

Essential Law For Asian Journalists

By

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Since that fateful day in 1476 when William Caxton set up the first printing press in Westminster, England, the history of press freedom has been an ongoing dialectic between the forces of liberty and those of restraint.

The champions of liberty have frequently been portrayed as idealists, as indeed many are. Often though, civil liberty has merely become a weapon in factional strife. Those seeking to regulate the media have usually been depicted as despots and tyrants seeking to muzzle all dissent, as indeed several are. But the restrainers also include those who share a genuine concern about the abuses of freedom and licentiousness.

It is not the purpose of this paper to debate the limits of press freedom or the conflict between the freedom 'champions' and the freedom 'muzzlers'—fascinating though that debate is. It is important, however, for journalists to recognize that such a debate exists and that it is not only between, as one European editor put it, tinpot dictators and selfless crusaders of freedom.

The nature and need for restrictions on the media vary from country to country. Although virtually all nations profess freedom of the press, in reality all societies restrain that freedom to varying degrees. Political freedom is a complex issue and is in part related to the stage of political evolution of a society. The need or the validity of the restraints on the media in a society are not proposed to be examined here. Further, because of space limitations and because legal principles as well as specific laws vary, a detailed explication of the law is not attempted here. The purpose of this chapter is simply to familiarize Asian journalists with the wide body of regulations that impinge upon their profession. Individual journalists need to ferret out the specific national regulations and judge the propriety, or lack thereof, of the restraints in their national context.

THE LIMITS OF FREE EXPRESSION

The most significant legal provisions affecting the freedom of the press are found in a country's constitution, which is the

supreme law of the land and to which all laws, ordinances and acts are subservient. Most constitutions guarantee the right to free expression as well as delimit the scope of permissible restraints.

Freedom of the press is a key tenet of virtually all constitutions. Article 35 of the 1982 Constitution of the People's Republic of China, for instance, guarantees 'freedom of speech, of the press, of assembly, of association, of procession and of demonstration.' Likewise, Article 10 of the Federal Constitution of Malaysia pledges to its citizens the right of freedom of speech and expression. Article 19(1)(a) of the Indian constitution and Article 11 of Nepal's constitution secure to all citizens 'the right to freedom of speech and expression.'

Beyond the constitutional provisions, several countries have also enacted legislation to bolster the constitutional guarantee. For instance, the 1955 Civil Liberties Act of Nepal empowers courts to issue injunctions against infringements of the right to freedom of the press.

While the constitutional guarantees on freedom of speech and of the press may seem unequivocal, the fact is that no nation guarantees that right as an absolute. Restrictions come in varying degrees. Frequently the constitution itself identifies the scope of these restrictions.

Article 51 of the Chinese constitution, for example, delimits the constitutional guarantee of free speech, by providing that 'the exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective or upon the lawful freedoms and rights of other citizens.'

Likewise, the Malaysian constitution provides for restrictions deemed 'necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence.'

The constitutions of India and Bangladesh permit 'reasonable restrictions' in the 'interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.'

The constitutional guarantees of free speech in Nepal can be restricted for the 'public good', which has been defined as 'preservation of the security of Nepal, maintenance of law and order, friendly relations with foreign states, good relations between different classes, profession and areas, good conduct, health, comfort, economic interests, decency or morality, interests of minors and women, prevent internal disturbances

or external invasion, contempt of court or of national panchayat, prevent subversion of constitution and for compliance of the fundamental duties.'

The Singapore constitution provides that 'Parliament may by law impose restrictions as it deems necessary or expedient in the interest of security of Singapore—or friendly relations with other countries, public order or morality, and restrictions designed to protect the privileges of parliament, against contempt of court, defamation or incitement to an offence.'

Thailand permits restrictions for 'maintaining security of the state, and of protecting the rights, dignity and reputation of other persons, of maintaining public order or good public morals, of preventing or terminating moral degeneration or physical deterioration of the people.'

The exceptions provided under the constitution have frequently been codified into the civil and criminal laws of countries.

LICENSING

Licensing laws usually require publishers of newspapers and periodicals and sometimes even owners of printing presses to secure a permit from the government. Sometimes the law may require simple registration. Frequently though it is a mechanism to regulate the ownership and content of the media.

In India, the registration law merely requires a publisher and owner to make a declaration before a magistrate giving the title, language, periodicity, place of publication, average number of pages and copies and the name of the owner, publisher and editor. Likewise in the Philippines, newspaper owners are required to simply make a declaration.

In Singapore and Malaysia, however, licences are issued at the discretion of the government and are valid for up to one year and have to be renewed at the end of the year. Singapore requires that all directors in a newspaper company must be Singapore citizens. The 1974 Newspaper and Printing Presses Act of Singapore additionally requires that a newspaper corporation must be a public entity with no single shareholder owning in excess of 3 per cent of the equity. In addition, management shares may be issued only to citizens approved by the Singapore government. In Malaysia, the Printing Presses and Publications Act 1984 vests discretionary authority in the government to grant, refuse, revoke or suspend printing licences.

The Basic Press Act of Korea prohibits alien ownership of the media, as do the press regulations of Indonesia. In

Thailand, no more than 50 per cent of the ownership may lie in a foreign investor. Nepal's Press and Publication Act 2039 provides for the denial of printing licences to publications that 'cause or foment' hatred towards the King or Royal family, infringe upon the indivisibility and sovereignty of the nation or the fundamental principles of the constitution or promote party politics.

BUSINESS LAWS

A whole panoply of laws and regulations affect the media as a business, including labour laws, antitrust laws, ownership, taxation, and licensing requirements. However, in several countries several business laws are directed principally or exclusively at the media. In India, for instance, the Prize Competition Act 1955 bars a newspaper from publishing ads or the results of unlicensed prize competitions. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act 1955, the Working Journalists (Fixation of Rates and Wages) Act 1958 and Newspaper Employees (Conditions of Service) Act 1974 regulate the working conditions of Indian journalists and create statutory bodies to review and recommend wages for journalists, among other things.

Under the Newspaper (Price and Page) Act 1956, the Indian government may regulate newspaper prices and space allotted to ads to prevent unfair competition and to encourage small newspapers. And the Delivery of Books and Newspaper Act 1954 requires newspaper publishers to deliver one copy of their newspaper to a public library identified by the government.

NATIONAL SECURITY AND THE OFFICIAL SECRETS ACT

Most nations bar publication of secret information or information that endangers the national security. The Defence of India Act of 1971, for instance, proscribes the publication of any material prejudicial to the national security. The Indian Official Secrets Act of 1923 prohibits publication of official secret information deemed 'prejudicial to the safety or interests of the state.' The Atomic Energy Act of 1962 empowers the Indian government to penalize with up to five years imprisonment any one publishing information on an existing or proposed atomic energy plant or its method of operation.

Likewise, Malaysia has a sweeping official secrets act that classifies a very broad range of official information as secret, disclosure of which is punishable with mandatory jail sentences.

SEDITION

Seditious writings that excite disaffection against the state or the constitutional form of government are frequently outlawed. Thus, Section 124A of the Bangladesh Penal Code prohibits writing that 'bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law.' Section 18 of the Special Power Act 1974 empowers the government with the right to prior review of publications deemed to endanger the security of Bangladesh, friendly relations with foreign states or public order.

Article 155 of the Indonesian Penal Code provides criminal penalties against those who incite contempt or hatred against the government. The 1964 Sedition Act of Singapore prohibits seditious materials that bring into hatred or contempt or excite disaffection against the government or hostility between the races.

Article 102 of the Criminal Law of China makes 'counterrevolutionary slogans, leaflets or other means, propagandizing for and inciting the overthrow of the political power of the dictatorship of the proletariat and the socialist system' illegal.

The 1948 Sedition Act of Malaysia makes writings with a seditious tendency punishable with a jail term ranging from three to five years. Seditious tendency is defined as anything that brings 'hatred or contempt or . . . excite[s] disaffection against any Ruler or against any Government,' or the administration of justice, or breeds hostility between different races or classes. And Section 13 of Nepal's Press and Publication Act prohibits publications that cause or foment 'contempt or disrespect' towards the King or the Royal Family, 'harm the national integrity or sovereignty', contravene the basic constitutional principles or instigate, promote and propagate party politics.

BREACH OF THE PEACE

Most countries have laws directed at publications that incite violence. The most common of these laws are directed toward writings that foment ethnic discord. Indonesia's Penal Code bars publications that incite religious, racial or ethnic hatred.

Section 2(1) 1965 Punjab Special Powers Act in India prohibits publications inciting communal violence. Another clause allows the state government to enforce publication of any matter in a newspaper after due monetary compensation.

Singapore's Undesirable Publications Act of 1967 prohibits distribution of writings deemed 'contrary to the public interest', which includes politically, morally, religiously and ethnically offensive matter. And the 1964 Internal Security Act enables the Ministry of Home Affairs to ban publications that incite violence, counsel disobedience to laws likely to lead to a breach of the peace, or promote hostility between races or classes, and is prejudicial to the national interest, public order or national security.

Sri Lanka's 1947 Public Security Ordinance during periods of emergency bars publication of writings considered prejudicial to the national security, the preservation of public order, and maintenance of essential services.

Sometimes the regulation is a more general breach of the peace ordinance and penalizes publications that incite violence. The Basic Press Act of Korea Article (34) provides that, 'The press shall not encourage or praise illegal acts that disturb public order, including acts of violence.' The Protection of Civil Rights Act of 1955 in India penalizes writing that 'incites or encourages' the 'practice of "untouchability" in any form whatsoever'. The Indian Penal Code also penalizes writings 'prejudicial to the maintenance of harmony' and that create 'disharmony or feelings of enmity, hatred or illwill between different religious, racial, language or regional groups'. Section 153A of the Bangladesh Penal Code penalizes publications that 'promote feeling of enmity or hatred between different classes', while 153B bans writings that induce students to participate in political activities that undermine public order. Section 99A of the Criminal Procedure Code empowers the government to seize publications that promote enmity or hatred between different classes and religions.

Under Malaysia's Internal Security Act, the government can bar a publication that '(a) contains any incitement to violence; (b) counsels disobedience to the law or to any lawful order; (c) is calculated or likely to lead to a breach of the peace, or to promote feelings of hostility between different races or classes of the population; or (d) is prejudicial to the national interest, public order, or security of Malaysia.'

PROFANITY AND BLASPHEMY

Restrictions are also oftentimes imposed against profanities and blasphemous libels that vilify or ridicule God. Sri Lanka's

1958 Profane Publication Ordinance for instance penalizes malicious and vituperative attacks on religion. Article 295A of the Indian Penal Code provides up to three years imprisonment to anyone who 'with deliberate and malicious intention of outraging the religious feelings of any class . . . insults or attempts to insult the religion or religious beliefs of that class.' In several Muslim countries publication of pictures of the Prophet is an offence.

In Kingdoms, such as Nepal and Thailand, the crime of lese majeste, directed at seditious writings against the royal family, is a grave offence. Under Order No. 43 of the National Administrative Reform Council in Thailand, for instance, 'Any matters or pictures infringing upon His Majesty the King or defamatory, rebellious, or contemptuous of the Queen, Royal Heir, or Regent' are punishable with imprisonment of up to three years.

LIBEL

In most countries libel is a tort—a civil wrong giving rise to a cause of action for monetary damages. However, in many Asian countries, it is also a crime. Article 145 of the Criminal Law of China provides, 'Whoever, by violence or other methods including the use of "big character posters" and "small character posters", publicly insults another person or trumps up facts to defame another person, when the circumstances are serious, is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention or deprivation of political rights.' The Penal Codes of India, Bangladesh and several other countries likewise make libel a crime. In India the penalty for defamation can result in imprisonment for up to two years. In the Philippines, libel can result in an *arresto menor*. In many other countries, criminal libel statutes are tied to the breach of the peace or blasphemy laws discussed earlier.

Defamation is any communication that holds a person up to public contempt, ridicule, hatred, or scorn. It damages the reputation of an individual. Article 353 of the Revised Penal Code in the Philippines defines libel as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause dishonour, discredit, or contempt of natural or juridical person, or to blacken the memory of one who's dead.

Under Section 499 of the Indian Penal Code, an imputation is defamatory if it 'directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his

caste or his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.'

Usually, plaintiffs suing for libel must establish that the libellous communication was published, that they were identified in the publication, and that the communication is defamatory. In most countries the information must also be false and a plaintiff must establish some degree of fault on the part of the publisher—either negligence or malice.

Generally, if the defamatory material has been seen by a third party, publication is said to have occurred. Thus, recalling a newspaper does not preclude a libel action since several people would already have seen it; the recall may, however, go toward mitigating damages.

Identification can occur by naming the person, through a photograph or sketch, or by implication or innuendo.

A broad range of words are defamatory. Imputation of a crime, dishonest conduct, sexual slurs, disparaging remarks of personal habits and characteristics, derogatory religious and political references, malicious ridicule, injurious statements regarding a person's business reputation or professional competence, or disparaging statements about a business or product are all potentially libellous.

In some countries the mere publication of defamatory materials regardless of their truth or falsehood can result in prosecution or civil liability through the standard of strict liability. Article 230 of the Japanese Criminal Code, for instance, stipulates that 'a person who injures the reputation of another by publicly alleging facts, shall, regardless of whether such facts are true or false, be punished.'

In most countries, however, truthful and non-malicious publication of defamatory material and even honest errors, (provided the information is of public interest) are protected. In such instances a plaintiff must establish some degree of fault before collecting for libel. Even in Japan, courts make an exception for truthful defamations of public interest. Indeed the courts have given protection even to false defamations published either in the belief that they were true or because of an honest error. Malaysia's 1957 Defamation Act allows the defence of innocent or unintentional defamation if an offer to amend is made. Truth and fair comment are also defenses in libel actions in Malaysia. In Singapore, 'fair and accurate and contemporaneous report' of public court proceedings, as well as fair and bona fide comments, are cloaked with absolute privilege. In India, expressions in 'good faith [of] any opinion whatever respecting the conduct of a public servant in the discharge of his public function, or respecting his character so far as as his character appears in that conduct

and no further' or of 'any person touching any public question' and published for the public good, are protected.

In the United States, a public figure must establish that false and defamatory materials were published with actual malice, i.e. knowledge of their falsity or with reckless disregard for the truth, such as by a high degree of awareness of probable falsity or serious doubts as to their truth. A private figure need prove only negligence. The public figure standard is enshrined in Section 171G of the Indian Penal Code, which provides: 'Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.'

Some countries extend a qualified privilege to newspapers to publish a fair and accurate account of proceedings of legislatures, courts, meetings, etc. This privilege is important because under the law of libel a newspaper can be held liable merely for reporting a libellous statement made by another person. Qualified privilege immunizes newspapers from libel actions so long as they give a fair and accurate representation of events in certain well-defined areas.

In Malaysia the privilege extends to fair, accurate and contemporaneous reports of legal proceedings, Commonwealth legislatures, international bodies, public meetings, etc. The Protection of Publications Act of 1977 (Article 361A of the Indian Constitution) provides immunity to publishers to publish a 'substantially true report of any proceedings of either house of parliament unless the publication is proved to have been made with malice.' In Singapore, fair and accurate reports of bona fide public meetings and commissions of inquiry are protected.

Some countries have legislated a right of reply under which a person attacked by a newspaper or periodical can respond to the attack in the publication. An Amendment to the Indonesian Press Act, for instance, provides a right of reply to a person, organization or corporate body 'which feels harmed by writings in one or several press publications.' Press publications are obliged to meet the request for the right of reply within 'reasonable limits'. South Korea has perhaps the most elaborate right of reply regulation in Asia. Article 49 of the Basic Press Act of Korea provides that an injured party may request correction of a report within 14 days of publication by a newspaper and within a month by a periodical. The publication must print the correction within seven days of its receipt or in the next issue. The paper can reject a request if the reply is not from a legitimately interested party, if it is false, or if the correction is only aimed

as commercial advertising. Disputed cases are resolved by a Press Arbitration Committee, whose rulings are subject to judicial review.

PRIVACY

The invasion of privacy tort encompasses appropriation of an individual's name or likeness for commercial purposes, publication of private information about a person and intrusion.

Appropriation of a person's name is prohibited on the principle that a person's name is personal property and may not be used for commercial gain (such as advertising) without consent. Since newsworthiness is usually a defence in such cases, appropriation is not often a problem for the media, except sometimes in the use of photographs which lack a news peg. Intrusive newsgathering practices—hidden cameras, telephoto lenses, bugging of rooms and telephones, etc.—however, frequently raise not only legal, but ethical issues as well.

Publication of private information that is highly offensive and has no legitimate public interest is often an offence even if it is true.

Privacy, like libel, is usually a tort and not frequently legislated upon. However, it is recognized under the Japanese civil code. Article 26 of the Philippine Civil Code recognizes '(1) Prying into the privacy of another's residence (2) Meddling with or disturbing the private life or family relations of another (3) Intriguing to cause another to be alienated from his friends; or (4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition' as a cause of action for 'damages, prevention and other relief'.

Several countries have enacted legislation that bar identification of the names of juvenile criminals, and sometimes of people charged with a crime until their conviction. Bangladesh, for instance, bars the publication of the names of juvenile criminals. The Hindu Marriage Act 1955 bars publication of all court proceedings brought under this act except the court judgement.

CONTEMPT OF COURTS AND LEGISLATURES

Regulations governing the breach of privilege of legislatures are intended to preserve their authority. Under these regulations, legislatures are empowered to act against publications that bring them into contempt, scorn, or impede

their orderly operations. Contempt of court regulations have also been enacted to deter or punish interference with the administration of justice or in the interests of a fair trial. In some countries the media are prohibited from commenting on pending cases. Sometimes courts issue a restrictive order to bar prejudicial publicity of select information.

The Indian Contempt of Courts Act 1971 defines and limits the power of courts to penalize publication of matter that scandalizes or lowers the court's authority or interferes with judicial proceedings or the administration of justice. The law bars comments on pending cases, but it protects innocent publishers who are unaware of the pending litigation.

OBSCENITY

All countries bar obscene publications. Article 282 of the Indonesian Penal Code provides for action against those distributing material deemed to violate accepted norms of decency. The Basic Press Act of Korea Article 3(3) provides, 'The press shall not infringe upon the honour or right of other people, nor shall it violate public morals and social ethics.'

The problem is defining obscenity. The standard has always been disputed and has relaxed somewhat over the years. Most Asian countries have adopted the so-called Hicklin test established by British courts in 1868. The test is 'whether the tendency of the matter charged as obscene is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall.'

Under Section 292 of the Indian Penal Code a work is 'deemed to be obscene if it is lascivious or appeals to the prurient interest or its effect, or (where it comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matters contained or embodied in it.' Sales of obscene materials to juveniles are also barred under the act.

The Indecent Representation of Women (Prohibition) Act 1986 in India bars representations of women in ads in an 'indecent, derogatory, or denigrating manner'.

REPORTER'S PRIVILEGE AND SHIELD LAWS

Sometimes the media are locked in combat with the government over their right not to disclose the identity of their sources of information. The argument by the media is that

protecting the identity of their sources is central to the newsgathering process. However their refusal to provide vital information can sometimes jeopardize criminal investigations or deny the right to a fair trial of a person accused of a crime.

When information contained in a news story becomes a source of contention in a civil or criminal suit, journalists may be confronted with the possibility of either disclosing their confidential sources of information or risk being cited for contempt and jailed, not unlike other citizens who refuse to testify under oath. Very few countries have legislated on this controversy. As a practical matter, newsmen are usually not forced to reveal their confidential sources unless their information is central to establishing a crime or identifying a criminal, particularly in national security cases.

South Korea is among the very few countries in the region to enact a shield law for journalists. Article 8 of the Basic Press Act of Korea provides, 'Journalists may refuse to disclose the identity of the writer and informer of, or the possessor of the material for the published matter, and to state the basic facts to the contents of the published matter.' The law, however, lists several exceptions to the rule. Section 1 of Philippines Republic Act No. 53 protects journalists from being 'compelled to reveal the source of any news report' related in confidence 'without prejudice to his liability under the civil and criminal laws' unless demanded by the security of the state.

An amendment to the Indonesian Press Act likewise provides, 'Journalists who because of their work have the obligation to keep secret, in this case the name, position, address or other identities of the person constituting their source of information, have the Right of Refusal.' The right of refusal is not applicable to matters involving the order and security of the state as determined by a court. In India, journalists have the right to refuse to disclose their information sources in proceedings before the Press Council.

Singapore, by contrast, has enacted a law that stipulates disclosure by journalists under certain circumstances. The 1964 Emergency (Essential Powers) Act prohibits members of the Singapore Armed forces from communicating with the media and if they do so, the media are required to divulge the identity of the member.

ACCESS TO INFORMATION

Some countries have enacted access laws under which government officials are obliged to make available information to the media. In some instances official meetings

are required to be held in the open. All these acts make provisions for some exceptions. In the United States, the Freedom of Information Act has nine key exemptions. So-called Sunshine Laws that make official meetings public, also have several exemptions. Privacy considerations can also sometimes delimit access. In most countries in Asia, proceedings of courts and legislatures are usually open. In addition, specific parliamentary acts may grant limited access to some documents. In Malaysia, for example, the Societies Act, Local Government Act, the Companies Act, the Cooperative Societies Act, and the National Land Code, all allow limited access to documents of meetings and documents covered under their provisions.

In the Philippines, the right of access is enshrined in the constitution. Article 7 of the Article on the Bill of Rights of the new Philippine constitution provides: 'The right of the people to information on matters of public concern shall be recognized. Access to official records and to documents, and to papers pertaining to official acts, transactions, or decisions, as well as to government research data used as a basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.' South Korea has the equivalent of a Freedom of Information Act in Article 6 of its Basic Press Act, which reads: 'The State, Local Governments and public organizations shall supply information on matters of public interest when so requested by the publisher of a newspaper . . .'

Some laws may restrict access to information. Section 5A of the Juvenile Courts Act of Malaysia, for instance, restricts coverage of judicial proceedings involving juveniles. The country's Bank Companies Act, and Securities Industries Act likewise restrict coverage of financial institutions and the stock exchange.

COPYRIGHT

Copyright law is intended to protect literary property and gives to the owner of the copyright the exclusive right to reproduce the work and profit from it. Although the law protects an author's original literary expression, it does not protect the idea or news event. The copyright law protects the work for a fixed duration—usually 50 years—and there are international copyright agreements to which most nations are now signatories. However, the law provides exceptions for fair use, which is based upon the purpose and character of the use (i.e. it is not commercial) and the amount of material used in comparison to the size of the work.

The copyright laws of Malaysia and Singapore, for instance, protect literary works for 50 years from its author's death. The Malaysian law permits the fair use of copyrighted works for research, private study or criticism. Singapore permits their fair use for criticism, review, reporting current events, for judicial proceedings, educational use, etc.

ADVERTISING

Advertising usually operates under ethical norms established by national advertising associations. In addition, several countries have laws relating to the advertising of certain products and services, such as alcohol, cigarettes, gambling, solicitation, etc. which are banned in countries such as Malaysia. Most countries have also established regulations governing deceptive advertising, puffery, comparative advertising, switch and bait tactics, etc.

PRESS COUNCILS AND CODES OF ETHICS

Several countries, like Nepal, Sri Lanka, Indonesia, South Korea, etc. have established Press Councils with varying degrees of authority to regulate the media. In addition, a certain degree of self-regulation is exercised by the media through professional associations, codes of ethics, etc. Press councils and other self-regulatory bodies usually monitor ethical abuses in newsgathering, libel, privacy, etc. In most countries, however, self-regulatory mechanisms are ineffectual.

In Indonesia, the Press Council assists the government to plan national press policies and also supervises observance of the professional codes. In India and Bangladesh, the Press Council is a statutory body whose aim is to protect press freedom and maintain and improve professional standards. It is empowered to warn, admonish, or censure reporters and publications who violate standards of journalistic ethics and public tastes. It has the power of a civil court to subpoena and enforce attendance, discovery, requisition public records, inspect documents and examine people under oath. It can also require publication of its report in a newspaper. While having the power to rebuke, the press council cannot impose jail sentences or fines.

All the ASEAN countries have established a journalistic code of ethics of some kind or the other. Of these, the Indonesian code is perhaps the most elaborate. It defines the characteristics of an Indonesian journalists, which include devotion to God, fidelity to the national philosophy Pancasila,

loyalty to the constitution, patriotism, respect for human rights and dedication to the emancipation of the nation. It also defines the responsibility of journalists. They are precluded from publishing anything destructive or prejudicial to the nation or that may cause social disorder; or anything that offends the common standards of decency, religion, faith or belief of a person. It requires journalists to be honest in their newsgathering, reveal their identity during newsgathering, verify the truth and accuracy of their news reports, distinguish between facts and opinions, use headlines that are warranted by news content, and carry columns that are objective, honest and fair by not invading a person's privacy or public decency. The code also addresses reportage of crimes and juvenile criminals, rumours, etc. It requires inaccurate reports to be retracted and the right of reply to those offended by a news report. Such replies must be given equal prominence and space as the original report. It obliges reporters to protect the identity of confidential sources, not disclose off-the-record statements and identify their news sources. It also bars reporters from accepting gifts and favours. The Indonesian Journalists' Association possesses the right to impose sanctions against violators of the code.

The National Union of Journalists of Malaysia and Singapore, the National Press Club of the Philippines, and the Journalists' Association of Thailand also have less elaborate codes.

CONCLUSION

Although all countries guarantee freedom of the press, a wide panoply of laws regulate the media. These regulations vary from country to country depending upon the political system and stage of political evolution. But even these laws are not necessarily a true barometer of the freedoms enjoyed by the press, because oftentimes the legal system is weak.

Not all laws are just and indeed in many a land journalists have been persecuted for violating laws to which they conscientiously find objectionable. Likewise, many acts considered professionally improper are not necessarily illegal. Principally, the restraints felt and liberties exercised by journalists should derive from their conscience, the last sieve between them and their typewriters.