article 26 - Freedom to manage religious affairs
- Article 27 - Prohibits taxes on religious grounds.
- Article 28 - Freedom as to attendance at religious ceremonies in certain educational institutions



Cultural and Educational Rights –

- Article 29 - Protection of interests of minorities
- Article 30 - Right of minorities to establish and administer educational institutions
- Article 31 - Omitted by the 44th Amendment Act

Right to Constitutional Remedies –

- Article 32 - The right to move the Supreme Court in case of their violation
- Forms of Writ check
- Habeas Corpus – Equality before law and equal protection of law.

Fundamental Duties –

The fundamental duties are that code of conduct for every Indian citizen which is necessary for the stability and prosperity of the state. They are added in Indian Constitution by the 42nd constitutional amendment in 1976. They are described in article 51(A). The concept of fundamental duties is adopted from Russian constitution. According to it –

It shall be duty of every citizen of India -

- a) To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- b) To cherish and follow the noble ideals which inspired our national struggle for freedom;
- c) To uphold and protect the sovereignty, unity and integrity of India;
- d) To defend the country and render national service when called upon to do so;
- e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- f) To value and preserve the rich heritage of our composite culture;
- g) To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h) To develop the scientific temper, humanism and the spirit of inquiry and reform;
- i) To safeguard public property and to abjure violence.
- j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.



UNIT-III

Laws of Press related to freedom

The freedom of press is not separately mentioned in Indian constitution it is rather mentioned with freedom of expression in article 19. According to this article "Everyone has the right to free of opinion & expression. The right including freedom to hold opinions without interference & to seek, receive & import information and ideas through any media regardless of frontiers.

Freedom of press or freedom of media is basically meant with freedom of communication & expression through various media like print & electronic media. This freedom implies non-interference from on over reacting state.

The Indian Constitution does not specifically mention the freedom of press separately. It is implied in article 19(7)(a). Thus the press is subject to the restrictions that are provided under the article 19(2) of the constitution. Freedom of press is a post-independence concept, which was not prevailing in British regime.

The freedom of press is not on absolute right in India clause (2) of article 19 enable the legislature to impose certain restrictions in freedom of press. These appropriate restrictions are as follows –

Security of the State: Reasonable restrictions can be imposed on the freedom of speech and expression, in the interest of the security of the State. All the utterances intended to endanger the security of the State by crimes of violence intended to overthrow the government, waging of war and rebellion against the government, external aggression or war, etc., may be restrained in the interest of the security of the State. It does not refer to the ordinary breaches of public order which do not involve any danger to the State.

Friendly relations with foreign States: This ground was added by the Constitution (First Amendment) Act of 1951. The State can impose reasonable restrictions on the freedom of speech and expression, if it tends to jeopardise the friendly relations of India with other State.

Public order: This ground was added by the Constitution (First Amendment) Act, 1951 in order to meet the situation arising from the Supreme Court's decision in Romesh Thapar's case (AIR 1950 SC 124). The expression 'public order' connotes the sense of public peace, safety and tranquility.

In *Kishori Mohan v. State of West Bengal*, the Supreme Court explained the differences between three concepts: law and order, public order, security of State. Anything that disturbs public peace or public tranquility disturbs public order. But mere criticism of the government does not necessarily disturb public order. A law punishing the utterances deliberately tending to hurt the religious feelings of any class has been held to be valid as it is a reasonable restriction aimed to maintaining the public order.

It is also necessary that there must be a reasonable nexus between the restriction imposed and the achievement of public order. In *Superintendent, Central Prison v. Ram Manohar Lohiya* (AIR 1960 SC 633), the Court held the Section 3 of U.P. Special Powers Act, 1932, which punished a person if he incited a single person not to pay or defer the payment of Government dues, as there was no reasonable nexus between the speech and public order. Similarly, the court upheld the validity of the provision empowering a Magistrate to issue directions to protect the public order or tranquility.

Decency and morality: The word 'obscenity' is identical with the word 'indecent' of the Indian Constitution. In an English case of *R. v. Hicklin*, the test was laid down according to which it is seen 'whether the tendency of the matter charged as obscene tend to deprave and corrupt the minds which are open to such immoral influences'. This test was upheld by the Supreme Court in *Ranjit D. Udeshi v. State of Maharashtra* (AIR 1965 SC 881). In this case the Court upheld the conviction of a book seller who was prosecuted under Section 292, I.P.C., for selling and keeping the book *Lady Chatterley's Lover*. The standard of morality varies from time to time and from place to place.



Contempt of court: The constitutional right to freedom of speech would not allow a person to contempt the courts. The expression Contempt of Court has been defined Section 2 of the Contempt of Courts Act, 1971. The term contempt of court refers to civil contempt or criminal contempt under the Act. But judges do not have any general immunity from criticism of their judicial conduct, provided that it is made in good faith and is genuine criticism, and not any attempt to impair the administration of justice. In *E.M.S. Namboodripad v. T.N. Nambiar* ((1970) 2 SCC 325; AIR 1970 SC 2015), the Supreme Court confirmed the decision of the High Court, holding Mr. Namboodripad guilty of contempt of court. In *M.R. Parashar v. Farooq Abdullah* ((1984) 2 SCC 343; AIR 1984 SC 615.), contempt proceedings were initiated against the Chief Minister of Jammu and Kashmir. But the Court dismissed the petition for want of proof.

Defamation: The clause (2) of Article 19 prevents any person from making any statement that injures the reputation of another. With the same view, defamation has been criminalised in India by inserting it into Section 499 of the I.P.C.

Incitement to an offence: This ground was also added by the Constitution (First Amendment) Act, 1951. The Constitution also prohibits a person from making any statement that incites people to commit offence.

Sovereignty and integrity of India: This ground was also added subsequently by the Constitution (Sixteenth Amendment) Act, 1963. This is aimed to prohibit anyone from making the statements that challenge the integrity and sovereignty of India.

RTI Right to information

The Right to Information (RTI) Act is a law enacted by the Parliament of India to provide for setting out the practical regime of right to information for citizens. It was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005. The RTI Act mandates timely response to citizen requests for government information. It applies to all States and Union Territories of India, except the State of Jammu and Kashmir, which is covered 'under a State-level law.

The Act relaxes the Official Secrets Act of 1889 which was amended in 1923 and various other special laws that restricted information disclosure in India. In other words, the Act explicitly overrides the Official Secrets Act and other laws in force as on 15 June 2005 to the extent of any inconsistency.

Under the provisions of the Act, any citizen (excluding the citizens within J&K) may request information from a 'public authority' (a body of Government or 'instrumentality of State') which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain .. categories of information so that the citizens need minimum recourse to request for information formally.

The RTI Act specifies that citizens have a right to: request any information (as defined); take copies of documents; inspect documents, works and records; take certified samples of materials of work; and obtain information in the form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode.

Prior to the Act being passed by the Parliament, the RTI Laws were first successfully enacted by the state governments of Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Madhya Pradesh (2003), Assam (2002) and Jammu and Kashmir (2004). Some of these State level enactments have been widely used. While the Delhi RTI Act is still in force, Jammu & Kashmir has its own Right to Information Act of 2009, the successor to the repealed J&K Right to Information Act, 2004 and its 2008 amendment.



At the national level, given the experience of state governments in passing practicable legislation, the Central Government appointed a working group under H.D. Shourie to draft legislation. The Shourie draft, in an extremely diluted form, became the basis for the Freedom of Information Bill, 2000 which eventually became law under the Freedom of Information (Fol) Act, 2002. The Fol Act, however, never came into effective force as it was severely criticised for permitting too many exemptions, not only under the standard grounds of national security and sovereignty, but also for requests that would involve 'disproportionate diversion of the resources of a public authority'. Further, there was no upper limit on the charges that could be levied and there were no penalties for not complying with a request for information.

The failure of Fol Act led to sustained pressure for a better National RTI enactment. The first draft of the Right to Information Bill was presented to Parliament on 22 December 2004. Subsequently, more than a hundred amendments to the draft Bill were made before the bill was finally passed. The Law is applicable to all constitutional authorities, including the executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature.

Bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds" provided by the government are also covered by the Law. While private bodies are not within the Act's ambit directly, in a landmark decision of 30 November 2006 (Sarbjit Roy versus DERC) the Central Information Commission reaffirmed that privatised public utility companies continue to be within the RTI Act their privatisation notwithstanding.

Under the Act, all authorities covered must appoint their Public Information Officer (PIO). When any person submits a request to the PIO for information in writing, it is the PIO's obligation to provide information. Further, if the request pertains to another public authority (in whole or part) it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other authority within five days. In addition, every public authority is required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority.

The RTI Act specifies that a citizen making the request is not obliged to disclose any information except his/her name and contact particulars. The Act also specifies time limits for replying to the request. If the request has been made to the PIO, the reply is to be given within 30 days of receipt. In the case of APIO, the reply is to be given within 35 days of receipt. If the request is transferred by to PIO to another public authority the time allowed to reply is computed from the day on which it is received by the PIO of the transferee authority.

In case of information concerning corruption and Human Rights violations by scheduled Security agencies, the time limit is 45 days but with the prior approval of the Central Information Commission. However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

The information under RTI has to be paid for except for Below Poverty Level Card (BPL Card) holders. Hence, the reply of the PIO is necessarily limited to either denying the request (in whole or part) and/ or providing a computation of further fees. The time between the reply of the PIO and the time taken to deposit the further fees for information is excluded from the time allowed. If information is not provided within the time limit, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the times prescribed is to be provided free of charge.



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Considering that providing each and every information asked for under the Act may severely jeopardise national interest, some exemptions to disclosure are provided for in the Act. Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court; information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature; information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party.

Information available to a person in his fiduciary relationship; information received in confidence from foreign Government; information which would impede the process of investigation or apprehension or prosecution of offenders; and cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers are some of the exemptions. Notwithstanding any of these exemptions, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

The officer who is the head of all the information under the Act is Chief Information Commissioner (CIC). At the end of year CIC is required to present a report which contains: the number of requests made to each public authority; the number of decisions when applicants were not given permission to access to the documents which they request, the provisions of the Act under which these decisions were made and the number of times such provisions were filed; details of disciplinary action taken against any officer in respect of the administration of the Act; and the amount of charges collected by each public authority under the Act.



Unit IV

Defamation (sometimes known as **calumny**, **vilification** or **traducement**) is the oral or written communication of a false statement about another that unjustly harms their reputation and usually constitutes a [tort](#) or [crime](#). In several countries, including [South Korea](#) and [Sweden](#) communicating a true statement can also be considered defamation.

Under [common law](#), to constitute defamation, a claim must generally be false and must have been made to someone other than the person defamed. Some [common law](#) jurisdictions also distinguish between spoken defamation, called **slander**, and defamation in other media such as printed words or images, called **libel**. In the United States, [false light](#) laws protect against statements which are not technically false but are misleading.

In some jurisdictions, defamation is treated as a crime rather than a [civil wrong](#). The [United Nations Human Rights Committee](#) ruled in 2012 that the libel law of one country, the [Philippines](#), was inconsistent with Article 19 of the [International Covenant on Civil and Political Rights](#) as well as urging that "State parties [to the Covenant] should consider the decriminalization of libel". In [Saudi Arabia](#), defamation of the state, or a past or present ruler, is punishable under [terrorism](#) legislation.

A person who defames another may be called a "defamer", "libeler", "slanderer" or rarely a "famacide". The term *libel* is derived from the Latin *libellus* (literally "small book", or "booklet").

Contempt of court, often referred to simply as "**contempt**", is the offense of being disobedient to or disrespectful toward a [court](#) of law and its officers in the form of behavior that opposes or defies the authority, justice and dignity of the court.^{[1][2]} A similar attitude towards a legislative body is termed [contempt of Parliament](#) or [contempt of Congress](#).

There are broadly two categories of contempt: being disrespectful to legal authorities in the courtroom, or willfully failing to obey a court order.^[3] Contempt proceedings are especially used to enforce [equitable remedies](#), such as [injunctions](#).^[4] In some jurisdictions, the refusal to respond to [subpoena](#), to testify, to fulfill the obligations of a juror, or to provide certain information can constitute contempt of the court.

When a court decides that an action constitutes contempt of court, it can issue an order that in the context of a court [trial](#) or [hearing](#) declares a person or organization to have disobeyed or been disrespectful of the court's authority, called "found" or



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"held" in contempt. That is the judge's strongest power to impose [sanctions](#) for acts that disrupt the court's normal process.

A finding of being in contempt of court may result from a failure to obey a lawful order of a court, showing disrespect for the judge, disruption of the proceedings through poor behavior, or publication of material or non-disclosure of material, which in doing so is deemed likely to jeopardize a [fair trial](#). A judge may impose sanctions such as a [fine](#) or [jail](#) for someone found guilty of contempt of court, which makes contempt of court a [process crime](#). Judges in [common law](#) systems usually have more extensive power to declare someone in contempt than judges in [civil law](#) systems.



Censorship of Press Act, 1799:

Lord Wellesley enacted this, anticipating French invasion of India. It imposed almost wartime press restrictions including pre-censorship. These restrictions were relaxed under Lord Hastings, who had progressive views, and in 1818, pre-censorship was dispensed with.

Licensing Regulations, 1823:

The acting governor-general, John Adams, who had reactionary views, enacted these. According to these regulations, starting or using a press without licence was a penal offence. These restrictions were directed chiefly against Indian language newspapers or those edited by Indians. Rammohan Roy's Mirat-ul-Akbar had to stop publication.

Press Act of 1835 or Metcalfe:

Act Metcalfe governor-general—1835-36) repealed the obnoxious 1823 ordinance and earned the epithet, "liberator of the Indian press". The new Press Act (1835) required a printer/publisher to give a precise account of premises of a publication and cease functioning, if required by a similar declaration. **Licensing Act, 1857:**

Due to the emergency caused by the 1857 revolt, this Act imposed licensing restrictions in addition to the already existing registration procedure laid down by Metcalfe Act and the Government reserved the right to stop publication and circulation of any book, newspaper or printed matter.

Registration Act, 1867:

This replaced Metcalfe's Act of 1835 and was of a regulatory, not restrictive, nature. As per the Act, (i) every book/newspaper was required to print the name of the printer and the publisher and the place of the publication; and (ii) a copy was to be submitted to the local government within one month of the publication of a book.



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What Are Human Rights?

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

International Human Rights Law

International human rights law lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

One of the great achievements of the United Nations is the creation of a comprehensive body of human rights law—a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities.

The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights, adopted by the General Assembly in 1945 and 1948, respectively. Since then, the United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies. Human Rights Council

The Human Rights Council, established on 15 March 2006 by the General Assembly and reporting directly to it, replaced the 60-year-old UN Commission on Human Rights as the key UN intergovernmental body responsible for human rights. The Council is made up of 47 State representatives and is tasked with strengthening the promotion and protection of human rights around the globe by addressing situations of human rights violations and making recommendations on them, including responding to human rights emergencies.

The most innovative feature of the Human Rights Council is the Universal Periodic Review. This unique mechanism involves a review of the human rights



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records of all 192 UN member states once every four years. The Review is a cooperative, state-driven process, under the auspices of the Council, which provides the opportunity for each state to present measures taken and challenges to be met to improve the human rights situation in their country and to meet their international obligations. The Review is designed to ensure universality and equality of treatment for every country.

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