



Second Study Commission
Civil law and procedure

Meeting in Sao Paulo (Brazil). 6-9 September 1993

Conclusions

THE PROTECTION OF THE INDIVIDUAL IN CIVIL LAW AGAINST INVASION OF PRIVACY.
FREEDOM OF THE PRESS V. RIGHT OF PRIVACY.

- 1) Every system of law should recognize the right to personal privacy as a fundamental human right;
- 2) Every system of law should guarantee or recognize the freedom of the media. This must be subject to some restrictions which would include protection of personal privacy;
- 3) In defining what is meant by personal privacy there may be differences between different countries, depending on whether the fundamental right is recognised in the Constitution or by court decisions or by legislation. In some countries, greater emphasis is placed upon protection of privacy than upon freedom of the press, while in other countries the emphasis is to the contrary;
- 4) The right to privacy should include at least the right of any person to be protected from intrusion upon his personality, his home, his family, his relationships and communications with others;
- 5) Neither of the fundamental rights is absolute. Where there is a collision between freedom of the press and personal privacy it should be for the courts to decide whether the right to privacy should yield to the right to freedom of the press because of the requirements of the public interest;
- 6) Every system of law should include means of redress for individuals whose privacy is unreasonably intruded upon. It will be for each jurisdiction to define effective remedies, such as damages or penal remedies or in some cases prior restraint;
- 7) Systems of law should ensure that technological advances are always taken into account, e.g. in data protection legislation.