

FREEDOM OF PRESS IN MALAYSIA -
LEGAL CONSIDERATION

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CHAPTER ONE

FREEDOM OF THE PRESS.Introduction

One of the most eloquent signs of a country's moral and spiritual strength is to be seen in a strong and effective Press. It is the shop-window of literacy. It is the symbol of the free spirit. Ideally, it should be able to transmit information and independence opinions, be accessible to the whole community, practice "investigative reporting" and provide a forum for the exchange of thoughts. To function thus excellently, there must be a free flow of ideas unhampered by Government "guidance"; any control to ensure a sense of responsibility must be initiated by itself or a truly independent body.

Generally, there can be said to be three modern theories of the Press. First, there is the totalitarian theory of the Press, under which, the press is an instrument for achieving unity of opinion and under which, therefore, objectivity in news reporting is discouraged.

Under such a system, it may be proclaimed that the wishes of the people govern the society; the catch is that the people's rulers determine the wishes of the people and use the press to "educate" the people as to that single will. The press exists as an arm of the state; ownership is public, criticism of the government as distinguished from party propaganda is forbidden; there is strict political surveillance and control.

Secondly, there is the libertarian theory of the press which arose in seventeenth century England and United States, much influenced by Milton, Locke and Mill. The libertarian press purports to inform, entertain, sell and chiefly to help men to discover and know the truth through honest, objective, unrestricted

inquiry and reporting as well as to provide checks on government. Under this system, ownership is chiefly private; defamation, obscenity, indecency and wartime sedition is forbidden, there is control only through the "self-righting process" and by the courts, and anyone with the means to do so. Inevitably, distortions of facts, unintentional or deliberate, occur. Objective views can in fact turn out to be one-sided personal interpretations.

The "self-righting process" works only if readers are critical and a variety of interpretations are available. These are mere assumptions. It is said that history shows that in societies where the subjectivity of the press becomes too critical of strong governments, the governments move to control the press absolutely.

The system, in striving to achieve objectivity, sometimes allows unobjective anti-establishment thought to flourish. Some, like the Soviets, call these professions as to objectivity "liberal hypocrisy".

In the middle of the twentieth century, a new theory began to take shape. The United States Commission on Freedom of the Press termed it the "social responsibility theory". The theory, in purporting to eliminate the disadvantages of the libertarian theory aims for objectivity: the press must not mislead its readers by failing to clearly identify fact as fact and opinion as opinion. However, when the press does mislead its readers there appears to be no effective remedy. The British Press Council first set up in 1953 is one remedy but its effectiveness is limited. The American Commission on Freedom of the Press suggested that that community opinion, consumer action and professional ethics could and should control the press. It also proposed the establishment of a non-governmental agency for surveillance over press performance. However, the question