CHAPTER - III
THEORETICAL FRAMEWORK

3.0. THE HUTCHINS COMMISSION:

The concept of protection of privacy by media while protecting news items is embedded in the social responsibility theory of the media. The theory is drawn from the Hutchins Commission whose official name was the Commission on Freedom of the Press that was formed during World War II when Henry Luce (publisher of Life and Time magazine) asked Robert Hutchins, Chancellor of Chicago University ‘to examine areas and circumstances under which the press of the United States is succeeding or failing; to discover where free expression is or is not limited, whether by government censorship pressure from readers or advertisers or the unwisdom of its proprietors or the timidity of its management’ (McQuail, 2005). After deliberating for four years the Commission came to the conclusion in 1947 that the press plays an important role in the development and stability of modern society and as such it is imperative that a commitment of social responsibility be imposed on mass media. According to this social responsibility theory, the press has a moral obligation to consider the overall needs of society when making journalistic
decisions in order to produce the greatest good. Though a ‘code of ethics’ was in place before the commission’s report came out however, the Hutchin’s Commission report was considered pivotal in the reassertion of modern media’s role in a democratic society.

The Hutchins Commission is an important milestone in the history of the media because it is the first of its kind where a public inquiry has been instituted against the media particularly the print media. The recommendation of the commission was an important benchmark for accountability of the media to the public. The report coined the notion of social responsibility and named the key journalistic standards that the press should seek to maintain (McQuail, 2005).

3.1. IMPACT OF HUTCHIN’S REPORT:

The report criticized the sensationalism of the press and the mixing of news with editorial opinion. In general the commission supported the concept of a diverse, objective, informative and independent press institution which would avoid causing offence or encouraging crime, violence or disorder. Social responsibility should be reached by self-control, not government intervention. It may be seen that the social responsibility theory of the media was born at a time when big and powerful media houses were unpopular and people began to dislike the highhandedness of the press in reporting news items. Critics of the fourth estate contended that big media
houses threw public interest to the wind and commercialization produced a debased culture as well as dangerously selfish politics.³

The ‘theory of social responsibility ‘involved a view of media ownership as a form of public trust or stewardship rather than as an unlimited private franchise (McQuail,2005).One of the members of the Commission William Hocking (1947:169) remarked that it is now the right of the people to have an adequate press. ‘Experts argue that the social responsibility theory was much vigorously put into effect by the European countries than the United States where the philosophical roots of the theory was laid in the Hutchins Commission of 1947.This may be due to the fear that the wave of press concentration may lead to private media monopoly.

3.2. REGULATING MEDIA:

With the rise of professionalization in the media there was a general urge to protect the media industry from criticism. There was a movement in the USA for codifying journalistic practise and one of the first canons of journalism was published by the American Society of Newspapers Editors in 1923.Codes of conduct were also introduced almost at the same time by European countries like France, Sweden and Finland. Most of the journalistic codes concentrate on the provisions of reliable information and on avoiding distortion, bias, suppression, sensationalism and the invasion of privacy (Harris, 1992).⁴ News prepared by various media houses for the consumption of millions of viewers are essentially covered by the ethics of
journalism for a free and impartial coverage of the day’s happenings. Topics covered by journalism include: a. news manipulation b. public interest c. privacy d. fantasy and e. taste.

The new Oxford English dictionary defines ‘privacy’ as ‘the absence or avoidance of publicity or display; the state or condition from being withdrawn from the society of others, or from public interest; seclusion’. The Black’s Law dictionary refers to privacy as ‘the right to be let alone; the right of a person to be free from unwarranted publicity; and the right to live without unwarranted interference by the public in matters with which the public is not necessarily concerned’.

Media houses are free to publish news about the private moments of an individual only if the person concerned is a public figure and the publishing of such news is driven by public interest. It also needs to be proved that public interest in disclosing the information outweighs the interest in preventing disclosure. Mere fame does not render a claimant a public figure and the fact that the public may have an interest in a claimant does not necessarily mean that intrusion into their private life is justified. In the case of a private person who has no public importance or is not ‘public figure’ there being no question of public importance involved, the plea of freedom of expression diminishes as against the need for protection of privacy.
It is understood that a section of the audience or reading public will be interested in sordid tales of adultery, sleaze or juicy gossip but the media have to restraints themselves because those people may not fit into what we call a ‘public figure’. So it is presumed that media houses will not publish any news reflecting the personal life of an individual that are outside the purview of “public interest”. However, if it does not happen, the State may legitimately prohibit the publication of news that intrude upon the privacy of private individuals without any public interest being involved in the disclosure.

3.3. PRIVACY FROM A SOCIOLOGICAL PERSPECTIVE:

K.D. Sharma (1991) in “The Roots of Privacy” while interpreting privacy in a sociological context describes the private and public realms as part of social reality and two separate and distinct entities (pg 6). He describes them as essential modes of ordering human activities. All human activities that in the ideal type belong to the household are activities of the private realm and the physical location of the private realm is indeed the household. In contrast to the private realm, the location of human activities in the public realm is the entire world outside the household. Thus streets, parks, hotels, clubs, hospitals, temples, churches, universities, government or private offices, legislatures, parliaments and theatres are all locations of the public realm.7 The behaviour at these and similar places is and has to be markedly different from the one possible and accepted in the household. The concept of privacy is related to the interpretation of the public and
private realm as publicity and privacy stand in opposition to each other along the dimension of accessibility.

3.4. INDIAN CONSTITUTION AND PRIVACY:

In India, the right to privacy regarding one’s personal life is implicit in the fundamental right to life and liberty which is guaranteed by Article 21 of the Indian constitution which includes a right “to be let alone” (paras 9,13,26 of Rajagopal Vs. State of Tamil Nadu 1994,6 SCC,632).

This constitutional right of privacy is to be interpreted with the constitutional right of the Press under Article 19(1)(a) to publish any matter of public interest subject to restrictions imposed by the State under Article (19)(2) including the exposure of the misdeeds of public officials.

With the increasing awareness of protection of privacy rights of the individual the media professionals are often under a dilemma whether a particular news item is to be published or whether it requires to be edited to protect the privacy rights of the person in question.

The journalist can go by what we call ethical action which we normally know as those done within the criteria of the general good to the person. According to Spinello (1995) the purpose of ethics is to help us behave honourably and attain those basic goods that make us fully human.
3.5. PRIVACY AS A HUMAN RIGHT:

Privacy has been recognized as an important individual right in most democratic countries as it is presumed to protect freedom and personal autonomy thereby recognizing the autonomous human being. Privacy is closely related to information dissemination for according to Neetling (1996) privacy refers to the entirety of facts and information which is applicable to a person in a state of isolation.9 (pg 35) In the context of privacy, information relating to a person’s exchange of personal information, medical history, financial status, property, family and conjugal life may be deemed to be private. During the handling and processing of a variety of personal and private information the information professional is confronted with the following ethical issues:

a. Categorising information as public and private.

b. Maintaining confidentiality of the information.

c. Judging the accuracy and purpose of the information.

d. Taking care that the right to privacy of the individual is not infringed upon.10

The right to privacy has to be judged against the concepts of freedom and autonomy. The media people have to be especially careful that only information which is in the public domain may be published. There is however some leverage if the person is a public figure, celebrity or any
government servant. Private information may be published only when it is absolutely necessary in the public interest.

3.6. SOCIAL RESPONSIBILITY:

These concepts of media ethics translate into the broader concept of “social responsibility” of the media which is appropriate for the purpose of reasoning in sociological or legal terms. The “social responsibility” theory entails the necessity for the journalist to keep society’s interest as a top priority which can also mean a collective responsibility or public interest responsibility.

The Theory of Social Responsibility has laid down five guidelines for a socially responsible press:

a. A truthful, comprehensive and intelligent account of the day’s events in a context which gives them meaning;

b. A forum for the exchange of comment and criticism;

c. The projection of a representative picture of the constituent groups in the country;

d. The presentation and clarification of the goals and values of the society;

e. Full access to the day’s intelligence.
Social responsibility was formally published as a third theory in 1956 by Siebert, Peterson and Schramm in their book ‘Four Theories of the Press’ alongside Authoritarian, Libertarian and Soviet theories. The theory lays emphasis on the media’s responsibility to use its powerful position to ensure appropriate delivery of information to audiences and to have in place a regulatory body if it fails to do so. Any information to qualify as a news item must be for the sake of public interest and not for purely commercial proposition.

In both the Hutchins commission report and the theory put forward by Siebert et al, the concept of public interest, albeit explicitly lies at the heart of the definition of social responsibility. On an analysis of discourse ethics in the public space, the journalist can be adjudicated as a communicator who is intrinsically linked to its audience—hence the fundamental principle of the media’s obligation to fulfil public interest and also an individual’s right to privacy.¹¹

References:


4. Ibid. McQuail, Dennis (2005), Mass Communication Theory


8. R. Rajagopal alias R.R. Gopal and Another Vs state of Tamil Nadu and Others, Writ Petition (C) No 422 of 1994 decided on 07.10.1994

