

MINISTRY OF INFORMATION & BROADCASTING
'A' WING, SHASTRI BHAWAN,
NEW DELHI – 110 001

No. 3105/63/2011-BC-III

Dated: 17th Oct., 2013

To

1. All TV Channels
2. FM Stations
3. Community Radio Stations

Subject : Guidelines for Media Reporting on Children – Reference from National Commission for Protection of Child Rights (NCPCR).

Sir/Madam,

NCPCR, vide its letter dated 30.08.2013, has forwarded a copy of the Order dated 5.12.2012 passed by the Hon'ble High Court of Delhi, in the matter of AK Asthana Vs. UOI & Anr (Civil W.P. 787/2012) regarding media reporting on children, etc.

2. In the said Order dated 5.12.2012 (**copy enclosed**), the Hon'ble Court has held that they had constituted a committee comprising of representatives of Union of India, Government of NCT of Delhi, NGOs working for welfare of children, representatives of the media, etc. to deliberate upon the guidelines to be formulated to regulate media reporting and disclosure of details relating to children and to submit a report. The said committee proposed Guidelines for Media Reporting on Children which were considered by the Court in the hearing on 8.8.2012 and approved with some modifications and ordered to be implemented with immediate effect. The Hon'ble Court has further stated that at the time when the petition was taken up, it was informed that the guidelines had not been fully implemented as there had been no circulation and publicity in this regard; and the learned counsels for the respective parties had submitted that unless the guidelines form a part of the order, the implementation thereof would be very difficult.
3. In view of above, the Hon'ble Court has directed that the guidelines, **as enclosed**, framed by the Committee as approved by the court should be implemented with immediate effect as directed in the earlier order dated 8.8.2012.
4. Accordingly, all the TV channels are required to ensure strict compliance with the aforesaid Order dated 5.12.2012 as also the guidelines referred therein.

Yours faithfully,

(T.R. PRASAD)

Under Secretary (BC-II)

Tele. No.23385795

Copy to:

1. Shri K.V.L. Narayanrao, President, News Broadcasters Association (NBA), ME-5, Sah Vikas Apartments, 68, Patparganj, Delhi – 110092.
2. Shri Man Jit Singh, President, The Indian Broadcasting Foundation (IBF), B-304, 3rd Floor, Ansal Plaza, Khelgaon Marg, New Delhi – 110049.
3. Shri Allan Collaco, Secretary General, Advertising Standards Council of India (ASCI), 219 Bombay Market, 78 Tardeo Road, Mumbai – 400 034.

NBA, IBF & ASCI are requested to ensure strict compliance with the aforesaid court order dated 5.12.2012 and the guidelines referred therein and also requested to furnish necessary compliance report as required under para 2.14 of the guidelines from time to time.

Copy also to: Ms. Ranjana Dev Sarmah, Director, Electronic Media Monitoring Centre (EMMC), 14-B, I.P. Estate, Ring Road, New Delhi – 110002 – for information.

IN THE DELHI HIGH COURT OF DELHI AT NEW DELHI

WRIT PETITION (CIVIL) NO. 787 OF 2012

THE MATTER OF:

COURT ON ITS OWN MOTION

... PETITIONER

VS

UNION OF INDIA & ANR.

... RESPONDENT

MEMO OF PARTIES

COURT ON ITS OWN MOTION

... PETITIONER

VS

UNION OF INDIA

Through its Secretary,

Ministry of Health and Family Welfare,

Govt. of India, Nirman Bhawan,

New Delhi.

... RESPONDENT No. 1

GOVERNMENT OF NATIONAL CAPITAL

TERRITORY OF DELHI

Through its Chief Secretary

DELHI SECRETARIAT, I.P. ESTATE, NEW DELHI-02

... RESPONDENT No. 2

NEW DELHI

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 787/2012

Date of Decision: 5th December, 2012

A.K. ASTHANA

..... Petitioner

Through: Petitioner in person

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Tushar Singh, Adv. for
Mr. Jatan Singh, Adv. for UOI
Mr. Aagney Saini, Adv. for NCPCR
Ms. Zubeda Begum, Adv. for
GNCTD
Mr. A.J. Bhambhani, Ms. Bhavita
Modi, Ms. Lakshita Sethi, Advs. for
News Braodcasters Assn.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAJ ENDLAW

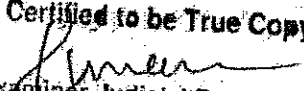
: D. MURUGESAN, CHIEF JUSTICE (Oral)

Vide order dated 8th February, 2012, a committee comprising of representatives of Union of India, Government of NCT of Delhi, NGOs working for welfare of children, representatives of the media, etc. was constituted to deliberate upon the guidelines to be formulated to regulate media reporting and disclosure of details relating to children and to submit a report. The said committee proposed Guidelines for Media Reporting on Children which were considered by this Court in the hearing on 8/8/2012

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and approved with some modifications and ordered to be implemented with immediate effect.

2. At the time when petition is taken up today, we are informed that the guidelines have not been fully implemented as there has been no circulation and publicity in this regard. Learned counsels for the respective parties have submitted that unless the guidelines form a part of the order, the implementation thereof would be very difficult.

3. We have considered the said submission and we find merit in it. In view of the above, we direct that the following guidelines framed by the Committee appointed by this Court and as approved by this Court should be implemented with immediate effect as directed in the earlier order dated 8th August, 2012. The guidelines are as follows:

GUIDELINES FOR MEDIA REPORTING ON CHILDREN:

Media coverage on matters relating to children may have long term consequences on their overall development (physical, mental, psychological, emotional, moral, social, economic etc.), life and dignity and lack of care by Media in this regard may entail real risk of children facing harm, stigma, disqualification, retribution etc. The privacy, dignity, physical and emotional development of children is of the utmost importance, which are to be preserved and protected at all times, while reporting/broadcasting/publication of news/programs/ documentaries etc. on and for children.

The guidelines are in the backdrop of the existing legal framework, as detailed in SCHEDULE hereto, to secure and protect the rights of children and to set-out the

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minimum parameters of responsibility to be borne by print and electronic media (hereinafter referred to as 'Media') in relation to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children.

1. Meaning of terms used:

1.1 "Child" or "children" shall mean a person(s) who has/have not completed 18 years of age.

1.2 "Media" shall include, but not be limited to, any newspaper, magazine, news-sheet or electronic media.

2. PRINCIPLES:

2.1 Involvement of children in news/programs/documentaries etc. must evidently be editorially justified including from a child rights perspective.

2.2 Media shall ensure that child victims of rape, other sexual offences, trafficking, drug/substance abuse, elopement, organized crimes, children used in armed conflicts, children in conflict with law and child witnesses etc. are automatically guaranteed anonymity for life.

2.3 Media must ensure that due consideration is given to a child's right to privacy and to prevent the child from being exposed to anxiety, distress, trauma, social stigma, risk to life & safety and further suffering in relation to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children.

2.4 Media shall ensure that a child's identity is not revealed in any manner, including but not limited to, disclosure of personal information, photograph, school/institution/locality and information of the family including their residential/official address.

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2.5 Media shall not sensationalize issues or stories, especially those relating to children, and should be conscious of the pernicious consequences of disclosing/highlighting information in a sensational form and the harm it may cause to children.

2.6 INTERVIEWING A CHILD by the MEDIA:

This shall be governed by the following principles:

- a) That the interview is in the child's best interest.
- b) That the interview does not aggravate the child's situation further.
- c) That the manner and content of the interview doesn't affect/interfere with the child's right to privacy.
- d) That if the interview is in the child's best interest, the same shall be done under supervision and consent of the child's parent(s) or legal guardian, or in the alternative, the competent authorities for the child.
- e) That while interviewing a child, his/her consent may be obtained, depending upon his/her age and maturity.
- f) Frequent interviewing of a child must be avoided.
- g) The child's refusal to be interviewed must be honored.
- h) Before interviewing the child he/she must be duly informed about the purpose and manner of the interview.
- i) The child and/or his/her parents/guardian or any person having control over him/her shall not be coerced or enticed in any manner including financial or other inducement to secure consent for the interview.

2.7 Media must verify the credentials and authority of individuals/organizations whose consent is sought on behalf of the child.

2.8 Media shall not give any financial or other inducement to the child or parent / guardian or others in relation to reporting / broadcasting / publication of news / programs / documentaries etc. on and for children.

2.9 Media must balance its responsibility to protect children from unsuitable content with the right to freedom of expression and the right to know.

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2.10 To protect the identity of the child media shall ensure that any visual showing the face of the child must be completely morphed in cases where privacy /anonymity is required as illustrated in Principle 2.2.above..

2.11 Media shall orient/sensitize its editorial personnels, including editors/ editorial team / reporters / correspondents / producers / photographers etc about laws, rules, regulations and guidelines related to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children.

2.12 The media shall proactively promote the children's right to information and freedom of expression.

2.13 PUBLICITY:

The Department of Information and Public Relations of all State Governments and U.T. Administrations, the Directorate of Field Publicity, Directorate of Advertising and Visual Publicity (DAVP) of Ministry of Information and Broadcasting, Prasar Bharati (AIR & DD), Self Regulatory Bodies etc. shall give due publicity at appropriate intervals to the laws, rules, regulations and guidelines (including the Guidelines) related to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children.

2.14 MONITORING:

The compliance with the applicable laws, rules, regulations and Guidelines (including these ones) related to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children shall be monitored by the following:

- (a) the self-regulatory bodies.
- (b) the regulatory mechanisms of Ministry of Information & Broadcasting, such as, Electronic Media Monitoring Center (EMMC) and Inter-Ministerial Committee (IMC).

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(c) Press Council of India.
through their respective procedures.

2.15 STATUS REPORT:

NCPCR / SCPCRs shall file a report in this Court on yearly basis regarding the compliance level of the applicable laws, rules, regulations and Guidelines (including these ones) by all concerned.

The foregoing are only broad Guidelines and are not meant to be exhaustive.

SCHEDULE

1. Legal Framework:

1.1 International:

- The UN Convention on the Rights of the Child Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 40 of the Convention, states that the privacy of a child accused of infringing penal law should be protected at all stages of the proceedings.

1.2 National:

1.2.1 The Juvenile Justice (Care and Protection of Children) Act, 2000

- Section 19: Removal of disqualification attaching to conviction.
- Section 21: Prohibition of publication of name, etc. of juvenile in conflict with law or child in need of care and protection involved in any proceedings under the Act.

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The Juvenile Justice (Care and Protection of Children) Rules, 2007

Rule 3: Fundamental Principles to be followed in administration of these rules:

- Principle II – Principle of dignity and worth
- Principle IV – Principle of Best Interest.
- Principle VII – Positive Measures.
- Principle XI – Principle of right to privacy and confidentiality.
- Principle XIV – Principle of Fresh Start.

1.2.2 Press Council of India Act, 1978:

The Press Council of India under the mandate of Section 13(2)(b) of the Act has THE NORMS OF JOURNALISTIC CONDUCT – 2010.

The 2010 edition of "Norms of Journalistic Conduct" updates the norms evolved since 1996 on the basis of adjudications and other pronouncements and covers to a large extent almost every aspect of compulsions and compunctions in journalistic practice.

- 6(i) The Press shall not intrude or invade the privacy of an individual, unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So, however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by the Press and the media, among others.

Explanation: 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 impinges upon the public or public interest.

- 6(ii) **Caution against Identification:** While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children or

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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 shall not be published.

- 6(iii) Minor children and infants who are the offspring of sexual abuse or 'forcible marriage' or illicit sexual union shall not be identified or photographed.

Ensure Sensitivity on Child-Related Stories

The identity of children infected and affected by HIV should not be revealed. Nor should their photographs be shown. This includes orphans and children living in orphanages, juvenile homes etc.

Press Council (Procedure for Inquiry) Regulations, 1979

Complaint procedure against a newspaper, news agency, editor or other working journalist under Section 14(1) of the Act for professional misconduct.

1.2.3 Indian Penal Code, 1860 & Criminal Procedure Code, 1973:

- Sec. 228-A of the Indian Penal Code makes disclosure of identity of victim of certain offences punishable with upto 2 years imprisonment or fine or both. The restriction does not relate to printing or publication of judgment of High Court or Supreme Court. But keeping in view the social object of preventing social victimization or ostracism of the victim of a sexual offence for which Sec. 228-A has been enacted, it would be appropriate that in the judgments by the Supreme Court, High Court or Lower Court, the name of the victim should not be indicated.
- Section 228A IPC and Section 327(3) Code of Criminal Procedure also specify similar bars on publication of court proceedings dealing with sexual exploitation of the child.

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**1.2.4 THE CABLE TELEVISION NETWORKS
(Regulation) ACT, 1995 & its RULES, 1994**

The Programming and Advertising Codes as per Rule 6 and 7 provide that no program or advertisement which denigrates children should be carried in cable service.

1.3 ETHICAL STANDARDS / GUIDELINES:

1.3.1 NHRC - UNICEF Report (A Guidebook for the Media on Sexual Violence against Children)

MEDIA DO'S AND DON'TS WHEN CREATING PROGRAMMES ON CHILD SEXUAL ABUSE AND EXPLOITATION

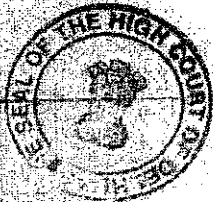
(<http://nhrc.nic.in/Publications/MedGuideChild.pdf>)

DO

- Keep in mind the rights and best interests of the child.
- Promote a positive attitude towards the victim.
- Make programmes relevant to various target segments.
- Focus your programmes - emphasize on one or two messages.
- Before filing a story, consult resource persons and organisations in the area.
- Treat the subject with understanding and sensitivity.
- Be positive in the portrayal of the child, he/she is a victim and not a party to the crime.
- Be aware of various legal provisions, laws and regulations with regard to child rights.
- Remember, though the child is vulnerable and voiceless, he/she has the same human dignity, rights and worth as any adult.
- Meticulously verify your stories and sources.
- Identify ways to deal with problem situations.
- Provide clear action points for viewers.
- Promote gender equity and the rights of the girl child.
- Create awareness and demand for support services.

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- Focus attention on the gravity of the crime.
- Make programmes to encourage a wider discussion of the sexual abuse and exploitation of children. Ensure that these are broadcast/televised/published in a sustained manner.

DON'T

- Don't disclose the identity of the victim or the victim's family.
- Don't sensationalise or glorify acts of sexual abuse or exploitation of children.
- Don't make the child re-live the abuse by asking him/her to recount the abuse/exploitation.
- Don't re-victimise the child by repeated or incessant questioning.
- Don't depict the child as insignificant.
- Don't treat the child as a sexual object.
- Don't glorify either the crime or the offender.
- Don't project the child as powerless or without legal support.
- Don't stigmatise the child, family or community.

1.3.2 UNICEF - GUIDELINES ON ETHICAL REPORTAGE:

UNICEF (India) have developed these principles to assist journalists as they report on issues affecting children. They are offered as guidelines that will help media to cover children in an age-appropriate and sensitive manner.

(www.unicef.org/india/EthicalReportage.pdf)

Guidelines for interviewing children:

- Do no harm to any child; avoid questions, attitudes or comments that are judgmental, insensitive to cultural values, that place a child in danger or expose a child to humiliation, or that reactivate a child's pain and grief from traumatic events.
- Do not discriminate in choosing children to interview because of sex, race, age, religion, status, educational background or physical abilities.

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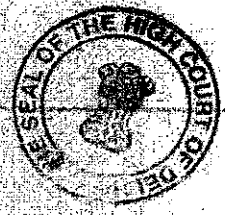
- No staging: Do not ask children to tell a story or take an action that is not part of their own history.
- Ensure that the child or guardian knows they are talking with a reporter. Explain the purpose of the interview and its intended use.
- Obtain permission from the child and his or her guardian for all interviews, videotaping and, when possible, for documentary photographs. When possible and appropriate, this permission should be in writing. Permission must be obtained in circumstances that ensure that the child and guardian are not coerced in any way and that they understand that they are part of a story that might be disseminated locally and globally. This is usually only ensured if the permission is obtained in the child's language and if the decision is made in consultation with an adult the child trusts.
- Pay attention to where and how the child is interviewed. Limit the number of interviewers and photographers. Try to make certain that children are comfortable and able to tell their story without outside pressure, including from the interviewer. In film, video and radio interviews, consider what the choice of visual or audio background might imply about the child and her or his life and story. Ensure that the child would not be endangered or adversely affected by showing their home, community or general whereabouts.

Guidelines for reporting on Children:

- Do not further stigmatize any child; avoid categorisations or descriptions that expose a child to negative reprisals - including additional physical or psychological harm, or to lifelong abuse, discrimination or rejection by their local communities.
- Always provide an accurate context for the child's story or image.
- Always change the name and obscure the visual identity of any child who is identified as:
 - a. A victim of sexual abuse or exploitation,

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- b. A perpetrator of physical or sexual abuse.
 - c. HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent.
 - d. Charged or convicted of a crime.
- In certain circumstances of risk or potential risk of harm or retribution, change the name and obscure the visual identity of any child who is identified as:
 - a. A current or former child combatant,
 - b. An asylum seeker, a refugee or an internal displaced person.
 - In certain cases, using a child's identity - their name and/or recognizable image - is in the child's best interests. However, when the child's identity is used, they must still be protected against harm and supported through any stigmatization or reprisals. Some examples of these special cases are:
 - a. When a child initiates contact with the reporter, wanting to exercise their right to freedom of expression and their right to have their opinion heard.
 - b. When a child is part of a sustained programme of activism or social mobilization and wants to be so identified.
 - c. When a child is engaged in a psychosocial programme and claiming their name and identity is part of their healthy development.
 - Confirm the accuracy of what the child has to say, either with other children or an adult, preferably with both.
 - When in doubt about whether a child is at risk, report on the general situation for children rather than on an individual child, no matter how newsworthy the story.

1.4 SELF REGULATORY MECHANISMS:

- 1.4.1 News Broadcasting Standards Regulations, 2008 & Code of Ethics and Broadcasting Standards by the News Broadcasters Association, New Delhi.
- News Broadcasting Standards Authority (NBSA)

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1.4.2 Self Regulation Guidelines, Content Code and Certification Rules for the General Entertainment & Non-News & Current Affairs Broadcasting Sector by the Indian Broadcasting Foundation, New Delhi.

Broadcasting Content Complaints Council (BCCC) established under Content Code & Certification Rules, 2011.

4. In so far as report to be filed by the Committee on other aspects, learned counsel seek eight weeks time and the same is granted.

5. Learned counsel appearing for NCPDR has also submitted that Dr. Bharti Sharma, Chairperson, Child Welfare Committee at Nirnal Chhaya Complex has since retired and her services are very much required and a direction be issued for her joining as a member in the Committee. It is informed that she is also inclined to work in the Committee.

6. In view of the above, we observe that she will be also added as one of the members of the Committee constituted by this Court earlier.

List again on 20th February, 2013.

-sd-
CHIEF JUSTICE

-sd-
RAJIV SAHAI ENDLAW
(Judge)

DECEMBER 05, 2012

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