

THE RESPONSIBILITIES OF PRESS FREEDOM

Justice Andres R. Narvasa*

**Speech delivered by Dean Andres R. Narvasa during the Launching Ceremonies and Induction of Officers of the ALJEP on February 17, 1985 at the Auditorium, Ateneo Professional Schools, Makati, M.M.*

There are two points on which I would like to have a sharing of views with you today. The first, which constitutes the reason for my being here before you, concerns the prospects and possibilities of an organization such as yours, that we are launching this day; how it can serve "as an effective forum for legal interaction." The second point, as important as the first, concerns the concomitant responsibilities of the freedom of the press that the officers and members of the ALJEP have been and will be called upon to exercise.

Your letter of invitation to me says that your association was organized in order to provide a "venue where law editors and staffers may ventilate their views regarding recent developments in the law." The formation of your association is a most welcome, a most desirable event. I would indeed think it long overdue. Given the asserted independence and fiercely competitive spirit among the law editors and staffers of the different schools in our community, their coming together in this association is a truly remarkable achievement. Congratulations are certainly in order; and these I now offer, freely and unstintedly.

There are, to be sure, very obvious benefits immediately perceptible from the formation of this association. For one, it will allow a pooling of your talents and skills which I think must be considerable, considering the evidently high standards by which you have been chosen by your respective schools. For another, and equally as importantly, the association will allow the pooling of materials, pecuniary resources, most essential in these days of galloping inflation.

I recall a much earlier case of collaboration between law schools. This took place when I was Dean of the UST College of Law, quite some time ago, in the late sixties, I entered into a consortium with the Dean of Law of the University of

*Associate Justice, Supreme Court of the Philippines

Manila, Dean Gonzalo Santos – he is now serving with distinction as a Commissioner of the Securities and Exchange Commission. We agreed to pool the resources of our law schools to conduct one common pre-bar course for both our institutions. I feel it was a very happy association, and a quite successful one, particularly from the financial point of view. Economics was certainly one of the major factors in our collaboration. The *consortium* was continued by my successor as UST Law Dean, and my very close friend, the late Dean Luis Y. Feria, predecessor and brother of Dean Jose Feria, here present with us on this occasion.

Having begun to reminisce, let me go a little farther back through the years, to the time when, as a senior in the UST Law College, this was in 1950, I was asked by one of my professors, Justice Pompeyo Diaz – predecessor of our distinguished dean here, Dean de los Angeles – to revive the UST Law Journal, the law magazine of the college which it had been publishing before the war, but had since discontinued. The College authorities believed it was time to revive the publication, and this was what Justice Diaz wanted me to do. The first thing I did was to look over certain models from which I could pattern the new law journal of UST. Not surprisingly, many of the models were American legal publications. I was particularly taken with the Harvard Law Review. I admired this publication very much, I still do. It seemed to me that the articles were very well written, so well researched and organized, cerebral, very useful. I began to have a dream, like the dream mentioned earlier by Mr. Padilla (or was it Mr. Pe?) that I would match the quality of the publication. I very shortly found out mine was an impossible dream. I very soon discovered that law professors simply would not write articles for the magazine. You could badger them, press them at every turn; you could not get them to write even the shortest sort of monograph. They simply had no time – we did not then have, we still don't have, full-time professors; so it was really that our professors had no time, and some of them no penchant, for article-writing. And, of course, there was the lack of money, which has always been a problem. Maybe now, with the formation of your association, with the pooling of your resources, something positive may result in this area of article-writing.

I should like you to consider seriously, I'm referring to the members and officers of the ALJEP, the possibility of publishing just one common issue for all your law schools. You would then have a much bigger staff which could work on this common issue, which could give more attention to detail, and produce finer work, work of much better quality. You would have more facilities, a larger fund . . . this may however be a question mark, because when funds were mentioned a little earlier by one of the speakers who preceded me, and there was general applause when he expressed the hope that these funds would soon be forthcoming, I noticed that Dean Feria and Dean Gregorio were not clapping.

And there is a third advantage that I see, arising from having one common issue; and that is, duplication will thereby be avoided. Let me go into this matter of duplication a little bit more.

When I got your invitation to be the guest speaker at this inaugural launching of your association, I went over my issues of the UST Law Review and of other law journals, to refresh my recollection. My perusal confirmed my recollection, about the contents of every law journal of practically every law school in the

country. I can, we all can, recite from memory the contents of almost every law magazine. You have the editorial, of course; then you have a section devoted to articles — seldom original, mostly speeches, theses, reprints. You have a section of notes and comments; occasional reports, monographs by student staff members. You have a section of digests or reports of cases and, maybe, if the staffers are a little more industrious, some annotations. You have a section on legislation, a reproduction of the more significant laws, decrees (except the “secret” ones). You may have book reviews. Sometimes, some enterprising souls will try to come out with newsletters, reports on alumni. And periodically, there will be a reproduction of the bar examination questions given during the year, and the answers thereto proposed.

So, you see, you have the same material in almost all issues of the journals of almost every law school. I am not criticizing, mind you. It is difficult to imagine how anyone can be a pioneer, blaze new trails, along a field as well trodden as this. The area for innovation is extremely limited, if one exists at all. I simply state the fact, that there is this duplication, and it has been going on for years.

Now, if you will consider seriously the idea of coming out with one common issue for all your member law schools, I don't know quite how radical you may think this to be, this will allow for more exhaustiveness and thoroughness in your research, in your study and analysis of legal developments; you will have a wider choice of articles, which certainly will conduce to an enhancement of quality. You will have better organized, better researched notes and comments.

Carrying the concept of a common issue a little farther, if you do finally come to think the idea feasible, you will then have to reach certain agreements on certain questions, the first of which would be, who will be the head of the outfit? But I don't imagine this would be too much of a problem for you. After all, you originally were six (6) independent, strongly competitive groups, as I have already mentioned, and yet you have succeeded in bringing about this amalgamation we now call ALJEP. I don't know what formula you used but, certainly, I dare say the opposition can use that formula.

I suppose that you can have a board of editors, a board of moderators. As to the editor-in-chief, the *primus inter pares*, the selection could be by rotation, just as the selection of section editors could also be by rotation. All these can be worked out, and I commend them to your attention.

There is another suggestion I should like to make; and that is, that you draw up and publish a general index; an index at least of all the articles heretofore published by the law journals of your schools, and perhaps, by the other better known legal publications in the country. I need not point out to you the advantage, the indispensability of such an index. Hundreds of articles have been printed in your law journals. In this welter of articles, how do you find those dealing with the point of law in which you may at the moment be researching? You would have to wade through all the issues, scan every article; you can imagine the time entailed by this process. On the other hand, an index would immensely shorten the procedure. The index could very well cover also, Batas Pambansa enactments, presidential decrees, etc. An index of this sort was published by the MLQU Law Quarterly, as I recall. It is a very useful work.

Let me offer another suggestion, this time regarding articles. I have already mentioned how difficult it is to pin down professors and practitioners to commit themselves to contribute some article to your law journals. I have a proposal which might help, culled from my experience in the Fact-Finding Board (created to investigate the Aquino assassination). You will have to decide, first, on a subject you believe to be of sufficient interest and importance for publication; say, is there really no room in Muntinlupa (for those charged by the Tanodbayan with the murders of Senator Aquino and Rolando Galman?)? or, are there "secret decrees"? or, does the Sandiganbayan have jurisdiction over the assassination of Senator Aquino and the murder of Galman? etc. Having chosen your subject, you would then have to prepare an outline of your topic, in the form of a questionnaire; then go to the professors whom you consider to be experts in the field of law involved, and ask them to answer the questions in your outline. I believe you will find that professors and practitioners will be much more ready to answer orally that questions that you may pose to them, within their area of specialization, than to write out their thoughts on the matter. When you have all the answers to your questions, you have your article, which you might publish either in the original format of questions and answers, or in straight prose, after some editing is done.

There are many other possibilities that open themselves up to an association such as yours. You might, for example, consider publishing a calendar of interesting and instructive hearings in various courts, a calendar of seminars and activities of relevance to the study of the law. I am certain still other possibilities will occur to you. I wish you success in considering these possibilities and acting on such as may appear to you to be feasible.

Let me go now to the second point in the exchange of views I want to have with you this afternoon. A few words regarding freedom of the press. What I want to do, specifically, is to discuss not so much the limits and boundaries of press freedom — we are all quite familiar with them — but more importantly, within those familiar limits and boundaries, the positive, affirmative obligations concomitant to the exercise of freedom of the press. In other words, I would discuss, not the "don'ts" — don't go beyond this, don't go beyond that, but the "do's" — what should one do, what are an individual's particular responsibilities, to ensure a responsible exercise of press freedom?

I had to do little research myself, of course, chiefly to verify certain preliminary notions I already had on the subject. I did what I assumed a "notes & comments" editor would do if he had been given the assignment of determining and declaring the particular responsibilities concomitant to press freedom.

Textbooks were, expectedly, my first point of inquiry, of which I had a few in my own little library. I had the monographs on the Bill of Rights of the eminent Chief Justice Enrique Fernando; and the textbooks on constitutional law of the venerable Justice George Malcolm, of Messrs. Tañada and Fernando, of Dean and Assemblyman Neptali Gonzales, of Prof. Cecilio Pe. But as I surmised, I saw a sameness of treatment in the books as regards freedom of the press: a statement of its historical evolution, its nature, extent and scope, its general limits.

The general limits to press freedom, set out by the authors, are (1) the laws of libel and defamation, and (2) national security; public welfare and interest. Invariably there was, too, a brief discussion of the principles by which press freedom was limited by considerations of national security: the so-called "reasonable or dangerous tendency principle"; the "clear and present danger" doctrine; the "balancing of interests" rule.

There was, to repeat, only a statement of general limits; a statement of "don'ts" — do not, in exercising press freedom, defame or libel anyone; do not imperil national security or prejudice public welfare. But I found no statement of positive, affirmative duties or responsibilities in this initial stage of my research. I had to look elsewhere for the answer to my question: within the general parameters of the laws of libel and national security and general welfare, was every utterance in the exercise of press freedom permissible, non-actionable, free from restraint? Should not this freedom of the press, as all others, be understood, as Hans Kung, noted Catholic theologian advocates, not only in a negative sense, as being free *from* something, but also, and preeminently, as being free *for* something?

There can, to be sure, be no doubt about the importance of the freedom of the press. One of the simplest, most concise, most eloquent expressions of its prominence was given by John Milton in his "Aeropagitica, A Speech for the Liberty of Unlicensed Printing." He said, "Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties." Why above all liberties? Because, as a Dominican philosopher suggests, it is the freedom most closely linked to the root of human liberty, the very power of reason; indeed, this is why it is also designated as "freedom of thought," reason being, after all, that which makes man, man.

Some slight reflection will immediately impress everyone with the tremendous power and influence of the press, the term being used as meaning the same as "media," as including all forms of media: print, television, radio, even drama. In talent and resources, there is very obviously a great disproportion between the communicators (media) and the receivers (the individuals composing the communicators' target audiences or publics), a disproportion which, it has been pointed out, may well result in "spiritual slavery." Consider the interaction of the world of media and the individual. On the one side you have the world of media, rich in talent and resources, having or capable of having the best writers, cameramen and technicians, equipment, the most competent psychologists, researchers, etc. The media groups usually have messages which they wish the public to receive and absorb. And they apply their vast resources to the end that their messages may have maximum impact on the public, or that part of the public which happens to be their particular target at a given moment. On the other side, you have the individual, who is supposed to receive the media's message. He has some free time, so he turns on the radio or the television set, or picks up a magazine or newspaper. He probably has some problem, large or small, personal, family, professional, etc. He has only a little bit of free time to receive and judge, accept and receive the media message that is communicated to him. He is invariably affected by what is presented to him over TV or radio, or other form of media, and the manner of its presentation. He is thereby relaxed, amused, saddened, disturbed,

angered. Somehow what he receives and absorbs will have an effect, too, on his thinking, his attitudes, an effect that may well be produced sub-consciously, without the individual's awareness that such a shaping of his thinking and attitudes is taking place. There is here, therefore, a specie of mind control.

We see everywhere evidence of this phenomenon. How often has it been said that our children nowadays are slaves to TV; that housewives and househelp have become addicted to and are greatly influenced by soap operas aired over TV or radio? What's happening to Flordeluna, or at General Hospital? You know how advertising has become so effective as to make "Colgate" for example, synonymous with toothpaste, or "Frigidaire," with refrigerators. How often have we laughed at the joke that advertisers are so adept at their trade they can even sell ice boxes to Eskimos. The vast power of advertising, how powerfully the minds and wills of individuals can be controlled. And of course you know as well as I to what good application dictators have put this psychological truism, in the form of propaganda. Through adroit propaganda, a lie can be made to sound like the truth, if repeated often enough, if the lie be big enough.

This brings me to my next question. We are zealous about protecting the rights of the communicators, media, those who exercise press freedom. Should we not be as zealous in defense of the rights of the receivers, those who receive the messages of media, to the end that the receivers are not affected to their prejudice by the messages that they receive? Should not such a tremendous power as press freedom entail commensurate responsibility? Should not the communicators, media, not only simply avoid libeling others or imperiling national security and welfare, but also, and perhaps more importantly, perform positive acts to assure a proper exercise of press freedom and in this way, preclude "spiritual slavery", stimulate and not stifle thought?

The Civil Code provides some answers. Article 19 declares that—

"Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."

And Article 21 states that —

"Every person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

These provisions spell out the principle of "abuse of rights." But the legal precepts are, as may be noted, quite general, do not specify duties in more particular form.

The "Decree on the Media of Social Communication" issued by His Holiness Pope Paul VI on December 4, 1963, "*Inter Mirifica*," also gives answers.

"The proper exercise of this right (to information) demands * * that the news itself that is communicated should always be true and complete, within the bounds of justice and charity. The manner in which the news is communicated should be proper and decent. This means that in both the search for news and in reporting it, there must be full respect for the laws of morality and the legitimate rights and the dignity of the individual."

But again, the responsibilities are stated in quite general terms.

Further research yielded what I sought: statements of more specific responsibilities inhering in the exercise of press freedom that I took to be logically tenable. These I have synthesized and will shortly deal with.

In the course of my inquiry, I had rang up a friend in the Office of Media Affairs for a copy of the journalists' code of ethics. Some moments passed before my friend could reply. Yes, his voice came uncertainly over the telephone, it seemed to him that there was such a code, and he would try to get a copy for me. That same day I got a printed copy of the "Filipino Journalist's Code of Ethics," undated, consisting of six (6) items, or propositions. My friend's accompanying note advised that it was the only copy in the office and requested its prompt return. It is gratifying that there is a code of ethics for Filipino journalists. I also received from my friend, a code for publishers, entitled "Filipino Publishers' Guidelines,"¹ more detailed and, it seems to me, better organized than that of the journalists.

An author has used a very apt metaphor to describe press freedom, likening it to a two-sided coin, on one side of which are impressed the rights flowing from it, and on the other, the concomitant responsibilities.²

The rights arising from freedom of the press include:

- 1) access to pertinent public records and news sources;
- 2) unimpeded ways and means of gathering and presentation of news and opinion;
- 3) liberty in expression;
- 4) freedom from manipulation, harassment, necessity to propagandize.

I would like to repeat that: among the rights resulting from press freedom is the right to be free "from manipulation, harassment, and the necessity to propagandize."

But since it is not my intention to dwell on these rights, I will thus proceed directly to the responsibilities of freedom of the press. These are:

- 1) respect for the public trust, and regard for the common good;
- 2) honesty and accuracy in reporting;
- 3) absence of bias and precommitment;
- 4) ideally, the providing of a forum for the expression of contrary opinion.

Within the frame of this statement of responsibilities, I will now try to lay before you more specific responsibilities or guidelines in the exercise of press freedom, the concrete, positive acts which an individual invoking that freedom is called upon to perform to ensure its responsible and just exercise.³

First, respect for public trust and regard for the common good. Those who wield this great power have a "high trust." They must keep fidelity to that high trust. In the wielding of the power, they must promote the common good. This implies the specific responsibility of any person who exercises press freedom —

- 1) to make himself competent; to strive to improve himself constantly in his craft as well as in the ethical principles applicable to his profession, it having been said that the "greatest drawback to the profession is not the lack of effort, but mediocrity";
- 2) to hold public welfare paramount to the personal or selfish interests of an individual or group;

- 3) to enlighten and instruct the public on vital issues, media being after all an educational instrument, perhaps the most powerful that there is.

Second, honesty and accuracy. The journalist must be truthful. He cannot write or utter deliberate lies or half-truths, suppress or omit facts, slant reports by selective reporting, wrong or improper emphasis or innuendos, indulge in sensationalism. He must ever bear in mind that there is no fact without a context. His reports and opinions must reflect not only the situation but also, all its implications. He must realize that the statement of an isolated fact, although accurate in itself, may mislead and thus be untrue. He must of course guard against even typographical errors, as these may very easily mislead. He should realize, too, that a film, drama, story or report, otherwise strictly true and correct, may still mislead and be untrue as to implication. For example, a film in which nothing bad is said about the Chinese, but in which a few Chinese are shown in some scenes as drug addicts or militarists, somehow creates a false image of all Chinese. Stories portraying blacks as servants, or menials, also create a distorted impression of them. And the image of all American children as spoiled and undisciplined is fostered by media portrayals of them as brats. The reason for this is that people make decisions in large part in terms of favorable or unfavorable images. They relate fact and opinion to stereotypes. What this imparts is media's responsibility that they do not mislead deliberately, or even unintentionally.

Third, absence of bias and precommitment, or objectivity and fairness on the part of those exercising press freedom. Not only should they eschew bias and precommitment, i.e., personal motives, selfish interests, animosity, but they should ever observe the rules of fair play and at all times evince due respect for human dignity.

Bias, as we know, is that which excites a disposition to see and report matters as they are wished for rather than as they are. A journalist should never allow personal motives or interests to influence his work. Partisanship in editorial comment, involving a knowing departure from the truth, is to be spurned and condemned.

The elementary rules of fair play impose the duty not to publish charges affecting the reputation or moral character of any person without opportunity for the latter to be heard; and that opportunity should be accorded preferably in the same issue and if not, as soon as possible, care being taken to give space for warranted denials, clarifications, refutation.

A person's dignity, his private rights or feelings must be respected. Reports or comments on a person's private life, tending to harm his reputation should not be published, unless some public interest is thereby served; but certainly, never out of mere curiosity. The norms of decency should also be taken into account by media. Sordid details, such as offensive descriptions or pictures of the human body, the names and pictures or identifying circumstances regarding victims of sex crimes, should generally be avoided.

Finally, the responsibility of the press to serve as a forum for the expression of contrary opinion. It is the journalists' responsibility to ventilate significant ideas even if these be contrary to their publisher's or editor's own. It has been said that an idea is not to be stifled by the circumstances of its birth. So, too, it has been said that the press should serve as a "great round table," a public forum

where men can exchange ideas to influence and enrich the development of society and further its progress.

In closing, let me offer once again my congratulations on the formation of this organization of yours, the ALJEP. Let me admonish you to keep ever in mind the responsibilities of press freedom. And let me wish you success in the achievement of your objectives.

FOONOTES

- ¹ Philippine Council for Print Media, 1977; See, also, "The Canons of Journalism," adopted by the American Society of Newspaper Editors, 1923.
- ² See Catholic Encyclopedia: Freedom of the Press, Limits of Freedom.
- ³ Culled from the sources mentioned in the first two (2) footnotes, as well as: Dictionario Enciclopedico de Teologia Moral, Madrid, 1973 (Rossi & Valsechi); PASTORAL INSTRUCTION: "Communio et Progressio," On the Means of Social Communication, written by order of Second Vatican Council by the Pontifical Commission for Social Communication, May 23, 1971; Mass Media & the Law: Freedom and Restraint, Wiley Series on Government & Communication, 1970 ed.; "Inter Mirifica"; Decree on the media of Social Communication by H.H., Pope Paul VI, Dec. 4, 1963.

X
-
all
ot
oy
a-
t.
li-
te
n
at
s-
is
as
es
of
s-
le
e-
y

le,
e-
d
n
t-
w
r-
r-

s
r
e
-

s
t
r
t
n
f

l
t
l
s
l