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**Report Of The Proceedings**

## PRESS AND THE LAW

(Report of the Proceedings on 7/1/86)

### JAPAN (Prof. Yoshimi Uchikawa)

Japan adapted a new constitution in 1946, whose keynotes were democracy and pacificism as against the ultra nationalism of the previous military regime. Japan today is amongst countries which enjoy the greatest freedom of speech and press. The Japanese constitution clearly prescribes censorship stating 'No Censorship shall be maintained'. However, following exceptions do exist: a) the Customs Duty Rate Law that permits the Customs authorities to check imported goods to see that no writings likely to injure public security and moral order are brought in; b) The Ministry of Education exercises rights to check the contents of school books; c) Local government authorities have issued local regulations applicable to the areas over which the local government can prohibit sales of publications with overt sex violence.

On the subject of Freedom of Reporting and Newsgathering, the Public Office Election Law and Criminal Litigation Law provide some restrictions on the subject. An attempt by the government to pass a National Security Protection Bill was withdrawn because of the tremendous resistance from the media.

### PHILIPPINES (Dr Benjamin Lozare)

Most of the laws in the country are noble in thoughts but are hardly applied in practice. The President has unlimited decree making powers to include even the dissolution of parliament, which makes him the primary law maker.

Any study of the Media Laws should take into account factors like (a) how laws are made, (b) who makes the Law; and (c) what the characteristics of the law makers are. Philippines jurisprudence to

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a large extent follow the major lines of American jurisprudence. In Philippines, there are laws covering the following aspects of freedom of Press: a) Freedom from previous restraint; b) Freedom from punishment subsequent to publication; c) Freedom ~~to~~ access to information; and d) Freedom of circulation. Media associations like Print Media Council managed by practitioners help in operating Media Laws through 'self censorship' better than most laws on censorship.

#### SRI LANKA (Mr Irvin Weerackody)

Efforts to regularise the practice of media and communications were made initially during the British Imperial rule in Sri Lanka. Public Security Ordinance of 1947 which was reinforced in 1956 applied to prevention and restrictions under the ordinance to news reports, editorials, etc., during proclaimed periods of emergency.

Sri Lanka Press Council Law of 1973 was the next milestone in regulations relating to the media. This law was enacted so that the press acted with responsibility and high journalistic ethics. This law also provided for the appointment of Sri Lanka Press Council with advisory and quasi judicial functions. Sri Lanka's current ethnic crisis was the furnace in which the 'Prevention of Terrorism Act of 1978' was forged. This Act prohibits publication of any news related to terrorism. Though this Act was challenged in a court of law, it was upheld on the grounds that it is within the statutes of the Sri Lanka constitution.

#### INDONESIA (Ms. Ina Suparto)

Public Laws connected with mass media in Indonesia cover two aspects (viz.) Libel and Obscenity. A law concerning the press was initially issued in 1966 which has since been twice revised in 1967 and 1982. In 1984, a new section was added providing for procedures and pre-requisites needed in applying for a Business Licence for press

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publications. There is a Press Council in Indonesia which works hand in hand with the government. The Press Council is also responsible for supervising KMD (Koran Masuk Desa - Rural Newspapers) on a national level. Though theoretically press is encouraged to give constructive criticisms, 'Telephone instructions' are used to restrict publications from publishing news not in the interests of the ruling government.

#### PAKISTAN (Prof. Sharif al Mujahid)

The British authorities who had ruled the continent had armed themselves with an arsenal of Acts and Ordinances that gave them absolute powers over dissemination of news and ownership, contents and publication of newspapers. The Ordinances continued to be enforced even after the exit of the British from the scene.

In addition to the common laws affecting the media, the Security of Pakistan Act of 1952 vested in the government wide powers. The 1956 constitution which guaranteed freedom of the press was subverted in October 1958 when Martial Law was imposed which continued till 1963. In 1963, a comprehensive Press and Publications Ordinance replaced an earlier Press Publications Order of 1960. The Indo-Pak War of 1965 brought a new shackle for the press - imposition of the Defence of Pakistan Rules (DPR). The state of emergency was only lifted in the last week of December 1985. During mid-sixties, another major development was the launching of the government inspired National Press (NPT) to take over established papers and turn them into official journals.

The most redeeming factor in respect of press freedom in Pakistan is that while the various regimes have more often than not harked back on authoritarian traditions the Press and the public have stood steadfast with the liberation tradition. The strong trade unionism amongst the journalists has also helped them to stand together in case of encroachments.

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## SINGAPORE

Legal constraints on the operation of newspapers and other printed media are more indirect. Under the Newspaper and Printing Press Act (1974) the government has the right to grant and withdraw licences for the operation of printing press in Singapore. Other Acts which affect the press freedom are (a) Undesirable Publications Act 1967; (b) The Sedition Act 1964; (c) Public Entertainment Act 1951; and (d) Emergency (Essential Powers) Act 1964.

## NEPAL (Mr Narendra Panday)

1951 was the turning point in the history of Nepal. The Civil Liberties Act of 1955 gave the freedom of the press and speech. Though there are a number of common laws introduced from time to time the Press and Publications Act of 1982 and the Press and Publications Regulations of 1983 are a major development in the regulations of Press media. The Act also provides for the constitution of Press Council whose function will be to raise the standard of journalists and help the government take policy decisions regarding press freedom.

## KOREA (Dr Park Yong-Sang)

In Korea before 1980, negative ways were used to control the press. In 1980, under the Fifth Republic for the first time, a comprehensive 'Basic Press Act' was passed the purpose of which is to respect the dignity and value of man. It serves to realise the public good by safeguarding the people's freedom of expression and their right to know and insuring the public function of the press to form public opinion.

The Act goes into great lengths defining the specific role to be played by the Press, its publishers, its Editors, etc. One of the interesting aspects of the Act instructs the editors 'to promote the livelihood and welfare of the journalists'. Unlike in USA where there

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is a separate Act on 'Freedom of Information', the Basic Press Act of Korea includes it as an article (No. 6) in the Act. In Korea, the government has powers to cancel publications if they find that a publication was contravening the provisions of the Basic Press Act.

#### THAILAND (Dr Surapone Virulrak)

In Thailand, currently two Press Laws a) The Press Act of 1941 and b) The Order of the Reform Council No. 42 of 1976 govern all printed materials like newspapers, magazines, journals, books, posters, etc. Although the laws of the press are very stringent, the press in Thailand is generally not responsible. Publication of indecent headlines and blatant support of the government without presenting the opposite points of view, are a common feature. Because of the big division among the press people the passing of the new Press Act has been inordinately delayed. There are censorship laws, apart from common laws which are generally enforced with the help of Armed Forces, who are ~~from~~ members of the censor board.

#### INDIA (Mr R V Rajan)

The watershed in Indian journalism was the emergency between 1975 and 1977. Since then, there has been an open debate in the Indian Press regarding the various laws affecting Press freedom. While the constitution provides for the freedom of the press, there are other common laws like a) Contempt of Courts Act 1952; b) Code of Criminal Procedures; c) Defence of India Act; d) Indian Official Secrets Act; e) Indian Penal Code, etc., which <sup>have</sup> provisions affecting the Freedom of the Press. An Anti-Scurrilous Act introduced by one of the State Government, sought to make the publications of grossly indecent and scurrilous matter or matters intended for black mail cognisable and non-bailable. This Act as well as other provisions are often challenged in the Courts of Law. The judiciary which is very independent in India most often gives impartial judgements.

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A Press Council Act which was passed in 1978 has helped in the establishment of a Press Council consisting of 29 members. This Council generally helps in safeguarding the freedom of the press and also gives decisions in case of dispute between the Press and the Public and the Press and government. The press in India generally enjoys greater freedom than many other countries in the region.

## TV & CINEMA

Surapone  
(Thailand)

It is generally felt that the Cinema distorts the institution of family, and there is little that the Board of Censors could do about it. However, the image of certain basic institutions such as the institutions of the Army or the Royal Family around the entire political System hinges, are not allowed to be disparaged or distorted. The Board of Censorship is appointed by the Government, and recently the suggestion for inclusion of women on the Board has gained considerable momentum.

The governmental taxes are extremely severe, leading to the squeezing of actual production costs; hence the falling of standards in recent years.

Recently, it has been discovered that mobile audio-visual units show pornographic movies in rural areas, and this new ingenious device has baffled the police and the responsible citizenary alike.

There are nine TV stations, each of them independent, with its own Board of Censors. About 60 per cent of the stations is owned by the Army. Generally speaking, there is too much of advertising on the TV, squeezing out cultural and educational programmes.

Rajan  
(India)

Radio and TV are owned by the Government; hence state-controlled. But of late, the move to set up autonomous corporations for them has gained considerable strengths.

Films in India can be produced on almost any theme. However, they have to conform to central and state censorship laws and films to be screened must be approved by the

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Central and state Board of Censorship. Interestingly, state censorship code differs from state to state, so that what can be shown in one state may not necessarily be permissible in another one. Some states also lay down the quantum of films in their respective regional languages to be shown within a month or a year. Generally speaking, there is a good deal of sex and violence in films, and the Boards of Censor are supposed to keep them within limits.

Park  
(Korea)

Laws pertaining to newspapers apply to broadcasting as well; the freedom broadcasting enjoys is the freedom of programming. There is a nine-member Broadcasting Commission which is appointed by the Government but to which no government official could be appointed. The Commission decides upon programming and reports to the National Assembly annually on TV performance during the past year and plans for the future. There is also an Advisory Committee attached to each TV station.

There is no restriction on the themes in films but they should not violate the law. The Commerce Ministry sets the ceiling of film import and the Ministry of Culture and Information controls the impact of films from abroad. This device is designed both to save foreign exchange and to raise the standard of films.

Panday  
(Nepal)

The first TV station went on the air only on 29 December, 1985. There is as yet no TV laws.

Radio broadcasting, established in 1951, is governed by the Radio Act of 1957 which concerns only about ownership and manufacture, etc., of radio sets. Until recently,

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Radio Nepal was run by the Government, but is now under a semi-autonomous Board appointed by the Government, which follows the guidelines laid down by the Ministry of Information.

Film production is governed by the Law of 1959. The Board of Censors is appointed by the Government, and recently the Royal Nepal Film Corporation has been set up. Only 15 - 20 feature films thus far made.

Suparto  
(Indonesia)

There is only one TV channel. Commercials were banned in 1982 because they seemed to put a premium on luxurious living, creating a sense of deprivation in the lower income groups.

Private radio broadcasting is permitted but a ministerial decree has been issued to regulate private broadcasting. It lays down that no government official or political leader can establish a radio station, nor could radio be used for political purposes.

Films are seen not only as a mere business proposition but also as instruments for education and information. Quota for importing films is set by the Film Producers' Association. It is also laid down that every cinema must show two national films every month.

Weerackody  
(Sri Lanka)

In Sri Lanka, the script of the feature film is first submitted to the Script Board, after which there is the Censor Board which should approve the finished product. Cinema industry has suffered a terrible setback during the last five years: the number of films has come down from 60 - 75 to about 15.

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TV is government-controlled and is governed by the Act of 1982. Interestingly, it includes a provision for the setting up of a private TV station.

Radio Broadcasting is highly politicized. A Broadcasting Corporation was set up in 1966. Besides Colombo, there are regional stations.

Lozare  
(Philippines) Apart from general media laws, there is no separate set of laws for broadcasting. There are 795 radio and 56 TV station, but all of them survive through advertising revenues. Broadcasting is mostly private owned, and governmental participation is kept to the minimal, but governmental control is achieved because most of the proprietors are sympathetic to the Government. Cable TV has recently been introduced, but is only confined to Metro Manila. Programmes from Japan and Korea could be picked by satellite antenna, but the costs are prohibitive.

The Catholics have a network of radio stations throughout the country, numbering about 50.

Uchikawa  
(Japan) Broadcasting law was adopted in 1950, which, in the main stipulates three conditions: (i) Correction of errors, etc.; (ii) Equal time to all candidates to public office; and (iii) Broadcasting is guided by a Committee, which is guided by a self-regulating system.

NHK Is required to give national coverage; it has no advertising.

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Mujahid  
(Pakistan)

Pakistan Broadcasting Corporation and Pakistan Television Corporation were set up as autonomous organisations, but they function under the Ministry of Information and Broadcasting. Hence, they are guided by the Ministry, but they enjoy considerable measure of freedom in programming. Both radio and TV are, in part, supported by advertising revenues. There is a general code of conduct, mostly unwritten, designed mostly to discourage violence and sex, and promote national values.

For films, there is a Central Board of Censors where approval is required before any film is screened. Films are censored to keep violence and sex to the minimum. The Film Producers' Association acts as a pressure group: It has along clamoured for a protectionist approach and has been successful in keeping Indian films out.

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