

Newspapers: A Ban is not A Ban unless Restricted

By Francis T. Seow(former solicitor general of Singapore)

THE Newspapers and Printing Presses Act, Cap. 206, as repeatedly amended, is a cumulative piece of legislation unique to Singapore, which enabled the PAP government under its prime minister, Harry Lee Kuan Yew, to wrest management control of longtime family-owned print media by compelling their owners to divest their share-holdings amongst government- approved persons. The Act further invested the government with singular powers of determining the identity of shareholders, the kind and number of shares each may hold, and, most importantly, the appointment of the directors and the editors to the corporate and editorial boards.

And, in the process, it domesticated the media into a depressing mouthpiece of the PAP government: regurgitating long, dreary official press releases and statements and ministerial speeches -- sometimes serialising them over successive days -- with maps, charts and graphs, to boot. A courageous *Straits Times* reader wrote at the time, "I dread the day when our thinking public resorts to international broadcasts and foreign newspapers to find out what is happening in the country." His prescient words soon resonated in Singaporeans turning to the regional English press -- like the *Asiaweek*, *Far Eastern Economic Review* and *Asian Wall Street Journal* -- for lively and critical news coverage of Singapore, as well as for an outlet where they could ventilate their views and comments, albeit anonymously.

Given their popularity, they were, in the words of the prime minister, "almost like local newspapers." I pause here to stress that, unless otherwise indicated, the expression "prime minister" refers to none other than Harry Lee Kuan Yew -- Singapore's Great Helmsman. Singapore was, and is, the "largest single-country market" for the *Far Eastern Economic Review*, and the second largest for the *Asian Wall Street Journal*. "These publications," the prime minister declaimed, "are no longer foreign press. They have become, in fact, the domestic Singapore press based offshore."

To arrest this drift towards foreign publications, he began to warn the foreign media to report on Singapore "as outsiders for outsiders." However, when those warnings continued to fall on tin ears, he amended the Newspapers and Printing Presses Act in a bid to bring the foreign media to heel. It is with this particular amendment, and the sequential amendments that flowed from it, that I now propose to discuss.

The amendment empowers the relevant minister, by notification in the Government Gazette, to restrict the circulation, by way of sale or distribution, of any foreign publication in Singapore if he deems it to be engaging in the domestic politics of Singapore. What does the phrase "engaging in" mean? And what is covered by the phrase "domestic politics" of Singapore? They were delightfully vague. As you will see, they could be as wide and as long, as the minister's foot or the state of his digestion.

The foreign media publications, which fell victim to this new law, in order of their restriction, were:

Time weekly magazine -- owned by Time Inc, a corporation based in New York, and by no means a lightweight in the universal news publishing business -- had published an article, entitled, Silencing the Dissenters, sympathetic to the beleaguered opposition Workers' Party secretary general, J.B. Jeyaretnam, who also happened to be the prime minister's bête noire. The prime minister replied through his press secretary. *Time* magazine published an edited reply. The secretary demanded its publication in full. *Time* magazine refused on the usual grounds: its editorial rights and the space constraint. For this refusal, the minister declared that *Time* magazine had "engaged in the domestic politics of Singapore." It was gazetted on October 15, 1986. Its circulation was reduced, from 18,000 copies to 9000 copies per week as from October 19, 1986, and to 2,000 copies per week as from January 1, 1987. Within a fortnight, *Time* magazine capitulated, and printed the reply in full, adding, however, by way of an exculpatory editorial footnote, that it did "not agree with all the corrections cited ... but prints this letter in the spirit of full discussion of issues." The prime minister had drawn first blood. Even so, *Time* magazine was kept stewing in its own juice, as it were, for nine months before the crippling restriction was lifted.

Asian Wall Street Journal: Next to offend the thin-skinned prime minister was the *Asian Wall Street Journal*, a sister publication of the *Wall Street Journal*, owned by the almighty Dow Jones Inc. It had published an article called, Singapore Exchange Puzzles Financiers, on a proposed secondary securities market, SESDAQ -- Stock Exchange of Singapore Dealing and Automated Quotation Market System -- by its resident correspondent, Stephen Duthie, in which Duthie had quoted some critics as saying the government would use it to "unload state-controlled and government-backed companies." A director of the Monetary Authority of Singapore wrote in, and -- listing out alleged 'errors and omissions' in the article -- accused Duthie of bias and prejudice. The editor refused to publish it stating, "We don't believe it serves our readers to print personal attacks or allegations of errors that we're confident don't exist." The upshot: AWSJ was gazetted, its circulation drastically reduced from 5100 copies to 400 copies a day, which were ordered to be distributed in priority among 143 listed libraries, thus "continuing public access to the newspaper."

A battle royal of sorts ensued between the government and Dow Jones Inc and its powerful supporters -- from the American Business Council in Singapore to the US State Department to the directorate of the Voice of America, ending in unequal litigation before the Singapore courts, with predictable results. Meanwhile, to emphasise its contention that circulation in Singapore is a privilege, and not a right, the press law was again amended to define, and require, "offshore newspapers" to apply for an annual licence to circulate in Singapore, and post, inter alia, a bond of S\$500,000 (US\$294,000). *Asian Wall Street Journal* decided to cease circulation in Singapore. To cut a long story short, Dow Jones Inc was forced to eat crow, and make peace with the prime minister and his PAP government, an event the *New York Times* headlined in these words: "Dow Jones Threw in the Towel."

Asiaweek: The magazine, a regional weekly, wholly owned by Time Inc, was

next. Its resident correspondent, Lisa Beyer, provided splendid coverage of the 1987 security dragnet, code-named Operation Spectrum, in which 22 young Roman Catholic church and social activists and professionals were detained, without trial, under the internal security law, accused of being members of a dangerous Marxist conspiracy bent on subverting the PAP government by force, and replacing it with a Marxist state. The allegation was as grotesque as it was untrue, but it sufficed for the purpose of the prime minister, who privately conceded that they were not Marxists, but really "do-gooders." Cynically quoting a Chinese proverb -- slaughter the chicken to teach the monkey -- he disclosed it was to make an example of those idealistic young men and women not to involve themselves in socio-political issues, like the plight of foreign maids and workers.

The government took umbrage at *Asiaweek* coverage of this event. The editor, however, inexplicably blue-pencilled the official reply, heading it: Distortion of Facts, You Say? as a separate article. The press secretary wrote in again, demanding publication of the letters, and, when they were not, the magazine was gazetted, and its circulation reduced from 10,000 copies to 500 copies per week. *Asiaweek* repented, and made overtures of peace. In the result, its circulation was raised to 5,000 copies, but not before its resident correspondent was transferred out to Hong Kong, as a quid pro quo. Lisa Beyer, however, chose to resign. The circulation was raised to 7500 copies weekly per issue.

There the matter stood until March 1995, when the magazine in a *lapsus memoriae* published a review of a book, *Dictionary of Modern Politics of Southeast Asia*, written by Professor Michael Leifer of the London School of Economics, in which the reviewer commented on "some odd omissions and biases: Singapore's exiled former solicitor general Francis Seow does not rate an entry ... Not all foreign ministers are represented, yet his colourless compatriot, the current foreign minister S. Jayakumar, is." The government was affronted that its foreign minister was described as "colourless." In an intriguing twist to a familiar reaction, the magazine was verbally informed that its circulation was restricted downwards to 3000 copies. But the restriction was not formally advertised. Perhaps, it was beginning to dawn on the government that noisy restrictions of circulation could work against its longterm goal of turning Singapore into the information hub of Southeast Asia.

Far Eastern Economic Review (Review): The *Review* -- a weekly news publication in the Dow Jones Inc stable of news publications -- was gazetted, and its circulation restricted, as a result of a feisty coverage of the same security exercise Operation Spectrum, in which an article, New Light on Detentions, gave offence. Its circulation was reduced from 9000 copies to 500 copies per issue per week. In addition, the prime minister commenced a personal action for defamation against the *Review*, its editor, the reporter, and all those connected with its publication.

For many years, the respected *Review* was a political irritant in the side of the prime minister, who had personally warned the editor-in-chief at a private meeting to report Singapore "as outsiders for outsiders." Besides its penetrating, oftentimes pungent articles and essays, the *Review* had given generous space to Singaporeans to articulate their grievances about Singapore, the prime minister and his PAP

government, including the inevitable prolific official replies -- to the annoyance of its other readers.

The spunky editor declared the gazetting "invidious" and "unacceptable" in an editorial, *A Ban by Any Other Name*, and regretfully announced cessation of its circulation altogether in Singapore, "as the reduced size of the circulation would in effect place the distribution of the publication into the hands of the Singapore authorities, allowing them to pick and choose the institutions or readers which the *Review* reaches." Furthermore, the editor declared, the act of gazetting would enable the government to claim that the publication had not been banned.

Its recalcitrant stand took the government by surprise. Accusing it of "impeding the free flow of information into Singapore, ... and thus "inconveniencing Singaporeans," the government amended the press law once again, to allow the reproduction of gazetted foreign publications for sale or distribution, without the publisher's permission, by any person, provided they are advertisement-free. Whichever way one looks at it, it was a brazen act of copyright piracy, made more shameful when shrouded with the mantle of authority. The *Review* objected in vain. The government claimed, with mind-numbing logic, the amendment would not infringe the spirit of the Copyright Act.

The government asserted that the approved publisher could only sell the pirated copies at cost, and would not be allowed to profit from it, save only to recover the costs of reproduction. Given the prime minister's admonition to Singaporeans: In life's experience, nothing is for free, it does call for a suspension of belief. However that may be, for some time superb counterfeit copies of an advertisement-free *Review* were sold or distributed in Singapore allegedly at cost.

The restriction notwithstanding, the *Review* continued to publish, *inter alia*, letters from Singaporean readers to the annoyance of the Singapore government, which accused it of being "a forum of inaccurate or unfounded stories on Singapore," in spite of repeated official corrections; and threatened they would be taken into account when the *Review* "eventually sought a review of its circulation restriction." That threat, coupled with the magazine's own internal politics, had its desired effect, and letters to the editor and stories on Singapore dried up. Longtime discerning readers of the *Review* would have noticed a dearth of letters from and coverage on Singapore, for some time now.

With the aforesaid Dow Jones overall settlement of its dispute with the prime minister and his government, the circulation restriction was eased in stages and with fixed quotas.

To digress. About three weeks ago, parliament set up a special law reform commission with the reform of the law of intellectual property as one of three priorities. Significantly, the International Intellectual Property Alliance -- comprising copyright owners representing film, music, software and book publishing industries -- in a recent report had urged the U.S. government to place Singapore on its watch list because of rising piracy levels, which had cost its members' US\$124.9 million in 1997.

The Economist: The reputable British weekly magazine published an article, Psst

-- Wanna See a Statistic? on the prosecution of the (Singapore) *Business Times* editor and others under the Official Secrets Act for publishing 'flash' GDP estimates -- early calculations of the most recent economic growth -- before they were officially released. And wondered why so much fuss was made over the GDP figures, and that "other actions taken by Goh Chok Tong, the current prime minister, suggested that little [in Singapore] has changed." Offended by what it considered the mocking tone of the article, the government sent a letter in reply through its high commissioner in London. The *Economist* published it, but omitted one sentence in that letter. Considering it crucial, however, the government insisted on its inclusion: a dispute arose, leading to an "extraordinary" exchange of correspondence, which became increasingly shrill and menacing, revolving around the government's insistence on its right of an unedited reply.

The government declared that it had no right whatsoever to remove the sentence from the high commissioner's letter without his consent, especially after he had said it was an official reply, and had offered to shorten it himself, if the magazine was under pressure of space. It was for the Singapore government to decide how it wishes to present its case. It was, you may well think, *hubris nonpareil*.

The *Economist* was gazetted, but at the same time the government expressed the hope that the official letter in reply would be published by the magazine, thus making it unnecessary to reduce the size of its circulation. When the letter was finally printed, another variation on the theme may be seen: the circulation was capped -- not reduced -- at its current level of 7,500 copies per issue. On January 15, 1994, the *Economist* was de-gazetted, and the ceiling of 7500 copies removed. The government, however, required it to apply for a permit to operate as an offshore newspaper, post a bond of US\$125,000, and appoint a local representative to accept service of legal documents in any future legal actions.

The right of reply requires the publication of the official reply, unedited -- whether it be long, verbose, repetitious, contemptible, or even libellous. In the latter event, the Singapore government offered to indemnify *The Times of London* -- which properly rejected it outright -- in the prime minister's dispute with its respected columnist, Bernard Levin, over an article recounting the legal hounding of lone Opposition leader, J.B. Jeyaretnam, entitled *The Law Grossly Misused*.

The success of the press laws rests on a simple premise: that the lifeblood of a news publication is advertisements, without which no news publication can survive for long. Now, if circulation is restricted, a publication can easily be brought to its knees, especially where its marketplace is Singapore, whose population is not only literate in English -- English is the language of the administration and commerce -- but affluent with the second highest living standard in Asia outside of Japan. As the prime minister lectured the American Society of Newspaper Editors:

The government could simply have banned these [gazetted] journals. But to ban them would have been an overreaction. Since sales is one of the principal motivations of these journals, it was sufficient to restrict their circulation. By not allowing these journals to increase their sales, the government has achieved some concessions. ...

And now to turn briefly to the prime minister's use of the legal weapon. There is

a legal axiom, well-known to litigation lawyers, that successful courtcraft requires, among other things, a good knowledge of the judge, before whom the case is argued, as well as the correct choice of locale. The prime minister, a Cambridge-educated lawyer, who often brags of his academic laurels, has gone one better: he knows well before he appoints them as judges, which some would say accounts for his long and uninterrupted forensic victories against his adversaries. Besides which, he pays them breathtaking annual retainers: a supreme court justice receives S\$700,000, plus a minimum bonus of 3-months' salary -- that is to say, S\$75,933 per month -- apart from other perks and privileges, while the chief justice is paid S\$1.4 million, besides an official residence (or an housing allowance in lieu thereof), a chauffeur-driven car, among other handsome perks and privileges. As a Queen's Counsel pointedly queried, "Is this kind of money a salary or an income of permanent bribery? How can any of them [the judges] afford to disagree with a government that treats them with such a largesse?"

With this in mind let us now look at just two fairly recent cases in which the prime minister was the plaintiff.

The International Herald Tribune: This Paris-based newspaper -- jointly owned by the *New York Times* and the *Washington Post* -- has a worldwide circulation of about 190,000 copies per issue, about 40,000 copies circulate in Asia, out of which 7000 copies in Singapore. On October 7, 1994, it published an op-ed essay, *The Smoke Over Parts of Asia Obscures Some Profound Concerns*, by American political economist, Professor Christopher Lingle, as a rejoinder to an article by Singapore's permanent secretary to the ministry of foreign affairs. It contained a statement:

Intolerant regimes in the region reveal considerable ingenuity in suppressing dissent. Some techniques lack finesse: crushing unarmed students with tanks or imprisoning dissidents. Others are more subtle: relying upon a compliant judiciary to bankrupt opposition politicians, or buying out enough of the opposition to take control "democratically."

Singapore was not mentioned, specifically. But the Singapore government contended that the article, and the last sentence of the paragraph in particular, had scandalised Singapore's judiciary and impugned its integrity and reputation.

Informed of the prime minister's displeasure, the newspaper quickly offered "unreserved" apologies to him and to the Singapore judiciary. Notwithstanding, the government commenced contempt of court proceedings against the newspaper and all persons concerned, followed by a personal action for libel by the prime minister himself, who alleged that the offending passage could be "understood as suggesting that he had sought to suppress political activity in Singapore by bankrupting opposition politicians through court actions in which he had relied on a compliant judiciary to find in his favour without regard to the merits of the case." He won his case, hands down, and was awarded substantial damages and costs. Indeed, Lee revealed at the trial that he had previously commenced more than a dozen legal suits against persons, all of whom were politicians, but had won each and every case on its relative merits, and not because of a compliant judiciary.

Lee sued the *International Herald Tribune* for libel again, and won, and was

awarded substantial damages and costs. In this action, his son, Brig Gen. Lee Hsien Loong, and Goh Chok Tong, the current prime minister, were co-plaintiffs. On this occasion, the newspaper had published an op-ed essay, *The Claims about Asian Values Don't Usually Bear Scrutiny*, by a former editor of the *Far Eastern Economic Review*, which stated, inter alia, that "dynastic politics is evident in Communist China already, as in Singapore, despite official commitments to bureaucratic meritocracy." The article also referred to a "battle between the corporatist needs of the state and the interests of the families who operate it."

Once again, the newspaper abjectly apologised, accepting Lee's interpretation without demur that "the implication of nepotism" in the article was "unfounded." The apologies, however, did not save it from a judicial hearing which ordered record damages plus legal costs to Lee, his son, and prime minister Goh Chok Tong. Interestingly, the *International Herald Tribune* was not gazetted, nor its circulation restricted or capped.

To turn now to the practitioners themselves. Foreign correspondents stationed in Singapore require an annual employment pass. The employment pass of foreign correspondents, whose writings on Singapore displease the authorities, are either not renewed, refused, or withdrawn, while other correspondents are turned away upon arrival at Changi international airport, where immigration authorities maintain a computerised black list of correspondents and the publications for which they work. For a fuller discussion on this topic, see [The Media Enthralled: Singapore Revisited](#).

On the flip side of the same token, the foreign media are discouraged from recruiting or employing local journalists or stringers -- whose perspectives on Singapore news, events and analysis would necessarily be different -- as it would be antithesis to the prime minister's injunction to report Singapore as outsiders for outsiders. The *raison d'etre* is that the government prefers to keep foreign correspondents as birds of passage, so that they cannot claim any real expertise on Singapore and its politics. Or, contract 'local-itis' in the colourful word of Goh Chok Tong, the current prime minister. The employment of local journalists virtually ceased after the 1977 security detentions of two journalists, working for the *Financial Times* and *The Economist*, and the *Far Eastern Economic Review*.

Conclusion:

In summary, the PAP government -- in manipulating its repressive press laws, in conjunction with absolute powers over issuance of employment passes, and buttressed by selective libel litigation, whose final outcome was never in doubt, against the foreign media and their practitioners -- has been able to force them to walk the chalk of self-censorship, in spite of themselves. No other government or leader has been able to achieve this dubious distinction, as the prime minister of Singapore.

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