

Communications

Editor, *Journal of Asian Studies*:

In a recent issue of this journal an article by Charles Morrison was published on the *munshi* in the Indian legal system.¹ The emphasis in that article was on the occupational relationship between the *munshi* and the *vaqil* (lawyer), and in describing this relationship the author throws a considerable amount of light on the workings of the Indian legal system as viewed from the streets and bazaars of India. The purpose of this brief communication is to describe the "petition writer"² of Malaysia who illustrates a parallel occurrence. The context in which the petition writer operates is very similar to that of the *munshi* in India: both states share in common an English law-based legal system which includes a specialized legal profession. The members of this profession cater largely for the comparatively wealthy in both societies, although in India, as Morrison shows, the link between *vaqil* and *munshi* does draw the profession into a closer contact with the generality of the population. In Malaysia, on the other hand, the profession is strictly confined to professional practice as this would be understood in the Western nations. The 'petition writer helps to fill this gap to some degree but in a manner rather different to that of the Indian *munshi*.

At its simplest, the Malaysian petition writer provides a fundamental service in filling in the many forms required by those (illiterate) persons who have dealings with the various departments of the bureaucracy. The only qualifications required here are a knowledge of English and Malay. In the towns and urban centres of Malaysia the petition writers undertaking this type of work very often develop a considerable expertise in the regulations and procedures of whatever part of the bureaucracy with which they happen to be concerned. Equally important, however, are the "contacts" which they develop with individual civil servants within government and through whom, for a consideration, any particular matter can be expedited.³ The mention of payment introduces the question of government regulation. This is characterized by its paucity and simplicity and generally provides for the following:⁴

- (a) "Petition Writer" is one who (not being an Advocate or Solicitor) prepares documents for other persons for reward or a fee.
- (b) A petition writer must be registered as such and those who act without registration are subject to fine.
- (c) The registration is carried out at the District Office of the district in which the petition writer resides. The District Officer may refuse to register any applicant who is "not possessed of proper qualifications for writing petitions."⁵

The nature of "proper qualifications" is nowhere specified in the act so that registration is very much a local matter and at the discretion of the District Officer. This is an extremely important point particularly in the rural areas of Malaysia where the

¹ cf. Charles Morrison, "Munshis and Their Masters: The Organization of an Occupational Relationship in the Indian Legal System", (1972) *Journal of Asian Studies*, XXXI, No. 2, pp. 309-328.

² Known variously as "*kerani*" (clerk) or "petition writer."

³ The terms "contact," "expedite" are in common use.

⁴ Selangor Petition Writers Enactment No. 2/1957. Other state enactments which are substantially similar in terms include the following: Kedah Petition Writers Enactment No. 75/1934; Johor Petition Writers Enactment No. 16/1938; Perlis Petition Writers Enactment No. 15/1354 and the Kelantan Petition Writers Enactment No. 23/1939.

⁵ Section 4 of the Selangor Petition Writers Enactment No. 2/1957.

function of the petition writer far exceeds that of the urban petition writer both in scope and in importance. The reason for this is primarily that the District Office is the taxation and land office for an administrative district and an important part of its day to day work consists in registering changes of ownership and interests in land.

The petition writer becomes involved when one of the parties to a land transaction engages him to complete the forms necessary to activate the machinery of the land office. It is at this point, when claims begin to be reduced to writing, that disputes over land, especially concerning inheritance, begin to come to a head.

Among the better known and more prominent Malay petition writers in the rural areas it is not uncommon to find men who possess a unique competence in respect to land disputes. Not only do they have contacts in the land office but they also possess a detailed knowledge of the land office procedures and of the law and regulations. This latter extends, in one case known to the writer, to an ability to repeat verbatim large portions of the regulations combined with a knowledge of how to manipulate the regulations towards a desired end. The result is that in any dispute presented to him in his capacity as petition writer, the individual qualified in the way just described is able to assess the validity of any claim and to interpret the law and advise upon its consequences.

A further and logical consequence of this state of affairs is the intervention of the petition writer into disputes on the basis just described. This takes the form of a mediation of competing claims before the officials of government become involved. The actual process takes place in an informal atmosphere and in coming to an agreed decision the strict rules of law are not applied as such but used as a basis for bargaining. The compromise solutions achieved in this way are by no means binding in the sense that a dissatisfied party can always proceed to the District Office for an official adjudication. Detailed statistics are not available for this but one's impression is that a significant number of cases are dealt with in this way and at this level.

M. B. Hooker

**Eliot College
University of Kent at Canterbury**