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**SHRI DHARMASTHALA MANJUNATHESHWARA  
LAW COLLEGE & CENTRE FOR  
POST GRADUATE STUDIES & RESEARCH IN LAW  
MANGALURU - 575 003.**

(NAAC Re-accredited B++ CGPA 2.9)

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# Legal opus

Issue No. 12  
July 2019





# LEGAL OPUS

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# AN ANALYSIS ON MEDIA ETHICS AND GUIDELINES OF PRESS COUNCIL OF INDIA

Smt. Shubhalakshmi P <sup>1</sup>

## Introduction:

Ethics means code of conduct or conduct which is right in view of the society and the time period". Ethics is a choice between, good and bad, between right and wrong. It is governed by a set of principles of morality at a given time and at a given place and in a given society<sup>2</sup>. While ethical beliefs are held by individuals, they can also be reflected in the values, practices, and policies that shape the choices made by decision makers on behalf of their organizations. Ethics applies to all aspects of conduct and is relevant to the actions of individuals, groups, and organizations.<sup>3</sup>

There are certain general laws from the Constitution of India the press laws, Cinematograph Act, the Indian Penal Code etc., which governs various forms of media. But these are all legal aspects or rules or legislations which are regulating the Media. In addition to these, there are norms of journalistic ethics prescribed by the Press Council of India, which govern the conduct of newspapers; they are not laws, but professional ethics to be observed by the print media<sup>4</sup>. There are, however, no such guidelines for the electronic media, since the Press Council has jurisdiction only over the print media. But after a great deal of public pressure, it has now established an internal body that is, the News Broadcasting Association (NBA) and BEA (Broadcast Editors Association) to regulate its conduct.<sup>5</sup> Advertising is the most visible activity of business. the code of ethics drawn up by the Advertising Standards Council of India (ASCI) has not had much impact. They do not provide solutions to every ethical dilemma.<sup>6</sup>

<sup>1</sup> Assistant Professor, SDM Law College and Centre for Post Graduate Studies in Law, Mangaluru.

<sup>2</sup> Smt. Vaishali Kathuria Bhillia and Dr. Bandana Pandey, Advertising ethics and Law, available at studymaterial/pgdapr/pgdapr-103.pdf(last visited on 2nd June 2019)

<sup>3</sup> Lumen, Ethics-a business, available at <https://courses.lumenlearning.com/boundless-management/chapter/ethics-an-overview/>(last visited on 2<sup>nd</sup> May 2019)

<sup>4</sup> Simran, Regulation of media in India-A brief overview, *The PRS blog*, available at <https://www.prsindia.org/hi/theprsblog/regulation-media-india-brief-overview>(last visited on 10<sup>th</sup> June 2019)

<sup>5</sup> Halsbury's Law, Volume III, Issue II, Feb 2009.

<sup>6</sup> *Supra* note, 2(Mrs. Vaishali KathuriaBilla and Dr. Bandana Pandey)





### Importance of ethics in media:

The importance and relevance of ethics in media, stems from the fact that, the common man places his trust in the media for providing information, education and entertainment. People get deeply and intimately affected by the media's depictions of events. Their opinion on major issues, perception of peace, harmony and development or their action in leading crusade for justice and deliverance are moulded to a larger extent by the media<sup>7</sup>.

Ethical foundation gives media the strength and stature for a societal role. Ethical practice and norms distinguish the rights from the wrongs. In case of conflict in the goals of media, there will emerge ethical dilemmas. For example, media usage may be subject to pressures to maximize economic profit, entertainment value, information provision, upholding and protecting democratic rights and freedoms or the development of art and culture etc<sup>8</sup>.

At present, in public, there is discussion on the issue of responsibilities of the press and media since the media have become very prominent and powerful. The media have become a powerful tool in the hands of the people to express opinions from the days of despotism and feudal oppression. In under developed or in developing countries, like India, the media have a great responsibility to fight backward ideas like casteism and communalism and help the people in their struggle against poverty and other social evils. So, media has got the responsibility in the society to bring new ideas and make them to become a part of enlightened India<sup>9</sup>.

Recognizing that the press and media, which enjoys the utmost freedom of expression has a great and vital role to play in educating and moulding public opinion on correct lines in regard to the need for friendly and harmonious relations between the various communities and religious groups forming the fabric of Indian political life and in mirroring the conscience of the best minds of the country to achieve national solidarity, the Press Council of India considers that, this object would be defeated, communal peace and harmony disturbed and national unity disrupted, if the Press does not strictly adhere to proper norms and standards in reporting on or commenting on matters which bear on communal relations. So, the Press Council also considered the ethics to be properly followed by the reporters and the editors.<sup>10</sup>

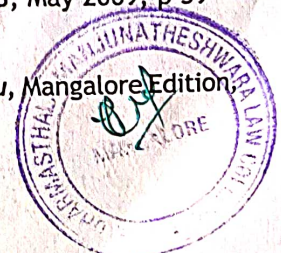
So, the concept of ethics for press and media is very much necessary to guide the civil society in an effective manner.

<sup>7</sup> Aditi Sinha Pune, Clash of the Titans- Ethics and the Media, *Yojana*-volume- 53, May 2009, p 39

<sup>8</sup> *Ibid*, p 40

<sup>9</sup> Justice MarkandeyaKhatju, "Freedom of press and journalistic ethics", *The Hindu*, Mangalore Edition, Friday June 3<sup>rd</sup>-2011.

<sup>10</sup> S K Aggarwal, *Media Credibility*, (New Delhi:Mittal Publications) p.68





### The Code of self-regulation by media:

The Freedom does not mean license. If there is greater freedom, then greater the responsibility and if greater the power, then there is the need for self-restraint. Press and media got enormous power and they are shaping and moulding the views of the people and also arousing and mobilizing public opinion. The power may be used for constructive as well as destructive purposes. It may be used for protecting and promoting the cultural heritage, social and moral values, and private and public ethical life for fostering unity and integrity of the country, for promoting tolerance, understanding, fraternity and cooperation, for spreading hatred, violence and mutual distrust, and for encouraging indecency and obscenity, superstition, blind faith and fundamentalism. Power can be used for building the nation and as well as for destroying it. So, the Code of Journalistic ethics is therefore an absolute necessity, whether it is self-imposed or is formulated and enforces by the voluntary of statutory agency like the Press Council<sup>11</sup>.

The Editors Guild of India has laid down a code of ethics, and it has often discussed self-regulation. The media has not maintained standards to which it adhered to for years are something which many journalists feel themselves. But then, this is the problem which the media itself has to sort out<sup>12</sup>.

Professional ethics are very much important for the inner discipline of the professional. What may not be illegal may be unethical<sup>13</sup>.

### Code of ethics by News Broadcasters Association

The News Broadcasters Association has put forward, the code of ethics and broadcasting standards which has to be adopted in the daily life of journalism. They are;

- a. Impartiality and objectivity in reporting is must. They have the responsibility to maintain the accuracy and balance as precedence over speed. Errors must be corrected promptly and clearly, whether in the use of pictures, or graphics, a news report, a caption, or a script. The Channels should also strive not to broadcast anything which is obviously defamatory or libelous.<sup>14</sup>
- b. Ensuring neutrality- TV Channels must provide for neutrality by offering equality for all affected parties, players and actors in any dispute or conflict to present their point of view.
- c. Reporting on crime and safeguards to ensure crime and violence are not glorified- TV news has greater impact on the society or public more than that of other Media. So, any report or visuals broadcast do not induce, glorify, incite or positively depict violence and its perpetrators, regardless of ideology

<sup>11</sup> Future of print media, Edited, printed and published by the Press Council of India, 2001-p 153.

<sup>12</sup> Mr. Kuldip Nayar, Don't stifle the media, *Deccan Herald-Mangalore Edition*-May 4<sup>th</sup> 2012.

<sup>13</sup> *Ibid.*

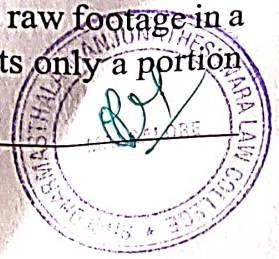
<sup>14</sup> NBA, Code of Ethics and Broadcasting Standards, (New Delhi: News Broadcasters Association) available at [http://www.nbanewdelhi.com/assets/uploads/pdf/code\\_of\\_ethics\\_english.pdf](http://www.nbanewdelhi.com/assets/uploads/pdf/code_of_ethics_english.pdf) (last visited on 5<sup>th</sup> June 2019)



or context. Special care should be taken, so as not to broadcast visuals that can be prejudicial or inflammatory. While showing any visual instance of pain, fear or suffering, of related to methods of suicide or self-harm of any kind, and will not cross boundaries of good taste and decency<sup>15</sup>.

- d. Depiction of violence or intimidation against women and children-The channels should ensure that, no women or juvenile, who is a victim of sexual violence, aggression, trauma, or has been a witness to the same, is shown on TV without due effort taken to conceal the identity. In case of sexual assault, her name, picture and other identity details will not be revealed.
- e. Sex and nudity- The news channels will ensure that, they do not show, without morphing nudity of male or female form. They will also not to show, the explicit sexual activities as well as violence like, rape or molestation, or of pornography, or use of filthy language<sup>16</sup>.
- f. Privacy- The channels must not intrude, on private lives, or personal affairs of any individual, unless there is a clearly established larger, and identifiable public interest for such a broadcast.
- g. Endangering national security- In the use of any terminology or maps, that represent India or Indian strategic interests, all news channels use specific terminology, and maps mandated by law and Indian Government rules.
- h. Refraining from advocating or encouraging superstition and occultism- News channels will not broadcast any material that glorifies superstition and occultism in any manner. In such case of broadcast, they should issue public disclaimers, to ensure that, the viewers are not misleading in to believing or emulating such beliefs and activity. So, channels will not broadcast as fact, myths about supernatural acts, apparitions, and ghosts, personal or social deviations and recreations of the same<sup>17</sup>.
- i. Sting operations- As a guiding principle, sting and under-cover operations should be a last resort of news channels in an attempt to give the viewer comprehensive coverage of any news story. News channels will not allow sex and sleaze as a means to carry out sting operations. The use of narcotics and psychotropic substances or any act of violence, intimidation or discrimination as a justifiable means in the recording of any sting operation. It will also abide by the principles of self-regulation and the news channels will ensure that, they will be guided by an identifiable larger public interest. The sting operations are carried out only as a tool for getting conclusive evidence of wrong doing or criminality, and that, there is no deliberate alteration of visuals, or editing or interposing done with the raw footage in a way that, it also alters or misrepresents the truth or presents only a portion of the truth.

<sup>15, 16, 17</sup> Ibid





j. Corrigendum- All channels will be keeping with the principle of due accuracy and impartiality, ensure that, the significant mistakes made in the course of any broadcast is acknowledged and corrected on air immediately. The correctness also should be scheduled in such a way that, they attract enough viewers' attention and are not concealed. This, like the other principles, must be observed in spirit, and not just in letter, to avoid any compromise to the reputation of the news broadcasting industry in India.

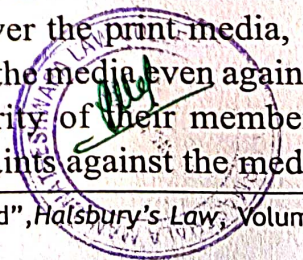
Self-regulation under a code of conduct as the News Broadcasters Association (NBA) has proposed is welcome but it may not by itself be a way forward. This is for two reasons: one, because it binds only broadcasters who are willing to be part of the association or submit to its jurisdiction enforceability can be a challenge with self-regulating bodies which are in the nature of non-statutory tribunals; Perhaps it would be best for the media itself to persuade the government, to set up an independent media tribunal or commission presided over, not by government appointees, but independent media and law experts recommended by the News Broadcasters Association. This tribunal could be given the task of adjudicating media related complaints within a strict short time frame of about two months .If found guilty of the conduct alleged; the guilty party, whether a channel or an individual, ought to be made to cough up damages in real terms, which would prove a serious deterrent for the future<sup>18</sup>.

The independence of members from the shackles of government would enable it to retain the character of self-regulation, yet it would be more effectively workable with legal sanctity and the consequent enforceability of its orders<sup>19</sup>.

**Role of Press Council of India:**

The Press Council of India has been established to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies like, United News of India, Press Trust of India etc. The Council is enjoined to build up a Code of Conduct for newspapers, news agencies and journalists in accordance with high professional standards.

Press Council, which is a correcting mechanism and is in existence in many countries, has been successfully discharging its duties for a long time now and never has one heard of "censorship" against it in any country. In many countries, either the same body or separate bodies act as correcting mechanisms for print and electronic media. Our Press council, which at present has jurisdiction only over the print media, is admittedly an independent body and entertains complaints of the media even against the government. Most of the Press Councils have a majority of their members representing the media. The Press Councils entertain complaints against the media



<sup>18</sup> MaddhviGoradia Divan, "Coverage of Mumbai Attacks, The way forward", *Halsbury's Law*, Volume III, Issue II, Feb 2009.

<sup>19</sup> *Ibid.*



for violation of professional ethics and the law of the land, which are both pre-known. The Press Council Act of India has been enacted to also preserve and protect the independence of press and journalists. It is for this reason that during the 1975 Emergency the Press Council Act was suspended by the then government. The present resistance in our country to the so-called external body is from the electronic media<sup>20</sup>.

The important functions of the Council are;

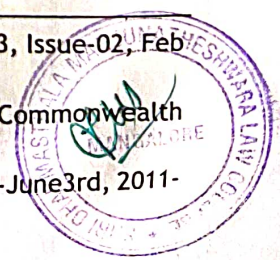
- a. To help newspapers and news agencies to maintain their independence.
- b. To build up a code of conduct for newspapers, news agencies and journalists.
- c. To keep under review any development likely to restrict supply and dissemination of news of public interest and importance.
- d. To ensure on the part of newspapers news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizens.
- e. To concern itself with the developments such as concentration of or other aspects of ownership of newspapers and news agencies this may affect the independence of the press.
- f. To encourage the growth of a sense of responsibility and public service aiming all those engaged in the profession of journalism.
- g. To keep under review cases of assistance received by any newspaper or agency in India from any foreign source.
- h. To undertake studies of foreign newspapers, including those brought out by any embassy or other representatives in India of a foreign state, their circulation and impact.
- i. To promote a proper functional relationship among sell classes of persons engaged in the production or publication of newspapers or in news agencies.
- j. To indurate such studies as may be entrusted to the council and to espousers its opinion in regard to any matter referred to it by the Central Government<sup>21</sup>.

The Press Council Act empowers the Press Council to make observations in respect of conduct of any authority including Government, if considered necessary for performance of its functions under the Act. It can warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist if it finds that a newspaper or a news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct<sup>22</sup>.

<sup>20</sup> Justice PB Sawanth-Freedom of speech or unbridled freedom-Halsbury's Law-Vol-03, Issue-02, Feb 2009

<sup>21</sup> Naval Prabhakar & Narendra Basu, Media Ethis and Law-(New Delhi: Ajay Verma for Commonwealth Publishers, 2007).

<sup>22</sup> Justice MarkandeyaKhatju, The Freedom of press and Journalistic Ethics, *The Hindu*-June3rd, 2011-Friday-Mangalore edition.





The PCI has the power to receive complaints of violation of the journalistic ethics, or professional misconduct by an editor or journalist. The PCI is responsible for enquiring in to complaints received. It may summon witnesses and take evidence under oath, demand copies of public records to be submitted, even issue warnings and admonish the newspaper, news agency, editor or journalist. It can even require any newspaper to publish details of the inquiry. Decisions of the PCI are final and cannot be appealed before a court of law.<sup>23</sup>

If there is any genuine complaint, then Press Council of India can hold the enquiry. But there should be reason to believe on the part of the Council, that, a newspaper or news agency, has offended against the standards or the journalist ethics, or the public taste or that an editor or a working journalist has committed any professional misconduct. The party against whom complaint is made is also given with an opportunity of being heard and inquiry can be conducted as per the regulations of the Press Council of India Act. The reason will be recorded in writing, warn, admonish or censure the newspapers, the news agencies, the editor or the journalist, or disapprove the conduct of editor or journalist. If the Chairman of the Council has found that, there is no sufficient ground to hold enquiry, then complaint cannot be enquired<sup>24</sup>.

The Council over years has built up a code of ethics, covering the aspects of journalism which came from the fore from time to time, keeping in mind the objects with which, it has been established and the role it is expected to perform.

The Guide to Journalistic Ethics consists of certain principles and ethics to be followed by the journalists. They areas follows.

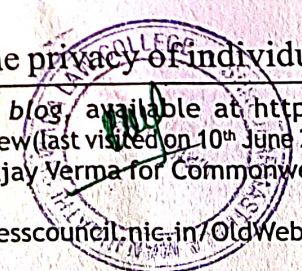
- a. Accuracy and Fairness – The comments and information on matters of public interest must be served in a fair, accurate, unbiased, sober and decent manner. Publication of inaccurate, baseless, graceless, misleading, or distorted material should be avoided. All sides the core issue or subject should be reported<sup>25</sup>.
- b. Pre- publication verification and checking of news- Pre- publication verification and checking of news is necessary where its publication and the comments based there on can create complications.
- c. Cautions against Defamatory Writings: Newspapers should not publish anything which is per se defamatory or libelous against any individual or organization unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.<sup>26</sup>
- d. Right to Privacy: The press shall not intrude or invade the privacy of individuals

<sup>23</sup> Simran, Regulation of media in India-A brief overview, *The PRS blog*, available at <https://www.prsindia.org/hi/theprsblog/regulation-media-india-brief-overview> (last visited on 10<sup>th</sup> June 2019)

<sup>24</sup> Naval Prabhakar & Narendra Basu, *Media Ethis and Law*, (New Delhi:Ajay Verma for Commonwealth Publishers, 2007).

<sup>25</sup> PCI, *Norms of Journalistic Conduct*, 10<sup>th</sup> Edition available at <http://presscouncil.nic.in/OldWebsite/NORMS-2010.pdf> (last visited on 8<sup>th</sup> June 2019)

<sup>26</sup> *Ibid.*





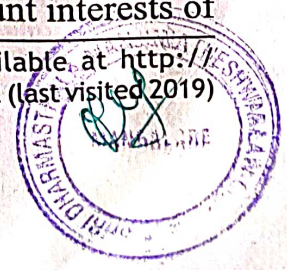
unless outweighed by genuine overriding public interest. Things concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of privacy excepting where any of these impinge upon the public or public interest.<sup>27</sup>

- e. Caution against identification-While reporting crimes involving rape or molestation of women, of sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars leading to their identity should not be published. While such publication serves no legitimate public purpose, it may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, religious order or the institution to which they belong.<sup>28</sup>
- f. Conjecture, Comment and Fact- Newspapers should not pass on or elevate conjecture, speculation or comment as a statement of fact.
- g. Newspapers to eschew suggestive guilt-The newspapers should eschew suggestive guilt. They should not name or identify the family or relative or associates of a person convicted or accused of a crime, when they are totally innocent and a reference to them is not relevant to the matter reported.<sup>29</sup>
- h. Corrections- When any factual error or mistake is detected or confirmed, the newspaper should publish the correction promptly with due prominence and with apology or expression of regret in a case of serious lapse.
- i. Right of Reply: The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved or concerned by the impugned publication, a contradiction / reply/rejoinder sent to the editor in the form of a letter or note. However, the editor is not entitled to alter, omit or refuse to publish important portions of the reply/rejoinder which effectively deal with the material allegations in the news item.
- j. Letters to the editor -An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist there of. However, in exercising this discretion, he must make an honest endeavor, to ensure that, what is published is not one sided but represents a fair balance between the views for and against with respect to the principle issue in controversy.
- k. Paramount national interest-Newspapers should, as a matter of self-regulation, exercise due restraint and caution in presenting any news, comment or information which would likely to Jeopardize, endanger or harm the paramount interests of

<sup>27</sup> Bare Acts, The Press Council of India's norms of journalistic conduct, available at <http://www.nwmindia.org/law/the-press-council-of-india-s-norms-of-journalistic-conduct> (last visited 2019)

<sup>28</sup> *Ibid.*

<sup>29</sup> *Supra-note, 25.(PCI)*





the state and society, or the right of individuals, for the protection of which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under the Article 19(2) of the constitution of India.<sup>30</sup>

- l. Covering communal disputes or clashes-News, views or comments relating to communal or religious disputes or clashes should be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the reaction of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided, acts of communal violence or vandalism people's confidence in the law and order machinery of the state, giving community wise figures of the victims of communal riot, or writhing to inflame passions, aggravate the tensions, or accentuate the strained relations between the communities or religious groups concerned, or which has a potential to aggravate the trouble, should be avoided.<sup>31</sup>
- m. Headings should not be sensational or provocative and must justify the matter printed under them.
- n. Plagiarism: using or passing off the writings or ideas of another as one's own without crediting the source, is an offence against the ethics of Journalism.<sup>32</sup>
- o. Recording interviews and phone conversations- Journalists should not tape record anyone's conversation without that person's knowledge or consent, except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.<sup>33</sup>
- p. Obscenity and vulgarity to be eschewed- Newspapers or journalists should not publish anything which is obscene, vulgar or offensive to public good taste.
- q. Newspapers should not publish an advertisement contending which is unlawful or illegal or is contrary to good taste or to journalistic ethics or proprieties.
- r. Newspapers should not display advertisements which are vulgar or which, through picture of a woman in nude or rude posture, provoke the lecherous attention of males as if she herself was a commercial commodity for sale.<sup>34</sup>
- s. Glorifying violence to be eschewed-Newspapers or journalists should avoid presenting acts of violence, armed robberies and terrorist activities in a manner that glorifies their acts or death in the eyes of the public.
- t. Glorification or encouragement of social evils to be eschewed- Newspapers should not allow their columns to be misused for writing which have a tendency to encourage or glorify social evils like Sati, purdah, devadasi & other social evils of similar nature.<sup>35</sup>

<sup>30</sup> *Supra* note, 27 (Bare Acts)

<sup>31</sup> Accountable Journalism, Indian Press Council-Monitoring Media Ethics across the globe available at <https://accountablejournalism.org/ethics-codes/india-press-council-of-india> (last visited June 2019)

<sup>32</sup> *Ibid.*

<sup>33</sup> *Supra* note, 25. (PCI)

<sup>34</sup> *Supra* note, 27. (Bare Acts)

<sup>35</sup> *Supra* note, 31. (Accountable Journalism)



- u. Caution in criticizing judicial acts- Excepting where the court sits in camera or directs otherwise, it is open to a newspapers to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it should not publish anything which in its direct and immediate effect creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice.
- v. Newspapers should avoid crass commercials- While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, the Press shall not engage in blundering commercialism.<sup>36</sup>
- w. Editor's Responsibility for all matter published in the Newspaper- The editor shall assume responsibility for all matter, including advertisements, published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.
- x. Confidence to be respected - The journalist cannot be compelled by the Press Council to disclose such source; but it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the council by the journalist who considers it necessary to repel effectively a charge against him. This rule requiring newspapers not to publish matters disclosed to it in confidence is not applicable where the consent of the source is subsequently obtained or the editor clarified by way of an appropriate footnote that since the publication of certain matters were in the public Interest, the information in question was being published although it had been made off the record<sup>37</sup>.
- y. Dummy Advertisements - Publication of dummy advt. that have neither been paid for, nor authorized by the advertisers, constitutes breach of journalistic ethics<sup>38</sup>.

Other than these, there are some additions have been made to the ethical code on important aspects, such as financial journalism, pre-poll and exit poll surveys This was mainly because, the role of media to play in the democracy is precious one, and it is one of the important aspects for the success of true democracy.

**Conclusion:**

Even though, ethics are larger than that of law, they are not enforceable as law. Breach of ethics can at the most be censured, not penalized. But, ethics should be followed in every profession, so as to preserve the sanctity of profession. But, this is closely connected with the society as well as the life of the people as a whole. News media should be fair, objective, relevant and truthful; there should be freedom of the press but there is also a need for self-regulation; it should adhere to the professional code of conduct and ethics and government may have a role to play if under certain circumstances public interest is hampered. There should not be any hurry on the part of reporters or journalists, while reporting any matter or while giving any information to the public at large.

<sup>36</sup> J.P Josephine Baba, Journalism and communication, available at <https://wecomunication.blogspot.com/2014/06/guidelines-issued-by-press-council-of.html> (last visited on 11th June 2019)

<sup>37</sup> Supra note 22(MarkandeyaKhatju)

<sup>38</sup> Nailesh Patel, Latest advances in print media and mass media and in Journalism-http://printmedia-and-communication.blogspot.in/2011/11/media-laws.html (Visited on Feb- 16<sup>th</sup>-2012)





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