



# Tort of Defamation & Media

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# Torts and Media

- Tort is a civil wrong.
- Three civil wrongs might affect the media:
  - 1. Defamation
  - 2. Invasion of Privacy
  - 3. Negligent presentation of information

# Shakespeare

- He that filches from me my good name  
robs me of that which not enriches him  
but makes me poor indeed

Othello, Act III Scene III

## Ingredients of Right to Life

### Right to Life

Right to Life  
Natural Right  
Recognised by Article 21  
Enforcement by Article 32/226

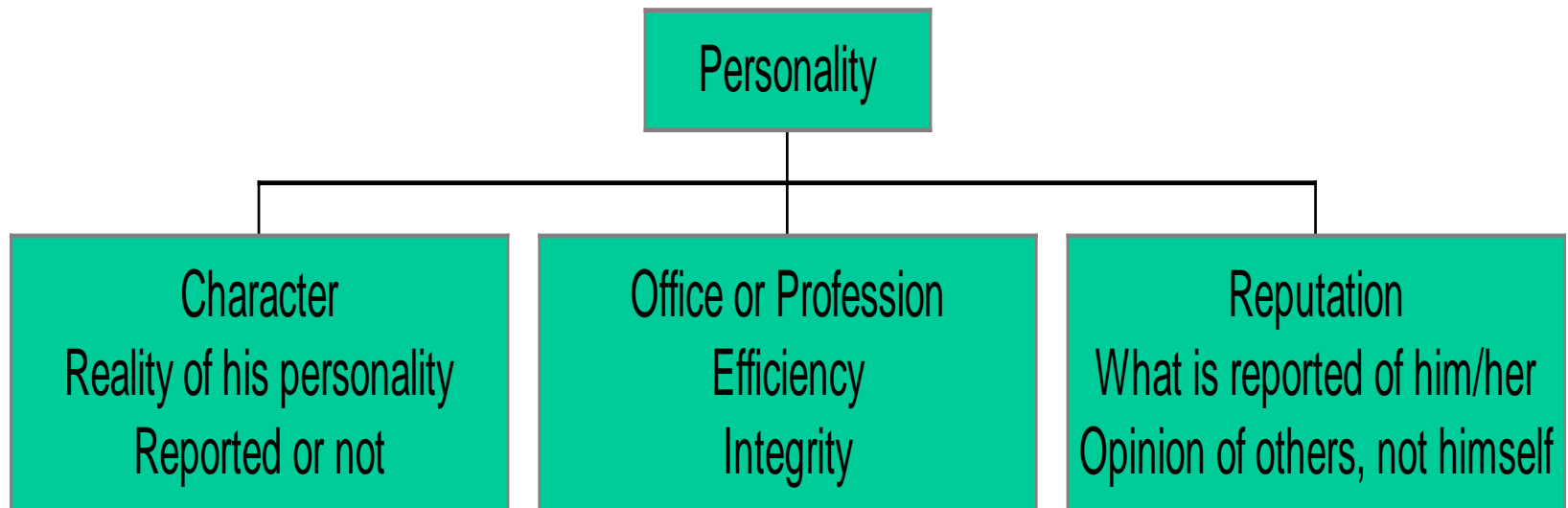
Right to Privacy  
To be let alone  
against undue publicity  
to be undisturbed

Right to Reputation  
Unimpaired possession of good name  
Depends on opinion  
Opinion depends on communication

Right to Office and Property  
Can be affected by defamation  
Efficiency in Office  
Credibility in Business

## Right to Reputation

### Right to Reputation and Defamation



# Right to Reputation

- Right to unimpaired possession of reputation or good name, *jus in rem*
- Reputation depends upon opinion
- Opinion depends upon communication of thought and information
- Right to reputation means- esteem in which he is held in society, Credit, trust society reposes in his intelligence, honour, all comforts and advantages, adverse impact

# Reputation & Character

- Character is reality about a person
- Reputation is what is reported of him by others, what is thought of, general credit.
- Reputation is external to person, while character is internal, Reputation is external disposition based on perceptions and experiences, Law protects external disposition of a person
- Character is internal disposition

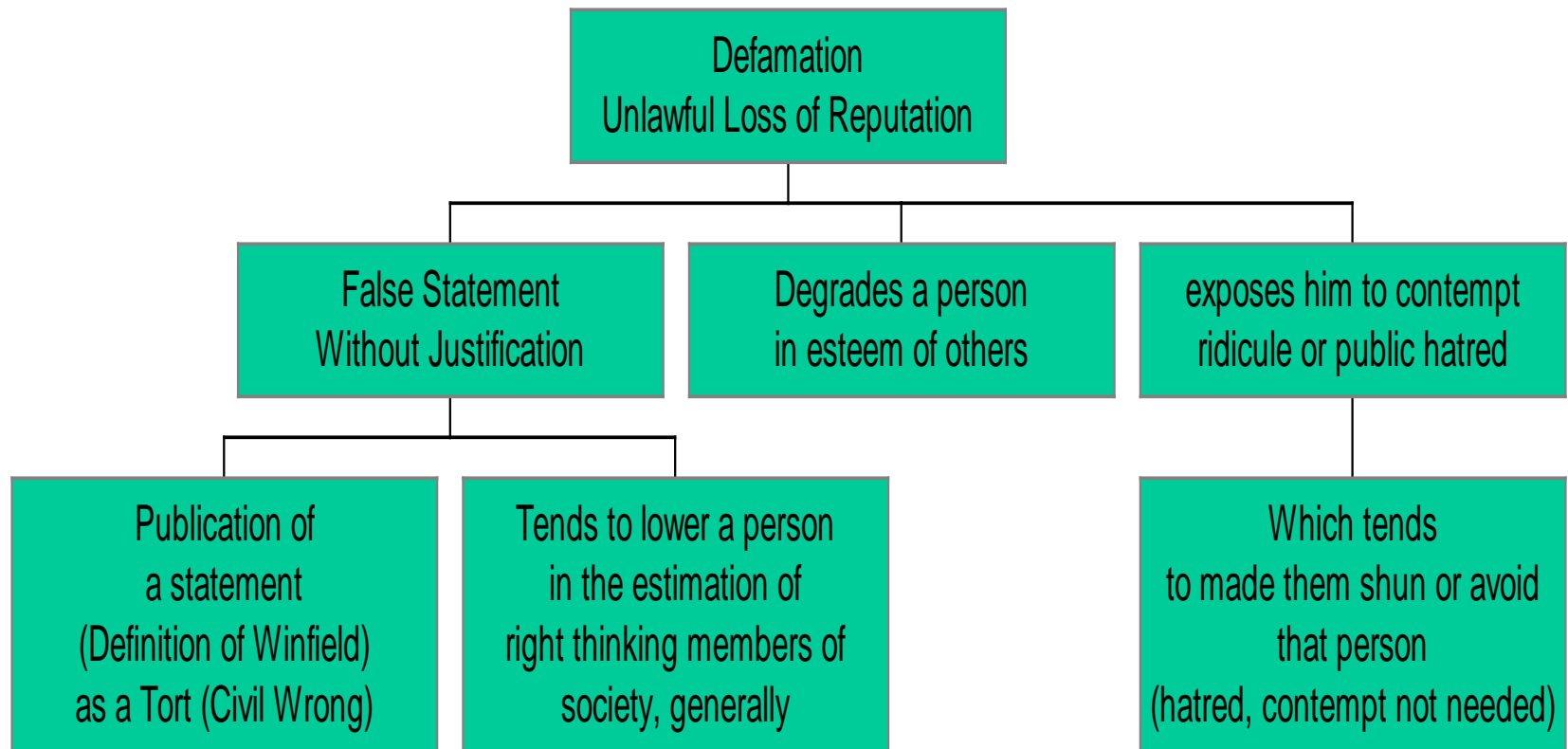
# Definition of Defamation

- Publication of false & defamatory statement about another person without lawful justification. Salmond
- A statement made without just cause or excuse, whereby he suffers injury to his reputation, not to his self esteem. It degrades a person, expose him to contempt, ridicule or public hatred, or to prejudice him in his way of his office, profession, trade.



# What is Defamation

## Meaning and Definition



# Winfield defines

- Defamation is **publication** of a statement
- which tends to **lower** a person in the **estimation** of
- the **right thinking members** of society, **generally**,
- which **tends to make them shun or avoid** that person (hatred, contempt not needed)

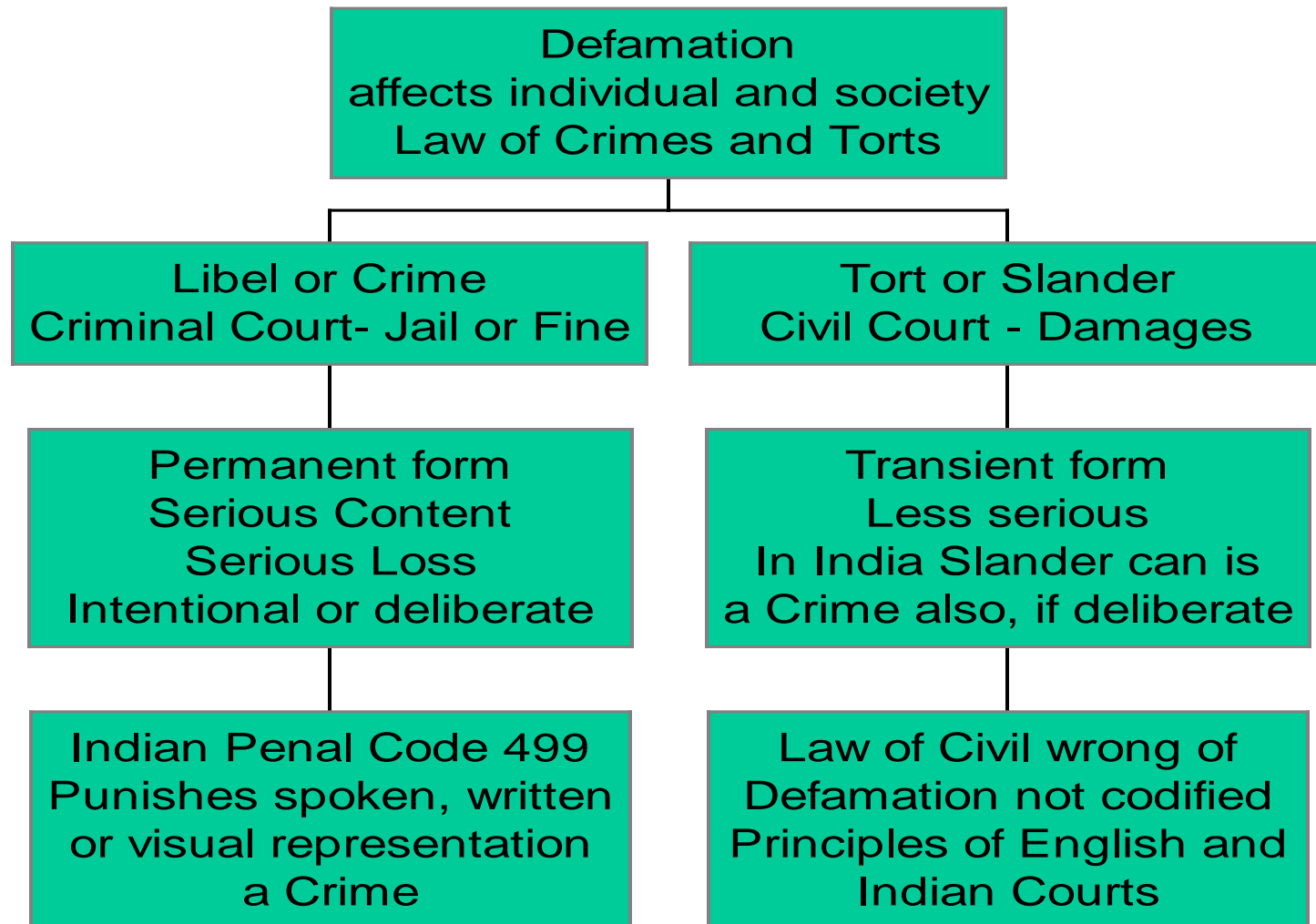
# Examples of Defamation

- Clay v Roberts (1863) “doctor consulted homeopaths”-improper, not defamous
- Youssoupoff v Metro Godwin Mayer, ‘she was raped”, no moral discredit, still makes others to shun or avoid her
- Test: would the words tend to lower among society generally?

# Examples - 2

- a mere abuse is not: Damage is the gist of the action not the insult
- ‘why don’t you come out, you black guard, rascal, scoundrel, villain, Penfold, you are a thief’ (Penfold v Westcote) jury decided as not defamatory.
- Insult is different, wherein dignity or self esteem is affected, but not reputation, not actionable

## Kinds of Defamation



# Libel and Slander

- Libel is written, printed defamation addressed to eye, also a crime, while slander is spoken addressed to ear, generally civil wrong, except when seditious, obscene contempt of court or blasphemous
- Libel is in permanent form produced with deliberations, slander is uttered in the heat thus not in permanent form.
- Libel Resulting damage is serious and permanent, in slander Damage is transitory

# Libel is crime

- Libel may injure the peace of society, slander is of less serious consequences
- Libel- always actionable per se,
- Broadcast, visual images, gestures, speech in cinema are permanent form -libels
- Slander is actionable per se in a) imputing unchastity, b) imputation of crime, c) imputation of contagious disorder, or d) to disparage him in his office, e.g., doctor not fit to treat, leader corrupt, those who come to him for advice are fools (lawyer)

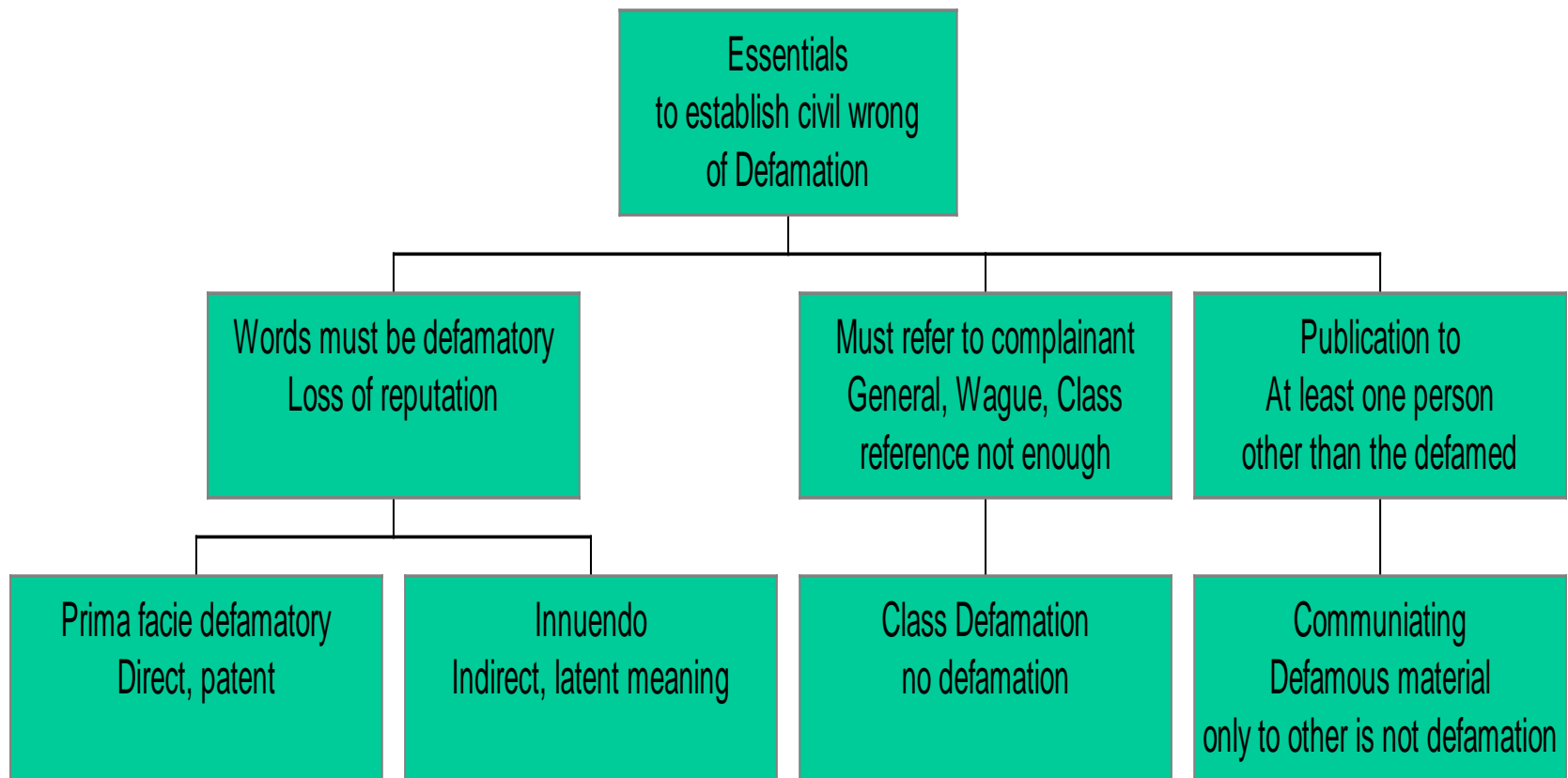
# In India

- Slander is also actionable per se generally and a crime under IPC S499, whoever, by words either spoken or intended to be read or by signs or by visible representations, makes, or publishes any imputation concerning any person intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said to defame that person.



To establish the wrong

## Ingredients of Defamation



# Essentials of Defamation

- 1. Words must be defamatory
- 2. Words must refer to the plaintiff
- 3. They must be published
- Defamatory statement can be made in different forms, oral, visual, written, printed, pictorial, statue or effigy etc. Monson v Tussauds case- wax models
- South India Railway Co v Ramakrishna, 1890, Ticket inspector's suspicion.

# Kinds of Defamation

- Prima facie defamatory- natural and obvious meaning leads -
- Innuendo 'Y is a saint' 'x is an honest man, he never stole my watch, A is like his father'
- Capital and Counties Bank v Henty & sons, 1882 defendants sent a circular 'will not receive cheques drawn on any of bank branches.'

# Examples of Defamation

- Imputation of illegitimacy
- Imputation of un-chastity to a widow or married woman
- A false statement that a woman was raped
- A statement that a person was acquitted of a crime with which in fact he was never charged
- disparagement of moral character, honesty or competence in business, only if it has tendency of rousing the adverse opinion

# Defamatory

- Representing through humorous story or caricature plaintiff in ridiculous light
- publishing an edition of the plaintiff's book with errors and mistakes without stating that it had not been edited by plaintiff
- calling him a Jew to mean he was unscrupulous and unpatriotic
- representing an actress to be much older

# Interpretation

- Statement must be read as a whole with reference to its context
- Statement must be primarily understood in its ordinary and natural meaning
- judge will construe words as to the fair and natural meaning which be given them by reasonable persons of ordinary intelligence & will not consider unusual meaning

# Innuendo

- Tolley v JS Fry & Sons -Golf champion's case of using chocolate of def's company innuendo that he has prostituted his reputation as player for advertising, seeking notoriety and gain, held defamatory
- Cassidy v Daily Mirror Newspapers Ltd 1929 Photo & "Mrs. Corrigan and Miss X whose engagement has been announced"
- Morrison v Ritchie & Co 1902, "pl gave birth to twins"

# Reference to Plaintiff

- Reasonable inference is enough, intention is not necessary.
- Hulton & Co v Jones. 1910 Sunday Chronicle reporting Motor Festival at Dieppe, Artemus Jones, Church Warden of Pekham. Passage was found defamous.
- Gold digging, if the cap fits, Strict Liability
- Newstead v London Express, bigamy



# Republication & Liability

- Every repetition is republication
- Tale-bearers are as bad as tale-makers, all those connected with press are jointly or severally liable irrespective of intention
- Cassidy: the photograph as well as caption is defamatory
- Newspaper has no special privilege, public interest is no defence in libel.

# Liability of original publisher

- Where he authorised or intended the person to whom he published words to repeat
- where republication is natural and probable result of the original publication
- where the person to whom original publication was made was under a moral duty to repeat or republish to third person. *Bordeaux v Jobs* 1913  
Def told father that x had wife in states. F told daughter, who postponed marriage. Def is liable

# Derry v Handley 1867

- D told A that P, who is dressmaker to A's wife, was immoral, A repeated it to his wife, who did not employ P. Is D liable?
- Can D say "True I told the husband but never intended that he should carry the matter to his wife". He knew that it would be naturally carried to wife. Is he liable?

# Hardships of strict rule

- Unconscious instrument in circulating libelous matters- should be exempted *Emmens v Pottle* 1885, railway for carrying parcel with libelous newspapers- not liable
- Porter Committee- 1952 Act provided for innocent person to avoid liability by offer of amends by publishing suitable correction and an apology. If accepted no action, if not mitigates damages.

# Innocent disseminators

Emmens v Pottle 1885, news vendors not liable, neither knew nor negligent.

Booksellers, vendors, paper boys or librarians not liable if (1) they did not know or (ii) in spite of reasonable diligence could not have known that what they were circulating was defamatory

Nemichand v Khemraj 1973 printer hands over bundle to author- not liable

# Position in India

- TV Rama Subba Iyer v AMA Mohideen AIR 1972 Mad 398, held rule in Holton not applicable in India.
- Class defamation: Absence of reference to a specific individual, not liable Knupffer v London Express, Dhirendranath Sen v Rajat Kanti Bhadra editorial on spiritual head, member does not have right of action.

# What is Publication?

- Communication to plaintiff? Pl shows to A
- Dictating d-letter to typist?
- Writing in language not known to plaintiff
- Writing to an officer or Minister, where PS would open it.
- If a third person wrongfully reads it?
- Richardson wrote d-letter to Mrs. Thacker, her husband read it. Is it publication? (1962)
- Husband's defamation of A to his wife?

# Communication

- Communication between husband & wife is no publication- Ponnen wrote to wife Rathi defaming her father Verghese 1970 SC 1876, H claimed privilege under 122 IE, once it fallen into his hands, could it be proved, whether allegation could be proved by evidence other than letters? Where to be proved, at trial, or at Supreme Court?

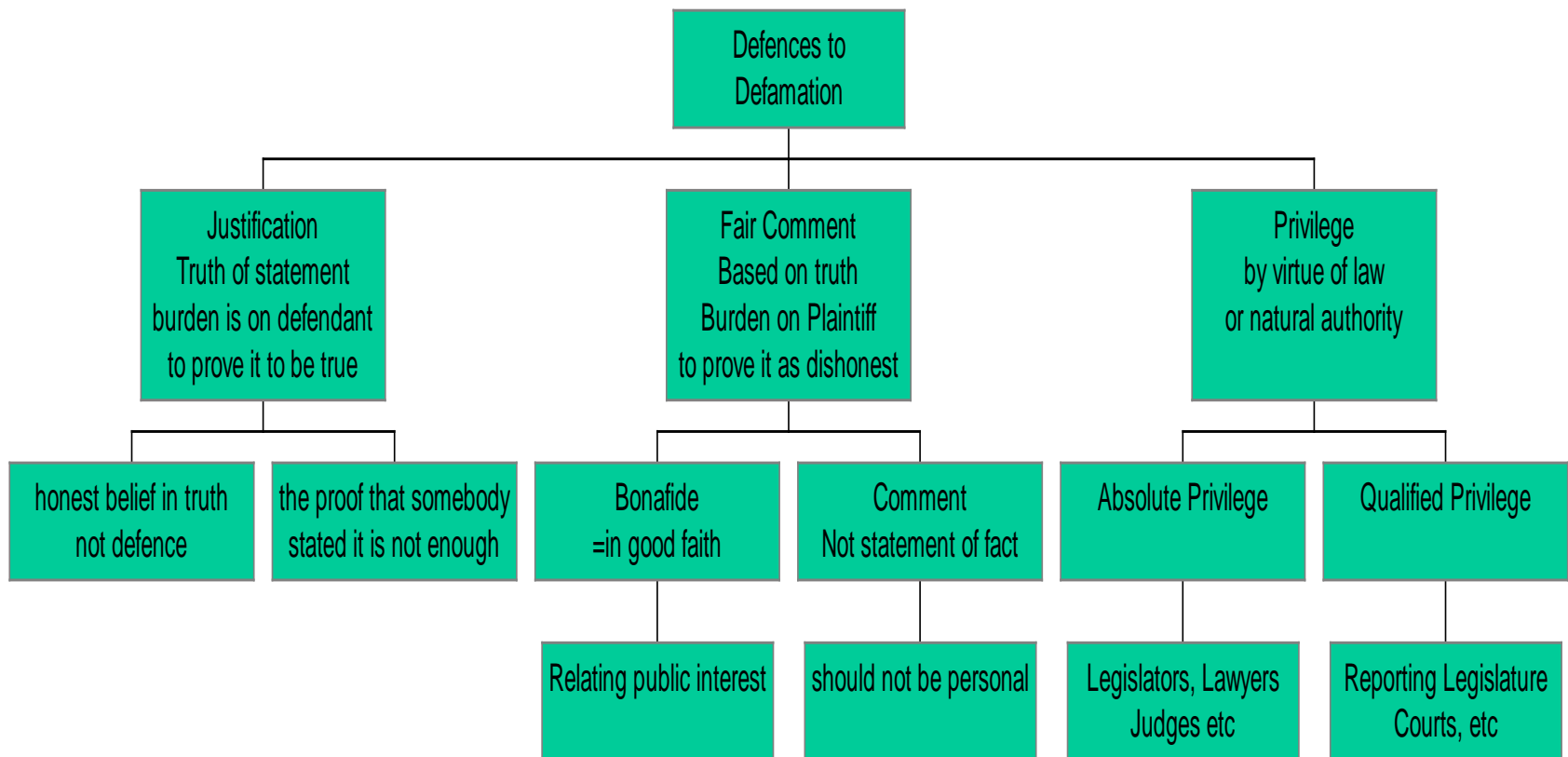


# Editor's Rights

- Does Editors have a legal right to get only the correct news?
- Is it his duty to check up the information reached him before published
- A sends a defamous letter with signature to editor, who published it. Who is liable? Is there any indemnity from person who supplied wrong information?

## How to defend?

Defending in civil court



# Defences

- Justification, Fair Comment, Privilege
- Apology as a defence not available in India as there is no legislation. But Courts accept to mitigate damages
- other possible defences: 1. Statement not published, 2. Did not refer to plaintiff, 3. Did not bear any defamatory meaning, 4. Statement was true in substance & in fact

# Defences

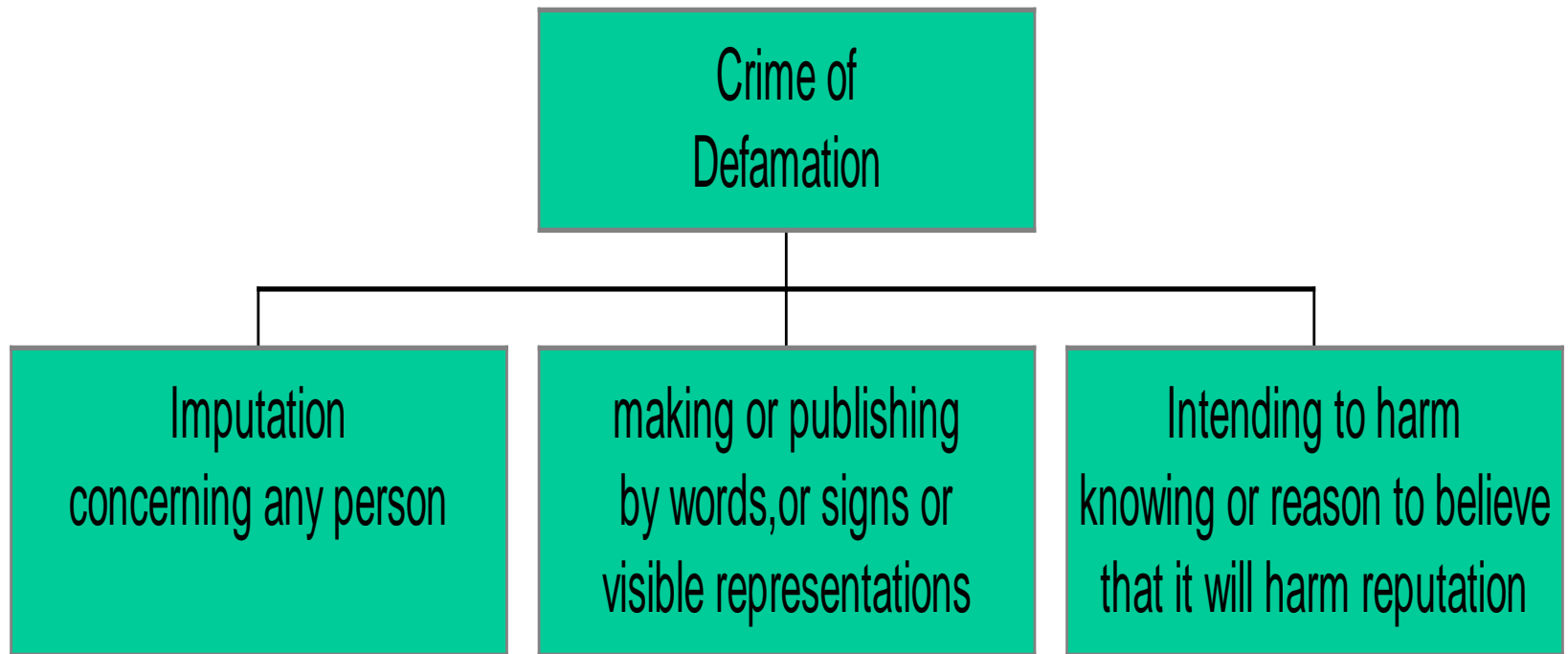
- 5. Statement is absolutely privileged
- 6. Published in good faith and without malice towards the plaintiff on an occasion of qualified privilege
- 7. Fair and bona fide Comment, without malice on a matter of public interest
- 8. Publication was made by authority or consent of plaintiff,

# Defences

- 9. That the Plaintiff agreed to forego the claim or has given in written release from liability
- 10. That the person Defamed has died
- 11. That the Suit is barred by limitation
- 12. That the Suit is barred by res judicata

As a Crime

## Section 499 of Indian Penal Code



What it means?

### Explanation 4 to S 499 IPC

No imputation is said to harm a person's reputation unless that imputation directly or indirectly

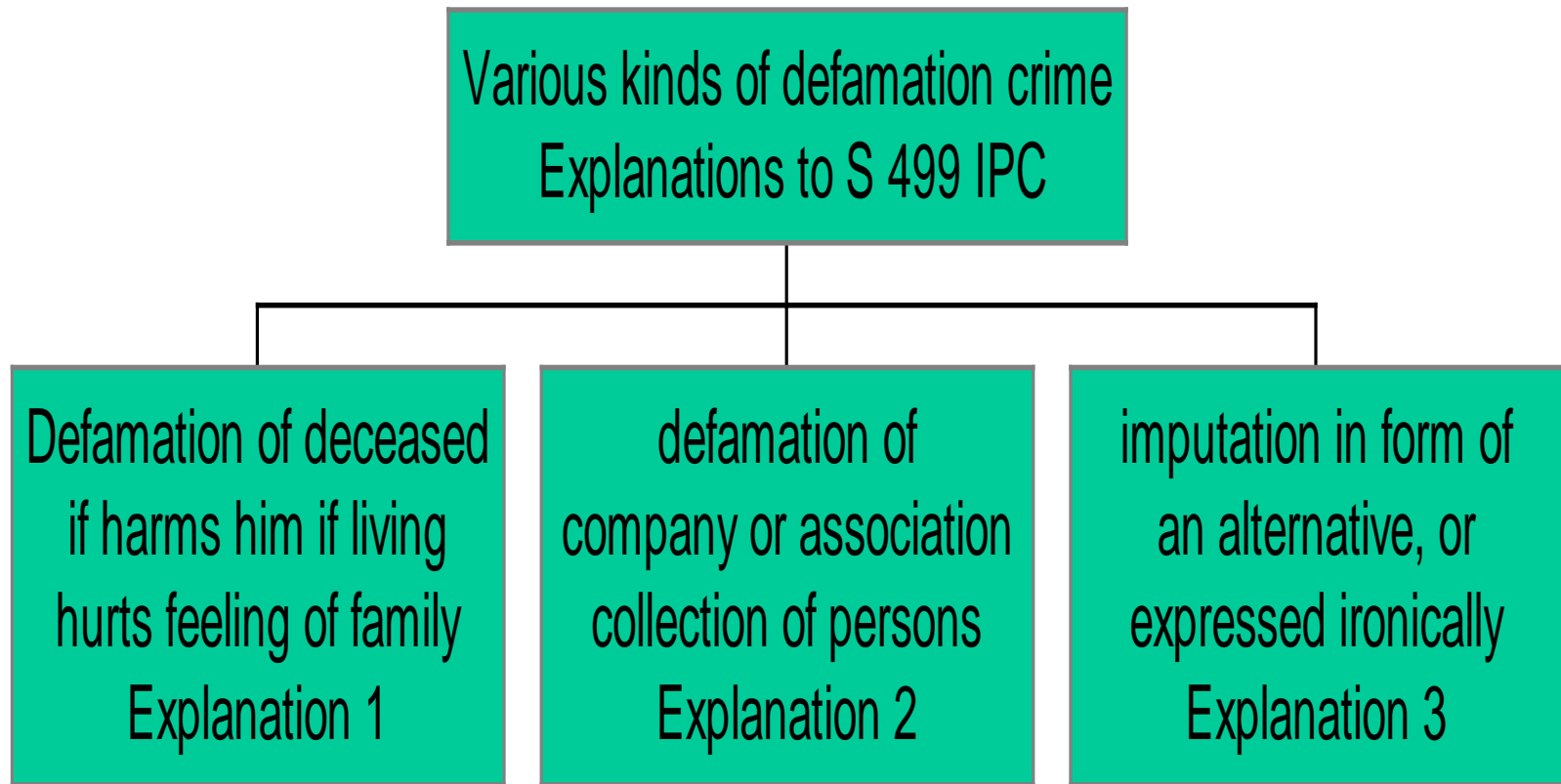
In the estimation of others,  
or in respect of his caste  
or his calling

Lowers the moral or intellectual  
character of that person

lowers credit of  
that person

causes it to be believed  
that the body of that person  
is in a loathsome state or  
in disgraceful state

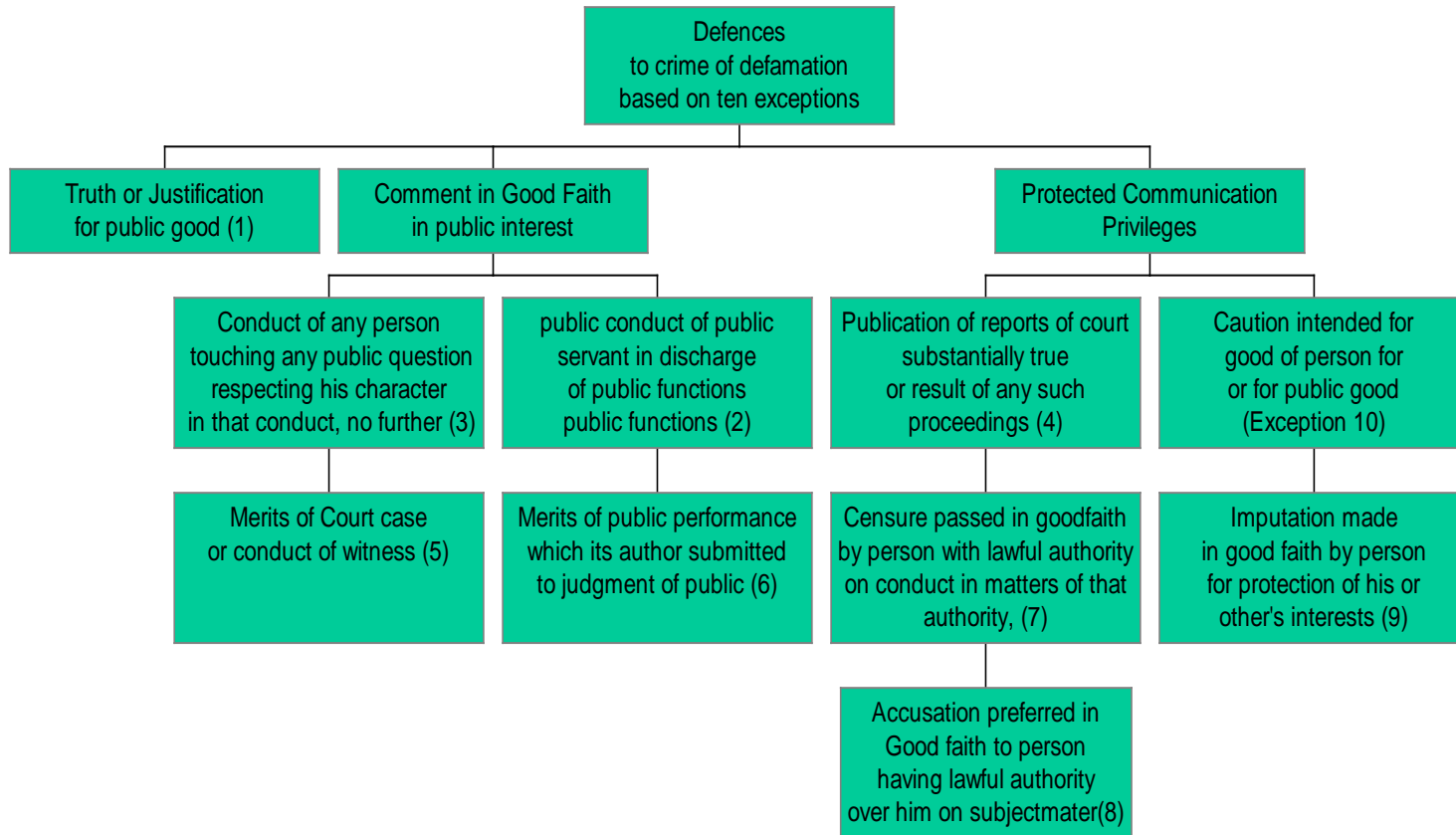
## Kinds of Criminal Defamation





# How to defend

## Exceptions to S 499 IPC



# Justification

- Truth is a complete defence in civil action, in Crimes, truth + public interest is defence, truth no def in sedition (defamation of state) or speaking ill of religion.
- burden to prove rests on defendant that it is substantially true, minor incorrect facts does not matter
- Honest Belief in truth, & mistake- justified?
- Dangerous Defence: If Def. fails to prove it may be treated as aggravation.

# Justification by truth

- A say “I believe x murdered y” Which is justification? Is it murder or his belief?
- A told B that C murdered D. B proves telling. Is it justification?

# Simi vs. Film Magazine

- Simi Garewal v TN Ramachandran- Agreement with producer not to show nude and kiss scenes in India from Indo UK production of Sidharth.
- Film Magazine secured a photo, which was published in American journals, and announced its publication in their next issue.
- Simi sought injunction. Can she get?

# Truth

- If her photo is not distorted or less beautiful and true photo of Simi, why not magazine publish it?
- What is the reason for stopping publication?
- Is it obscene? If so, she herself also would be liable?
- Is it breach of contract? Film Magazine is not party to it.

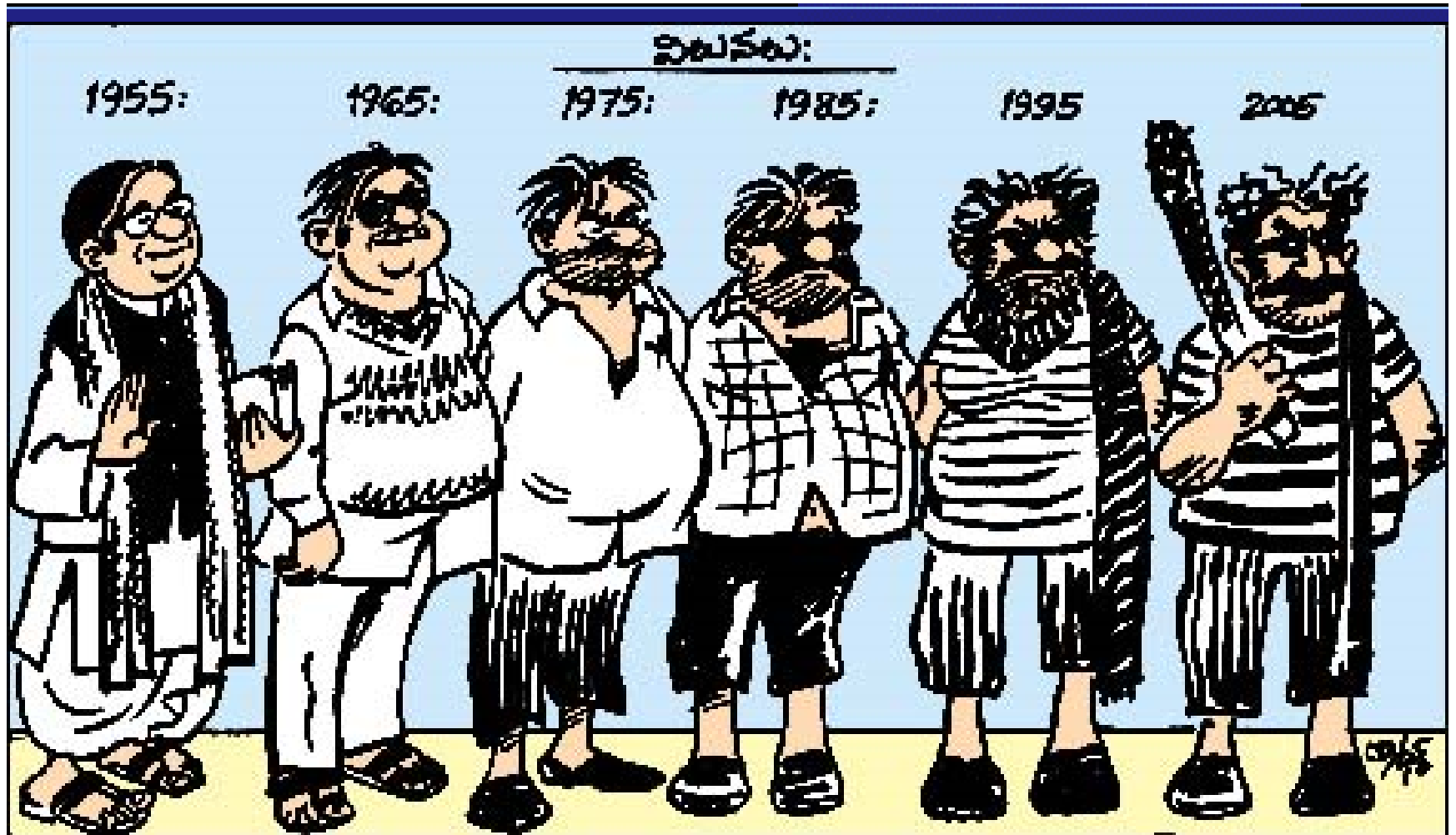
# Bishop v Latimer 1861

- “How a lawyer treat his clients”-headline, under which newspaper wrote how one client is badly treated, which is true. Is it defamatory?
- Alexander v North Eastern Rly 1865. Pl convicted for ticketless travel to a fine of one pound or three weeks jail. In fact it was only two weeks jail? Is it justified?

# Fair Comment

- 1. Words published relate to public interest
- 2. They are a comment and not a statement of fact
- 3. The comment is fair “A comment is fair if an ordinary set of men with ordinary judgment would say that any fair man, however prejudiced he may be, however, exaggerated or obstinate his views, would have made that comment”

# Cartoon as comment





# Freedom of Press

## DAYLIGHT ROBBERY

10,000 lawyers say much of our income taxes—such as those on HRA, DA—are unconstitutional

By CHARUBALA ANNUNCIIO

**W**AY back in 1989, Madhu Akotkar, a journalist and a co-operative bank employee by profession, filed a public interest litigation (PIL) in the Bombay High Court to protest against the taxation of allowances of salaried employees. An example that the Maharashtra Judges Association and other individuals followed, filing writ petitions on the same lines. It's an issue that impacts over five crore people—the entire salaried class, governmental and non-governmental. But so far, the case hasn't had a single hearing.

The case was saved from an unsung death when the petitioners prayed to the Court in 1996 that as the issue was in the interest of the general masses, they should be allowed to make it public. The court permitted an announcement in the press. Since then the case has been resuscitated by an overwhelming response—14,000 individuals have pledged support. The All-India Judges Association, backed by 10,000 members, has also filed a similar writ, which awaits admission.

Challenging the Union Government of India and others, the PIL states that it is unconstitutional and illegal to tax compensatory

allowances like the City Compensatory Allowance (CCA), the House Rent Allowance (HRA) and the Dearness Allowance (DA) of salaried employees. Such allowances, asserts the petition, are not by definition in the Income Tax Act of 1961, classified under income, salary, emoluments or perquisites and so can't be taxed. The PIL, therefore, demands reimbursement of the monies collected so far as taxes on these allowances.

Says Akotkar: "There is no personal benefit to the employees through these allowances." Allowances like CCA and HRA are granted to compensate the extra expenses incurred by employees by reason of an employee's posting or working in a city. The DA is granted in an effort to neutralise the rising

cost of living to some extent. In reality, the allowances barely cover half the expense.

The petitioners back their argument with an earlier judgement by the MP High Court. In October 1975, (Bishamber Dayal, ex-chief justice MP High Court vs the Commissioner of Income Tax, MP) chief justice P.K. Tare and judge S.S. Sharma passed a judgement which stated: "Compensatory allowance cannot be included in total income under the head 'salaries' or 'perquisites' for the purpose of income tax assessment. There is no question of any additional benefit out of it but merely to counterbalance the loss or inconvenience sustained.... Compensatory allowance means an allowance granted to meet personal expenses

necessitated by the special circumstances in which duty is performed." The concept was reiterated in another case in the Bombay High Court.

The Fifth Pay Commission report also supports the petition. The chapter on Income Tax on Salaries and Pensions recommends that "all allowances may henceforth be paid net of taxes". The recommendation is based on the findings of the government-supported Fiscal Research Foundation (FRF).

**T**HE proverbial homer's nest has been stirred up. It emerges that the taxation procedure is discriminatory. Says Akotkar: "The law-making and enforcing machinery seem a privileged lot." MPs and MLAs get salaries, allowances and pensions from state and Central governments. But their pay packets are structured differently. For instance, an emolument of up to Rs 1.5 lakh is completely untaxed. A similar income of any regular salaried employee attracts income tax of Rs 15,000 to 20,000. The Fifth Pay Commission points out that the ministry of external affairs pays net of tax salaries to its employees on foreign postings.

The Tare and Sharma judgement of 1975 had stated that "compensatory allowance does not include sumptuary allowance (SA)". However, the Chief Justice of India

gets up to Rs 4,000 per month and the chief justices of the high courts and other judges of the Supreme Court receive Rs 3,000 per month as tax-free sumptuary allowance. This is due to a special amendment in the High Court Judges (Conditions of Service) Act 1954 declaring the sumptuary allowance tax-free "notwithstanding anything contained in the Income Tax Act 1961". The amendment was made in 1980 with effect from 1975. In 1996, the Lok Sabha unanimously passed a Bill seeking to increase sumptuary allowances and conveyance facilities of the high court and Supreme Court judges. That's when the SA was increased three to six times while petrol allowance was hiked from 150 to 200 litres per month.

Says a supporter: "The law makers pass any amendment that suits their needs." The 1996 Bill to raise sumptuary and petrol allowances of judges, for instance, was passed keeping in view the journeys the judges had to undertake for attending seminars, conferences and meetings, the increase in the price of petrol and the increase in the cost of estates served at such meetings. Take, on the other hand, a middle-level deputy manager in a co-operative bank in Bombay. He receives Rs 470 as HRA and Rs 125 as CCA included in a gross, taxable income of about Rs 10,000. Nowhere, even up to over two hours of travelling from South Bombay, can a house be acquired for this HRA. Even the cheapest mode of travel costs over Rs 125, leave alone the cost of eating and other incidentals during a work day. But even this CA, which barely meets the need, is taxed. Akotkar points out that the entire income of even the most lowly-paid employee, like

a maddadi worker and the entire lower judiciary are taxed according to prevailing rules. Benefits too are discriminatory. While senior members of the judiciary get rent-free accommodation, subordinate members don't get privileges. If junior members don't occupy government accommodation, they get an HRA which is taxed. If they do, a fixed amount is cut towards house rent from their salary while they receive no HRA.

The December 1991 interim report of the Dr Raja J. Chelliah Committee on tax reforms states that "there does not seem to be any justification for exempting the allowances received by legislators, i.e. MPs and MLAs, by virtue of their membership of Parliament and state legislatures. There is not enough justification for exempting the daily allowance which is given to legislators when they attend the sessions of the legislatures in the headquarters." The report emphasises that "widening of the tax base cannot carry conviction till legislators agree to the inclusion of such allowances in their tax base." It therefore, recommends that the allowances paid to legislators be fully subjected to tax.

The hearing, long overdue, promises to throw open the larger debate of taxing individual income—salaries, interest on securities, house property, business and professions, dividends, capital gains. Over the past years, evidence against it has been gathering. The most favoured complete exemption of salary from income tax. The eminent economist, D.R. Pendse, points out that individual income tax accounts for less than three percent of the total government revenue but the cost of collection of individual income tax is several times higher than the cost of collecting indirect

taxes. Pendse infers that "individual income tax has been a minor, inefficient and generally a woeful instrument of tax-gathering for the government." In Black Money and Budgets, he affirms that abolishing this will yield significant savings in government expenditure. Besides, with extra income individuals will spend on goods and services where the government will earn indirectly. People will also save in financial instruments which will boost government receipts. Therefore, believes Pendse, "the government will be a prime beneficiary of the abolition."

The matter has been discussed in Parliament in mid-June. Most MPs, reportedly, supported that allowances should not be taxed. The issue now awaits a hearing and resolution on which the fate of over five crore Indian families rests.

**For MLAs and MPs, up to Rs 1.5 lakh is untaxed. Others are taxed Rs 15,000 to 20,000 for a similar sum.**



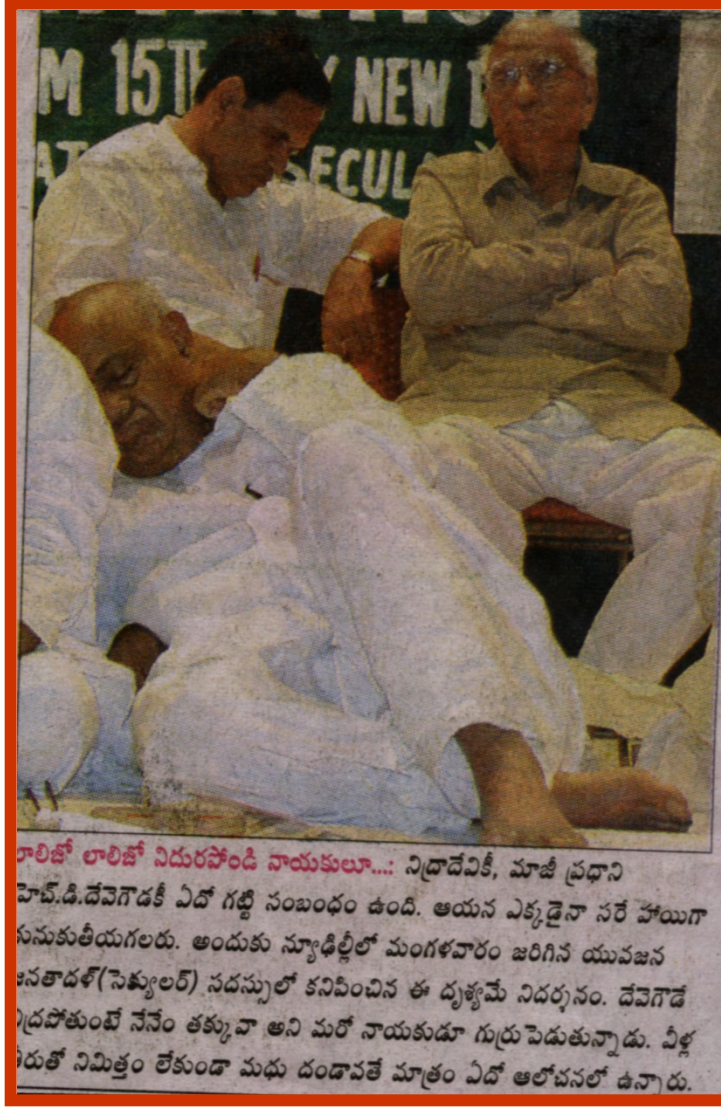
*Fair Comment on IT evaders or avoiders*

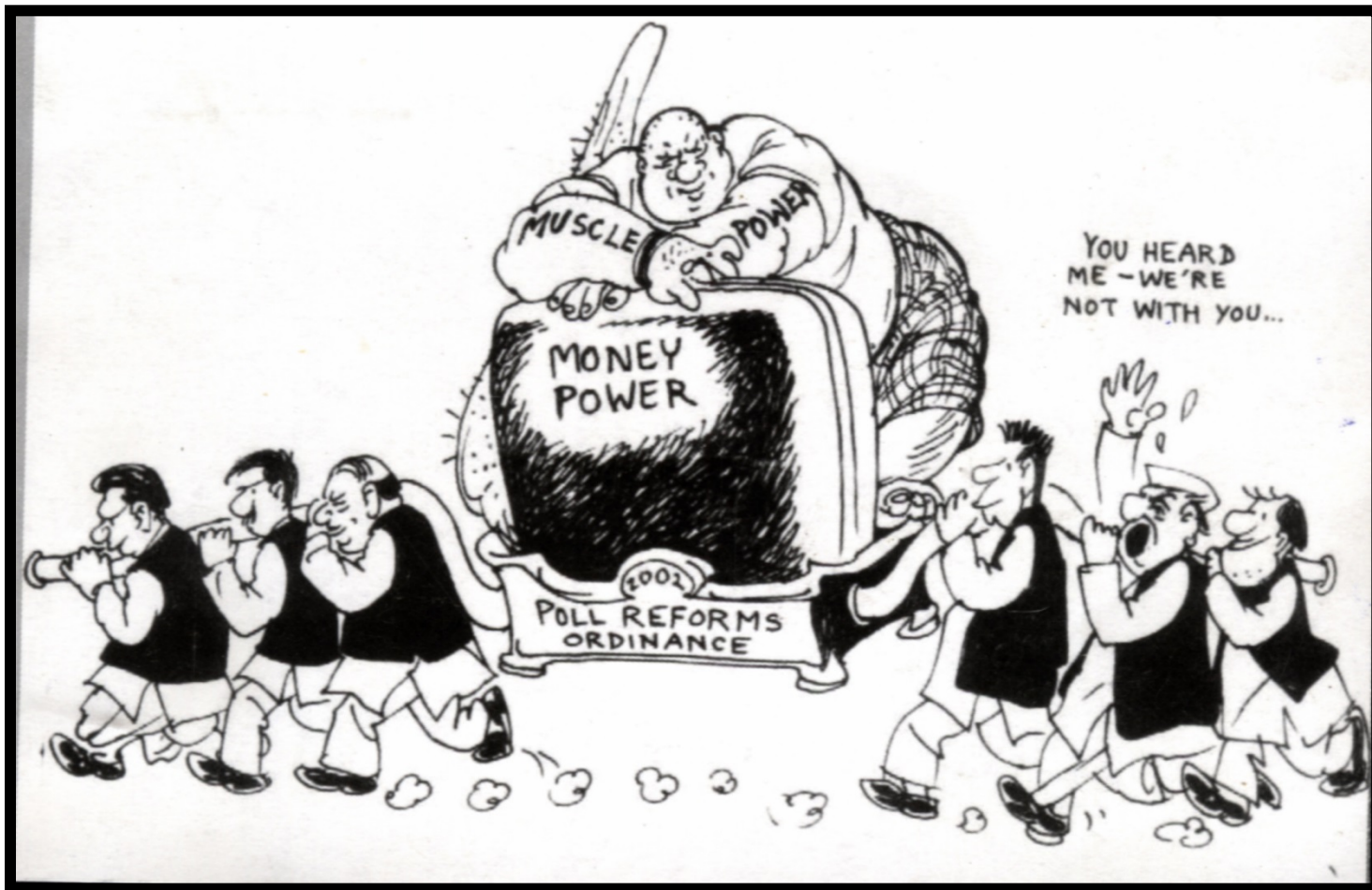


# Fair Comment

- Opinion- an inference from facts. Should be fair, i.e., honest and relevant
- What is fair criticism is a question of fact.
- Imputation of wicked or dishonest motive to the persons concerned is not fair comment
- as a rule a person's moral character is not a proper subject for fair comment. Novel may be said immoral, not character of author.







# Fair Comment

- Enough if proved that comment was objectively fair, which means that any man could honestly held the views expressed.
- Burden is on plaintiff to show that it was a malicious comment or its unfairness, to show that defendant did not honestly hold the belief he had expressed
- Rolled up plea: facts and comments mixed

# Unfair Comments

- “Costly broadcast, vulgar and unworthy performance” - it was not costly, held not a fair comment. *Lyon v Daily Telegraph* 1943
- Secretary of Railway association was a mischievous agitator with overwhelming egoism, misleading men and fomenting a strike for selfish objects. (*Madras Times v Rogers*, 1915).

# Fair comments

- A demagogue of lowest type, a political cheap fact, who would be politically sharper if he had brains enough – *Odger v Mortimes*, 1873 (Fair)
- “Tom cruise looks like rat racer, like child, gleaming in black leather, its his stupidity which will ultimately render the film a flop” New York Times plea was not accepted, *Tom cruise v New York Times Ltd.* 2001



# Al Gore

- “Al Gore will be better model than President, as all he cares about is his suit and his speech is like an actor who hasn’t rehearsed for his play”. Held false comment, defence of fair comment was denied (Al Gore v New York Times )

# Jayalalitha V The Hindu

- 1992 Srinivasan Ram wrote: Jayalalitha's shoes all put together constitute more than India's annual income"- more a factual statement than opinionated one, not fair.
- Karunanidhi: J is incapable deficient woman who will not come to power, her greatest weaknesses are already revealed". Fair comment was denied. (1998)

# Jaya v Daily Thanthi

- Jaya's foster son's marriage extravaganza. The grandeur was elaborate and if this money was used to build homes for beggars, Chennai would be Swacha Chennai". J could not recover from H, 1996
- J v India Today: 2000, "from pelvic thrust to politics". Failed in Delhi HC.

# Jaya v Jayashankar

- 1973 Jaya is the most indecent woman I have ever seen, remarked Jaya shankar, it is opinionated, indecency depends on person, no defamation.
- 1992-2002, J filed 178 Defamation cases, in 82 pleaded fair comment, newspapers won 28 and Jaya won 36, others are pending.

# Manisha v Shashilal Nair

- 2001: She agreed to have a body double and now she puts up a fuss after doing all the dirty stuff. She is out of her senses if she thinks we are going to cut those scenes, they constitute half the movie and all my business. Mumbai HC accepted is as a fair comment.

# Deepa Mehta v The Week

- The Fire: “the movie is a bouquet for homosexuals, Deepa Mehta has vulgarly displayed which avoided forms of affection and has shamelessly exploited sensuality of the two heroines for purely horrible and ugly purposes”, more facts than opinion, and Supreme Court held not fair. (1999)

# Child Rights Violation



Juveniles in the home: Why they want to die?

# Merivale & Carson, 1887

- The whip hand, joint production of Mr. and Mrs. Horman Merivale gives us nothing but a hush-up of ingredients which have been used ad nauseum until one rises in protest against the loving, confiding, fatuous husband with the naughty wife and her double existence, the good male genius, the limp aristocrat and the villainous foreigner”
- It was description of pl’s play? Is it fair?



# Privilege

- Exigencies of occasion, eg., an authorised officer reports on a misdeed.
- Protection of public interest, eg discussion in assembly or judgement of court
- Of the rights of lawful interests of individuals amount to lawful excuse
- Privilege is of two kinds- Absolute and Qualified Privilege

# Absolute Privilege

- Legislators speaking utter untruths and defamatory things. Are they liable?
- Judges passing unreasonable remarks from bench against persons before them or not outsiders. Are they liable?
- Client complains against Advocate. A files a suit for d. Then Client files another suit against Advocate for defaming him in suit. Are they maintainable?

# Counsels and clients & privileges

- A, the advocate conducting a suit against trespass brought by his father. Counsel B of defendant used word “awara”referring to A. A sued for defamation as it was not at all relevant to the suit for trespass. Decide
- Is he performing his duty as lawyer as part of his professional work? Is he immune from liability?
- A files a complaint to Police against X? Is he liable for defamation?

# New York Times Rule

- 1963 case Sullivan v NYT Police Commissioner wins the libel suit.
- NYT appeals to US SC. Unless actual malice is proved the public servant cannot recover for his defamation in media.
- Expands the scope of fair comment and freedom of press against the public servants to serve purposes of democracy.

# Derbyshire County Council

- Derbyshire County Council v Times, 1991 the state as such has no reputation, thus cannot sue for defamation. Persons manning them could sue for damages.
- Council is not defamed, chairman might be.
- This further expands the press freedom and prevents state from fighting media persons with public money.

## 2. Invasion of privacy

- Media will be liable if privacy of citizens are invaded. Privacy is part of right to life.
- Unjustifiable disclosure of private information
- Undue publicity to private affairs of public personality
- Undue exposure of private life of common citizen, could be civil wrongs
- Truth is no defence to invasion of privacy, though this civil wrong is not defined.

# Privacy – fair comment

- Reports affecting the rights of people such as privacy or reputation cannot be treated as fair comments and thus not protected.
- Example: Photos of victim Ansari after the Communal riots in Gujrat
- The request not to publish his photograph any more was also published with his photo.

# Freedom of Press: Privacy

## Gujarat riot victim to be rehabilitated in Bengal

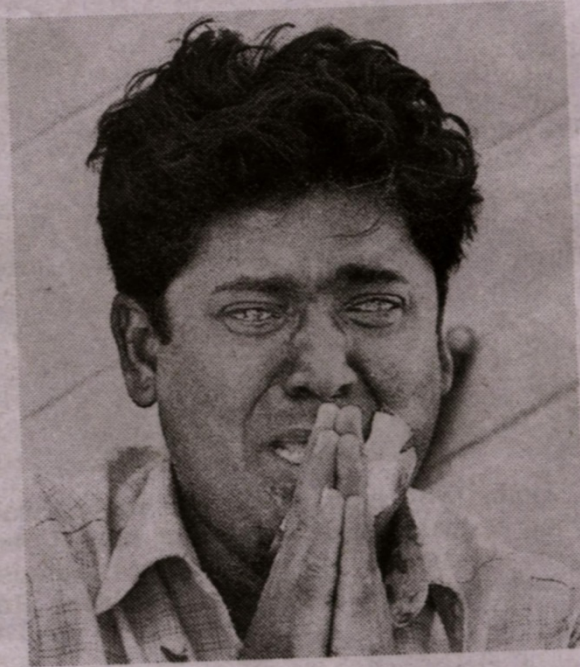
**KOLKATA, AUG. 6.** Qutubuddin Ansari, whose grief stricken face published in newspapers across the country came to symbolise the agony of the victims of Gujarat riots, will be rehabilitated in West Bengal this month.

A secular group in West Bengal had made the offer to the middle-aged tailor some time back and Ansari had now accepted it, the State Minorities Development Minister, Md. Salim, told PTI here today. "We really appreciate this humane move," he added.

Ansari and his family had been facing social harassment and were virtually ostracised by their peers in Ahmedabad for "portraying Gujarat in a bad light", Mr. Salim said.

"A single photograph that depicted the miseries of those at the receiving end of the riots made him the favourite punching bag of his neighbours, who made snide remarks and taunted him, forcing him to leave Ahmedabad," Mr. Salim said.

Ansari fled to Mumbai along with his family and had been staying there for a while when the West Bengal group made the offer. "He has agreed to it. However, since there are a lot of security concerns, we did not want to publicise the matter till



**Qutubuddin Ansari, who pleaded with police to save him from the rioters in Ahmedabad on March 1, 2002**

— Reuters (file photo)

Ansari is comfortably settled here," he added. — PTI



# Freedom of Press: Privacy



face to violence ... The photograph of the year that struck a chord.

S. SUBRAMANIAM



# Freedom of Press: Privacy

## Leave me alone, says Ansari

By Kalpana Sharma

**MUMBAI, AUG. 7.** The photograph of a terrified and tearful man, pleading with people to save him from a mob, became the defining image of the Gujarat carnage of last year. But today, the man behind the face, the 29-year-old Qutubuddin Ansari, pleads with the media to "let me live as an ordinary man".

Mr. Ansari's experiences since the end of the violence in Gujarat last year were published in the April 2003 issue of *Communalism Combat*. This prompted responses of help from several individuals and from the West Bengal Government, which has offered him a home, work and schooling for his children. The editors of the journal conveyed this offer to Mr. Ansari. After consultations with his larger family, Mr. Ansari said he had decided to accept the offer "for the sake of the future" of his children — a seven-year-old daughter and a seven-month-old son.

Mr. Ansari's photograph, which was flashed across newspapers and television channels in India and around the world last March, has come back to haunt him even after the violence died down in Gujarat. He said that a couple of months after the violence, he moved to Malegaon in Maharashtra where his elder sister lives. Initially, he was welcomed by the community and found work as a tailor in a company. But within a fortnight, his photograph



Qutubuddin Ansari talking to the press in Mumbai on Thursday. — AFP

appeared in a Marathi paper. His worried employer requested Mr. Ansari to leave the job as he was afraid of unnecessary media attention.

Back in Ahmedabad, Mr. Ansari said that he had a difficult time conducting his daily life. People recognised him wherever he went. His

daughter heard taunts from people who said they had seen her father crying and begging. Even if he went to the cinema, a slide with his face appeared as part of an advertisement and people turned around and pointed to him.

"I don't know whether

people are looking at me with sympathy or with something else in their minds," he said. Recalling the days in early March, when his locality was set on fire, he said, "Such a thing should never happen in India again. Gujarat was a like a 'guldasta' (bouquet) but within two days they turned it black into ashes. I want to forget this, that's why I am leaving Gujarat."

The uninvited attention, he said, has also affected his earnings. Earlier, he would go into the market and find work or sell his tailored clothes. Now he is afraid to go and sells only within his own 'mohalla'. "Ahmedabad is normal today," he said. "But not for me. You tell me when it will be normal for me, and I will go back."

Although Mr. Ansari had accepted the West Bengal Government's offer to rehabilitate him, he said in the long run he would like to be in Gujarat.

"It is my 'desh', I was born there, and God willing, I will be able to go back there to celebrate Id with my family and friends later this year," he said.

Asked whether there was a danger that he would become a pawn in a political game, he acknowledged that sometimes he suspected that this was happening.

"But I will not allow myself to be used," he said. "I want to stay away from politics. I am going to Kolkata on condition that I can live as an ordinary man."

# 3. Negligence

- Negligently reporting events causing damage to readers or viewers will make the media also liable.
- Negligence is an independent tortious wrong.
- If a ghastly crime incident is presented without minding consequential effects on viewers might make TV channel liable for damages.
- Negligent or reckless reporting of defamatory material is a good cause of action for the victim.