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Workshop Report

By

Achal Mehra
WORKSHOP REPORT

by the Asian Mass Communication Research and Information Centre for

The Asia Foundation

Report prepared by

Dr. Achal Mehra
Workshop Director

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INTRODUCTION

Journalists, like other professionals, must operate within the framework of the societal consensus of their role in society, which is reflected principally in the laws impinging upon their profession. To assure the highest level of professionalism and efficacy, it is crucial that journalists have a thorough understanding of the legal framework circumscribing their operations.

The Workshop on Law for Journalists was designed as a residential programme to provide a period of intensive study to integrate practical and theoretical knowledge of the laws affecting the media and to acquaint journalists with the legal institutions and procedures in Malaysia.

The timing of the workshop was fortuitous as the Printing Presses and Publications Act and the Internal Security Act, two core legislation governing the newspaper industry, had only recently been revised significantly. The workshop, organized by the Asian Mass Communication Research and Information Centre (AMIC) in collaboration with the Institut Teknologi Mara (ITM) with financial support from The Asia Foundation (TAF), provided a rare opportunity for journalists to discuss the content and implications of the acts upon their work.
PARTICIPANTS

Twenty-two journalists from 11 newspapers, as well as the national news agency Bernama and Radio Television Malaysia, participated in the workshop. All the leading newspapers in Bahasa, English, Tamil and Chinese were represented at the workshop, including Tamil Nesan, Harian Tamil Malai, Akhbar Tamil Osai, Shin Min, Nanyang Siang Pau, Malayan Thung Pau, Business Times, New Straits Times, Berita Harian, Utusan Melayu, and Amir Publishing.

The participants were nominated by their editors. Because of an unprecedented response, the subscription list had to be closed and participation restricted to Kuala Lumpur and its locales. A complete list of participants is attached as Appendix 1.

WORKSHOP FACULTY

AMIC's Senior Programme Specialist Dr. Achal Mehra and ITM School of Mass Communication Head Encik Mohd. Hamdan Hj. Adnan served as the Workshop Directors. Mr. Shad S. Faruqi, Senior Lecturer, ITM School of Administration and Law and former legal advisor to the New Straits Times, served as principal resource person. Other speakers from the ITM School of Administration and Law included: Mrs. Beatrix Vohrah, Senior Lecturer; Puan Sue Valquis Mashhor, Coordinator; Mr. Jaginder Singh, Senior Lecturer; Encik Khalid Yusoff, Head; Mr. Lim Heng Gee, Lecturer; Mr. Valentine Manuel, Lecturer; and Mr. N. Mahendran, Lecturer. Dato Nik Abdul Rashid Nik Majid, Associate Professor, Faculty of Law,
University of Malaya, led the concluding panel at the workshop. A complete list of resource persons is attached as Appendix 2.

PROGRAMME

The three-day workshop was held at the Sri Alam Hotel, Institut Teknologi Mara, Shah Alam, Selangor, Malaysia, from 15-17 March 1988. The participants were housed at the same hotel, allowing opportunities for evening discussions.

Inaugurating the workshop, ITM Deputy Director Dr. Hj. Mohd Ahmad Hj. Hashim welcomed the participants to ITM and thanked the organizers and funders of the workshop. He said the workshop would highlight important issues facing Malaysian, indeed, world, journalism and expressed the hope that the participants would "use the opportunity to reflect on the role of the mass media in society" in such areas as the need for a balance between freedom and responsibility, confidentiality of news sources and the problem of cultural imperialism.

The workshop began with an introduction to the legal system by Mrs. Beatrix Vohrah, Senior Lecturer, ITM School of Law and Administration. In her presentation, Mrs. Vohrah focused on the sources and divisions of law. She explained the concept of unwritten law (encompassing English common law, judicial decisions and local customs) and written law (encompassing federal and state constitutions and legislation and delegated legislation). On the subject of the divisions of law, she concentrated on public law, including constitutional law, administrative law and criminal law, and private law, including the law of contract, tort, property, succession, and family.
Puan Sue Valquis Mashhor, Coordinator of the ITM School of Administration and Law, then discussed the Malaysian court system. She outlined the jurisdiction of the Malaysian courts and their division into Subordinate (Penghulu, Magistrate, and Sessions) Courts and Superior (High and Supreme) Courts. She proceeded to discuss the function and jurisdiction of courts with special jurisdiction, namely the Syariah, Native, Juvenile and Military Courts. Finally, she explained the legislative history, structure and jurisdiction of adjudicatory tribunals, such as the Industrial Court, Special Commissioners of Income Tax, Public Services Tribunal, Social Security Appellate Board, and the Professional Disciplinary Board.

In the afternoon, Mr. Shad S. Faruqi, Senior Lecturer, ITM School of Administration and Law, reviewing the laws relating to press freedom raised what he described as "two broad philosophical and juriprudential issues," namely: "Is press freedom a luxury that the Third World can ill afford due to the formidable threats and challenges faced by democratic governments in nascent societies? Does press freedom refer to the right of the public to know or the right of a few men with wealth and power to disseminate information selectively?"

Under the rubric of access to information, Mr. Faruqi explained the doctrine of open courts with a review of the Court of Judicature Act, Juvenile Courts Act and Judicial Proceedings (Regulation of Reports) Act. He also discussed the concept of open government and access to official and non-governmental information. He examined proposals for a freedom of information act, statutory provisions of access to information under the Companies Act, Cooperative Societies Act, Local Government Act, Societies Act, National Land Code, etc., as well as restrictions under the Official Secrets Act, Internal Security Act, Juvenile
Act, Protected Areas and Protected Places Act, Banking Act, Security Industry Act, etc.

The following day, Mr. Faruqi discussed restraints on press freedom. He began by enumerating the restrictions outlined in Article 10(2)(a) of the federal Constitution in the interests of the security of the federation, friendly relations with other countries, public order, morality, privileges of Parliament, contempt of court, defamation, incitement to an offence, and the questioning of "sensitive" matters, as well as Articles 149 (subversion) and 150 (emergency). He then proceeded to discuss statutory limitations on press freedom under the Printing Presses and Publications Act, several sections of which he explained in some detail. He updated participants on the latest amendments to the act, then explained the Sedition Act, Internal Security Act, Official Security Act, etc. He also discussed landmark cases involving these legislation.

Mr. Jaginder Singh, Senior Lecturer, ITM School of Administration and Law, then spoke on the Defamation Act. He took the participants through the text of the act, then amplified on such matters as what constitutes defamation, the concept of unintentional defamation, justification, fair comment, apology in mitigation of damages, defences, such as qualified privilege, etc.

In the afternoon, Encik Khalid Yusoff, Head, ITM School of Administration and Law, explained the civil and criminal procedure to participants beginning with the difference between substantive and procedural law. He then explained key legal terms, such as a writ of mandamus, habeas corpus, etc. He carefully outlined the different steps in a civil and criminal case, then concluded with a discussion of specific examples of how civil and criminal cases wind their way through the intricate legal system.
On the third and final day, Mr. Faruqi focused on contempt of courts and parliament with a detailed explication of the Judicial Proceedings (Regulation of Reports) Act, Courts of Judicature Act and Houses of Parliament (Privileges and Powers) FM Ordinance. He also discussed confidentiality of new sources, laws governing obscene publications and advertisements and other torts and crimes, such as criminal libel, sedition, blasphemy, the Security Industry Act, etc. He concluded with an overview of regulations governing the advertising industry, including the Medicine Advertising and Sales Ordinance, Code of Advertising Practice, Trade Description Act, Radio and Television Code of Advertising, as well as self-regulatory mechanisms of the Advertising Standards Authority of Malaysia.

Mr. Lim Heng Gee, Lecturer, ITM School of Administration and Law, then discussed the copyright law of Malaysia, including such concepts as the subsistence of copyright, criteria of copyright (of content, form, and status), duration of protection, ownership, etc. He also explained what constitutes infringement of copyright, as well as the defenses of fair use, private study, criticism or reporting of current events, etc.

In the afternoon, Mr. Valentine Manuel, Lecturer, ITM School of Administration and Law, discussed special areas of reporting, namely rape trials, juvenile and divorce proceedings and inquests. Mr. N. Mahendran, Lecturer, ITM School of Administration and Law, then addressed the problems of stock market reporting. He focused on the implications of the 1985 amendments to the Companies Act and the Securities Industry Act, including its amendments, on reporters covering the stock exchange and the securities industry. The relevant sections of these acts were debated by participants, especially those drawn from
the Business Times.

At the concluding session, Dato Nik Abdul Rashid Nik Majid, Associate Professor, Faculty of Law, University of Malaya, discussed Press Ethics and Press Accountability with a list of what he described as "25 Dos and Don'ts for Journalists." His presentation, which included a recurring call for professionalism, responsibility, integrity, independence, accountability, fairness, public duty and respect for sources, prompted an animated discussion among the participants and the other panelists, which included Encik Mohd. Hamdan Hj. Adnan, Dr. Achal Mehra and Mr. Shad Faruqi.

The concluding session provided an opportunity to discuss the ethical issues within the framework of the legal parameters that had been discussed earlier at the workshop. The professional and ethical issues, as well as the role of journalists in society, were also the subject of two informal discussions involving all the participants and the workshop directors, Dr. Mehra and Encik Hamdan. These two-hour-long sessions were held over dinner on the first and second day of the workshop and promoted greater interaction among the participants.

At the end of the workshop, all the participants received certificates attesting to their participation in the workshop.

WORKSHOP EVALUATION

The workshop, most especially the quality of resource persons, was commended by the participants. On a scale of 1 to 3, where 1 was low and 3 high, participants evaluated the depth of the course at 2.3; the quality of resource persons at 2.8; the usefulness of the workshop to their work at 2.5; and the
contribution of the participants at 2.1.

The sessions on the Official Secrets Act, Sedition, Defamation, Civil and Criminal Procedure and Access to Information were singled out for special commendation. Several participants said all the sessions were valuable, but a few commented that the session on reporting the stock market was too complicated to be covered in the brief time allotted at the seminar. There were several suggestions to hold the workshop annually, with one participant even proposing that the newspapers be charged to defray the costs of the course if necessary.

The major criticism of the course was its duration. Several participants felt that the workshop should be expanded to four to five days to allow time for more discussion and to ease up on the programme a little. A couple of participants felt that too much had been crammed in too short a time. The evening discussions were singled out as being too demanding by three participants.

One participant recommended that small group discussions with key resource persons would be helpful to participants interested in particular topics. Participants expressed a desire for more written materials and two suggested that editors also be invited to the workshop to discuss the extra-legal pressures on newspapers. The participants unanimously agreed that the workshop was very valuable to their work and career.
RECOMMENDATIONS FOR FUTURE WORKSHOPS

Based upon the experiences of the workshop and suggestions of participants, the following recommendations are proposed:

1. The workshop be conducted annually by Institut Teknologi Mara, initially with support from AMIC until adequate materials have been generated. At the end of three years, the workshop chain could be run independently by ITM as a regular feature, financed perhaps with fees from newspapers.

2. The workshop should be expanded to four days and the number of topics reduced. One subject that can be deleted is stock market reporting. This is a specialized area, which requires extensive discussion and is best handled at an independent workshop.

3. The discussion sessions should be built into the daily programme, as participants found the evening sessions very onerous. It would be useful to hold small-group discussions with key resource persons on subjects of specific interest to some participants.

4. The possibility of bringing a few editors to the workshop to discuss extra-legal constraints upon press freedom should be explored at the next workshop.