Chapter - VIII

SUGGESTIONS AND CONCLUSION

8.0. INTRODUCTION:

Privacy as an individual right has its own cultural context. What is private in one culture need not be so in another culture. The ethicality and morality variables differ across demographic space. However, the media intrusion into personal lives of the celebrities has generated legal and ethical debates. The West has a codified law of privacy in its mature democracies, where the individual liberty is accorded primacy. In contrast, the East has its own cultural nuances and the Oriental nations have just now started realizing the importance of safeguarding private lives of individual, celebs or not. The reasons for such a realization are many, ranging from state to media to intrusion by other individuals also. Privacy can and should be equated with personal property, as it often deals with the reputation of the individual affected. There cannot be any better reason for codification of privacy law than the technological revolution itself. From spy cameras to digital eyes, the electronic peeping has assumed professional proportions. In the world of digital technology nothing remains private and confidential. When information goes viral, there are no barriers to it. True, it has advantages, but also disadvantages. The speed with which untruth can travel is phenomenal. Many innocent people have suffered as a consequence.
state apparatuses can effectively use electronic snooping to meet their ulterior motives also. The victims can be opposition leaders, civil society workers, activists and writers. Even foreign agencies can also indulge as it happens across the globe. In India, it is a recent phenomenon. In fact, technology has changed the rules of the game. Hacking, ethical or unethical, can enable one to access the private information of others, without any conjunction. Globalisation has brought different cultures together. As Marshall MacLuhan has asserted that the world has become a global village. When different cultures meet, there will be culture shock, because what is public in one culture is utterly private in another culture. As a result, the public sphere has also seen a dialectical discourse on individual privacy. In India, a contradictory situation exists. When it comes to the public or governance domain, the Official Secrets Act of 1923 protects the government official secrets. However, the same legal protection is not available to individuals. In other words, the state has precedence over individual citizens. National security and sovereignty assume priority over individual autonomy. The Right to Information Act, 2005 is another important milestone achieved in public sphere after independence. The Act has made supply of information to every citizen for a prescribed fee.

As a result, now we have an army of whistle blowers all over the country, who expose the misdeeds and corruption in public life. Except the matters concerning national security, all others fall under the purview of the Act. In
Western countries, sharing personal data of a citizen without his/her permission and legal sanction amounts to violation of privacy.

8.1 TECHNOLOGY AND PRIVACY:

The collection and use of personal information (data) by technology giants have became an issue as it becomes part of electronic spying. Such blatant violation of personal privacy is morally and ethically incorrect. The arrival of database companies that use technology for personal data collection is the commercial angle of a complex legal issue.

8.2 PUBLIC LIFE AND PRIVACY:

The most important aspect of privacy law is how to consider the private lives of public personalities, public or private. Whether public leaders, celebrities like Princess Diana, Digvijaya Singh, Abhishek Manu Singhvi and others have exemption from the media glare? While it is acceptable that their private life should not be amenable to media or public scrutiny, if their actions affect the national security, then they cannot claim any immunity. Such a suspicion existed in the case of John Profumo in the United Kingdom. Often, it becomes difficult to distinguish between public interest and private lives. It is also true that the society expects its leaders to exhibit impeccable moral character and any deviation by the leaders leads to discussions in the public domain. That is what happened in the case of Thomas Jefferson Clinton, former US President.
All over the world, we have umpteen number of instances where public leaders, ministers and others have quit their public offices due to adverse public opinion. Public morality is a serious issue in the West. On the contrary, very few cases are exposed in India by the media and even then the public censure more or less is of no significance. Everything is forgotten as the public memory is short. Moreover, the concept of public morality is quite different when it comes to politicians and entertainers.

8.3 PRIVACY AND CELEBRITIES:

The ‘casting couch’ syndrome is well accepted in the film industry, as its morality is on the flipside. It does not mean to say that everyone in the film industry defies public conduct or morality perceptions of the common citizens. When it involves cine celebrities, we have film tabloids that excel in purveying rumours and gossips about their private lives. We are not sure whether such stories are planted deliberately to get free publicity or do they really have any substance. These stories are written in a flashy language and not for the serious minded folks, but to satiate the baser instincts of the curious clientele. The situation is the same with Indian language magazines focusing on local film industry. The designs of film magazines are different to reflect the salacious contents. With colour pictures, the stories are written for the leisure-pleasure groups of the society. How many film actors have sued these magazines is statistically insignificant. The celebs perhaps enjoy such stories or tend to ignore them, possibly due to the absence of stringent privacy law in India.
In the West, tabloid newspapers thrive by intruding into the private lives of public figures. In fact, the very genesis of tabloids can be traced to the gossips, rumours and intrusion into the private lives of the leading lights of the society. These tabloids that revel in such stories often end up paying huge damages to some of these people when sued. In contrast, in India, the affected persons have to seek remedies under the provisions of Indian Penal Code, Sections 499-505. Such a void definitely calls for the enactment of a privacy law in right earnest. Since self-regulation by media is ineffective and the Press Council of India is a toothless tiger without penal powers, it is all the more reason enough to enact the privacy law appropriate for Indian conditions, taking into account the cultural context of the country.

8.4. PRIVACY AND SOCIAL RESPONSIBILITY OF THE MEDIA:

The social responsibility theory of the press (media) assigns a role of responsibility to the press in developing country. Media scholars like John Merrill have supported the theory because media in developing countries cannot be as brash as the media in the developed West where paparazzi stalk celebrities quite often resulting in disastrous consequences. The concept of check book journalism is an offshoot of the tendency to seek information of private lives of the celebrities. Fortunately, the cultural environment of India has not encouraged check book journalism nor the breed of paparazzi. It is also true that the public morality perception is virtually the same the world over, except that of individual autonomy. The Eastern countries have the religious perception of individual morality,
ethicality and community-oriented conduct. However, slowly but surely, Indian media have of late started imitating the Western media in form and content. The corporations of media have also contributed for privacy violation. Since news has become a product, tabloidization of contents has also become inevitable. In the rat race for corporate profits, media stages have ignored the issues of media, ethnic and individual privacy as well. Humans function within a framework of social norms. It means that everyone is responsible to the society. Profit making should not be at the cost of societal equilibrium. If the reputation is once lost, the individual concerned will suffer the rest of his life. In that privacy and reputation are intertwined. With more and more intense competition for survival and profit, media will tend to break the ethical prescriptions with impunity.

8.5. SUGGESTIONS AND RECOMMENDATIONS ON PRIVACY PROTECTION IN INDIA:

Self-regulation is welcome but a law of privacy will inculcate among media persons a sense of responsibility and accountabilities, besides a fear of lawful punishment. As such, a statute on individual privacy is strongly suggested. The other recommendations as regards privacy law are:

a) Introduction of privacy law and issues in the courses related to law;

b) Publication of books related to privacy in the Indian context must be done on priority;
c) Organizing seminars, conferences symposia at regional, national and international levels to discuss the various aspects of privacy, public morality and ethicality and related issues, must be seriously considered.

d) Privacy literacy campaigns shall be organized by Governmental and non-governmental agencies at regular intervals.

e) Media literacy should also include the media violation of privacy, its legal and ethical aspects along with case analysis.

In addition, a national level media debate on the proposed draft law of privacy prepared by the Justice A P Shah Committee should take place to square out the deficiencies and fill the gaps.

8.6. CONCLUSION:

In a democratic polity like India, more and more people in public sphere have started complaining of invasion of privacy by media. Not only tabloidization of print but also of electronic media has made the issue serious. There has been significant research in the developed countries regarding immunity of the social media users from the misuse of their personal information by the interested groups. The area has so far remained unexplored in India and other Third World countries and the information uploaded in the Net by the unscrupulous users is a fertile ground for exploitation by the media.
The research work has attempted to suggest suitable measures that have been taken from an ethical and legal perspective to curb and legitimise the use of personal information for media gratification. The media corporatisation, inter and intra media competition and the changing value system in India have induced a rethink on the issue of individual privacy, as against media invasion. This is the time for such a concerted effort by media professionals, legal luminaries and policy makers.