PREFACE

“Abuses of speech are as eligible for legislative control as any other destructive act.”¹

Media has emerged as potent source of information and liberty of individuals. Information that leads to knowledge and knowledge is empowerment. There has been a long struggle in the world history for the freedom of press. Freedom of Press is integral part of the freedom of expression. Fortunately, we are living in the age when the information is away only at a click. We can get better information, governance and security for liberty in a scenario where people are entitled to express themselves effectively. Hence, no parallel to the media freedom can be located to build up such an environment. As we know that no right come without the cover of duty, media freedom is also not exception to this accepted rule.

Infant print media has grown up as a youth with tremendous dimensions viz, electronic media. News has become sensation and media has become spicier. The new face of media in form of sensational journalism, 24x7 services of television, blackberry, internet, social networking with the desire to stay connected, undercover operations/sting operations combined with e-governance, e-banking and e-marketing have developed sophisticated threats to privacy. The study crucially highlights that freedom of speech and expression assured to media has to be exercised subject to the degree to which private information is exposed therefore depends on how the public will receive this information, which differs between places and over time. Our Media believes that people must get what they ‘want’ and not what they ‘need’ because what they ‘want’ is what they ‘need’, and the people are best judges of their ‘needs’ and ‘wants’. They keep it simple, and carry on attending to ‘public

¹ Joseph Sobran, Conservative Chronicle, June 27, 1990.
demand’. Beauty sells better than problems. Newspapers have started selling spicy news. The real question, however, is whether it is as bad as it seems at first glance or there is a bright side too meaning thereby, does media fulfilling its responsibility with having sensitivity of the rights of others to privacy or it requires some checks to be put on it.

Now there arises a natural question that what is the meaning of privacy and what are its limitations, if any? It is appropriate to understand privacy as a concept. Privacy is a culturally limited concept. It varies with times, the historical context, the state of culture and the prevailing judicial philosophy. The question, ‘What is privacy’ has therefore, remained a problem for those who have attempted to define it and a few scholars have even abandoned their effort to define it. Hence the concept of privacy does not lead it easy to logically define. The difficulty arises out of the fact that it is not unitary concept but is a multidimensional concept deserves more for enumeration than definition. There is no legal, philosophical consensus on the definition of privacy. For some it is an autonomy, for others a psychological state or condition of being apart from others or seclusion etc. The popular, pioneer cases on the Right to Privacy i.e., Plessey v. Ferguson-1896 and Paolo Pavesich v. New England Mutual Life Insurance Company-1905 of the USA, reflect the nascent stage and represent the foundations of right to privacy. While dealing with the subject of privacy William Cohen and John Kaplan explained in this way,

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5 163 U.S. 537 (1896).

6 122 Ga. 190, 50 S.E. 68 (1905).
“Once, a civilization has made a distinction between the ‘outer’ and ‘inner’ man, between the life of the soul and the life of the body, between the spiritual and the material, between the sacred and profane, between the realm of God and the realm of Caesar, between the church and the State, between rights inherent and inalienable and the rights that are in the power of government to give and take away, between public and private, between society and solitude, it becomes impossible to avoid the idea of privacy by whatever name it may be called- the idea of a private space and remain himself”\(^7\).

Cohen and Kalpan have almost covered all the dimensions of privacy but the task has not become easy to define privacy in exact terms. There may different types of invasions into privacy- privacy of physical autonomy, psychological being, space freedom, disclosure of embarrassing facts, placing into false light, violation of copyright, illegal search and seizure, theft of identity or name and so on. For these violation the protection is available in different laws- Constitutional Law, Criminal Law, Contract Law, Law of Torts, Customary Law, Information Technology Law, Intellectual Property Law etc.

The rules against unsanctioned invasion of privacy are part of many countries' privacy laws, and in some cases, Constitution. The discussion on the topic suggests that it is high time we had the legal framework to deal with those who use the power and influence of the fourth estate to pursue selfish and immoral personal goals.\(^8\) The purpose of the study is to understand whether media is functioning within its arena of Constitution freedom of speech and expression properly, are the internal norms to regulate media are virtually followed, should there be outer checks on media freedom or it is against the democratic principle of freedom of


\(^8\) *Ibid.*
speech and expression. Further, to analyze the limitation on people’s right to know and how far these limitations are appropriate. In the environment of scattered statutory provisions for privacy protection, limitations of law declared by the judiciary on privacy and the modern days threat to privacy, prepare a solid ground for the immediate need of comprehensive and effective law for the protection of privacy in India. It is appropriate to quote here that “Liberty finds no refuge in the jurisprudence of doubt.”

The researcher is hopeful that the study will be helpful for the members of legal fraternity and for further research on the subject to great extent.

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