

# AMIC Seminar on Media Laws and Regulations in Asia : Singapore, Jan 7-8, 1986 : [opening address]

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**Opening Address**

**By**

**S M Ali**

TALK BY S.M.ALI AT THE AMIC SEMINAR ON "MEDIA LAWS AND REGULATIONS"  
IN SINGAPORE ON JANUARY 7, 1986

Secretary General of AMIC, Mr Vijay Menon, Distinguished Country Representatives of AMIC and Friends,

I feel deeply honoured by your kind invitation to deliver the opening address at this meeting on a subject which is both complex and sensitive, the media laws and regulations. I am not quite sure why this honour has been bestowed on me. Let me assume that it reflects your kind but undeserved recognition of my past experience as a journalist of this region, rather than of my present position as an official of UNESCO. If this assumption is correct, I would like to believe that you are willing to hear my personal views on the subject, which may not be necessarily shared by the UNESCO Secretariat, rather than an exposition of the UNESCO's official position on the issue under discussion.

Yet, even while speaking in my personal capacity as a journalist, I cannot deny that being exposed to the thinking of various governments in this region, in my present role as an official of UNESCO, I have learnt to view the issues involved in the regulation of the media or in the laws governing newspapers, news agencies, radio and television, in a new perspective or, if not in a totally new perspective, at least with the awareness of what we may call "new considerations". Some of these new considerations were hardly part of my thinking in the past, certainly not when, some 25 years ago, my international passport was impounded by the government of a country of which I was then a national or when, some ten years later, I was temporarily banned from entering a country in this region. I was not necessarily bitter against these measures taken against me, but just a little resentful, also keenly aware of the lack of trust that existed between me, a working journalist, and two powerful governments in Asia, which took the measures against me.

In some ways, this lack of trust continues, to varying degrees, in many parts of Asia. It also continues to distort the perspective, accentuating the polarisation between those who believe that most, if not all,

media laws and regulation are either bad or unnecessary, if not both, and those who would like to go to the other extreme of subjecting the media to as many laws and regulations one can dream up as if it is a monster that must be kept in chains. In Asia, we may indeed be lucky that the polarisation has not reached such extremes and that there still exists a middle position subscribed to by an increasing number of policy-makers in governments and media practitioners. This middle position is not necessarily one of compromise, based on the lowest common denominators. But it is one arising out of our awareness of shared responsibilities and obligations, hopes and ideals. Of course, this awareness is not as strong or widespread as it should be, among the policy-makers in governments as well as among media practitioners, which explains why the lack of trust continue.

Assuming we, at this meeting, are aware of our shared responsibilities and obligations, we cannot hesitate in accepting the fact we cannot do away with media laws and regulations, that not all existing ones are bad and that, last but not the least, that a good law relating to the media can provide as much protection to the media as it may define the responsibility of the executive arm of the government. Our acceptance of this position is based on a sad realisation that there can be an irresponsible section of the media, like there can be an irresponsible government, and that there should be checks and balances to ensure that this so-called irresponsible section of the media does not behave or act in a manner which is prejudicial to the interests of the society or nation. At the same time, we also assume that, in a representative form of government, there are checks and balances to prevent excesses committed by an administration that is drifting towards authoritarianism. These assumptions are valid only when the country has relatively independent judiciary to interpret the relevant law and to protect an otherwise innocent victim of an arbitrary application of a government regulation and, secondly, that there is a parliament or an elected assembly which debates or discusses a bill relating to the media before it becomes a law. Here, one can go even further and make a case for the consultation outside the parliament, especially with media groups, before a bill is put through the process of becoming a law. This need for consultation remains a vital one in all circumstances. I shall return to this point later.



We are, indeed, in a difficult situation when a country has neither a relatively independent judiciary nor a representative law-making machinery. In such a situation, we do not have laws relating to the media, but presidential decrees or martial law ordinances. What can the media do in such a situation? Most experts would say, in despair, very little. Then, as they say, it becomes a question of sheer survival and one of long waiting for a change in the scenario. Yet, having worked as a journalist in Lahore, Pakistan under the martial law regime of the late General Ayub Khan and, a few years later, as the Managing Editor of a newspaper in Thailand under martial law government of General Thanom Kittikachorn, I hold a somewhat unpopular view that even in such a difficult situation, the media can maintain a minimum, but not certainly ideal, level of independence and operate with a measure of self respect. However, this presupposes that the so-called authoritarian administration, brought to power through circumstances beyond the control of media, maintains dialogue with the journalistic community. Authoritarian or not, the government should still believe that it needs the media, not just to carry its message across the country, but to provide the feedback to the administration. On the other hand, the media could also come to accept the fact that it still has a role to play in stimulating progress of the country in socio-economic fields. The two -- the authoritarian government and the media -- can thus reach a *modus operandi*, a workable framework of co-existence. When such a framework exists, regulations affecting the media can be kept to minimum. However, let us here sound a note of caution :

By its very nature, a *modus operandi* can provide only a temporary solution, a kind of a breathing space. How long it lasts -- a year, five years or even a decade -- depends on the political condition prevailing in the country. If the situation worsens and suddenly triggers off a major popular upheaval, the media will be immediately forced to take sides.

At a seminar held in Kuala Lumpur in 1984, a noted Malaysian editor, Mazlan bin Nordin offered a thoughtful and timely opinion. "We do not need new media laws", he said, "we need a communication policy". What the Malaysian editor meant was simply this : No matter what media laws are promulgated, they must be based on a well-defined policy and that it is the policy, not

the law, which must come first. This is precisely the position taken by my organisation, UNESCO. As early as in 1970, at its 16th. General Conference, UNESCO called upon its Director General "to help member states in formulating their mass communication policies", a call that has been repeated many times during the past decade. As we all know, the Inter-Governmental Conference of Asia and the Pacific States, held in Kuala Lumpur in 1979, also reiterated the need for countries in this region to adopt their communication policies, in consultation with media groups. Since the ASIOCOM, as the conference was called, in 1979, a number of workshops and seminars have been held in different Asian countries to discuss how a country should go about in formulating its communication policy. It is sad to note that while many countries have some hazy notions on the contents and parameters of such a policy, none has yet laid down a communication policy in clear, precise and, what's most important, codified form.

There is no denying the fact that when no communication policy exists, the laws promulgated by a country, however justified they may be, tend to suffer from lack of theoretical or conceptual justification. To put it the other way round, a well-planned communication policy lends validity and substance to a media law that a government may like to put into effect. For instance, if a policy lays down that no newspaper group can own or control more than one daily publication in a country, a policy directed against the creation of monopolies, it would be quite reasonable for the country to introduce a law to the same effect. Or to give another example, if a communication policy emphasises the need for promoting endogenous productions for the country's television network, no one should object to a law that stipulates that no TV station can import more than, say, 20 percent of its programmes. To recall the opinion expressed by Mr Mazlan, one may even say that the existence of a well-planned communication policy can make promulgation of many specific laws somewhat redundant. In other words, you can do without the laws, at least some of the laws, but not without a communication policy.

Friends, I am convinced that the need today is for more discussion on subject, even for more studies and research. Through this process, we may eventually develop a clear perception of what kind of laws we need

and what we do not need, how we can uphold the integrity of the media as well as national interests, within a legal framework. When we have reached that stage, governments, regardless of their political or ideological complexion, may find it unnecessary to resort to what an editor in this region recently termed as "unwritten laws" in dealing with the media or to questionable pressures brought on the so-called unpliant press. To many media practitioners in the Third World, it may seem like a dream but hopefully, not an utopia. If it is dream, it is one worth working for.

Thank you.

(S M Ali)

28 December 1985