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## INTRODUCTION

The Democracy Report of the Konrad-Adenauer-Stiftung (KAS) informs about the state of democracy in the partner countries of KAS. With volume 1, *Media and Democracy* (2005), volume 2, *Rule of Law* (2006), and volume 3, *Parties and Democracy* (2007), the first cycle of investigation on democracy and its prerequisites has been completed. In 2008 the Democracy Report goes into its second cycle and resumes with *Media and Democracy, Vol. II*, primarily based on a different sample of countries under study.

Independent media are crucial for the development of democracy. Media inform citizens about politics, contribute to preference building and control – if politically unrestricted – political decision makers. Without a free press, other human rights are hard to attain and harder to safeguard. The Universal Declaration of Human Rights grants the right to freedom of opinion and expression to everyone. This right, as stated in Article 19, does not only seek to protect any individual from interference but also includes the right to seek and receive information through media. Restrictions or limitations to this right breach basic human rights; and, consequently oppose a core value of democracy.

According to recent studies, e.g. by “Reporters without Frontiers” or Freedom House, the overall situation of media and media independence is still appalling, despite slight improvements in single countries. Legal harassment, intimidation, political pressure, and violence all contributed to the dire conditions under which journalists work throughout the world. To be recognized as a genuine democracy, a country must remove the barriers to freedom of the news media. At the same time, the press is expected to fulfill its journalistic responsibilities dutifully and respectfully.

Based on a sample of 15 countries the KAS Democracy Report informs about the situation of the media and their contribution to democratic development. The studies were conducted between November 2007 and February 2008. Some countries, as for example Bolivia, Nigeria, Egypt, and Russia were already studied in the first Democracy Report on the situation of the media. We surveyed these countries again because there was reason to expect significant changes since 2005. The other countries have been investigated for the first time for a Democracy Report on media. The second volume of the “Media and Democracy” report in the KAS Democracy Report series is, therefore, to be understood as a repetition in subject, not as a mere update of the 2005 report.

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## QUESTIONNAIRE

### 1. General Conditions

**Question 1:** What is the percentage of literacy? Give reasons, explanations, interpretations.

**Question 2:** How many local radio and TV stations (including regional community based stations) and newspapers exist in total?

**Question 3:** Are there political parties which run (de jure or de facto or indirectly) their own radio, TV stations and/or newspapers?

**Question 4:** Do independent local internet newspapers exist?

- If yes, do state authorities try to censor these internet newspapers?
- Has the internet improved their working conditions for free coverage?
- If no, what are the reasons?

**Question 5:** How many people (in total, as a percentage) have access to radio, TV, newspapers and the internet (including international satellite programming)?

**Question 6:** How frequently do citizens use the media (TV, radio, press, internet, verbal exchange of information, miscellaneous) as a source of information in your country? Give your estimate on a scale from 1 to 4.

- 1: almost never
- 2: occasionally
- 3: often
- 4: very often

**Question 7:** How significant is the influence of the media on the formation of political opinion in your country? Give your estimate on a scale from 1 to 4.

- 1: no influence at all
- 2: rather little influence
- 3: significant influence
- 4: highly significant influence

- Referring to answers 1 and 2, what do you think are the reasons for the media exerting only little influence on the formation of political opinion?
- Does the social background of the media consumers determine the level of influence?

**Question 8:** Do state-owned (or de facto/quasi state-run) newspapers, radio and/or television channels exist?

- If yes, is the editorial departments' coverage protected by law from being influenced by government authorities?
- Who appoints the leading positions of state-owned newspapers or television and radio channels (general directors, editors-in-chief, etc.)?
  
- only the government
- independent committees (including members of opposition parties and/or civil society)
- miscellaneous

**Question 9:** To what extent is the published and broadcast opinion determined by state-owned media (reach and shares in comparison to private media)?

- dominance of state-owned media  
(private media hold almost no shares of the published opinion)
- hegemony of state-owned media  
(clear majority of shares are held by state-owned media)
- hegemony of private media  
(clear majority of shares are held by private media)
- dominance of private media  
(state-owned media hold almost no shares of the published opinion)

- Evaluate the coverage of state-owned media on a scale from –3 to +3.

-3: anti-government

-2: very critical towards government

-1: critical towards government

0: neutral

+1: close to government

+2: very friendly towards government

+3: propaganda for government

- Are there any differences between press, radio and television coverage?

- If yes, what are the differences?

**Question 10:** Does the government regularly hold press conferences informing the public about its programs?

- If yes, do all journalists have equal access to press conferences?

- Are press conferences allowed to be broadcast?

- If yes, are particular channels refused their broadcasting rights?

## **2. Legal Environment**

**Question 11:** Is the freedom of expression established in the constitution and defined as a fundamental individual right?

- If yes, is the freedom of expression in any way restricted, e.g. by an amendment?

- If yes, to what and to whom does the amendment refer and with what consequences?

**Question 12:** Is the freedom of the press, or more precisely, free media coverage established in the constitution?



- If yes, is the free media coverage in any way restricted, e.g. by an amendment?
- If yes, to what and to whom does the amendment refer and with what consequences?

**Question 13:** Are there any defamation laws or laws which determine the access to information and the protection of privacy for office bearers?

**Question 14:** Is the media coverage regulated by law (or decree)?

- If yes, is censorship by state authorities permitted under the law?
- If yes, in what cases does the law permit censorship by state authorities?
- Is free coverage of certain people, groups, institutions or issues restricted under the law?
- If yes, what kind of people, groups, institutions or issues are concerned?
- Are certain people, groups or organizations excluded under the law from working as journalists or from expressing their opinions?
- If yes, what kind of people, groups or organizations are concerned? What are their fields of work?
- Do media reports have to be examined by state authorities before publication?
- Are there any bodies or commissions that “regulate” media coverage on behalf of the government?

**Question 15:** Has the legal framework for media coverage been modified during the past five years?

- If yes, in what way has it been modified?
- Evaluate the effect of these modifications on the freedom of the media. Give your estimate on a scale from -3 to +3.

-3: extreme aggravation

(free media coverage impossible)

-2: strong aggravation

(free media coverage possible with major restrictions)

-1: slight aggravation

0: no change in quality

+1: slight improvement

+2: strong improvement

(free media coverage possible with minor restrictions)

+3: extreme improvement

(unrestricted media coverage)

- Comment on whether 9/11 and possible anti-terror laws or regulations have impacted on and/or restricted the freedom of media coverage.

**Question 16:** Have there been any changes in the quality of the free media coverage during the past five years?

- If yes, in which ways has it changed?

- Evaluate the effect of these modifications on the freedom of the media. Give your estimate on a scale from -3 to +3.

-3: from extreme aggravation to abolishment

-2: strong aggravation

-1: slight aggravation

0: no change in quality

+1: slight improvement

+2: strong improvement

+3: extreme improvement – unrestricted freedom of the media

**Question 17:** Does legal censorship exist?

- If yes, free coverage of which people, groups, institutions or issues is affected by censorship?

- Are certain people, groups or organizations illegally excluded from their jobs as journalists or from their right of free speech?
- If yes, what kind of people, groups or organizations are concerned? What are their fields of work?

**Question 18:** What legal consequences do journalists, media companies or organizations have to fear if they act against the law that governs censorship? (several answers possible)

- minor fine
- major fines that might endanger the economic existence of certain people and /or media companies/organizations
- official debarment from one's occupation
- compulsory liquidation of media companies/organizations
- from short-term to medium-term prison sentences
- from long-term prison sentences to life imprisonment
- from physical punishments to death penalty
- miscellaneous

**Question 19:** Do newspapers, radio or TV stations have to be licensed or registered by state authorities before publication or broadcasting?

- If yes, are those state authorities politically independent or impartial bodies?
- What are the reasons for refusing or taking away a license/registration?
- How often are licenses/registrations taken away or have been refused?

- 1: almost never
- 2: occasionally
- 3: often
- 4: very often

**Question 20:** Do journalists need an official permission to practice their profession?

- If yes, what are the reasons for refusing such a permission or for taking it away?
- How often are work permits taken away from journalists? How often are they refused?

1: almost never

2: occasionally

3: often

4: very often

**Question 21:** Do journalists have the legal right to participate in all public meetings of the government and the parliament?

- If yes, do all journalists have equal access to the meetings?
- Are the meetings allowed to be broadcast?
- If yes, are particular channels refused the right to broadcast?

**Question 22:** Do journalists have the right to legally challenge state repression?

- If yes, can the courts really stop state repression?

**Question 23:** Is the formation of monopolies and/or cartels by private media companies prohibited by law?

- Do private media monopolies and/or cartels exist?
- If yes, in which sectors of the media do monopolies and cartels exist?
  - TV
  - radio
  - press
- Are monopolies restricted to only one sector of the media or are they overlapping?
- Do media monopolists pursue certain political aims?

- If yes, what are these aims?
- Do state authorities really take action against private media monopolies?
- If yes, what kind of actions?
- If no, what are the reasons?

### **3. Political Conditions**

**Question 24:** Are there sections of the population or particular social strata whose political issues are not represented in the media?

- If yes, which sections or social strata of the population are concerned?
- What are their political issues?
- What are the reasons for the exclusion of their issues in media coverage?

**Question 25:** Are certain sections of the population deliberately excluded by state action from their right to freedom of information?

- If yes, which sections of the population are concerned?
- By what means are they excluded?
- What are the reasons for their exclusion?

**Question 26:** Does self-censorship in media coverage exist?

- If yes, in which sectors of the media does self-censorship occur?
  - TV
  - radio
  - press
- With reference to which thematic areas does self-censorship typically occur?

**Question 27:** Do journalists, media companies or organizations have to fear state repression against the law?

- If yes, what kind of repression?
- How often is state repression used against journalists, media companies or organizations?

- 1: almost never
- 2: occasionally
- 3: often
- 4: very often

**Question 28:** Has access to the internet been negatively affected by state measures?

- If yes, in what way?

**Question 29:** Has the actual threat of state repression changed during the past five years?

- If yes, evaluate the effect on *the present situation* of media freedom on a scale from -3 to +3.

- 3: from extreme aggravation  
(major repression is the order of the day)
- 2: strong aggravation  
(acts of repression have distinctly increased)
- 1: slight aggravation
- 0: no change in quality
- +1: slight improvement
- +2: strong improvement  
(repression has become rare)
- +3: extreme improvement – unrestricted freedom of the media  
(virtually no fear of repression)

- What do you think are the reasons for the change?

**Question 30:** Do state-owned media monitor the production and distribution of print media? (e.g. the distribution of paper, the surveillance of distribution systems etc.)

- If yes, what kinds of control mechanisms exist?
- Do state authorities take advantage of these control mechanisms in order to influence contents?
- How often do state authorities use this kind of repression?

1: almost never

2: occasionally

3: often

4: very often

- Please try to estimate the frequency of this repression.

#### **4. Economic Pressures**

**Question 31:** Are private media subsidized by the state (through advertisements)?

- If yes, what sectors of private media are subsidized and by which percentage?

- TV

- radio

- press

- How large is the subsidy for the media in relation to the whole private media market?

- How much does the government spend on (political) advertisement in TV, radio and print media (in relation to big private companies)?

- Evaluate the coverage of subsidized media on a scale from -3 to +3.

- 3: anti-government
- 2: very critical towards government
- 1: critical towards government
- 0: neutral
- +1: close to government
- +2: very friendly towards government
- +3: propaganda for government

- Are there any differences between press, radio and television coverage?
- If yes, what are the differences?

**Question 32:** Do you know of any economic aspects, leading to disadvantages for media companies?

## 5. Non-State Repression

**Question 33:** Do journalists or media companies have to fear repression by non-state groups or organizations?

- If yes, what kind of repression?
- Who is behind these non-state groups or organizations?
- In which context or on which topics does non-state repression become likely?
- How often is non-state repression used against journalists, media companies or organizations?

- 1: almost never
- 2: occasionally
- 3: often
- 4: very often

- Please try to estimate the frequency of this sort of repression.
- Do state authorities prosecute attacks against journalists?
- If no, what are the reasons?



- Can state authorities effectively protect journalists?
- If no, what are the reasons?

**Question 34:** Has the actual intimidation through non-state repression changed during the past five years?

- If yes, evaluate the effect on the present situation of media freedom on a scale from –3 to+3.

-3: from extreme aggravation

(major repression is the order of the day)

-2: strong aggravation

(acts of repression have distinctly increased)

-1: slight aggravation

0: no change in quality

+1: slight improvement

+2: strong improvement

(repression has become rare)

+3: extreme improvement – unrestricted freedom of the media

(virtually no fear of repression)

- What do you think are the reasons for the change?

## **6. Conclusions**

**Question 35:** Has free media coverage generally changed during the past five years?

- If yes, evaluate the effects on media freedom on a scale from –3 to +3.

- 3: from extreme aggravation to abolishment
- 2: strong aggravation
- 1: slight aggravation
- 0: no change in quality
- +1: slight improvement
- +2: strong improvement
- +3: extreme improvement – unrestricted freedom of the media

**Question 36:** Does the KAF support journalists and their work?

- If yes, how does KAF support journalists?
- Can the KAF intensify its engagement in supporting the free media?
- If yes, what kind of support by the KAF seems to be desirable?

**Question 37:** What is the general situation of media freedom?

- no freedom of the media
- freedom of the media with major restrictions
- freedom of the media with minor restrictions
- unrestricted freedom of the media

**Question 38:** From the point of view of journalists you are acquainted with, what are the major obstacles to free media coverage?

**Question 39:** From your own point of view, what are the major obstacles to free media coverage?

## **BOLIVIA**

Today as never before, the issue of freedom of expression is under debate in Bolivia. There is no lack of reasons, considering that since the year 2000, the country is experiencing a process of change that is more marked in the current administration of Evo Morales-Ayma (2005 to the present day).

Amidst social and political tensions, Bolivia is struggling to define a new Political Constitution of the State. Two visions of the country are in confrontation and this also affects regional vindications which demand departmental autonomy<sup>1</sup>. Parallel to this is the issue of land ownership and social inclusion, which move the national agenda in different spheres and actions.

The media and the journalists are not on the fringe of the national reality and each day ethical and normative principles are challenged in their coverage. Almost daily, they are cited by Government authorities and/or social actors, and they are also questioned or praised by the population and by journalists themselves.

The news and the way it is reported, the use of sources, the interpretation of events, and the spaces assigned to issues, the TV takes, their reiteration, the photographs and the headlines are all questioned. Questioning is such, that some of the media<sup>2</sup> were cited openly in 2007 in the Government's TV spots as if they were political actors, and the entrepreneurial sector responded with the same treatment, questioning the work of the official TV channel of the State and its news department. With these basic references and in order to understand the Bolivian reality, this Report for 2008 on Democracy and the Media is initiated.

### **1. General conditions**

Bolivia is one of the three least-developed countries in Latin America. Of its 9 million inhabitants, approximately 60% are below the poverty line. The situation in the rural area is even more dramatic, with poverty affecting nine of every ten inhabitants.

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<sup>1</sup> At the current time, Bolivia has consolidated municipal and university autonomy. The distribution of income for administration is 68% for the Central Government and 32% between municipalities and universities.

<sup>2</sup> Red Uno, UNITEL and Channel 7 – National Television – TVB.

The economic situation is reflected in high levels of unemployment, lack of medical care, and illiteracy. The data of the 2001 National Census revealed that 13.3% of the Bolivian population—somewhat more than one million—cannot read nor write. Only 4% have access to Internet and of these only 25% have a direct connection.

There is a serious process of rural-urban<sup>3</sup> migration and from west to east. The central axis of the country<sup>4</sup> concentrates the greater part of the population and the economic activity, including that of the media, whose number and the trust placed in them by the population, make Bolivia a media-oriented country.

Disregarding the quantity of media which operate illegally (mainly in the rural area), 741 radio stations of modulated frequency with short and medium-wave bands, 431 TV channels (local, regional, only 5 national networks) and 27 local circulation newspapers and magazines, daily, weekly and bi-weekly, are overwhelming evidence of the importance placed on them, either as instruments of diffusion or as an entrepreneurial option.

The State, in addition to two licenses for radio stations and one for TV at national level, has installed at least 20 of 100 community-based radio stations which it expects to put into operation during its term in office. Entrepreneurs, Churches (Catholic and Protestant), NGOs and social groups are owners of radio stations, TV channels and written media. The poor economic sustainability due to the amount of existing media and the small publicity pie<sup>5</sup>, render the media continually for sale, which attracts interested buyers.

The process for the legal installation of a communications media involves a request for a license from the Superintendence of Telecommunications<sup>6</sup> and/or the legalization of a transaction and its pertinent registry (with a transfer of license), in the case of TV channels and radio stations. The written press must register with

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<sup>3</sup> Projections for 2005 of the 2001 National Census of INE-Bolivia, determine a settlement of 64% in cities and a remaining 66% in rural areas.

<sup>4</sup> La Paz, Cochabamba and Santa Cruz.

<sup>5</sup> Bolivia has a publicity pie of approximately US\$ 50 million.

<sup>6</sup> The Superintendence of Telecommunications is the only entity authorized by State mandate to assign the use of radio and/or television frequencies in Bolivian territory.

FUNDAEMPRESA<sup>7</sup> and in their municipality, as with all other private initiatives in the country.

How can the existence of so many media entities be justified in a country like Bolivia? The answer may be given from two different angles. On the one hand, there is the simple and entrepreneurial vision seeking profits, lowering costs, writing-off quality of content and human resources<sup>8</sup>. On the other hand, there are sector interests, such as Churches—Catholic and Protestant prevailing in the country—which use the media to diffuse the word of God and, taking advantage of captive audiences, other content for informative orientation.

A statistical recount of the last five years shows the rapid increase of religious FM, (local outreach) radio stations and UHF TV channels.

There are currently no political parties which are openly owners of media entities; however, given the polarization of the social and political context in Bolivia, entrepreneurial sectors try to use their media as strict supervisors of the Government's administration, beyond what is ethically permitted. The issue of freedom of expression is frequently debated.

The initiative of the Government in installing community-based radios has also been strongly questioned, given that this decision was not only accompanied by strengthening infrastructure, equipment, contents and human resources of the State media, but also by decrees such as the 29174, which restrict the economic activity and the diffusion of content of other media in the rural area<sup>9</sup>.

In this process of constant media expansion, the use of new technologies plays a fundamental role, to the point of permitting the incorporation of regions in the country which, up to two years ago, only existed for the public when there were natural

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<sup>7</sup> FUNDAEMPRESA is a foundation for entrepreneurial development, in charge of administering the Register of Commerce in Bolivia.

<sup>8</sup> The over-supply of students and graduates from communications careers, improvisation and the need to sustain programming, will create conditions which accentuate the mediocrity of the media

<sup>9</sup> Supreme Decree 29174 restricts the opening of community radios to authorities of the three powers of the State, politicians, leaders and priests, among others. It also dictates that the message must be educational and cultural and not political in addition to restricting its activities to the municipal area. It imposes a series of conditions for the reception of political propaganda in electoral times.

disasters of very significant political events involving bloodshed. The extensive areas of the northern departments of Beni and Pando are not connected to the national microwave circuit. Only in the last three years, the rural areas have acquired a national presence.

In terms of content, technology has facilitated the application of the national concept with local outspread, and that is how radio stations and TV channels have integrated networks which cover the entire Bolivian territory. With respect to coverage, these networks and the regional media exercise local coverage with departmental or local importance and with national repercussion. This possibility to outspread facilitates the diffusion of contents in native languages with issues of local interest.

The use of Internet is, without doubt, an artifact of this change in scope and concept of media management. It must be noted that only 1% of the national population has a direct connection to Internet and given the phenomenon of the proliferation of Internet cafes and the accessibility per cost to these centers<sup>10</sup>, 4% of the national population has access to this technology.

This possibility of access to the world via Internet has permitted an elite sector of culture and politics to open blogs (open spaces) for the discussion of different issues which range from the aspect of TV anchor persons to political, social and/or cultural issues. Internet has also permitted hooking-up signals of TV channels and radios and the publication of documents for relevant reflection. E-mail chains are also frequent. The Government has not developed any restrictive system in this respect, except for public denouncement through the media of a specific content, calling it racist, intolerant or against the current process in the country.

It is clear that the bulk of the population has direct and free access to the mass media. According to data in the World Fact Book (CIA 2005) in 1997 there was a ratio of 9 inhabitants per television. Today, commercial projections speak of an average of 7 persons per television.

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<sup>10</sup> The use of Internet in an urban center costs 0.10 cents of Euro currency.

In view of the lack of specialized institutions which provide more accurate data, CAPTURA, a market survey company, carries out periodic studies of media use and preference. According to their report of October 2007, television has a 64.7% penetration in the cities of the central axis, 47% in radio and 30% in Internet. Cable TV which is a sector in full growth, registers 10% penetration, newspapers 8%, cinema 4%, and weekly publications at 1%.

Of an average of 18 continuous hours of programming by the TV channels from Monday through Friday, 4 are dedicated to newscasts and/or informative reviews and 2 over the weekend. There are few specialized news programs which are, in the great majority, weekly.

National production is reduced and canned programs including soap operas, films and serials fill the spaces. In October 2007, the tendency of media preference presented by CAPTURA emphasizes the leadership of the UNITEL chain with 31%, followed by ATB with 25% and the Red UNO with 21%. BOLIVISION registers 8%, tying with PAT and TVB, the State channel, which are included in the category "others" for their low ranking.

In October 2007, UNITEL in Santa Cruz had 51% preference, RED UNO 35% and ATB together with BOLIVISION 5%, along with others.

The world of television is expecting more accurate data, given that the "Bolivia Media", company, specialized in ranking measurement, stopped operating in May 2007. "Medios y Mediciones" of Colombia, which planned to enter Bolivia, closed operations in its own country, and IBOPE of Brazil, which made a presentation to gain entrance to Bolivia, is a costly service, which television channels and publicity agencies are studying at this moment because of their need to reduce costs.

In terms of radio, the tendency is that the AM broadcasters include entertainment programming (music, show-business gossip and curiosity notes) and information. The modulated-frequency radios are, in the great majority, monothematic and musical. There are also cases of the reproduction of AM radio signals in FM.

CIDEM is the company which for 12 years has supplied the market with radio ratings in the central axis. In their report of November 2007, they established that in the matter of news, there is a constant preference for Radio Panamericana in La Paz, followed by Radio FIDES also in La Paz. ERBOL is an alternative which is maintained as a third or fourth option in the preference of the Bolivian people. Radio Patria Nueva of the State registers more direct growth in the rural area and does not enjoy massive preference in the cities. Local radios have achieved an interesting position in their environments, as a result of the process of demands for autonomy undergoing in some regions in the country.

In spite of the tensions in the country, the low reading index of the Bolivian people<sup>11</sup> and the force of habit or oral communication (4)<sup>12</sup> lead people to use TV and radio as the most frequent referents (4), limiting the use of newspapers to (2) and Internet (1) an elite sector.

The paradox of media influence in the formation of public opinion in the country lies in the fact that the newspapers, in spite of not reaching the population massively, but reaching groups of power, have the possibility to influence the Government and set the agenda of radio and television.

The influence of the audio visual media is strong (3)<sup>13</sup> in the generation of the concept in citizenship and through this, influences the Government. The latest studies of perception establish that the media with 69% are considered as one of the most trustworthy entities after the Church with 80%, before the Armed Forces with 67% and the National Police with 66%<sup>14</sup>.

The political crisis, the “strong man” (*caudillo*) tendency of the Bolivian people, the positioning of the media, the limitations of criticism of the contents of the media and the level of illiteracy, are determinants when it comes to justifying the strong media influence in the formation of opinion and concept among the citizens.

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<sup>11</sup> The “Cámara del Libro”, Report for 2007, “The Average Bolivian has a Reading habit of two books per year”.

<sup>12</sup> (4) Very frequent (3) Frequent (2) Some times and (1) is almost never.

<sup>13</sup> (1) no influence at all (2) little influence (3) significant influence (4) highly significant

<sup>14</sup> “*Apoyo, Opinión y Mercado*” – January 2007—TABLE OF ACTOR APPROVAL



A perception study of the *Pre Degree* career at the San Andrés University in September 2003, establishes that different strata of the population of La Paz consider what they hear on the radio valid, but on looking at images on TV, they consider the contents unobjectionable because they see them.

Given the credibility that the population places in the media, it is important to understand their role under the present circumstances. The polarization scenario extends to the media which, according to some critics, have become trenches from which the media seek to influence public opinion, under the guise of diffusing information.

Constantly—this situation will be expanded on later—the Government in the voice of the President himself, judges the daily coverage of the private media, qualifying it as an opposition force and “neoliberal”<sup>15</sup>. It must be recognized that, above all, the coverage of private TV media is highly critical of the present Government and gives spaces to analysts and sources who question Government actions. Some radios at the other extreme must be mentioned. To them, everything the Government does is openly considered to be positive and totally identified with the interests of the impoverished majorities in the country. There are few journalists and media which can, or try, to maintain a neutral position.

State media coverage is decidedly at the service of Government interests to the point that State radio and TV are a means of propaganda.

The present Administration shows a decided vocation to achieve direct impact on public opinion, through propaganda in private media, and transmitting information and opinion through its own media. This objective has been reiterated by the President of the Republic and the presidential spokesman: “The informative distortion of private radio stations and channels must be counteracted”. To achieve this, it has been necessary to design and sustain a structure suited to these purposes, hence given the inexistence of a normative, the designation of the Head of TVB and Patria

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<sup>15</sup> The “neoliberal” concept forms part of the daily vocabulary of confrontation among Bolivians

Nueva Radio are direct appointments by the Ministry of the Presidency. The hiring of journalists depends on the News Director in coordination with the heads of each one of these media.

What is most important is that the private, religious and State media all have access to the same sources, or those which they wish to consult to generate information. In many opportunities, the State media have used a *clean signal* so that other channels and radios have access to this, because of the extent of their contents, reserving the freedom to hook-up to these signals.

## **2. Legal Environment**

Bolivia as signatory of conventions and international laws<sup>16</sup>, has committed the will of the State to guarantee respect for human rights of first, second and third generation. On doing this, it has had to adjust some of its normatives. Others have become obsolete and some, under the establishment of very generic principles, are maintained in spite of interests to modify them.

In Bolivia, the Constituent Assembly has just completed the drafting of a new Political Constitution of the State, which must be submitted to Referendum in the course of the next few months, once Congress has approved a specific law to implement this popular consultation. The approval process of the new Constitution was marked by confrontation and questioning by the opposition, of the procedures used by the Governmental block to accelerate the approval process.

To date—January 2008—in the Political Constitution of the State in force, in Article 7, clause (b), freedom of expression is consecrated explicitly. The text signals the following: *All persons have the right:.....to freely express their ideas and opinions through any media.* There is no specific definition with respect to the journalistic exercise and that of the media is included in Article 22, which guarantees private

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<sup>16</sup> Bolivia is signatory to the Universal Declaration of Human Rights (1948), The American Declaration of the Rights and Duties of Man, the American Convention on Human Rights known as the Pact of San Jose (1969), the International Pact of Civil and Political Rights of the United Nations (1976). Bolivia also ratified the Convention on the Rights of Children and the International Convention for the Elimination of all Forms of Racial Discrimination, among other International Instruments.

property provided that its use does not impair collective interest. Expropriation is imposed when the property does not fulfill a social function.

The principle of freedom of expression finds an echo in other normatives, such as the Law of Freedom of the Press. Even though it goes back to 1925, it is specific as to the right of each citizen to publish his/her thoughts in the press (making reference only to the written press and, by extension for necessity, today—2008—to radio, TV and Internet).

*Article 1 -“All persons have the right to publish their thoughts in the press without previous censorship, except for the restrictions in this current law.*

Article 2 – Makes reference to the responsibility of each individual when publishing and it is Article 7 which sets forth that there is no offense unless there is a publication.

*Article 2 – “The following are responsible for offenses committed by the press or by any other means of expressing and diffusing thoughts:*

- 1. Those who sign as authors*
- 2. The directors of daily newspapers, magazines and journalistic publications*
- 3. The editors, if those whose signature appears on a publication as authors are not legally responsible persons. If they do not have the necessary solvency to respond to the offenses denounced, the directors and in defect the editor, will be responsible. In the event of their default, and in all cases, the penal and monetary responsibilities will fall on those persons named in Article 1, if and when they are different persons. The responsibility of the persons indicated is not jointly and severally, but successive and established in the determined order.*

*Article 7-“Without publication no offense has been committed by the press. Publication is understood to be when three or more copies of the printout have been distributed, or have been read by five or more persons, or are offered for sale, or fixed in one spot, are left in an establishment, are sent by mail and other similar cases”.*

On the other hand, the *Law for professionalization of the Journalist of 1979 (Law 494)*, recognizes and institutes the profession of journalist as a nationally recognized degree and establishes a generic framework for the exercise of the profession, determining a national registry for journalists, which has not been implemented to date.

Other normatives of lesser rank such as the *Organic Statute of the Journalist of 1984—Supreme Decree* which regulates Law 494—are not only unknown by the bulk of practicing journalists, but ratify freedom and responsibilities for those who publish a thought, news and/or commentaries.

Concepts which protect the honor of any citizen, define and punish defamation, calumny, establish the obligatory nature to retract and others, are inserted in instruments, such as the Civil Code of 1975, the New Penal Procedure Code of 2002, the Law of Telecommunications of 1995 and the 1991 Electoral Law.

Supreme Decree 27329 of January 31, 2004, denominated of “transparency”, seeks to procure the transparency of and access to Government information, tacitly establishes the free access of any citizen to State information, protecting that classified as State Security.

There is a consensus of institutions which unionize journalists and the media to defend the enforcement of the Law of Freedom of the Press, in spite of its data, as the sanctions it establishes are of pecuniary nature and not privation of freedom. Nonetheless, the lack of knowledge and the limited diffusion of other instruments related not only to the right to freedom of expression, but also journalistic, media and socially linked exercise are of great concern.

It is worthy to note the initiation of the debate in some elite circles of the Right to Communication and the Right to Information, questions which accompany this period of great social and political transformation in Bolivia.

The debate initiated has generated the constitution of an ethical counsel of journalists in the Association of Journalists of La Paz (APLP), the installation of reader protection offices in some written media and conformation by the National Press Association (ANP) of an Ethics Tribunal to comply with, and enforce its ethics code recently approved (September 2007), as mechanisms of self regulation to increase credibility and trust of the press on the part of society.

The need to opt for self-regulation by the media is constantly sustained, with ethics codes and internal behavior and union self-regulation, as mechanisms to preserve freedom of expression and free journalistic exercise.

External entities, such as foundations and universities, promote the debate and/or have installed instances such as the Media Observatory<sup>17</sup>, private institution which seeks to investigate, monitor and analyze the behavior of the media in different areas and journalistic activities as a relevant issue.

As regards multimedia monopolies, the case can be cited of the ATB Television Network and the daily newspapers, “*La Razón*” of La Paz and “*Nuevo Día*” of Santa Cruz, which recently changed owners and/or the PAT Network and the “*El Deber*” newspaper of Santa Cruz. Both are solid entrepreneurial groups which do not necessarily govern their investments in one same editorial line, edition or vision. There are those who disregard the existence of monopolies as such, and those who talk of mega entrepreneurial powers.

In any case, the consolidation of national television and radio networks and the possible influence of public opinion have motivated the Government to include this issue in the new project of the Political Constitution of the State.

In Article 107, it is established that the State guarantees the right to freedom of expression, opinion and information, to rectification and replication, and the right to freely express ideas through any means of diffusion, without previous censorship.

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<sup>17</sup> Dependent entity of the UNIR Foundation in Bolivia.

Furthermore, it recognizes the conscience clause of persons working with information.

In the following Article 108, it is assured that the media cannot form directly or indirectly, monopolies or oligopolies. Another point assures that the State will support the creation of community media. It is also established that all information and opinion must be accurate and responsible. This last affirmation has generated questioning by journalists who request a distinction to be made between information and opinion.

The issues relative to information on matters considered to be State Security are being analyzed.

In this legal framework, Bolivian journalism feels itself to be legally protected and with juridical freedom to exercise. Aspects such as accreditation in official sources, like the Government Palace and Congress, are followed by the media or national or international news agencies. To date, no requests for credentials have been denied. There is no specific normative that names instances to which a journalist who suffers harassment and/or State repression may appeal, however, instances such as the Ombudsman have already referred to this issue, when the need arose and also when the media suffered aggression by social sectors. The associations which group journalists and media have also given their opinion in this respect through public warnings.

As Bolivia is a signatory of international conventions safeguarding freedom of expression and the union entities are affiliated to international organizations which support this purpose, in the last few months there have been denouncements of cases of harassment of the media and specific references to journalists. To date, there has been no legal action and only pronouncements have been registered.

- For example on March 21, 2007, directors of the media have approached SIP<sup>18</sup> to denounce what they consider to be signals of concern against

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<sup>18</sup> SIP is the Inter American Press Association.

freedom of the press. The denouncement is included in a general reference to the region.

- On September 25, 2007, the Committee for the Protection of Journalists (CCP), suggests not restricting freedom of the press.
- On October 31, 2007, the Minister of Rural Development threatens the journalist, Julieta Tovar, of the FIDES News Agency with the initiation of a law suit. The APLP sent a letter to the Minister demanding explanations.
- On December 12, 2007, the President of the Republic in person assails the privacy of the journalist, Roxana Lizarraga, of the UNITEL TV network. The Association of Journalists of La Paz publicly denounces this type of aggression.

The year 2008 started out with a scandal about espionage and the surveillance of politicians, public relations men and a journalist. These occurrences generate reaction and complaints from unions, paving the way for an investigation by the Bolivian Senate Constitution Committee, which publicly reveals the activity of the Police Intelligence Unit one of the five Police Intelligence Teams in charge of security of the State, as a Special Group (GE) under the hypothesis that its members were the authors of the surveillance of politicians and journalists in 2007.

Coincidentally, on March 14, 2008, the Superintendent of Telecommunications, Jorge Nava, publicizes in a Circular the application of a norm establishing sanctions for those media that publish "information, even though authentic" which may damage or alarm the population either by the means of diffusion or the manner of its propagation".

This event was denounced and severely questioned by the media and press unions, who called upon Government entities on March 23<sup>rd</sup>. to request the authorities to withdraw such sanctions.

The latter occurrences led to a landmark - the resignation of Alex Contreras, government spokesman - through a letter made public wherein he ratifies his adherence to freedom of expression rather than censorship, transparency rather than acts of corruption, and the need for dialogue rather than the practice of

misinformation. Contreras also sustains in his letter that: “The quality of information defines the quality of democracy”.

International events such as on September 11<sup>th</sup>, with external anti-terrorist regulations have not affected the exercise of journalism in the country.

### **3. Political conditions**

Given the political moment in the country, the legal framework in force and the proliferation of the media, journalistic coverage is diverse and permits free exercise of the press which ranges from community to a national level. Except for geographic limitations related to access and connectivity, the different social sectors are included in one way or another in the news broadcasts.

Nonetheless, it is important to pay attention to the forms, the proportion of spaces and the times assigned to the protagonists, all these elements which, in many cases, fundament the complaints of actors who accuse the media of lesser or greater disproportion of coverage.

The polarization in the country, as has been said many times, also extends to the media, but to date, has not reached the extreme of excluding different sectors for political reasons.

The Bolivian citizen has the freedom to follow, compare and give an opinion on the range of possibilities offered daily by the media. There is no action on the part of the State which deprives them of this freedom, however, social sectors identified with the Government or the opposition harassed the media and/or the journalists, to the extreme of satanizing the media.

This public questioning has been evident since 2003, the year in which the mobilized sectors begin to chant slogans against specific media or take aggressive action against journalists or installations. These events, together with the initiation of the debate on the role of the media, move the media to strengthen in some cases and implement in others self-censoring systems and codes.



ASBORA, the Bolivian Association of Radio Broadcasters, ANET – the National Association of Television Enterprises, the ANP –National Press Association and other union entities have made recommendations to their affiliates to apply self-censoring in their news content, as a way to safeguard their credibility and the enforcement of freedom of expression.

Issues, such as respect of identity and the image of minors in police cases, which are safeguarded by the Code of Children and Adolescents, press-leaks and issues related to the private lives of individuals, are some of the areas in which self-censoring is applied.

In spite of efforts to promote ethical practice, information propitiated by the existing juncture is politicized: whether consciously or not leads the journalists to become entrenched in ideological positions which lay the foundations for their coverage and, in some cases, lead them to militant journalism.

Militant journalism is mentioned because this is cited on different occasions and has led, in this last year, to the generation of susceptibilities of repressive action of the State against journalists and the media. On the one hand, the threat by a Minister to a journalist and the closure of Channel 20 in Quillacollo in Cochabamba and, on the other, the Superintendence of Communications justified this closure arguing that the Channel was operating outside the authorized geographical area.

The economic issue deserves separate consideration. Former owners<sup>19</sup> of the PAT Television Network denounced, at one point in time, that they were victims of Government repression due to the lack of investment in State propaganda. It must be taken into account that the State communication is the major advertiser at this moment. The Channel "A" Television and the UNITEL Network also questioned this situation.

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<sup>19</sup> Carlos Mesa, former President of the Republic and other shareholders were owners of PAT.

The specific cases cited in this document are actions which may be subject to debate. It is evident that the lack of investment in Government propaganda has been an element of pressure on the media since the installation of private television channels. No doubt, the national reality has caused these cases of economic pressure to gain greater notoriety and permits the detection of a slight increase starting with the Government's action.

Another fact which raised susceptibilities, with or without a basis, was the creation of the National Paper Factory, a project personally promoted by the President. Bolivia is a country which imports paper. The "*La Razón*" and "*El Deber*" newspapers and the "*Sagitario Press*" are the major importers and distributors of paper due to the volume of their operations. At that time, there was speculation about possible protective measures once the factory began operating.

#### **4. Economic Pressures**

Investment in publicity in Bolivia, which covers radio, TV, written press and mini-media ascends to US\$ 50 million per year approximately and, 1199 officially registered media enterprises compete for this publicity pie. Fewer than 10 concentrate 60% of this amount<sup>20</sup>.

The State is the greatest investor with 7 to 9%<sup>21</sup>, followed by ENTEL (Telecommunications), UNILEVER (household products), NUEVATEL (telephone company), NESTLE (consumption), COCA COLA (beverages), PEPSI (beverages), CBN (beer). The remaining enterprises and products invest with a great difference.

Of the total amount, TV captures 58%, 28% the written press, radio 10% and the mini-media the remaining 4%. The data are projections using follow-up by general managers currently working. The information of the Internal Revenue is a referent, however, it should be advised that some media and enterprises evade taxes, other

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<sup>20</sup> Alberto Rojas, General Manager of the PAT Network sustains that it is difficult to give an exact figure of the total amount of national publicity investment, given the inexistence of registration systems. However, it is possible to make approximate projections from historical behavior.

<sup>21</sup> Data from the Ministry of Finance establish expenditure of US Dollars 9,175, 532 in publicity and propaganda.

transactions are not registered and except for investment in electoral propaganda, there is no limitation in time for publicity investment costs.

The tariffs of cost per second and/or centimeter/column are the starting-off point for negotiation between the media and the investors. The purchase of global, bi-annual, annual or campaign times or spaces are determinant for lowering costs. There are cases where the negotiation starts at US\$ 30 per second and closes at US\$ 3.00.

Given the limited nature of the investment, many of the media are sustained by entrepreneurial groups, churches, foundations and NGOs. The State also sustains these media economically.

As in all markets, investment in publicity is a means of pressure in negotiation with the media, which is not necessarily manifest. The State, for example, uses its propaganda as a prize or a punishment. Some of these cases denounced by the media have been cited above. It is obvious that the great majority of these situations are not made public.

How independent is the action of the news departments from those of publicity? This is an uncomfortable question, which was placed on the agenda by a study carried out by the Media Observatory which demonstrated, through monitoring carried out on the media and investors over a period of time that news coverage was closely related to news investment. The example of the businessman, Samuel Doria Medina, maximum leader of the *Unidad Nacional* party, caused surprise on revealing the amount of time and space assigned to his person in spite of his reduced parliamentary and/or Constituent Assembly representation.

In the case of State investment and news coverage, extremes can be identified. UNITEL (TV) takes an anti-Governmental position and RTP (TV) has a very friendly disposition towards the Government. There are infinite positions between these two attitudes which vary according to the context.

## **5. Non-State Repression**

Cases denounced by the Association of Journalists of La Paz – APLP – and the ANP, National Press Association, in addition to direct denouncements of the media to the public, are testimonies of the hostile environment in which journalists carry out their daily work.

Physical aggression towards journalists and cameramen, the destruction of equipment, the assailing of installations, intimidation, insults and threats are reported with progressively greater frequency in the last five years.

Social groups, mobs or specific groups close to the government in the west of the country and to civic committees in the east are responsible for these aggressions. Television images and photographs are shown by the media as a form of denouncement and defense of its members.

In the midst of the polarization in the country, the actions are related to the perception of the mobilized groups of the editorial line of the media under attack. The vision transmitted by the media has politicized all news coverage, thus, all questioning is directed to the treatment given to political, social and contextual events.

Of the many incidents registered in 2007, the following have been officially denounced:

- January 9, 2007: aggression towards journalists in Cochabamba in social uprisings.
- February 3, 2007: Juan Carlos Macias, camera-man of the ATB Network, is injured by a rubber-bullet while covering the dislodging of the Transredes installations in the gas-producing population of Camiri.
- August 22, 2007: the Superintendence of Communications instructs the closure of Channel 20 in Quillacollo. The APLP send a letter to Mr. Clifford Paravicini, the Superintendant, requesting legal and technical arguments for this closure.

- August 23, 2007: Journalists, camera-men and employees of the Patria Nueva network, TVB and the State information agency – ABI – suffer aggression at the hands of regional groups.
- September 25, 2007: Journalists and camera-men from the UNO Network and Cadena A suffer the burning of their camera and violent acts perpetrated by university students.
- October 26, 2007: Cesar del Castillo, News Director of BOLIVISION suffers restrictions in the exercise of his right to access information, because of unfounded denouncements or accusations by police authorities.
- October 31, 2007: the Minister of Rural Development threatens the journalist, Julieta Tovar, of the FIDES News Agency, with the initiation of a law suit.
- November 12, 2007: Melissa Ibarra, journalist and information broadcaster of the Red UNO is verbally attacked by a member of the Lower House for PODEMOS (opposition party). The APLP denounces xenophobic and inadequate attitudes.
- November 27, 2007: The National Press Association (ANP) in the light of aggression suffered by journalists in Sucre and media in La Paz denounced: “These actions constitute a flagrant violation of the Constitutions and Agreements”.

In all these cases, the Association of Journalists of La Paz asked the Government for guarantees for the exercise of journalism and respect for freedom of expression and opinion. The APLP demanded that they be investigated and the persons responsible identified. To date, no case was clarified far less sanctioned.

Given these aggressions, there is fear among the media that these groups may take action against their members or installations, considering that these become more and more violent.

## **6. Conclusions**

Officially in Bolivia freedom of expression is consecrated in the Political Constitution of the State, in recent times the exercise of journalism has been subject to a diversity

of threats and aggressions originating in the pressure of social groups related to the Government or the opposition and the Executive Branch itself.

The media, owners, employees and journalists have mobilized to ask repeatedly for guarantees to be able to carry out their work. The denouncements have also been heard in international spheres, where union organizations have viewed the Bolivian case with concern.

The political polarization which is dividing Bolivia between two diametrically opposed visions regarding the manner in which the country should be conducted, has also led the media and the journalists to politicize the information and to defend positions in a "militant" manner. Few professionals can maintain balanced positions. In any case, emphasis has been placed on the promotion of self-censorship as a means to preserve the Right to Free Expression, journalistic exercise and credibility before society.

Training limitations, excessive workload, low salaries and constant turnover place restraints on the development of human resources; the excessive number of media (1199, officially recognized); a publicity pie of approximately US\$ 50 million limits entrepreneurial development. In spite of the abovementioned, Bolivian society places great credibility on the media, which have an important role in the present juncture.

Thanks to the enforcement of the democratic process, mention can be made of journalism that is absolutely committed to Government and absolutely in opposition. Mention can also be made of the entrenchment of the media and efforts for the inclusion and integration of a country with the characteristics of Bolivia. It is not unusual then, that journalists have coincided that, with the exception of the aggressions registered during this period and the technical, physical and country limitations, their work does not encounter great obstacles and is a challenge.

The KAS supports the free journalist exercise by financing workshops and seminars in universities and in cultural centers on related themes. The publication of books on coinciding subjects is also a significant contribution.

In the future, it would be interesting to get the KAS to work directly with the media and its union entities, in order to create a favorable atmosphere for deep reflection and a direct application of the recommendations emerging therefrom.

*Maria Rene Duchén*

## **Bibliography**

- *Apoyo Opinión y Mercado*. (2007) - January Report – TABLE OF ACTOR APPROVAL
- Constituent Assembly. (2007) - Proposal for a New Constitution of the State – Republic of Bolivia.
- *CAPTURA*, (2007) - October Report -. Tendencies of TV media preferences.
- *CIDEM* (2007) Rating Radios in Bolivia– October Report. Informative Programs
- *INE*- Bolivia 2001 Census – Projections to 2005.
- Official Gazette of Bolivia, Supreme Decree 27329.
- Official Gazette of Bolivia, Supreme Decree 29174
- Official Gazette of Bolivia, Political Constitution of the State (in force).
- *Pre Degree Career “Universidad Mayor de San Andrés”* (2003) - Media Perception Study, September Report.
- Foundation “*UNIR*” Observatory for the Media (2006) - Study of Editorial Independence – May Report.

## BULGARIA

### 1. General Conditions

The official statistics show that the rate of Bulgaria's national literacy is high. As "literate" are defined all people older than 15 years who are able to read and write. According to Bulgaria's latest census in 2001 the literacy percentage is 98.2%. That includes 98,7% of the male and 97,7% of the female citizens. Generally the illiterate people are members of the Romany ethnic group who have dropped out of school at an early stage. In accordance with the results of a survey by the Ministry of Education 57% of the children who have been dropped out of school have indicated the lack of finance as the main problem. However it is hard to believe this is the only reason for their drop-out since 53% of the children who regularly attend school are also facing financial problems. 70% of the ones who have stopped attending school define themselves as Roms, 15% as Bulgarians and 11% as members of the Turkish ethnicity. Half of them drop out of school between 10 and 15 years old, 8% before completing the age of 10, and 44% after turning 15. One of the fundamental reasons for the failure to attend school is the family. Surveys indicate that 72% of the parents have not undertaken any measures after realizing their children do not attend school.

Research on media consumption shows that TV, radio and newspapers are the most preferred media sources. However, the use of newspapers online editions is growing. In the last few years a significant number of new newspapers, magazines and TV Channels have entered the market. According to the National Institute of Statistics the total number of newspapers in Bulgaria, including those issued less than once a week, varies year by year between 420 and 460 and that number tends to be increasing. The aggregate year circulation of all those newspapers for 2006 is 325 733 000 – that is 15 Million copies more compared to the results of the former year.

The influential nationwide informational daily newspapers in Bulgaria are 14 and two of them are quite new on the market – "Klasa" and "Express". "Trud" and "24 chasa", property of the German WAZ Media Group, are still the ones with the largest



circulation. The readership of “Trud” amounts to approximately 30% and that of “24 chasa” is 25%. The overall number of daily papers in the country including the local issues is around 80 and the weekly newspapers are about 180. According to the World Association of Newspapers Bulgaria is among the countries with the highest number of dailies per capita and with the lowest newspaper circulation per capita. (If the average number of copies per day in the Czech Republic is 195,5 per 1000 citizens, in Bulgaria it is 83,6). The highest circulation among the weekly editions belongs to the yellow papers “Weekend” and “168 chasa”, as well as the “pensioners’ paper” “Treta vazrast”. The most influential and serious non-boulevard weekly newspaper is “Capital”. Bulgaria’s free dailies’ market has not been developed yet, but it is expected that in 2008 several media groups are to put efforts into that area.

One of the problems of the press in the country is that in practice there is no objective information on the circulation of the newspapers. Surveying agencies cannot quantify the newspapers’ audiences easily and precisely, because some of the editions are so small that they are considered a statistical error.

Circulation data announced by the publishers themselves is usually old, manipulated or obviously overstated. Moreover, there is no objective information on the actual number of sold copies of the printed newspapers.

On the other hand each new edition, which is released on the market, is facing the problem with distribution, since it has been monopolized by the high-circulation papers and to succeed in this established network is a difficult task.

The television and radio market are also burdened with lots of defects. One of the main problems is the opacity of media capitals and the absence of a public register of ownership. This creates premises for a monopoly situation and an entry of suspicious resources that could affect editorial freedom. In addition, there is the long-drawn-out argument about the impartiality of rating measurements. It still cannot be acknowledged that the legal requirement of separation between owners of advertising and audience research companies and the media is observed – in fact some of those organizations share common stockholders, but it is hard to actually prove that.

Another offset may be found in the omissions and ill-judged modernizations of media legislation. The legal base frequently goes through modifications in order to satisfy

interests of particular persons or clienteles. Due to such practices over the last years a vacuum has been created enabling some television operators to do business with temporary licenses for broadcasting (according to the Paragraph 9a of the Transitional and Conclusive Provisions of the Law on Radio and Television). The status quo gave the opportunity to some operators to negotiate mutual assignment of temporary licenses evading the regulatory authorities. Thus during the last year along with the three televisions with nationwide-coverage terrestrial broadcast two new TV channels were launched in Sofia's air – BBT and TV2 – without even applying for the Council for Electronic Media (CEM) competitive biddings procedure. (At present 38 television operators in 30 towns in Bulgaria are performing a broadcasting activity, transmitting TV programs in the so called “temporary tolerance” mode, namely under Paragraph 9 of the Law on Radio and Television. Furthermore there are a lot of radio operators functioning under the same paragraph. Their status is considered to be in conformity with the law until new competitive procedures for license issuance are conducted in the respective settlements.).

According to CEM there are 143 licensed terrestrial radio broadcasters, 99 of which are actually transmitting. The difference between the number of actual radio broadcasters (99) and the total number of licensed radio channels (143) is due to the fact that some of the broadcasters hold a license with the right to transmit in more than one settlement. Three radio programs have a nationwide coverage – Bulgarian National Radio's “Horizont” and “Hristo Botev” and Darik Radio. The aggregate number of radio operators also includes the telecommunication operators functioning on grounds of Paragraph 9 of the Transitional and Conclusive Provisions of the Law on Radio and Television and broadcasting in 120 Bulgarian towns.

Radio channels with local coverage are broadcasted in 42 towns from a total of 240 towns in the country. There are 18 radio chains in Bulgaria broadcasting in at least 3 towns. The prospective audience of radio chains according to CEM statistics amounts to 3 209 107 listeners.

There are three television stations with nationwide coverage in Bulgaria holding licenses from CEM and from the Communications Regulation Commission (CRC) – the public broadcaster Bulgarian National Television (BNT) and the private Nova Television (NTV) and bTV. BNT also has four licensed regional TV centers in Blagoevgrad, Varna, Plovdiv and Ruse.

According to CEM there are also 180 registered television operators in Bulgaria transmitting a total of 226 programs by cable or by satellite. Among them 136 have a nationwide coverage, 50 have a regional coverage, and 40 have a local coverage.

In 2007 the Council for Electronic Media has issued 4 registrations for cable broadcasters and 8 licenses for terrestrial radio broadcasting. CEM has registered another 17 television operators.

In the last few years, press outlets with clear affiliations to political parties have gradually disappeared. At this moment there are only two clear “party publications”: the dailies DUMA and ATAKA.

However most of the political parties present in Parliament indirectly possesses their own media channels. This applies particularly to prints, the financial support for which is cheaper compared to television or radio stations. Usually such media are not directly owned by a specific political party but they are related to allied foundations or party activists.

The most obvious connection between a political force and the media may be found in the case of the nationalist and populist political party “Ataka”. It has developed itself as a political subject due to a cable television channel with an intense regional coverage in Eastern Bulgaria – SKAT TV. Subsequently the owner of the television joined the party activity and at present he is the Chairman of the Municipal Council in Burgas. “Ataka” also publishes a newspaper of the same name, which by circulation ranks among the ten most sellable dailies in Bulgaria. The Editor-in-Chief of the newspaper is the spouse of the leader of the party “Ataka”.

The governing Bulgarian Socialist Party has its own party publication – “Duma”. It has been published since 1990 as a successor of newspapers issued before the changes – “Rabotnichesko delo”, “Rabotnik”, “Socialist”. During its existence the ownership of the media has been transferred between various party functionaries and close party sponsors. The current publisher of “Duma” owns the Balkan Bulgarian Television (BBT) as well. The television channel in question has recently changed its programming profile and has reformed itself as a news channel, and besides by cable it is now broadcasted in Sofia’s air. (BBT acquired the permission to air having entered into an agreement to use the frequency parameters of another TV station – “7 dni” – which has a temporary broadcasting license according to Paragraph 9a of the Law on Radio and Television. Notwithstanding the objection of

other television operators CEM has not contested the airing arrangement between BBT and “7 dni”.)

There are also two newspapers, which are close to the right-wing party DSB (Demokrati za silna Bulgaria/Democrats for a powerful Bulgaria). However this is not a matter of direct ownership but rather of a good disposition on behalf of the journalists. Those newspapers are called “Glasove” and “Sedem”. They both have a limited circulation.

DPS (Dvizhenie za prava i svobodi/Rights and Freedoms Movement) –the party of the Turkish minority, which is the third most powerful political force in the country and at present a member of the threefold alliance currently in control, is an interesting case. DPS does not have its own party issue. During the last year however a Deputy Minister from the contingent of DPS and his mother (formerly - a Director of the Bulgarian state owned lottery on behalf of the previous Government, which DPS also participated in) acquired the dailies “Monitor” and “Telegraf” and the weekly newspaper “Politika”. Prior to the sale the prints in question were distinguished for a vigorously critical attitude towards DPS – a fact, which changed immediately after the transfer of shares.

Two current Members of Parliament also have direct interests in public media. One of them – a member of a right-wing political group in Parliament – is the owner of the “Novinar” daily. The print does not have a large circulation but nonetheless it is considered as one of the major daily newspapers. It is functioning in cooperation with the informational website “Vseki den” managed by the former Chairman of the youth organization of the right-wing coalition. The other Deputy is a member of a left-wing group in Parliament – Coalition for Bulgaria (in which BSP is a major party). Until recently he owned shares in one of the largest radio chains – Info Radio. However in this specific case it cannot be affirmed that the political engagements of a certain shareholder have affected the editorial policy of the media. Other deputies are also interested in regional media.

In the last year there is a trend of extended use of Internet media; media consumption of newspapers and radio on the Internet has also doubled. Logically almost all daily and weekly newspapers developed their own free online editions – except for the most circulated publications “Trud” and “24 chasa”, which have a paid

version of their printed edition. In 2007 Internet advertising also marked a double and triple increase in comparison to previous periods.

Aside from the dailies' online editions there are a few sheer Internet products – those are news and information websites, which have been functioning for several years now and which have gained their own loyal audience in Bulgaria, as well as among the Bulgarians abroad.

2007 was a crucial year for the development of blogging as a new type of media. Progressively blogs have established themselves as an alternative and independent communication channels for journalists, politicians and commoners. Blogs became popular especially in the capital and the largest regional towns in the country. Blogs have multiplied, with more and more of them addressing social and political issues. Gradually a follow up emerged and a few nationwide newspapers created columns for publishing of selected blog entries.

At present online editions are enjoying a greater deal of independence on behalf of the authorities in comparison to other media. There are still no legal restrictions regarding the online media activity as for television, radio and press. The reason is largely due to the stagnant modernization of media legislation. On the other hand, the yet slight interest of the authorities in online based media might be explained by its limited audience. Its main users are mainly young people from the large towns, as well as university students or Bulgarians abroad.

The first state institution to engage with bloggers in 2007 turned out to be the Ministry of Interior (MI). Officials from the Organized Crime Fighting Department of the MI have put a young man under pressure on account of posting information on a forthcoming demonstration of environmentalists. The blogger was questioned on grounds of suspicion of instigating civil insubordination. The case was closed with a “warning” by the authorities, which provoked a strong criticism on behalf of media and non-governmental organizations.

According to a survey of Alpha Research Agency dated January 2008 the part of the population using the Internet is 30,9%, that is 1 975 319 people. More than 20% haven access to the Internet at home, and 12% - in the office. The news and the reading of newspapers and magazines are among the most frequent activities right after the checking of e-mail – which is at the top of the list. 17,1% of the population has a cable Internet connection, 5,1% is in a local area network and 4,1% has ADSL.

A survey of the Bulgarian office of the US market research institute Synovate comes to a similar conclusion. According to it in Bulgaria people more and more tend to use the Internet for information rather than for entertainment. Synovate's researches show that at present the Internet is the media with the best future prospects and the main reason for that is the need for information and news, which applies especially to the young people and the "mature young people" living in large populated areas. In second place comes the necessity of communication with colleagues, business partners and acquaintances by e-mail. Not until third place comes instant online messaging with friends. Adults use the Internet mainly as a source of information, and the young people use it as an easy way to be up-to-date with the newest and modern matters. Meanwhile the Internet is making its way in the households. During the first half of 2007 one third of all households in country have had access to the Internet via personal computers, and for 6 months only that number has increased by 5 per cent. Synovate assumes forecast that this rapid increase is expected to continue until a 100 percent web-coverage in Bulgaria is achieved, as in developed countries.

Another tendency besides the Internet accessibility expansion is the decrease in interest in cable television. Synovate informs that more than three-quarters of the Bulgarian households use the service but due to the alternative options for TV access a saturation of this market can be observed. Almost 100% of the Bulgarian population has access to television. According to Alpha Research's latest data (January 2008) the exact number of people using television service is 6 277 550, that is 98,2% of population. Among them 54% use cable TV services, which is equal to 3 452 013 people; 10,3% of the population (658 440) use digital television services, and 34,4% or 2 199 060 people watch terrestrial broadcasting television channels.

The second most used source of information is newspapers. 80,9% of the adult citizens claim that they read newspapers. That is 5 171 627 people. Among them the regular readers are 30%. The radio is the third most popular media. The share of radio audience is 74,4%, or 4 756 107 people. The results of a research on the radio audience by yet another surveying agency, "Market Test", show that the largest number of listeners is between 15 and 29 years of age.

Bulgaria is still a country of traditional media and the Bulgarians spend more time watching TV than any other European: 329 minutes per day, that is 5 ½ hours. About 85% of respondents watch TV regularly, 10% often and 3.5% - rarely, as shown by Market Links' survey dated December 2007. The people who regularly listen to the radio are 66%, whereas 27% of the respondents claim they listen to the radio "often". Newspaper reading distinguishes four relatively equal groups of audience – 29% define themselves as habitual readers; 21% read newspapers "often"; 27% - occasionally; and 23% do not read newspapers. 60% of the respondents claim that they have no interest in the Internet.

Directly or indirectly the political outlooks in Bulgaria are formed mainly under the influence of the media. Therefore politicians endeavor a presence in media as frequent as possible. Thus it is easy to explain aspirations of political parties, and particularly of those in control, after possession of or at least control over as many information channels as possible.

The significance of a certain event is usually judged by the amount of media coverage the event is getting. Respectively, the main television stations, newspapers and radio channels have the power to create significant information events. Nonetheless media coverage of a certain event may not always correspond to its actual public importance. Often certain facts are exaggerated and others are underestimated deliberately with conjuncture purposes.

The media have an influence not only on people with a lower status but also upon those with higher social positions. The differences between them are manifested in their preferences to certain media or journalists, but generally there is no implied correlation between social status and manipulation susceptibility. That could be explained by the fact that mass media still have a strong influence.

Apart from the private media in Bulgaria there is a national radio (BNR) and a television (BNT), which are public media and are owned by the state. Despite legal requirements on public tax funding – which is also an EU requirement – they are still supported by direct subsidies from the Republican Budget. According to the Law on Radio and Television their editorial staff shall be independent from the media management. However that is a formal provision rather than an actual situation. The monitoring of the content and order of the news has repeatedly confirmed the fact

that they follow the agenda of the institutions in the country rather than giving a critical journalistic point of view. An official and mechanical introduction of different viewpoints is observed rather than an endeavor to perform a more objective and in-depth analysis of a certain process or event.

The General Directors of the national radio and television are elected for a term of three years. They are appointed by a secret ballot by the Council for Electronic Media – an autonomous regulatory institution. In actual fact however the independence of this process is rather questionable due to the fact that CEM's membership is constituted by a presidential and a parliamentary quota – and as a rule only expert representatives of the governing majority are recruited for the Parliament's quota. Although a decision of the Constitutional Court has been issued (21/1996) announcing the relations of a party with the nominations for the media regulator as anti-constitutional, the members of CEM are traditionally nominated by parties.

The latest election of General Directors of the public media was held in September 2007, however the selected nominees were publicly known quite in advance. Moreover – the press release informing that Ulyana Prumova has been elected General Director of BNT was forwarded to journalists by the CEM press office by mistake a day before the election procedure was held.

Currently the Council for Electronic Media consists of nine members, none of whom has the required education and experience in the field of media licensing, technologies or intellectual property. Even when it was clear that at first an analogue licensing and then a digital licensing is imminent – a martial correspondent and a movie director were recruited in the regulatory institution's staff. An external sign of that helplessness may be seen in the rather narrow selection of issues of CEM's interest – a fact, which is evident even from the choice of agenda. The expert talk of the members of CEM is minimized –they are not able to present to the public a well-grounded narrative on the key issues of licensing or on the digitalized broadcasting transition.

The reasons for this membership of the regulatory organization can be observed in the circumstance that the appointments are made due to members' loyalty to certain political or social groups and not in relation to the ability of that person to contribute to the accomplishment of the institution's mission. In that sense the Bulgarian media



regulatory organization is a set of potential votes for certain decisions with no competence in constructing an expert debate.

Until February 2008 three members of the CEM staff have continued working on terms of an expired mandate for several months, however that did not interrupt the institution's activity. A similar situation was also present for a long time in the Communications Regulation Commission (CRC) – the institution, which allocates frequencies amongst radio and TV operators, since the mandate of the chairman had expired and the Government would not nominate a successor in the next 10 months. Only after the European Commission launched a sanctioning procedure against Bulgaria the Council of Ministers appointed a new Chairman.

It cannot be acknowledged that the public media are the leader of the public opinion. It'd rather be said that a hegemony of private media is present. On account of their ostensible editorial independence BNR and BNT have a lower public rating than the private media. This assessment of course is generalized and does not exclude the presence of individual journalists who observe high levels of professionalism, which earns them public rating. The hegemony of private media is due to the assumption that on account of the form of their ownership they present independent journalistic stand. In Bulgarian reality however in many cases and on many matters the private media are controlled more than the state ones through the actuation of various economic and power mechanisms. It is typical of the public media to take the side of the governing circles by neglecting the public theses and spokesmen, which are unacceptable for the power. These people and opinions are not completely excluded from the agenda of the media, but are presented in such a way that they are always in a weak position and are "squeezed" by the other point of view considered to be true. BNR and BNT still remain a more private forum of the power regarding the communication of defensive and vindictory theses although recently the people in power have been trying to distribute their media appearances equally among the leading channels without being partial to the public ones. The assessment regarding the public media is that they are very friendly towards government without it being possible to determine whether it's a question of the radio or the television.

As a whole the institutions in the country demonstrate at least a seeming transparency in their work. Once a week the government convenes a meeting, after which there's the traditional press conference open for all media and journalists without a special or preliminary accreditation. As a rule the briefings of the cabinet are free for direct broadcasting without restrictions. It is a matter of editorial policy to determine to what degree and within what scope to do that.

## **2. Legal Environment**

The freedom of expressing opinions is a constitutional guaranteed right of all Bulgarian citizens. Article 39 of the main law of Bulgaria states that anyone has the right to express opinions and to spread them through words – in writing or orally, audibly, visually or in any other manner, provided that by doing so the said person does not prejudice someone else's rights or good name, does not provoke violence or act for a criminal purpose. The constitution also guarantees the freedom of media. Article 40 states that the press and the other mass media are free and are not subject to censorship. The said text also regulates when a certain carrier of information may be stopped or confiscated – for this purpose an act of the judicial authority is necessary, which act must prove that the printed publication or any other carrier harms the good morals, that it is against the constitution or that it calls for violence against any person. The right of any person to dispose of information is guaranteed by the main law of the country. This also includes the respective reciprocal obligation of the institutions to present to citizens with all data not protected by the law.

These rights approved by the constitution apply to all citizens without limitations and they should not be limited by other laws or institutions.

The Law on Radio and Television also contains texts, which guarantee the right of information, the equal access to information and the freedom of censorship (Article 9).

Print media publishing in the country is not regulated by law. Basically all publishing houses or companies owning such media operate under the rules of the Commercial Act. Market entry is comparable to other industries.

Provisions concerning licensing and broadcast regulations are provided in the texts of the Act on Radio and Television, the Telecommunications Act, and the Act on Copyrights and Related Rights. The first one regulates all programming aspects of the public and commercial broadcasters and their supervisory body, the Council for Electronic Media (CEM). The Telecommunications Act regulates all telecommunications activities, including the statute and functions of the Communications Regulation Commission (CRC) and telecommunications licensing. The Copyright Act establishes a separate Department at the Ministry of Culture intended to identify breaches of this law and impose sanctions. The Law on Electronic Communications was adopted in May 2007. By request of the European Commission this normative act should regulated the relationships between CEM and CRC and supersede the old regulations of the Law on Telecommunications. The new Law on Electronic Communications contains two important dates – the year 2012 as the deadline for discontinuing the analogue radio and television broadcasting and 31 December 2008 in relation to the discontinuation of issuance of analogue licenses.

At present all operators are using analogue broadcasting. The transition from analogue to digital video broadcasting (DVB - T) or the so called digitalization is expected to start in the summer of 2008. Those are the intentions of the CRC and the Plan for Digitalization approved by the government at the end of January 2008. The forthcoming digitalization also requires changes in the Law on Radio and Television (which mainly CEM works on), which also need to be in conformity with the new Law on Electronic Communications. These amendments in the Law on Radio and Television should have been the subject of voting by the Parliament before the end of 2007 but it didn't happen.

According to the Law on Radio and Television Operators there are two regimes – with a license or with a registration. The license is compulsory for airing operators – the so called terrestrial broadcasting. This program license is issued by CEM and a competition is announced for this purpose. Its validity is up to 15 years with an option for extension. The technical parameters concerning the free radio frequencies, the capacities and the points of broadcasting are a priority of yet another state institution – the Communications Regulation Commission (CRC), which issues the so called

telecommunications license. Thus not only representatives of CEM but also representatives of CRC participate in the licensing competition.

The law specifically binds the functions of both bodies, which means that their actions must be implemented in collaboration. However there was a situation, in which CEM clashed with CRC and additionally complicated the licensing matter and thus the work of the electronic media (according to the Law on Radio and Television CEM has the main role in the licensing of electronic media since it is the body, which issues program licenses, where CRC is bound to issue the respective telecommunications license within 10 days).

The registration regime, which also goes through CEM, applies to all who wish to perform a radio or television activity in a manner other than terrestrial broadcasting. The applicants only register without CEM examining whether the market needs new operators or not. In contrast to the licenses the entities wishing to transmit by cable may not be presented with special requirements such as norms for news, children's programs, European quota, etc. Furthermore the application for registration requires filing of a large amount of documents – more than 300 pages, which compulsorily include a program project, program concept, program profile or a program design. Among them there are a lot of useless documents with information on forecasted revenues for the following 5 years, amount of the investment, etc.

In 2002 the majority of the Parliament dominated by NDSV (Natsionalno Dvizhenie Simeon Vtori/National Movement Simeon The Second) discontinued the licensing in the country until the end of its mandate. It accomplished this with an amendment of the Law on Radio and Television, according to which CEM and CRC should design a Strategy for Development of the Radio and Television Activity to be approved by the Parliament, in order for the licensing to be continued. The two regulating organizations filed a project of the strategy at the Parliamentary Commission on Media and Civil Community within the indicated term but the said project was never brought up for voting.

Thus in practice the realization of one of the main rights of the independent regulatory organization CEM started to depend on a parliamentary vote, i.e. on political interest. The discontinuation of licensing for an unspecified term (prolonged

for years) naturally lead to a severe crisis of identification in the field and the inevitable transformations in the status of operators were implemented outside the procedures approved by the Law on Radio and Television (even only on account of the forced creation of a normative deficit). As a result the legal visibility no longer complied with the actual state in the media – in relation to ownership, program and normative reasons.

In this way the legislator not only created chaos and lawlessness in the field but also divided the operators into two fractions. In the public debate on the matter both fractions (openly or secretly) were represented by some of the major figures in the business disposing of resources for financial and institutional pressure. The fraction of those who have already taken up positions in the air (under the “protection” of Paragraph 9) and didn’t want any competitions (especially for television licenses) and the fraction of the others who wanted to enter the air at last.

In 2006 CEM started the new licensing process, but it was highly debated in terms of its procedure and criteria. In the end the licensing procedure developed into a judicial dispute, which favored the market status quo. A lot of resources for lobbying and media and political influence were invested in the struggle for air. Each of the fractions engaged one non-government media association – the defenders of the established state - the Association of Bulgarian Radio and Television Operators (ABBRO), and the ones interested in a new competition - the Association of Bulgarian Television Operators (ABTO), which unites major cable TV operators such as BBT, TV 7 and Diema Vision, who are struggling to obtain national licenses.

In February 2008 after a year of judicial disputes CEM decided not to prolong the competitions because of the expected digitalization in the coming summer.

One of the examples of legislative imperfections in the media sector is related to the discontinuation of operator registrations. From 2001 on a legislative omission is present in the Law on Radio and Television – the obliteration of a registered program by request of the registered person has not been stipulated. Regardless of that by request of the operator CEM obliterates the registration and as a motive it admits that while there is no legal grounds it still cannot refuse to do that for the interested person.

Up to now there has been only one registration obliterated by request of CEM on account of violation of the Law on Radio and Television – the one of television “DEN” in 2003. According to the official statement of CEM the penalty has been imposed by signal of DPS – Targovishte after the said television had been fined beforehand. The radical measure is due to “consistent violations of the principles of implementation of radio and television activity – non-admission of programs implying national, political, ethnical, religious and racial intolerance”. Despite the fact that television SKAT, which is close to the party “Ataka”, on many occasions during the years has provoked the public tolerance by intolerant and straightforward racist messages and statements, CEM comments that it cannot address that matter since the television is not an air television, i.e. it does not have a license and operates by virtue of registration. Regardless of the similarities to the case “DEN”, mentioned above.

Besides registrations CEM can also withdraw licenses. According to the law this can happen in case of severe violation of the radio and television activity or in case of suppression of the freedom of speech, etc. The operator is warned beforehand to correct the actions or circumstances, which constitute grounds for withdrawal of the license, within a certain term. Before undertaking the radical measure CEM imposes a financial fine. The withdrawal of the license is also related to the withdrawal of the telecommunications license by CRC.

The only attempt to withdraw a radio license dates back to 2006 and is related to Radio BBC World Service. The argument of the then chairman of CEM was that the British medium was not executing the conditions of the license since it didn't broadcast programs in Bulgarian. CEM wanted to withdraw the frequency of BBC and to present it to a Bulgarian medium. The radio discontinued its programs in Bulgarian in the end of 2005 and the conditions of its license in Bulgaria stipulated a minimum number of programs in Bulgarian. However, the new program design of the World Services of BBC, which had been broadcasting since December 2005, included a 24-hour program in English. In their defense the representatives of BBC quoted the fact that the forthcoming membership of Bulgaria in the EU imposed the broadcasting of at least one radio program in English.

In 2007 CEM has instituted 57 punitive decrees for acts drawn up against radio and television operators; against television operators – 49 punitive decrees; against radio operators – 8 punitive decrees. Its experts have monitored 23 717 hours of radio and

television programs, of which 9474 hours of radio programs and 14 243 hours of television programs.

The journalistic profession in Bulgaria is not related to any special permitting regime on behalf of the authorities. The media themselves determine how many and what kind of reporters they need. Accreditation is not provided for by law, but is sometimes practiced. In fact the only state institution, which regulated the access of the press through special accreditations, is the Parliament. Usually a journalistic card, issued by each medium, serves for the purposes of access before the rest of the bodies of authority.

The coverage of the meetings of the National Assembly is implemented after an annual accreditation. All significant media have their own quota of journalists with guaranteed access to the building of the Parliament on the plenary days. In 2007 the number of outsiders with an access right (not only journalists) was about 700, which necessitated the introduction of several restrictions in 2008. At present approximately 100 journalists have personal passes. Besides the permanent accreditations there is also a second kind, which concerns only the meetings of the parliamentary commissions. The representatives of the media with such rights are about 240-250.

The press conferences of the Council of Ministers are not related to a special regime. They are freely accessible for coverage, as well as for direct broadcasting. The same rules apply to the press conferences of the head of state. However, there is one peculiarity in this case – as one of the more conservative institutions the presidency prefers to select the journalists, which it is going to work with, and this usually happens on the grounds of informal arrangements between editors-in-chief and press secretariat. Still from time to time during press conferences the right to speak is first given to selected journalists after a preliminary agreement on the questions, which will be asked.

In Bulgaria the law does not impose restrictions on the ownership of media and as of the present moment neither public register, nor any effective anti-monopoly mechanisms have been established in relation to this. The main body, which takes care of the free market competition, is the Commission for Protection of Competition (CPC). This institution however is not specialized only in the media sector as it monitors the whole public and economic life. The goal of CPC is to check for the

presence of concentration – i.e. upon every media transaction CPC should be aware of the ownership of the buying and the selling companies. However the work of the commission is complicated by the possibility of an offshore company owning the media. An eloquent example is the case with “Balkan News Corporation” – the owner of one of the largest national channel, bTV, which is an offshore registered company, in Delaware. Two years ago the company also purchased three radio stations - Jazz FM, Classic FM and the radio chain NJoy with the approval of CPC without the commission actually being able to check whether a concentration is present or not. The impression, which this transaction left with the people involved in the media, was that the same owner sold and purchased something to and by himself with the approval of CRC. This statement is entirely true, although completely beyond proof. One of the cases, in relation to which CPC has been involved, is the advertising activity in the publications of Westdeutsche Allgemeine Zeitung (WAZ) - "Trud" and "24 chasa", represented in the country by Journalistic Group Bulgaria. It's a matter of the so called “mirror advertisement” – the placement of the same advertisements in both dailies and in the “168 chasa” weekly, which is property of the said media group. CPC was approached on several occasions regarding this matter by owners of other newspapers who objected the practice of WAZ as violating the free competition. This dispute has been developing for several years now. The practice of the regulative body in such cases is to hear the statements of all interested parties and to prepare a market analysis. Despite the decision of CPC, which rendered an account of monopoly on the market of printed advertising, both dailies “Trud” and “24 chasa” kept the compulsory mirror advertisement in both publications. At present only two days are “mirror advertisement free”.

The journalistic profession in Bulgaria is substantially free with a view to the legal regulations and requirements. The most frequent legal prosecutions against journalists are for insult and aspersion, which is a procedure of the Penal Code. Another peculiarity for Bulgaria is that rural journalists are at a higher risk of being sued for defamation – and receive more severe penalties – than journalists in the capital city. In the capital, courts are more reluctant to decide in favor of officials, while they are also more familiar with human rights standards such as the European Convention on Human Rights. At the same time, the central media outlets that journalists in Sofia work for are stronger, richer and more influential. Public officials



also bear this in mind and are more cautious about initiating defamation cases. As a result of this gap between Sofia and the rest of the country, there is considerable fear that the actions of public figures outside Sofia are less transparent and less subject to the natural prevention of corruption that often accompanies a culture of openness. It is still problematic in Bulgaria that defamation against public officials is penalized more severely. In case of insult against a public official the penalty could be between 3,000 leva (1500 EURO) and 10,000 leva (5000 EURO), while in the case of libel it is between 5,000 leva (2500 EURO) and 15,000 leva (7500 EURO). The scope of the notion of “public official” is very broad and embraces not only civil servants and officials, but also managers of private companies (the expression actually used in the criminal code is “official person,” not even “public official”). The minimum and maximum amounts of fines for defamation are too high in comparison with the average salary in Bulgaria. This is valid especially for the smaller towns and regions, where salaries are even lower. This disproportion, however, is often not taken into consideration by courts.

Most of the media united and in 2005 accepted a Code of Ethics, in order to introduce general standards regarding the exercising of the profession. With the implementation of the Code of Ethics was established and the National Council for Journalism Ethics (NCJE), which includes two standing complaints commissions. Being the first country in South Eastern Europe with major media owners involved in the creation and implementation of a media self-regulatory mechanism and body, the Bulgarian professional media community and society at large has created great expectations for the improvement of the quality of journalistic materials and professional standards, as well as for the enhancement of freedom of expression. Last but not least, the existence of such a mechanism is also expected to prevent journalists and publishers from being taken to court on libel charges. Originally 50 Bulgarian media representatives signed the Code. Only one publishing group – Monitor, which owns two national dailies and one weekly – did not sign the Code, allegedly because of personal conflicts with the management of the Union of Publishers, rather than due to their opposition to self-regulation. The Code of Ethics united owners and journalists, print media and electronic media, media outlets and media organizations, as well as metropolitan and regional media.

The Code was signed by a number of media organizations, such as the Association of Bulgarian Broadcasters, the Bulgarian Media Coalition, the Union of Bulgarian Journalists, the Union of Publishers in Bulgaria, and the Association for Regional Media. Immediately afterwards, some 45 media outlets also put their signature on the document, including the main national and a number of regional newspapers, the largest commercial radio and television stations, the Bulgarian national radio and television networks, and the national news agency. The Code is open and additional signatures are accepted.

One of the first challenges for the Code of Ethics and the commission came in the end of 2006 – before the presidential election. The case was related to a famous presenter from bTV – Ivo Indzhev, who had been fired on account of disclosing informal information in his program concerning the president who at that time was running for a second mandate. The presenter was discharged with the official motive that he has violated the journalistic ethics and morale. Despite the fact that the Commission of Ethics in the Electronic Media took a stand that the journalist had fully observed the requirements of the Code of Ethics and had not violated the professional standards, Indzhev was not reinstated. The stand of the commission, accepted unanimously, stated: "The use of ethical standards as a pretext for suppression of the freedom of speech creates a dangerous precedent in the media practice in the country".

### **3. Political conditions**

In Bulgaria there are no social groups or other public segments, which are deliberately and tendentiously left out of the media. It is natural for the press and the electronic media to follow the news flow and the current public events and not always to find time for more narrow and peripheral matters. However, during the last few years the civil sector in the country has developed and a large part of the non-governmental organizations working with the minorities, people with poor social status, orphans, invalids and other people in an uneven position used financing under various programs, in order to give publicity to these problems. A lot of media products were created – programs, films, discussions, publications. Apart from that a new group was formed in the journalistic society – that of the reporters who follow and broadcast in details heated social problems. In 2007 the first registration of a

Romany television was issued, which television is owned by followers of the leader of one of the large Romany parties. Moreover the gypsies in Bulgaria have had their own printed publication for years.

The said commitment of the media with the political elite and the opacity of ownership and capitals are the main reasons for the presence of auto censorship in Bulgaria. It is hard to be proven but at the same time it is sufficiently recognizable based on a general media monitoring. Politics is the field, in which auto censorship is most frequently present. Usually it is expressed in the desire to avoid confrontation with the governing circles. Despite the principle of presenting all points of view the unpopular statements are often “thrown into the shade” by the true thesis.

The trend towards entertainment and fun programs taking the place of current affairs and political programs was characteristic for 2007. This also applies to the three large national televisions – BNT, Nova TV and bTV, which gave up on a lot of programs pertaining to the group of serious journalism. Some of the radio programs also turned to a lighter regime with more music and less politics.

One of the main issues during the last few years was the transformation of radio Nova Evropa, which had a certain role within the civil society, being the successor of “Svobodna Evropa” (Radio Free Europe), into the music channel Z-Rock. Despite the protests of the journalists from the media and despite the legal arguments that the change in program format also changes the public functions of the radio stipulated in the license issued for it, the transformation was implemented and the radio turned into a commercial channel with the approval of CEM.

One of new characteristics of the media environment in Bulgaria from the last one or two years is the deliberate favoring of good news. Journalists are under informal pressure on behalf of the politicians and their close circles of analyzers who criticize the media for seeking sensations and intrigues. At the same time this type of informal censorship is packed as a desire of the community, which is presented as tired of politics and of bad events. As a result several media developed their own permanent programs: “The good news”.

The physical altercation with journalists – which one way or another is hardly acceptable in a modern society, should not be considered the only manner of repression on behalf of the state regarding the media. The lack of information is also

considered repression, and not at all a less grave one, since it gives rise to public consequences. It cannot be acknowledged that during the last few years Bulgaria has made a step forward in relation to publicity and transparency of information - things are even the other way around. However, thanks to a non-governmental organization – the Access to Information Program, the journalistic community was strongly supported in its efforts to control the institutions and to force them to be public, including by way of legal proceedings. Owing to this non-governmental organization a lot of journalists instituted and won lawsuits against bodies and representatives of the state and local authorities, which refused to present certain information with public significance. As far as the fact that investigating journalism has been present during the last few years is concerned, part of the merit for that is namely the legal possibility to force the institutions to be transparent.

One cannot say that there have been direct and open repressions on behalf of the state in relation to the media. During the last few years the media environment has been constantly developing without this being accompanied by notable cataclysms in the field. However, it still cannot be affirmed that the Bulgarian journalistic community is enjoying the European standards of democracy. The appearance of new media – national televisions, newspapers, magazines, etc. supported the pluralism of the media but failed to guarantee the lack of intervention from politicians in the agenda of journalism. As it was made clear above the reason for this defect is founded mainly in the opacity of ownership of the media on one hand and the still powerful mechanisms of the governing circles for intervention in the regulation of the media market, especially the television one, on the other hand.

#### **4. Economic Pressures**

The only media receiving direct subsidies from the state are the public television and radio - BNT and BNR. The rest operate according to the market principles. However, there are other indirect ways through which the politicians interfere in the private media using public money. The advertising budgets for some public activities is the common channel for the state budget to reach the private media. Vested in various concepts – campaigns on a certain case, communication strategies, joint programs, etc certain politicians or political groups try to buy more influence or just get

insurance against journalistic investigations. Parts of these resources go through PR agencies as a distribution section before they reach the media, which makes them difficult to trace. It has been frequent practice during the last few years for a single PR agency to service several ministries and collect and distribute significant amounts of public money. Usually before elections the amounts for advertising are substantially increased. Another notable trend is that the companies servicing ministries also work for the personal image of the ministers when they appear at elections.

It is hard to say whether and to what extent the budgets for advertising directed by representatives of the authorities to the media reflect their editorial policy. A report by the Bulgarian Helsinki Committee dated 2006 based on inquiries and direct interviews with journalists from all Bulgarian media states that the advertising departments of many publications often have an influence on text writing.

In order to assess the correlation between the advertising of state institutions and of private companies, it is a good idea to consider a concrete example. In relation to one of its campaigns directed to the agrarian manufacturers under the motto "You are entitled to this money" during the first months of 2007 the Ministry of Agriculture and Food Supply has entered into a contract for 11 months with BNR for a joint consulting program twice a week and with the private radios Darik and Info Radio. Furthermore the campaign includes one page in a specialized publication for farmers, as well as publishing of advertising columns in 9 national newspapers for a period of three months. Not counting the advertisements in newspapers, i.e. only the radio collaboration plus the publication in the weekly issue "Balgarski Fermer" according to data from the ministry cost BGN 338 500 excluding VAT (approximately EUR 140 000).

## **5. Non-State Repression**

It cannot be claimed that there is any consistency in repressions against journalists on behalf of organizations or groups. Regardless of that violations do exist. One of the main incidents was the attack against the home of an investigating journalist from Nova Television in 2006 – Vasil Ivanov. Not long before the home of his mother was

blown up Ivanov had made a report on violence in prisons. Despite the prosecutor's inspection regarding the case it could not be determined who was behind the attack. Two more incidents happened in 2007, which were related to representatives of the authorities. The more serious incident was an assault against a cameraman by the guards of the judicial authority, while the said cameraman was trying to take pictures of a suspicious businessman brought for questioning under unprecedented security measures. Despite the medical certificate of the cameraman the prosecutor's office refused to institute an investigation with the argument that there was not enough information.

In 2007 there also was a case, in which an independent municipal councilor from Zlatograd battered a editor-in-chief of a local newspaper on account of difference of opinion regarding his publications on framed up public commissions for construction. The court imposed a penalty on the municipal councilor to the amount of BGN 150. Another example of a clash between the authorities and journalism is the scandal with the correspondent of BNR in Ruse Natasha Dimitrova who was about to become a victim of the rage of the Minister of Interior Rumen Petkov. Dimitrova was nearly fired on account of "lowering the reputation of Bulgaria among international institutions" with her question whether Petkov will reinstate a fired employee of the Ministry of Interior. The journalists in Ruse then wrote: "The case, in which on 17.01.2007 the Minister Rumen Petkov quarreled with Bulgarian journalists due to their "uncomfortable" questions, is a chrestomathy example of intolerable behavior of a high representative of the authority."

## **6. Conclusions**

The stable development of a market economy in Bulgaria, increased foreign investments and the growing stability in advertising budgets have led to a relatively well developed media market in the country. According to financial analysts, the Bulgarian media market is quite dynamic and risky, involving a large number of stakeholders and serious competition.

As a whole the media in Bulgaria are free. If they are under external non-market pressure this is not due to state or institutional repressions, but due to informal channels and making use of some legal omissions. The assessment is that there is

freedom of the media with minor restrictions. For the last five years it's as if there have not been any general changes in the media field, which have lead to a change in the quality of journalism. It'd rather be affirmed that the situation is static.

The main field, in which KAS may help for the development of the Bulgarian media environment, is the direct work with journalists – something, which it is doing at present. Investigative journalism is an important field, which has been stagnant during the last few years. The reason – few media are inclined to invest time and resources in an investigation on one hand and on the other hand the journalists themselves are poorly motivated since the correlation between risk and reward is still in favor of the risk.

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## **BIBLIOGRAPHY**

Metodieva, Juliana/ Kanev, Krassimir/ Spasov, Orlin/Angelova, Viara/ Popova, Snezhana/ Todorova, Lili/ Djelepov,Orlin/ Kirilova, Spasiana/ Borissova, Albena (2006): *"Redefining the publicity: Survey "Transparency in relationship between PR Agencies and Media"*. Sofia: *Bulgarian Helsinki Committee*. ([www.bghelsinki.org](http://www.bghelsinki.org))

Ognianova, Neli/ Velkova, Dessislava/ Ljubenova, Severina/ Bozhilova, Svetlana/ Kashamov, Alexander/ Lozanov, Georgi (2007): *"Monitoring of licensing of radio and TV operators in Bulgaria 2006-2007"*. Sofia.

Danov, Danail (2004): *Freedom of Speech*. Sofia: Media Development Center.

Council for electronic media (2006): *The Progress of radio and television in Bulgaria 2001-2006*. Sofia. ([www.sem.bg](http://www.sem.bg))

Communications Regulation Commission (2006): *"Annual Report 2005"*, Sofia. ([www.crc.bg](http://www.crc.bg))

Commission for protection of competition: *"Statements of CPC"*, ([www.cpc.bg/public](http://www.cpc.bg/public))

National Statistical Institute (2007): *"Publishing activity in 2006"*, (www.nsi.bg)

Alfa Research Ltd, www.aresearch.org

Market Links research & consulting, www.mmlinks.net

Capital Weekly, www.capital.bg

### **FURTHER READINGS**

[http://www.eumap.org/topics/media/television\\_europe](http://www.eumap.org/topics/media/television_europe), *"Television across Europe: Regulation, Policy and Independence (2005) - Reports, press releases, media coverage"*

Ognianova, Neli (2005): *"Audiovisual policy and law in EU"*. Sofia. Sofia University St. Kliment of Ochrida.



## CHINA

### 1. General Conditions

At the time of the Fifth National Census in 2000, the latest nationwide census, there were more than 80 million illiterates at or above 15 years old. 72.7 percent of the total were women. At the time of the census, the adult illiteracy rate in China was 9.08 percent. Since then the illiteracy rate has continued to decline, though challenges remain for women, farmers and ethnic minorities. Since 2000, the number of illiterate people has declined by an average of 2 million per year, according to recent statements by the Chinese government. 90 percent of the country's illiterate people live in the countryside. In general, literacy is comparatively hard to achieve in China where people have not to learn just letters but hundreds of different pictorial characters. China is acting against illiteracy by promoting the nine-year compulsory education policy, particularly in rural areas. For example, the government has allocated 10 billion yuan to build 7,600 boarding schools for some four million students in western China between 2004 and 2007. The official goal is to reduce adult illiteracy to less than 40 million people by 2015. According to government statistics, China has lifted 46.5 million people out of illiteracy since 1990.

China's media landscape has undergone rapid growth over the last 20 years. By 2007, approximately 2,548 radio and TV stations existed across China, according to market research firm China Media Monitor Intelligence (CMM Intelligence). More than 2,000 newspapers are published in the country and about 10,000 periodicals and magazines are competing in the market.

Compared to the pre-reform era, when the central television station and a few Communist Party newspapers were the only media available, Chinese readers and viewers can now choose from various media outlets. In addition to the media's Leninist mandate to transmit policies and to educate and mobilize the masses, newspapers, magazines and television stations are now routinely expected to entertain and excite. But that does not mean that they have been strapped

completely off their traditional role to steer the masses. The country's propaganda officials still wield extensive influence over published content.

As more attractive newspapers entered the marketplace, the readership of the old mainstream press has declined. Between 1990 and 2005, the circulation of People's Daily – media flagship of the Communist Party - dropped by 40 percent. Meanwhile, successful tabloids, like Beijing's *Xinjing Bao* or Southern Weekend began to attract new readers with their modern design and lively features.

As China is a one-party state, a clear separation between party and the state does not exist. Despite the rapid growth of the media sector, virtually all major print, television, and radio outlets formally continue to be linked to the Party-state and are required to obey Party directives. Independent media are not allowed. The strict licencing system makes it mandatory for Chinese print publications, TV stations and radio stations to be associated with at least one government-related institution. Many Party organizations, from state to local levels, publish their own newspapers and/or magazines. For example, the Chinese Communist Party Central Committee publishes the nationwide newspaper *People's Daily*, which is considered the mouthpiece of the central leadership. The Shanghai-based *Liberation Daily* is supervised by the Communist Party Committee of Shanghai Municipality. A wide range of government ministries and institutions also have their own publications. The Supreme People's Court, for example, publishes *People's Court News*.

All television and radio stations are subject to direct regulation by the State Administration of Radio, Film and Television (SARFT). SARFT acts as the primary enforcement agency tasked with maintaining government control over the sector.

The regulator for the print media is the General Administration of Press and Publications (GAPP). In addition, all media are subject to supervision by the Central Propaganda Department (CPD). Propaganda authorities issue directives dictating either that certain news items should not be reported, or how certain items should be covered.

A report from Freedom House explains the organizational grip of the party over the media: "The Central Organization Department and the Central Propaganda

Department directly appoint managers of national media, such as the television station CCTV, People's Daily, or Xinhua News Agency. For local media appointments (provincial level and below), the Central Organization Department of the CCP appoints provincial party secretaries and deputy provincial heads (or mayors and vice mayors of directly administered municipalities). These party appointees cooperate with the CCP Central Propaganda Department to select the managers of media organizations. Thus while the central party leadership does not appoint the heads of local media organizations directly, it exercises power over personnel through appointments of leaders of administrative districts, who determine and supervise subordinates."

For the last decade, the internet in China has experienced rapid development. The number of netizens increased from 620,000 in 1997 to 162 million in June 2007. The online community has therefore increased by 260 times in ten years. As a result, China today is already the second-largest internet-market in the world behind the U.S.

But in terms of penetration, China is still lagging far behind. According to the state-run China Internet Network Information Center (CNNIC), internet penetration was 12.3 percent in June 2007 – compared to 9.4 percent a year earlier. Most of the netizens live in cities: The urban penetration rate is 21.6 percent, as opposed to a rural rate of just 5.1 percent. In the U.S. or Japan, more than two thirds of the citizens have internet access.

The use of the internet as an information channel has been widely utilized by China's online community. According to CNNIC, the internet ranks first among the information sources for 76.3% of the internet users. Most netizens rate the internet as their preferred choice for information gathering. 76.3 % of the people with online-access say they got to know critical news from the Internet first, according to a survey by CNNIC. Especially among China's younger generation the new media has established itself as a major source for news gathering

Popular internet portals like Sohu.com, Sina.com or Netease.com are not linked to the government. Some are listed on foreign stock-exchanges. Sohu.com for example

is listed at New York's NASDAQ. These commercially-driven portals are not allowed to generate their own news content and are not technically permitted to employ reporters. Only government-owned internet sites such as Xinhua Wang (run by the national news agency Xinhua) or Renmin Wang (People's Daily's online site) are permitted to produce their own news.

Still, the private portals wield a big influence. Both leading portals, Sohu and Sina, provide a wide variety of news by posting articles from other sources, including local and national newspapers or television stations. Although they do not generate their own content, the commercial sites thereby influence what kind of stories will receive national attention. They can also promote certain topics by placing an article prominently on the website. The speed with which news is posted to the sites means that stories may spread nationally before local authorities are even aware of the article being published.

Internet media have contributed to rapid dissemination of news, including wrongdoings by officials. Technically all portals are subject to propaganda department oversight. In order to avoid problems, the internet news sites do exercise self-censorship and try to stay away from sensitive topics, like national security issues. However, the portals are using the fact that their published news have appeared in official publications before as a shield.

China's media-control system has traditionally relied on the ability to silence reports on disfavored topics. This practice is getting challenged by the fact that news reports are often posted to numerous websites within hours after appearing online for the first time. In 2004, many websites picked up the public outcry after a woman driving a BMW had run over and killed a farmer in the city of Harbin, yet did not receive any jail time. The killing followed an argument about a small traffic accident. Tens of thousands of Chinese flocked to chatrooms, many expressing outrage, suggesting that the woman had received special treatment because of connections to local authorities.

The growth of the internet and the speed of online news circulation clearly challenges the authorities' aim to control and monitor the flow of information. In addition, the

speed and attractiveness of online reports has weakened the hold of the traditional media players over the masses. The government is therefore contributing a lot of resources to restrict the spread of information on the internet. A firewall software is blocking netizen's access to certain websites that the authorities consider not to be in line with government policy, including websites that are run by Chinese dissidents at home or abroad. But also online content from foreign news providers is regularly or temporarily blocked, for example online-news from Britain's BBC or Germany's Deutsche Welle.

Online blogs and message boards are censored. A number of regulations hold online hosts responsible for the content of their sites, forcing them to screen online discussions and remove content that may be deemed subversive. According to estimates, China now has nearly 17 million bloggers. In another attempt to regulate content the Internet Society of China released a "self-discipline code for blog services" in 2007.

Foreign companies do take part in the censorship. Google Inc., owner of the world's most popular search engine, excludes links to anti-government sites on its China page. In response to a demand by the government, Microsoft has closed down a political blog. Yahoo handed identities of its users over to the administration which lead to the arrest of some so-called "cyber-dissidents". According to human rights organization Amnesty International, China has jailed some 60 cyber-dissidents who had disseminated political information that the authorities believe challenge the political system.

It is not an easy task for the government to keep up the control system as the speed of the internet's development opens up gray zones, for which no regulations exist yet. In 2005, for example, online television channels became more and more popular, with some of them even setting up news programs. A new set of regulations that came into effect on January 31, 2008, states that all applicants for Internet broadcasting licenses must be government-run entities. Web sites are prohibited from offering material that promotes sex, violence, gambling, religious cults or reveals state secrets. "Internet video and audio providers must be resolute in the service of the socialist ideal and of the people," the government stated. SARFT will

supervise Web video and radio services, which will need to renew their licenses every three years.

Very often the people rely on television, which is the preferred source of information for the Chinese, followed by the press (often used) and radio and internet, which are occasional sources of information. But as stated earlier, for China's younger generation the internet is the primary source of information gathering. Throughout the generations verbal exchange is also often used.

Verbal exchange is of great importance in China. The citizens are aware of the fact that the news they receive from government sources are somehow filtered. For insight that goes beyond the official version, they therefore value private exchanges with people they trust.

According to studies, Chinese citizens on average watch television for 194 minutes per day and spend 39.6 minutes per day reading print media.

The influence of the media on the formation of political opinion is rather significant. Yet, in a different way as in democratic countries, that value the freedom of the press. While the media in democratic systems act as a critical observer and as an independent watchdog over government policy and actions, Chinese media are not free in what to report. On the contrary, the Chinese leadership often utilizes the media to form public opinion and foster support for official policies. The propaganda officials hold on to the traditional believe that the government-controlled media should steer the society. Even though the authorities' grip over the media is getting challenged by the internet and also some investigative journalists from the traditional media, till today the party-state effectively influences public opinion to a large degree.

This holds particularly true for sensitive topics like Taiwan or Tibet. China considers the democratically-ruled island of Taiwan to be an integral part of the People's Republic. Opinions that might deter from that official standpoint are not allowed to be published in mainland media. Objective reporting about the democratic development in Taiwan is suppressed. Taiwanese politicians who strive for more autonomy or even independence are frequently branded as "traitors". On the other hand,

Taiwanese representatives who argue for a closer relationship with the mainland are prominently featured in the Chinese media and are being described as holding up the will of the Taiwanese people as a whole. The one-sided reporting contributes to the fact that the vast majority of mainland Chinese share the view of their government that the island belongs to them, and it strengthens their belief that the Taiwanese people share this view - although opinions on the island in reality are rather diversified on the issue.

The negative image of the Dalai Lama in China is also heavily impacted by media reports. Positive reports about Tibet's spiritual leader who lives in exile in India are virtually non-existing. On the contrary, he is frequently referred to as a „splittist" who wants to separate Tibet from China. The meeting of German chancellor Angela Merkel with the Dalai Lama 2007 in Berlin not only drew fierce criticism by the Chinese government. Discussions with Chinese people revealed that the meeting also created irritation among ordinary citizens. Influenced by the negative reporting about the Dalai Lama, many wondered why Germany, which they consider to be a friend of China, has taken such a provocative step. The fact that the German chancellor justified the meeting in the context of religious freedom was hardly reported in China. To the Chinese authorities, Taiwan and Tibet above all are a highly sensitive matter of national sovereignty. As journalists are aware that there is no room for them to freely comment on issues of sovereignty, they strictly toed the party line.

The Chinese know that the media is not free and that it is influenced by the leadership. They therefore do not automatically assume that all reports are objective. Complaints about biased reporting in favor of the government are not uncommon in discussions with Chinese citizens. But critical distance does not automatically improve knowledge. Many Chinese might be aware that they only get presented one side of the story, but at the same time they do not have easy access to different interpretations and additional facts, which makes it hard to form an individual opinion that goes beyond knowing what not to trust. Not only what is reported but also what is not reported and censored by the authorities therefore has an important effect on the formation of political opinion.

All media outlets that are permitted to create own content are connected to the state.

All media outlets are officially connected to the state. Still, many are more or less run like private companies. But the censorship system makes sure that outright criticism of state policies hardly ever appears. It is fair to say that the coverage of media in China ranges from being close to government to clear propaganda.

Newspapers, magazines, television and radio stations all remain subject to CPD oversight and instructions. Some print editors do have slightly more freedom in pursuing critical stories. In general, television and radio remain subject to a higher degree of CPD regulation than the print media, although this can vary between publications and channels as well as between regions in China.

The government has increased the number of press conferences in recent years. The State Council, China's cabinet, for example now holds regular press briefings on a variety of subjects for local and foreign journalists, including cabinet work, statistics, food safety or rural development. Following a presentation by the politician, there is usually a question and answer session. Over the past year, the State Council Information Office in Beijing office held more than 70 press conferences and issued several white papers on food and product quality as well as the country's political system. In April 2007, China adopted regulations on "open government information" that promised public access to information on a range of issues including government spending, drug and food safety, and land seizures.

Provincial and local governments also increasingly hold news conferences. The willingness of the political elite to present policy through dialog with the press has clearly increased. The State Council has also increased media training for government spokespersons.

In 2007, the southwestern municipality of Chongqing, which straddles the Yangtze River, instituted regular monthly press conferences for domestic and foreign media. Chongqing is the second provincial-level municipality to adopt this form of press conference. China's business hub, Shanghai, introduced a similar scheme in June 2003.



Yet, press conferences by the president, the premier and state ministers are still scarce. The premier holds one regular press conference annually at the end of the yearly National People's Congress plenary session in March. In addition there are brief press encounters of China's state leaders with visiting dignitaries such as the president of the United States or European leaders. On many of these occasions, no more than three questions are allowed. Journalists who want to attend these press conferences, have to be accredited for the event. Application procedures are usually highly bureaucratic and only a limited number of journalists will be given access.

Live broadcast of press conferences is rare. The premier's press conference is one of the few that are broadcast live. Usually, television channels will broadcast extracts only.

## **2. Legal Environment**

In China's political system the judiciary is not independent. The Communist Party wields significant influence over courts and judges. Therefore not only laws and regulations do influence the legal status of the media and possible legal sanctions, but also party policy.

Basically, freedom of opinion and freedom of press have been recognized in the Constitution as fundamental individual rights, and no amendment to the Constitution sets clear restriction to such rights.

In the second chapter of the constitution, „The Fundamental Rights and Duties of Citizens", article 35 states: „Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration."

Yet, there are limits. Article 22 and 24 show that guidance of the media is equally important – and equally enshrined in the constitution. Article 22 defines the role of the state as promoter of, among others, the media. It says (full text): „The state promotes the development of literature and art, the press, broadcasting and television

undertakings, publishing and distribution services, libraries, museums, cultural centers and other cultural undertakings, that serve the people and socialism, and sponsors mass cultural activities..... ." Article 24 goes further in dealing with content, even though it does not refer directly to the media. It says: „The state strengthens the building of socialist spiritual civilization through spreading education in high ideals and morality, general education and education in discipline and the legal system, and through promoting the formulation and observance of rules of conduct and common pledges by different sections of the people in urban and rural areas. The state advocates the civic virtues of love for the motherland, for the people, for labour, for science and for socialism; it educates the people in patriotism, collectivism, internationalism and communism and in dialectical and historical materialism; it combats the decadent ideas of capitalism and feudalism and other decadent ideas."

This mix shows the delicate situation of the media as those provisions can theoretically contradict each other. De facto there is no press freedom in China. Freedom of thought and speech is getting bigger – but only, as long as the government and the socialist system are not directly challenged.

The Communist Party till today expects the media to follow it's leadership. In a commentary on the occasion of Chin's 8th Journalist's Day in November 2007 the People's Daily wrote: "Over the past 70 years, the principle of adhering to the CPC leadership and serving the people, the faith of always reflecting people's aspirations and closely following the pulse of the time, the work style of going among the public, and the aspiration of promoting a professional spirit and abiding by occupational ethnics, all have not changed. (...) Reality has proved that the Chinese journalistic cause can well stand to the trust of the people and the Party".

The government has been using a vaguely worded "national secrets" law with greater frequency against journalists in recent years. To a certain degree it is open to interpretation by the party what a "national secret" is.

"China has been very discreet about media opening up, because it is viewed as concerning state security," Xinhua news agency quoted Yu Guoming, vice dean of Renmin University's School of Journalism and Communication, in November 2007.

In September 2004 , New York Times researcher Zhao Yan, a Chinese national, was detained on suspicion of revealing unspecified state secrets. The arrest followed a report in the New York Times, which proved correct, that former Chinese President Jiang Zemin was retiring from his post. After three years in prison, Zhao was released in September 2007. His case sparked international outrage. US-President George W. Bush and Secretary of State Condoleezza Rice lobbied on his behalf with Chinese President Hu Jintao.

In August 2006, Ching Cheong, a Hong Kong-based correspondent for Singapore's The Straits Times newspaper, was sentenced in a one-day trial to five years in jail on charges of spying for Taiwan. He was detained during a visit to Guangzhou in April 2005. After almost three years in jail the veteran journalist was released on parole in February 2008. China's official Xinhua News Agency had reported that Ching was convicted of selling unspecified "state secrets and intelligence" to a Taiwanese foundation, which it said was a front for Taiwanese espionage activities on the mainland. Ching's supporters argued that there was no real evidence proving he was a spy and that he was targeted for political reasons. In interviews after his release, Ching admitted, that his work with the foundation involved "mediating between authorities on both sides" rather than pure journalism. But he also stressed "that at no time was I in possession of any national secrets, let alone handing them over to Taiwan". If anything, the cases of Zhao and Ching demonstrate that Chinese journalists are walking on a dangerous edge if their work includes topics of national interest and security.

There is no particular defamation law determining the access to information and the protection of the privacy of office bearers, but this kind of provisions can be found in PRC civil laws and penal code.

An unconditional subsequent censorship is executed by the government under law. The General Administration of Press and Publications (GAPP) oversees the print sector, including online publications. Television and radio stations are subject to direct regulation by the State Administration of Radio, Film and Television (SARFT). SARFT's oversight of the television, radio and film spheres is all-encompassing. It

represents the State in setting and executing policy for the production, exhibition and distribution of domestic, co-produced, and imported television programs. In addition, all media are subject to supervision by the Central Propaganda Department (CPD). Publishers and broadcasters receive regular instructions from censors on how to report certain issues and what they should not report.

While the supervision system for the traditional media is well established, the development of digital media represents a challenge to the regulators. China attempts to maintain tight control over the media and at the same time wants to nurture the development of digital technologies. As not all areas of responsibility for digital content are clear yet, the modern media landscape has created loopholes. Two examples are internet television (IPTV) and videos distributed over mobile phones. While SARFT continues to claim that video content rights must remain in the hands of Chinese broadcasters, thousands of small operators, many unlicensed, are producing video products or buy content from abroad and distribute directly throughout the market without passing through any kind of government clearance, therefore undermining the censorship system. According to media research firm CMM Intelligence "there is a growing sense of urgency in the central government over the virtually uncontrolled explosion of video content distributed over new media platforms." 2007 was therefore characterized by increased efforts on the part of SARFT to extend its control into the digital realm with new regulations intended to cover content distributed over telecom networks. Already in late December 2006, SARFT issued a directive to deal with what it described as the wide range of "Internet TV Stations" that acquire content from Chinese and foreign content distributors. A couple of stations were declared illegal, including cntv.net.cn and ccentv.cn. According to the Notifications on Inspecting and Punishing Illegal Net TV Stations, a number of Net TV Stations have been established with the express intent of "forging government approvals in order to attract investment". The notice prohibited legal broadcasters from cooperating with illegal Net TV stations. But industry experts stress that gray areas and contradictions remain. Supervision efforts get also challenged by commercial interests. Mobile phone companies and operators have strong financial incentives to ignore SARFT's directives, because for them, more and diversified content is a selling-point.

No specific restriction on content exists, but media coverage about material state policy, nationality and religion, diplomacy, military affairs and state confidentiality shall be strictly in compliance with relevant restrictions.

No people, groups or organizations are excluded by law from working as journalists.

Do media reports have to be examined by state authorities before publication? Not by law. But effectively yes. Under the censorship system, reports on sensitive topics are regularly evaluated by party or propaganda officials before publication.

There are no independent commissions regulating the media. As mentioned above, responsibility is in the hands of the government entities SARFT, GAPP and CPD.

The legal environment for media coverage has not been modified during the past five years. Still, the working environment is always changing. The propaganda departments constantly give out orders to the media, in many cases this "guidance" is case-specific, both on national or local levels.

Based on the grip of the government over the media through censorship and propaganda orders, many local Chinese journalists speak of a slight aggravation in press freedom over the last five years.

9/11 did not have influence on media laws in China.

In August 2007, China's new Emergency Response Law passed the Standing Committee of the National People's Congress (NPC), China's legislature. The law became effective November 1<sup>st</sup> of the same year.

Work on the law began in 2003, after journalists from the southern province of Guangzhou had reported the spread of the deadly Sars-Virus against the will of local officials. While the need for reform in this area is widely accepted following the disastrous management of emergency information during the SARS crisis in and the Songhua River pollution incident in 2005, critics saw the media's subservience to

local government as being directly responsible for causing the most confusion. Earlier draft versions of the law included provisions to fine news organizations between RMB 50.000 and RMB 100.000 if they report disasters and accidents without official authorization and if the reports lead to "serious consequences". The provisions spurred intense criticism by Chinese journalists and media experts who feared that such regulations could be used by officials to cover up disasters and accidents. The government responded that the provisions were not meant to deter independent reporting, but to prevent media from spreading false information or fabricating events that may cause public panic. Still, the outcry of the media had some effect. The provision about monetary fines was cut from the law. Yet, the law does still contain elements that put pressure on the media. It states that "units and individuals are prohibited from fabricating or spreading false information regarding emergencies and government efforts to cope with emergencies". Offenders will be warned, it says. Media organizations or web companies could lose their business licenses if their offenses lead to serious consequences. For journalists these provisions are problematic, as the definition of "false information" lies more or less exclusively in the hands of the Communist Party. Instead of encouraging investigative journalism the provisions are meant to deter the media from reporting natural disasters, social protest or major accidents before the authorities have officially commented about such incidents.

At the same time though, the law includes elements that strengthen the right of the citizens to receive timely and accurate information. The law says: "People's governments in charge of coping with an emergency should provide coordinated, accurate and timely information on the emergency and its development." According to the law, Government officials will incur administrative punishment for providing inaccurate information.

With the new law the pressure on local officials to not cover up emergencies has increased. It is therefore in line with the general aim of the leadership to raise the effectiveness and credibility of its ruling. But at the same time the law effectively puts restraints on supervision by the press. The law can therefore act as a good example for the general line of China's leadership, who intends to raise the standard of government through internal reforms, but without independent monitoring from the

outside.

China has promised to grant foreign journalists more freedom to report in China in the run-up to, and during, the Olympic Games, which are due to be held in Beijing in August 2008. According to new regulations, that took effect on January 1<sup>st</sup> 2007, foreign journalists would not necessarily have to be accompanied or assisted by a Chinese official when they report in China. Also, they no longer need to apply to provincial foreign affairs offices for permission to report in all Chinese provinces.

2008 is not only the year of the Olympics but also marks the 30th anniversary of China's reform and opening up. The Party and the government are keen to utilize the Olympics as a showcase for the modern China. The loosening of restrictions for press coverage plays an important part in showing increased openness and has been welcomed by the international media community. "We will further improve our news briefing system and improve the quality of the news service," China Daily quoted Cai Wu, Minister of the State Council Information Office, in December 2007. "At the same time", Cai said, "we sincerely hope that through efforts by friends in the media circles we present to people around the world a true China that adheres to reform and opening up, promotes harmonious development and commits itself to building a moderately prosperous society".

Almost 700 foreign journalists were stationed in Beijing by the end of 2007 and their numbers are expected to swell up to 20,000 to 30,000 during the Olympics. For China the new rules are also a test-bed. Currently they only apply in the lead-up to, and during, the Games. One can assume that the leadership will evaluate the outcome of this experiment before making further commitments. However, Cai has indicated that the government would consider extending the duration of the rules. But there has been no official announcement on the issue yet.

Despite the reforms, the Beijing-based Foreign Correspondents Club in China (FCCC) issued a statement raising concerns over press freedom at the start of 2008. It said that it had received more than 180 reports of interference in journalists' work in 2007, including beatings and intimidation by thugs in Beijing and other provinces. Journalists working in sensitive areas like Tibet and Xinjiang had also been followed and detained, or their sources have been intimidated. Especially in remote areas, it appears that the new regulations have not yet changed the often media-hostile attitude of officials.

Laws and regulations do impose content restrictions regarding such subjects as national security and state secrets. Regulations governing newspapers, for example, ban material that opposes the Party's leadership, undermines social stability, or subverts the socialist system. Regulations do ask the media to uphold socialism and carry out propaganda work on behalf of the Party and government.

In theory, all kinds of legal consequences are possible, depending on how serious such a breach is perceived as. But as courts are not independent, it will depend on the Party, the government and its propaganda authorities how strict the laws are enforced in certain cases. Journalists or editors who breach norms or act against the party may lose their positions, face closure of their publications and in some cases can face jail sentences. In less serious cases, journalists are told by the propaganda department to be more careful in the future. Publications that carry articles that the propaganda officials rate harmful are sometimes taken from the market.

Licences and registration are required for all media. Connection to a state or party entity is mandatory.

Permission is required for journalists to practice their profession. Licenses have rarely been revoked (it often happens, but considering the huge amount of media outlets, it might be fair to say that it happens rarely in proportion to the amount of people who work in the media).

Generally journalists have the legal right to participate in all public meetings of government, with equal access. But in reality, the party and the government seldom hold public meetings. And access is usually limited through a registration process. Big television stations and the national news agency Xinhua, which are both very close to the government, usually get better access than other media.

The law of the People's Republic of China is silent on the issue of monopolies and cartels of private media companies. No private monopolies and cartels exist in the media sector.



Journalists have the legal right to challenge state repression. And the courts in theory have the mandate to stop state repression against journalists. In reality, though, it all depends on the decision of the Communist Party which effectively controls the courts.

### **3. Political Conditions**

In the eyes of propaganda officials, critical reports about social issues like rising unemployment and peasants who suffer from corruption of local officials have the potential to undermine social harmony. The freedom to report on these subjects is therefore restricted with the result that problems of citizens who suffer from reform policy or arbitrariness by local officials are underreported.

Due to censorship, freedom of information through accessible media is restricted for all Chinese citizens. It is interesting to note though, that the party and government obtain information through the media that is not available to the public. China's media has long served as an instrument for informing the leadership of developments at local levels. This traditional role is still intact. Xinhua News Agency, television and radio stations as well as major newspapers still produce "internal reference" publications ("neican" in Chinese) that are only circulated inside party ranks. The aim of the system is to assure that the party knows first about unfolding social dynamics and local grievances.

Self-censorship is common in all media units. If media do not receive instructions regarding a particular subject from the propaganda department, they generally are free to report on the topic. Still, journalists know that some reports can cause them trouble, like articles attacking local officials. Before publication, in order to not run into problems, journalists are therefore likely to discuss the issue first with officials who are in charge of monitoring content.

For any news material that opposes the Party's leadership or reports that might be rated by propaganda officials as undermining social stability, self-censorship is exercised.

State repressions against journalists, media companies or organizations are often used in China.

As concluded earlier, Chinese courts are in effect not independent. Interpretation, application and enforcement of law does vary and is influenced by political considerations. It will depend on the Party, the government and its propaganda authorities how strict the laws are enforced in certain cases. What is tolerated today might be sanctioned tomorrow, or vice versa.

Especially during the run-up to big political events the authorities tend to tighten their grip over the media. In 2006, as preparations got under way for the Communist Party Congress held in October 2007, public security officials arrested at least 12 journalists and placed scores more under surveillance, according to Reporters Without Borders. The organization's annual report on Press Freedom states that, by the end of 2007, 33 journalists sat in jail in China, more than in any other country. Moreover, 50 cyber-dissidents were also in prison for speaking out on the Internet.

The GAPP has officially admitted that some organizations and individuals had meddled in journalists' legal news reporting and, in some cases, journalists had been beaten and their equipment destroyed. During one incident in August 2007 five Chinese journalists covering a bridge collapse in central Hunan province that killed more than 40 people were roughed up by local officials.

According to Zhan Jiang, director of the School of Journalism and Communication of the China Youth University For Political Sciences, "few local officials view the media as tools for positive and helpful publicity, and refuse investigative reports and media oversight."

Basic access to the internet is not hindered. But access to certain websites is blocked.

The actual threat of state repressions has rather increased over the last five years. There has been a slight aggravation in press freedoms.

When President Hu Jintao took power in 2002, some Chinese intellectuals and

journalists hoped that he would allow the Chinese media to begin covering major stories such as corruption and rural unrest more freely. These hopes were elevated when Hu fired China's health minister as well as the mayor of Beijing for covering up the Severe Acute Respiratory Syndrome (SARS) epidemic in the spring of 2003. Hu's action led to a more general belief by some that transparency regarding major events or crises can be expected for the future. But that has not been the case. The media faces the same and sometimes even stricter controls under Hu than before, under his predecessor Jiang Zemin. It should be noted, though, that coverage of major health threats such as HIV/AIDS and, more recently, bird flu has at least slightly improved. Yet, there are other areas in which things have even rather worsened than improved.

In 2004, the Communist Party initiated a crackdown on newspapers and television stations that reported too critically on problematic issues, including the situation of the unemployed and the peasants, some of whom have suffered as a result of political reform or at the hands of corrupt officials. That same year, the authorities also began to police the internet more actively. Despite greater freedom that has been promised to foreign journalists during the period leading up to the Beijing Olympics in 2008, restrictions have not been loosened for Chinese journalists.

In Reporters Without Borders' "Annual Worldwide Press Freedom Index", China stagnates near the bottom. The People's Republic ranked 164<sup>th</sup> out of 168 countries in 2007, after ranking 163<sup>rd</sup> in 2006 and 159<sup>th</sup> in 2005.

Concerning political censorship, the CPD with its departments on national, provincial and local levels provides overall guidance. This guidance ranges from detailed instructions on how to report on a certain story to orders not to report a story at all. Media editors regularly receive lists of banned subjects. These can be rural unrest, demonstrations by laid-off workers or issues concerning national minorities. Taboo topics include coverage on dissidents or reports about the violent crackdown against demonstrators on and near Tiananmen Square in 1989. Formal Party policy is set forth via directives, which are issued internally through the propaganda department hierarchy to media organizations and are discussed in meetings of journalists and editors.

Newspapers tend to – and are sometimes ordered to – use dispatches by the state news agency Xinhua instead of publishing own reports about critical issues, including Taiwan, Tibet or topics of national interest such as foreign policy.

Albeit censorship and the Communist Party's grip over the media, newspapers and television stations still play an increasingly important role in exposing officials' wrongdoings and in uncovering scandals and financial irregularities inside companies. In 2007, for example, an investigative report by a local television station uncovered a network of companies - most of them brickyards and mines – where the workers toiled under slave-like conditions. Some of the actions had been covered up by local officials. The report led to a wave of police investigations throughout the provinces of Henan and Shanxi. Around 600 slave workers were freed. In other cases, critical reporting highlights the inability of ordinary citizens to obtain redress through formal channels, often because of obstruction from local officials. The popular program "Focus" on the prime nationwide television channel CCTV 1 for example frequently brings cases of social injustice to the attention of tens of millions of viewers. These reports have resulted in intervention by central government officials, ordering the local politicians to resolve the matter.

In the run-up to the Party Congress in October 2007 some well-connected intellectuals wrote articles that discussed democracy. About one year ahead of the meeting, the Beijing Daily News published an essay titled "Democracy Is A Good Thing" by Yu Keping. The author is deputy director of the Central Translation Bureau and head of the Center for Chinese Government Innovations at Beijing University. Yu's reputation as an important advisor to the administration attracted much attention to the essay. Yu wrote that "for some officials, who care more about their self-interest, democracy is not a good thing." And he declared that "among all political systems that have been invented and practiced by humankind so far, democracy is the one having the fewest defects." He went on writing that, "even if people have the best food, clothing, housing, and transportation, but they have no democratic rights, then people still do not have complete human dignity." But he was not advocating an outright switch towards western-style democracy. On the contrary, Yu believes in "incremental democracy". He lobbies for reforms that, step by step, increase the

democratic quotient. Yu stated that, "practicing democracy without regard to the necessary conditions may cause disastrous consequences for the state and the people."

In February 2007, Xie Tao, former vice-president of the People's University in Beijing wrote an article for the liberal magazine *Yanhuang Chunqiu*, in which he praised social-democratic achievements in Europe. Xie went on to criticize China's Communist Party for sticking to an "utopian" ideal of communism. In March 2007, Wang Changjiang, head of the Party Building Section at the Central Party School, published an article on his understanding of democracy. Wang criticized the oft-heard argument that the "quality" of the Chinese people is insufficient to support democratic politics. He believes that democratic politics can also be exercised under a one-party-system. In this context he pointed out that peasants are already allowed to vote for village heads in China. For Wang, elections are "the only way" to reduce tensions between citizens and cadres.

None of the quoted academics directly challenged the rule of the Communist Party. Yet, they all argue for further implementation of democratic processes, which in today's China is still a highly sensitive topic. The very fact that the articles were published shows that at least parts of the media try to get involved into promoting discussions that exceed the official political line. It should be mentioned though that all the above authors are well-connected individuals with potentially powerful friends. This makes them less vulnerable to sanctions, although not immune.

It surely can be risky to stretch the limits, as being demonstrated by a couple of incidents over the last years. The most progressive media outlets are based in the southern city of Guangzhou (Canton), namely *Southern Metropolitan Daily* and the weekly paper *Southern Weekend*. The publications have long set a model for the media around China, tackling rip-offs in the Three Gorges Dam project on the Yangtse or official cover-ups of the SARS pneumonia outbreak. An investigative story by the *Southern Metropolitan Daily* about a young college graduate who was beaten to death in police custody sparked national outrage and brought changes to the laws on detention. The newspaper's top editors and managers were later charged with corruption and removed from their jobs. A move by the authorities that was

widely considered being an act of official retaliation for the paper's aggressive reporting. Journalists, legal scholars and academics accused the government of fabricating the charges to punish and silence China's new journalism. Another publication, 21st Century World Herald, was shut down after it published an interview with a former secretary of Mao Zedong, who called for liberal political reforms.

Unclear responsibilities sometimes open up opportunities for the media to stand up against local censors. Driven by commercialization and in an effort to attract new readers the People's Daily has launched subsidiaries. One of these is the Beijing-based tabloid-style Jinhua Shibao. The paper has a regional focus on the capital. To make its mark in the market Jinhua Shibao reported openly about corruption cases. The local censors in Beijing were not amused and tried to interfere. But the management of the paper told the local censors that they are not responsible for oversight. Their argument was that Jinhua Shibao, as a subsidiary of People's Daily, should be under the the supervision of central and state authorities, and not regional departments.

As all media are linked to the state, production and distribution is automatically monitored. But also this system is getting challenged by digital media. GAPP is responsible to allocate the publishing licenses and identification codes required for publishers to legally print books and periodicals in China. This restricted environment has encouraged the growth of publishing in the less-tightly regulated new media, in the form of e-books, user-driven websites, webzines and blogs.

#### **4. Economic Pressures**

Since the 1990s, the process of commercialization has accelerated. The main drive for commercialization is to reduce the need for state resources to support the media. The reforms are not designed to reduce oversight by the CPD.

Many media outlets today are operating financially self-sufficient or at least plan to do so. In 2003, the government announced a reorganization of the print media industry and the gradual withdrawal of financial support by the government. Under the reform, newspapers and magazines are no longer allowed to rely on mandatory

subscriptions, which for many have been an important source of funding. That system had forced party and government entities to subscribe to certain publications. The abolishment of mandatory subscriptions meant that hundreds of newspapers and magazines ceased publication in the following years.

Yet, resistance, particularly from provincial publishers, led to a slow-down of this development since 2006. It appears that the government had not given sufficient thought to how these new, profit-oriented entities would be managed. As many jobs are at stake, closing down more publications would have a negative social impact that the government wants to avoid. But at the same time it can be very costly to reorganize and relaunch publications in order to make them competitive in a market-oriented environment.

The government seems not to be prepared or willing to underwrite these massive investments. Efforts have been made to group publishers together into regional conglomerates. But this is still work in progress. As a result, many publications are operating on their own device without necessary funding or expertise.

Commercialization has permitted advertising and more varied and colorful editorial content. In order to attract readers – and thereby advertisers – papers are increasingly willing to engage into investigative journalism. But commercialization has not led to a loosening of controls, as we have seen. The authorities even use commercial incentives to toe journalists to the party line. Some publications use bonus systems that might guarantee a higher income for a journalist if his reporting pleases the propaganda authorities.

Commercialization has also increased the likelihood of corruption in the media. At press conferences hosted by Chinese and also foreign companies, reporters regularly receive red envelopes with money inside. Publication of biased news stories in return for payments are common, according to Chinese journalists. Some companies even pay yearly bonuses to journalists who regularly write articles that place the company in a positive light. The media is no less corrupt than other sectors of the Chinese economy.

Sometimes kick-backs are also used to get around censorship. In August 2007, SARFT turned its attention on its own personnel with an announcement that it would not tolerate censorship officials taking bribes in exchange for giving productions approvals to go ahead. According to a report from media-research company CMM Intelligence the practice is considered widespread in the Chinese television industry and the announcement followed public accusations by a number of local producers.

Wang Shuo, a prominent Chinese author who had a novel adapted into a TV series, publicly commented on corruption in the TV industry. He said a small group of mostly retired or senior censors had "absolute power" to demand bribes from production companies and have done so since the 1990s. Director Ye Jing declared that he paid more than US\$13,000 in "censorship fees" for a TV drama that was censored three times but still did not get approval. In its statement, SARFT requested TV production companies to report censors who try to collect unwarranted fees.

## **5. Non-State Repressions**

Non-state repressions against journalists, media companies or organizations are often used in China. The actual intimidation through non-state repression has increased. The situation has therefore slightly aggravated over the past five years.

Assaults and defamation suits against journalists have been on the rise in recent years. To silence critical reports about their companies, businessmen are sometimes hiring thugs to physically attack journalists. The ones most at risk are reporters writing for tabloid newspapers whose zeal to report crime stories sometimes leads them into danger in pursuit of scoops. Reporters Without Borders concluded that journalism has become the third most dangerous job in China, after mining and police work.

Defamation cases are also becoming more frequent. A Taiwanese supplier of Apple claimed damages the equivalent of three million Euro from two journalists who had investigated working conditions in factories producing iPods. The complaint was later withdrawn in response to international pressure. The progressive and hard-hitting business and finance magazine *Caijing* has also faced defamation suits after publishing stories about irregularities in companies.



Chinese journalists complain that courts and judges are often on the side of local companies, who use their connections to local officials to influence the case.

China's leaders judge the news based upon whether it supports or undermines their power. It is this judgment that persistently defines the area in which journalists can operate without intervention by the propaganda authorities. Market demands have accelerated the willingness of media outlets to engage into investigative journalism and diversified content. But despite commercialization, the grip of the party and the state over the media is still tight. Journalists, who act against the will of the party, face repressions.

## **6. Conclusions**

Freedom of the media does not exist in China.

There has been no change in quality concerning free coverage in China. There have been efforts by the government to increase openness and make it easier for journalists to attain informations, for example through an increased number of press conferences. But that does not mean that Chinese journalists have more freedom to write what they want. The censorship system is still in place and repressions are regular.

The Communist Party effectively controls the country under a system of one-party rule (even though other - minor - political parties do exist). The party is not prepared to give up its status and is ready to act against anything that might undermine its grip on power. The propaganda departments rate controlling the media essential, in order to influence public opinion in favor of the party, to suppress criticism of the Communists' leadership and to prevent the formation of opposition groups. Without broad political reform, full press freedom is therefore unlikely.

Any support that broadens the information horizon of Chinese journalists will have positive effects on independent media coverage - because Chinese journalists do not only face barriers in what they are allowed to write. They also face barriers in

obtaining information which is an area where organizations like KAS can help to improve the situation.

*Martin Kühl*

## **Bibliography**

2008 China Media Yearbook & Directory, China Media Monitor Intelligence Ltd.

2007 China Media Yearbook & Directory, China Media Monitor Intelligence Ltd.

The Political Impact of China's Information Revolution, US-China Institute, September, 2007

China - Journey to the heart of Internet censorship, Investigative report, Reporters without Borders, October 2007

China – Annual Report 2007, Reporters without Borders (available online at: [http://www.rsf.org/article.php3?id\\_article=20779](http://www.rsf.org/article.php3?id_article=20779).)

China's Media Controls: Could Bloggers Make a Difference?, by Dan Southerland, China Brief Volume 7, Issue 8 (April 18, 2007), Jamestown Foundation

Speak No Evil - Mass Media Control In Contemporary China, by Ashley Esarey, Freedom House, February 2006

Watchdog or Demagogue? The Media In The Chinese Legal System, by Benjamin L. Liebman, Columbia Law Review, Vol. 105, January 2005

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## EGYPT<sup>1</sup>

Egypt has a relatively strong tradition of liberal media dating back to the time of the monarchy. As a result of domestic pressure to free up the journalistic environment, of the proliferation of regional satellite TV and also of foreign, mainly American, pressure to liberalise politically, Egypt witnessed a general trend towards more media freedoms until the mid of the decade. The recent years, however, marked a worldwide decline in information freedoms, and Egypt was no exception. While the country is still enjoying a relatively liberal media environment, some indicators suggest that the times of Laissez-faire are over. In the last couple of years press freedom in Egypt increasingly suffered from repressive laws, and extralegal intimidation of journalists is a common occurrence. Some observers even argue that 2007 was among the worst years for freedom of information in Egypt's recent history (Dziadosz 2008).

### 1. General Conditions

Egypt has done a relatively good job of combating illiteracy over the course of the last half century, bringing the number of its citizens who can both read and write from 12.5 per cent in 1960 to an official rate of 70 per cent in 2006 (SIS 2007). Despite these positive indications, Egypt's population growth tends to make illiteracy ever harder to confront. The generally poor condition of the state-run education system is another obstacle to universal literacy. The state – struggling to transform the formerly state-controlled economy into a globalised, private sector-driven one, while attempting to accommodate some 600,000 additions to the labour market annually – has strained budgets to the breaking point. The high pupil-teacher ratio of around 40 students to one teacher in state schools is an oft-quoted indicator (IDSC 2007: 30).

There are a large number of local radio and television stations, as well as numerous newspapers available to the Egyptian consumer. Egyptian radio – the first radio service in the Middle East – has long played a vital role in the state's history. Today, eight radio-broadcasting networks, all run by the *Egyptian Radio and Television*

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<sup>1</sup> This article is a completely revised and updated version of the country report "Egypt" that has been published in the KAS Democracy Report 2005 "Media and Democracy".

*Union* (ERTU), fall under the auspices of the information ministry, and transmit the Egyptian Radio Service countrywide (BBC: Country News Egypt 2007). State radio is the main provider of news programmes, presenting the government's position on local and world affairs. The main stations include *Arab Republic of Egypt General Service*, *Voice of the Arabs*, *Holy Koran Service* and *Greater Cairo Radio*. The state retained a total monopoly on radio broadcasting until 2003, when two privately operated music stations were launched by the privately owned Nile Production Company: *Nigoom FM* and *Nile FM*. These stations, however, are totally restricted to the broadcast of Arabic or Western pop music and shallow entertainment. Despite the general growth in numbers of radio stations, listening figures have dropped dramatically owing to the spread of television in general and the wide availability of satellite television in particular.

The state also boasts eight terrestrial, free-to-air TV channels. According to Egyptian law, the state is the sole authority allowed to establish and broadcast TV or radio channels locally. Private terrestrial TV channels are still not allowed. Foreign-licensed TV or radio channels may hire air time and transmit their programmes from Egypt, but Egypt cannot be the headquarters of local or foreign private-sector TV channels. The launch of Egypt's two Nilesat communications satellites, one in 1998 and the second in 2000, dramatically increased the number of regional and international stations available to those Egyptian households with satellite dishes, estimated to be between 10 and 20 per cent of all households countrywide. This profoundly affected the landscape of local TV. As regional competitors pulled market share away from Egyptian state news channels, Cairo had to liberalise in order to maintain its audience. This was probably why Cairo allowed the launch of the private sector *Dream TV* station in the late 1990s by business tycoon Ahmed Bahgat.<sup>2</sup> Entertainment programmes form much of the output on *Dream 1*, which targets 16- to 26-year-olds, while *Dream 2* attracts older viewers with live talk shows airing controversial issues not covered on state-run TV. *Dream TV* triggered off new initiatives by the private sector – such as the newly launched *Orascom Television*.

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<sup>2</sup> Meanwhile, the vast Majority of *Dream TV* is owned by public banks and the state-owned *ERTV* following the bankruptcy of Bahgat in 2004. In 2002 another private channel, *Al-Mihwar TV*, was established.

Egypt, with its long affiliation with the printing press and political broadsheets, also boasts an enormous number of printed Arabic-language periodicals which has soared to more than 500. Egypt's publications fall into roughly four groups: State-owned publications like *Al-Ahram*, *Al-Akhbar*, and *Al-Gomhuriya*, are not censored. However, their editors are government appointees. Reporters and columnists are given a fair amount of latitude in what they write, as long as they stay away from certain taboos. Publications owned by political parties like *Al-Shaab*, *Al-Wafd* or *Al-Watan Al-Arabi* are not censored either. The party leadership exercises varying degrees of control over editorial policies, which range from hard-line ideology to no influence whatsoever. All of them are vulnerable to various forms of government pressure if they step beyond certain limits. Very rarely, the Supreme Press Council allows an independent publication to register inside of Egypt, like *Al-Osboa* and *Al-Naba*. To get such a license, one has to be informally cleared by all of Egypt's major security and intelligence agencies. Many Egyptian publications are legally registered abroad due to a number of difficulties involved in getting registered in Egypt. The country where they are most commonly registered is Cyprus because of its proximity to Egypt and the relative ease with which a license to publish can be obtained. Thus independent Egyptian publications are often collectively referred to as the "Cyprus Press". These publications are subject to the Foreign Publications Censor, who answers directly to the Minister of Information.

All state-run television, radio channels and broadsheets are de facto mouthpieces for the long-ruling National Democratic Party (NDP). These include the 'big three' state daily papers, along with a number of weekly papers and other periodicals, and the ERTU-dominated television and radio stations. Opposition parties may form their own newspapers which, for instance, led to the establishment of newspapers by the *Ghad* and *Karama* parties.

In addition, a rising number of independent local Internet newspapers exist. Such local websites, however, avoid agitating the government – i.e. they steer clear of the "red lines" – as they are still susceptible to harassment, bureaucratic or otherwise. The government, meanwhile, in line with its tilt towards 'modernisation', economic integration and foreign investment, has promoted Internet use through several

campaigns. Most estimates put the number of Egyptians with internet access between 8 and 10 per cent of the population.

As for the percentages of the population with access to general media outlets, the following can be said: Nearly all households have radios, while around two-thirds of the Egyptians listen to the radio on a regular basis, with news and religious programmes being particular popular. Television remains the most popular medium with nearly all households having access and an estimated penetration rate of 95 per cent. Newspaper readership among literate Egyptians is low, with regular readers constituting between 15 and 20 per cent of the adult population.

Although Egypt suffers from a high illiteracy rate, the print media often serves as a source of information. The ubiquity of radios and especially TV more than offsets the disadvantage in terms of media penetration. The Internet is mostly used for e-mailing and only by a small percentage of the population. However, within this group it is often used for exchange of information. Ultimately, Egypt continues to be a word-of-mouth culture. Verbal exchange probably still accounts for the vast majority of information transfer.

The mass media has a significant influence on the formation of political opinion. Given Egypt's long experience with the mass media (relative to other countries of the region), along with the deep penetration of almost all forms of mass communication, it comes as little surprise that radio, television and newspapers inform the vast bulk of the public. While alternative sources of information (via satellite and Internet) have become increasingly accessible, the vast majority of Egyptian citizens still get their news from state information organs. The state's long acquaintance with – and jealous guardianship of – the national communications apparatus has made it adept at steering popular perceptions, primarily over domestic issues, to its own advantage.

All local television stations, the vast majority of local radio stations, and a large proportion of Egypt's newspapers are state owned. As stipulated in the Constitution, Art. 47, the press is meant to be “a popular, independent authority,” which “...shall exercise its vocation freely and independently in the service of society through all the means of expression.” In practice, though, the long standing domination of the

government by the NDP – and by virtue of the fact that practically all national media organs come under the exclusive purview of the state – has led to a situation where news coverage in state papers is inevitably pro-NDP. Officially, all the holders of leading positions at state-owned newspapers and media authorities are appointed by the Ministry of Information. According to Egypt's Press Law, Chief Editors of "national press organizations" are appointed by the Shura Council, whose head is also the head of the Higher Council of the Press.

Currently, the state controls the vast bulk of published and broadcast opinion. This ratio is, however, quickly tilting towards equilibrium, as satellite television is available to a rising number of citizens. The introduction of regional competitors – freely available via satellite dish – has dramatically affected the equation. Larger and larger numbers of Egyptians are getting their news from Gulf-based or Lebanon-based news stations, which are perceived as offering more objective news coverage. It should be added, however, that this phenomenon has forced Cairo to liberalise its news coverage – incrementally, at least. The notion that "They'll get it anyway from *Al-Jazeera*" has, at least in some cases, persuaded the state media to report events that would have otherwise gone uncovered. Clearly, there remains a dominance of state-owned media.

The coverage of the state-owned media tends to be very friendly towards the government, although there is a discernible difference when it comes to treatment of the government and its policies in the three different branches of the media. Relative to the broadcast media (television and radio), the press (even the state press) is considerably more liberal in its outlook. In the big state newspapers, and in the handful of opposition ones, a certain degree of criticism of the government is allowed. Certain well-known editorialists (who presumably know just how far they can go) will often offer light to moderate disapproval of certain state policies. The President, personally, of course, is never the subject of criticism.

The broadcast media are much more conservative. Criticism of the government and its policies is rarely seen or heard. Presumably, the fact that so much more of the population relies on radio and television for their news rather than on newspapers (given the still relatively high illiteracy rate) has emboldened the state to allow greater

scope for criticism in the latter. There is a notable difference between local news coverage in English and in Arabic, with news in the former tending to be more liberal. The state-run, English-language *Al-Ahram Weekly*, for example, is allowed notably greater leeway in its coverage of traditionally touchy subjects, government election rigging, police torture and the presidential succession.

Presidential speeches and press conferences are almost always broadcast or carried in newspapers, while cabinet ministers – especially the so called “young reformers” holding economy portfolios – are regular speakers at numerous events, which are usually covered by the local press. With the launching of a daily version of the newspaper *Ruz Al-Yussuf* they were even able to establish their own “mouthpiece”. In another indication of Cairo’s efforts to at least appear more transparent, the government appointed a presidential spokesman. State television also regularly broadcasts parliamentary sessions. During the presidential election, state-run broadcasters and newspapers dedicated a substantial percentage of their election coverage to the ruling NDP. Organizations which support free media in Egypt have monitored Egyptian state controlled media during the election campaign and criticized that they dedicated up to 95 percent of their election coverage to the NDP (CIHRS 2008).

All journalists, though, are not given equal access to press conferences. Generally, journalists must get permission to cover senior-level press events from the Information Ministry’s press centre. However, if a journalist does not have accreditation with a reputable media organisation, or if he/she represents a media outlet that has written critically about the government in the past, permission could be delayed until the event has passed. Particular writers, known for critical writing, will be blacklisted from events, and are often denied official press cards. This is much more common, of course, with local journalists than with foreign ones. Major press conferences at the presidential or ministerial level are usually broadcast by one or more of the state television networks.



## **2. Legal Environment**

Technically, freedom of opinion is explicitly defined as a right due to all citizens. Article 47 of the Egyptian Constitution reads: “Freedom of opinion shall be guaranteed. Every individual shall have the right to express his opinion and to publicise it verbally or in writing or by photography or by other means within the limits of the law.” While freedom of opinion is nowhere restricted by any kind of subsequent amendment, it can, in theory, be challenged within the context of the Emergency Law, which has remained in effect ever since the 1980 assassination of President Anwar Sadat. The emergency law stipulates that, given a “state of emergency”, the state can essentially override anything set down in the Constitution if it involves a threat – real or perceived – to national security.

The next article, number 48, guarantees the “Freedom of press, printing, publication and mass media.” It goes on to state that, “Censorship of newspapers is forbidden as well as notifying, suspending or cancelling them by administrative methods.” However, this is immediately followed by an important qualifier: “In a state of emergency, or in time of war, limited censorship may be imposed on newspapers, publications and mass media in matters related to public safety or national security in accordance with the law.” The Emergency Law has long served as a handy excuse to stifle opposition opinion in the media, as it essentially allows the executive to do virtually anything it wants – without accountability to any other branch of the government. Ostensibly, the law is aimed at threats to national security, but such a general, unspecific mandate can be made to fit any circumstance.

Egypt’s defamation and press laws, which include prison sentences in the case of offences, are a source of longstanding controversy. Given the government’s tight control of the broadcast media, defamation or libel cases are the most common. Libel is punishable by a maximum of one-year imprisonment and/or a fine ranging between LE 2,000 and LE 5,000.<sup>3</sup> If the target of the offence is a public official, the maximum penalty is two years in jail and/or a fine ranging between LE 5,000 and LE 10,000. The new Press Law of 2006, did in fact remove some of the articles in the Egyptian

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<sup>3</sup> One LE equals around 0.12 Eurocent in March 2008.

Penal Code that result in custodial sentences, but left the overall outlook for press freedoms depressing. To make matters worse, the 2006 law introduced new strictures. One of which created the offence of insulting a foreign head of state. It also introduced the responsibility of Editors-in-Chief for the offences of writers serving under them. Observers argue, therefore, that the new press law was at least partly responsible for the deterioration of the legal situation of Egyptian journalists in 2007 (Black 2008).

The implementation of general media coverage is also set down in the Constitution. Article 207, under the “New Provision” (amended in 1980), which, in its second chapter, deals with the Press Authority, states: “The press shall exercise its vocation freely and independently ... It shall thus interpret the trend of public opinion while contributing to its information and orientation within the framework of the basic components of society”. However some informal restrictions are ostensibly imposed on media coverage when handling some issues broadly considered as immoral, such as homosexuality. This issue is regarded a taboo in the Egyptian society and usually represented as a social or physical disease.

In detail, media coverage is not only regulated by the constitution and the press law but also by a number of other laws such as the penal code, the journalism regulation law, the state documents law, the party Law, the civil servants law and the intelligence law. These laws ban a lot of media coverage on several issues and impose detention on "whoever affronts the president of the republic".<sup>4</sup> This regulation in particular led to the increase of imprisonments and restrictions imposed on journalists in summer 2007 after the publication of false speculations about the president's state of health. Beside the laws confiscating the right to collect information, publishing it, and codifying the state monopoly of information, there is also the emergency law, by which censorship is permitted in case of emergency. For instance article two of the emergency law 162/1958 provided exceptional procedures against the freedom of press and expression, empowering authorities to censorship of newspapers, publications, periodicals and all kinds of expression and advertisement before publication.

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<sup>4</sup> Article 179 of the penal code.

No particular people, groups or organisations are excluded by law from working as journalists. But this does not mean that everybody can work as a media professional. Authorities do only acknowledge members of the Press Syndicate as journalists, threatening everybody working as a journalist without a Syndicate's membership with six month in jail for taking over false vocation. Consequently, denial of membership status in the Press Syndicate is a popular tool to prevent certain people from working as journalists. In February 2008, for example, the team of the independent *Al-Badeel* newspaper was not given membership status in the Syndicate, supposedly for not meeting certain "formal criteria" (Daily News Egypt 10.3.2008). A substantial number of journalists are mostly denied the right to join the Press Syndicate. In addition to these restrictions, certain groups are given less opportunity to air their complaints via the media. These groups are generally determined by their religious affiliations. One of the things the state is most sensitive to is the potential for inter-religious strife between Christians and Muslims. For that reason, interdenominational frictions are quickly dealt with by the authorities – and played down in the state-run media.

All newspapers registered abroad submit all of its issues to the official censors prior to distribution. Stories that do not pass the censors' criteria are eliminated from the final publication, assuring that the whole newspaper will not be banned - which can result in substantial economic losses to the publishers. The government employs official censors whose job is to peruse all printed materials registered abroad before they are printed locally. Content deemed offensive to the state or to religious sensibilities is removed. Copys of publications which – for instance – reprinted the Danish cartoons of the Prophet Muhammad considered to be offensive to Islam in 2006 and again in 2008 were banned in Egypt.

The legal implementation of media coverage has witnessed some ambivalent trends in the past few years. In 2006 for instance, an amendment to Egypt's publishing law was passed by the Egyptian Parliament, which removed an article stipulating prison terms for journalists who defamed public officials with allegations of corruption. Positive developments like this were neutralized by new regulations in 2007 which led to the detention of critical journalists and to the closure of some private satellite TV-stations (i.e. the Lebanese channel *Al-Manal*, run by Hizbullah). These

developments show that the legal environment has slightly improved in some fields and slightly aggravated in others, leaving a general impression of no change in quality.

The events of 9/11 changed the freedom of media coverage in Egypt in some respects. While no new anti-terror legislation was passed restricting the freedom of media coverage, none was really necessary, as the Emergency Law was already in place. The one thing 9/11 did do is push the cancellation of the Emergency Law – which some observers had thought was imminent – into the distant future. In 2007 and 2008, the abolition of the law remains a chief demand of the vocal opposition, particularly the Muslim Brotherhood. The government partly reacts to this demand by announcing a new Anti-Terror Law for 2008 which should replace the existing Emergency Law but promising little change in practice.

For many observers the year 2007 marked a slight aggravation in free media coverage in Egypt. This impression is generally based on four developments. First, the imprisonment of several chief editors in September 2007 after publishing rumours alleging President Mubarak's health was ailing. Second, the tightening labour conditions for Egypt's lively blogger scene which came under rising legal pressure since November 2006. Third, the discussion about monitoring the financial, administrative and legal aspects of the independent press by government authorities that came up on the occasion of a new decree in December 2007. And fourth, the attempts of the Egyptian government and the Arab League – supported by Saudi Arabia – to establish a code of ethics for journalists, aiming at banning satellite stations which air "immoral" content.

The local broadcast media are – with the exception of the two music-oriented radio stations – entirely controlled by the state and are, therefore, self-censored. Printed publications registered abroad, however, must allow government censors to check content before printing (which is in most cases done locally) and distribution. State censorship covers two main categories: the morally offensive and the political. In the first case, the state will censor any film or pictures that would be viewed as offensive to traditional sensibilities. Political censorship by state authorities is permitted, in a state of emergency, with "limited censorship" being imposed on mass media "in

matters related to public safety or national security in accordance with the law” (Article 48). Obviously, both terms could be applied to almost anything. In some cases, coverage of certain groups – or issues associated with those groups – is restricted. Coverage of potentially divisive religious issues is forbidden.

If journalists or media organisations cross any “red lines”, they face a number of legal (and possibly extra-legal) consequences. If their reporting could be construed as an attack on an official figure, they could face substantial fines; prison sentences of up to two years; closure of the publication; and unofficial bureaucratic harassment and intimidation. As already mentioned, in 2007 four prominent journalists were sentenced to one year each in prison for publishing libellous material about the President, his son - who is also assistant secretary general of the ruling party - and the Minister of Interior. The defendants included prominent editors such as Ibrahim Eissa of the independent daily *Al-Dostour*, Wael al-Ibrashi of independent weekly *Sout al-Umma*, and Adel Hammouda of independent weekly *Al-Fagr*. At the time of writing the court cases were still pending.

TV stations, radio stations and newspapers must be licensed by the state before they can publish or broadcast. Obtaining such licences is extremely difficult. Licences are very often simply refused rather than taken away. For businessmen and companies, the likelihood of acquiring an Egyptian publication licence is minuscule, as the authorities make the bureaucracy involved untenable. The authorities responsible for licensing new media organisations are entirely controlled by the ruling NDP.

Official press cards are given to journalists – local and foreign – by the Information Ministry’s press centre, if the applicant works as a journalist for a state media organ or if he/she is the employee of a known and approved media service. Press cards gain the holder entrance to most ministerial-level press conferences, but a special ‘presidential card’ is needed to attend events where the President will be present. The activity of journalists – local and foreign – is controlled by this system of press cards. Occasionally, journalists are turned down who are not accredited with reputable news institutions or are deemed hostile to the state. Work permits are being refused quite often. Generally, journalists with press accreditation (i.e. approved by the press centre) can attend public meetings of the government and

parliament. In the case of high-level meetings, for example at the ministerial level, special arrangements have to be made in advance with the press centre.

While the formation of private media monopolies is almost impossible, it is not, technically, prohibited by law. Private media cartels generally do not exist, as the state tends to keep the nation's media organs under its control. There is one exception: the *Good News Group* of the entrepreneurial Adeeb family, which owns the private business-daily *Al-Alam Al-Youm*, holds a significant stake in some radio-stations and has also contributed substantial funding for the launching of the independent newspaper *Masri Al-Yawm*.

In cases of state repression, journalists can appeal to the Journalists' Syndicate, which is quite active in supporting journalists' rights and usually takes up the cause of journalists suffering from state repression. The power of the syndicate, however, is extremely limited vis-à-vis the state. Following elections for a new chairman and council in November 2007, the Syndicate is even more likely to use soft power than outright confrontation with the government. The new chairman is widely perceived as the government's choice (Black 2008; Shehab 2007). Since 2006, journalists can also resort to the Supreme Press Council, an "independent" body that was formed by presidential decree in 2006 to administer the affairs of the press. This entity is an adjunct of the Shura council and considered merely a façade of the government's attempt to control the media. This was illustrated in 2006, when the Council issued a warning against the Journalists' Syndicate threatening to take its own appropriate measures against journalists.

### **3. Political Conditions**

There are certain groups that have traditionally been excluded, to varying degrees, from having their issues covered in the mainstream local media. Such groups can be broken down into two general categories: religious and geographic. The former include the Coptic Christians, who form a substantial minority of the national population and have regularly complained that Christian affairs go relatively uncovered by government media.

It should also be mentioned that, in terms of newspapers, readership is thought to be heavily concentrated in the capital, reflecting an inherent bias in the media. All printing is done in Cairo, with distribution to the rest of the country on a nightly basis by rail or truck. More importantly, though, coverage is slanted towards issues relating to the central government or the country as a whole, with an accompanying Cairo-oriented slant in the perspective. There is hardly any such thing as a serious local newspaper, even in Alexandria, with a population of nearly 5 million, including affluent and well-educated segments.

Essentially, all state-run media practises self-censorship, as the editorial staffs of these institutions are well versed in what can and cannot be covered. Foreign publications printed in Egypt, on the contrary, must be shown to state censors before printing and local distribution. Self-censorship occurs in all segments of the state-run media, as well as in certain state-friendly publications. Generally, the “red lines” to be avoided in self-censoring publications are criticisms directed at the person of the President and his immediate family and divisive religious issues. Dangerous areas also include Egyptian cooperation with Israel, the issue of the presidential succession and Political Islam. Self-censorship in films and TV programs is also widespread, not only to escape the censors at home, but because the Egyptian entertainment industry relies heavily on the Saudi and Gulf market. Saudi guidelines for productions are much more stringent prohibiting certain expressions such as criticism of religion, swearing, references to horoscopes, etc.

Practices of threatening or intimidating journalists have gradually declined over the last decades – at least compared to the 1970s. But journalists are still occasionally subject to harassment by the state. A report published in 2005 by the Egyptian Organization for Human Rights said that journalists in Egypt suffer numerous forms of discrimination including unfairness in legislation, judicial prosecution of journalists for their writing and opinions, assault and death threats, and sexual assault of female journalists (EOHR 2006). The Arabic Network for Human Rights Information (ANHRI) issued its first annual report about the status of the freedom of expression in Egypt in 2007. According to this report many violations were committed in 2007 against the press including suing, threatening and arresting journalists in addition to defaming them, physically assaulting them and preventing them from doing their job. ANHRI

listed several violations committed against various forms of artistic creation. These violations included: Banning, sponsorship, intervention to amend soap operas, filing cases and Fatwas of “Takfir” (edicts stating that someone is unbeliever) etc. (ANHRI 2007).

Internet access in Egypt is not restricted. Due to the successful implementation of a free Internet strategy, Egypt now has the largest Internet market in Africa with more than six million users in 2007 (Internet World Stats 2007). However, Internet penetration is still relatively low and the vast majority of users are located in urban areas. While Egypt does not have an official policy of “censoring” the Internet, it would appear that, at least on some occasions, state authorities have taken steps to block or disrupt certain websites, particularly those that tend to be highly critical of the government. In this case the user is given the illusion that the websites are inaccessible due to server errors or browser malfunctions (Dziadosz 2008: 122). While mostly Islamist websites were affected by this policy in the past, it is nowadays Egypt’s blogger scene that is facing intimidations. Most famous has been the case of the blogger Kareem Amer who was sentenced to four years in prison for “defaming the President of Egypt” and “insulting Islam”.

The threat of state repression has not changed in quality over the last five years. Despite pressures – both internal and external – to reform, it is understood that, if the state feels threatened, it will not refrain from using extra-legal forms of repression and harassment. This situation is not expected to improve in the short term, especially vis-à-vis rising popular dissent with the ruling elites and deteriorating living conditions.

State-owned media monitor the production and distribution of print media. They are produced entirely by employees of the government, and therefore toe the government line. However, all media sources follow the principal of self-censorship, implying that they automatically avoid whatever issues have been defined as ‘off limits’ by the government. Generally, state authorities most definitely take advantage of these informal mechanism of control and use this kind of repression very often. The legal restrictions include also controlling the distribution of independent newspapers, which are controlled by national newspaper’s distribution companies.



Nearly all magazines and newspapers are printed by one of seven government-owned printing houses. The government uses its control of the region's publishing to limit the output, access, and influence of opposition groups observable by the International Journalists' Network. In 2006 and 2007 the daily *Al-Masry Al-Youm* and some other independent newspapers could not be found on newsstands as the distribution company, owned by the national newspaper *Al-Ahram*, delayed their distribution.

#### **4. Economic Pressures**

Government influence on local private media institutions is done more with a stick than with a carrot. While the state does not subsidise private media by way of advertising revenue, it does use the powerful position of its print-media infrastructure to keep private media close to the governmental line. This applies only to print media, as there is little private-sector radio and television. The state can subtly threaten publishers with bureaucratic delays or unexpected tax increases for printing/distribution services if a private publication strays too far from the accepted guidelines of what can and cannot be published. Compared to the size of the private media advertising market, the state subsidy is, however, negligible. However, all state and most private advertising goes to the state-owned papers for both political and circulation reasons, despite increasing private advertising in independent newspapers such as *Al-Dustur* and *Masri Al-Yawm*. Consequently, the channeling of advertising revenues and public funding is a useful tool of keeping them on the government's line (Allam 2008). No wonder, that the state press is considered to be a propaganda instrument of the government.

#### **5. Non-State Repression**

During the Nineties, journalists and media organisations have been repeatedly attacked and harassed by religious groups for broadcasting or printing content considered offensive to religion. Since the Egyptian government has been quite successful in eliminating violent Islamist groupings this no longer seems to be the case. But interference in media coverage by religious groupings and authorities is – rarely - still a problem. In many cases it is unclear whether that can be labeled “Non-

state Repression”, since the state – as in many other Arab countries – uses religion and religious authorities to censor media. This is particularly obvious with *Al-Azhar*, the foremost authority on Sunni Islam. Egypt’s various governments gave *Al-Azhar*’s Islamic Research Council (IRC) the power to advise on the banning or censoring of any book it judges as heretical. The center was even given the authority to confiscate books and audio- or videotapes that it believes to violate Islamic teachings by the Ministry of Justice. This led to the confiscation of hundreds of publications from bookstores. For example, in 2005 IRC banned a book published by the prestigious American University in Cairo Press, which discussed Wahhabi Islam. In 2007, Sheik Tantawi of *Al-Azhar*, helped to legitimise censorship by issuing a Fatwa declaring that a journalist publishing an incorrect report deserved to be lashed eighty times. This influence of traditional Muslim authorities on what can and what cannot be published seems to be constant. Therefore, the intimidation through non-state actors has not changed in quality over the past five years.

## 6. Conclusions

Ultimately, one can say that the local media are generally free but still suffer from major restrictions. Most obviously, state monopolisation and control of all domestic media organs is antithetical to the notion of free media coverage. As long as the government sets down specific “red lines” delineating the subjects that cannot be broached by the media, certain – highly relevant – topics will go uncovered. Second, that the state is so sensitive to the religious sensibilities of the conservative Muslim population also means that news coverage of stories that could give an unflattering image of religion will go unreported. Third, the journalistic environment in Egypt suffers badly from the influence of advertisers, who will often – successfully – try to influence the coverage of media outlets in return for advertising revenue. Locally, this phenomenon is rife; it is often implicitly understood that generous advertisers will receive positive coverage in whatever forum they advertise in. Fourth, because the government is such an avid monitor of what is being written or broadcast locally, many sources that would otherwise be quoted in the media are often afraid to go on record, fearing some measure of retaliation from the government if they were to say anything contrary to the state’s wishes. This has the effect of making it harder for journalists to garner information for their articles, even if said articles are relatively

innocuous or apolitical. Finally, there is the long-held perception in Egypt that a career in journalism is not necessarily a respectable profession; that journalists are not necessarily responsible for fulfilling the function of a 'fourth estate' in the western sense. In the state media, journalists are perceived as government employees rather than reporters of news stories. Given all these observations one has to conclude that the short lived "Arab spring" of the years 2002-2005 must be considered to be over in Egypt. Since that time, the free coverage of the media slightly aggravated.

Major obstacles to media coverage are direct and indirect censorship, intimidation, the absence of laws and governmental practices that support transparency and information, low salaries and generally poor working conditions. Therefore, independent journalists in Egypt are suffering from numerous forms of discrimination, travel restrictions, unfairness, prosecution, assault, threats, and – in the case of female journalists – sexual harassment. Given these circumstances, the development of quality standards for journalists seems to be a luxury that many media professionals in the country cannot afford. As a result, many Egyptian media products dedicate most of their output on sensational crime stories, sports, lifestyle, gossip columns, and life coaching and can hardly be considered serious work of journalism.

The Konrad Adenauer Foundation can support journalists and encourage a culture of open reporting by offering education which clarifies the function of the fourth estate vis-à-vis society. All too often, journalism and the media in Egypt are seen as sources of revenue or propaganda. The function of the free media as a check on powerful interests – like the government and the business class – should be stressed to up-and-coming reporters. Such education, though, should not be restricted to established professionals and speakers of foreign languages. It should be available in Arabic and be particularly targeted at younger and female journalists.

**BIBLIOGRAPHY:**

Allam, Rasha (2008): "Towards real media independence", in: *Daily News Egypt*, 28. January 2008

ANHRI (2007): Arab Network for Human Rights Information: "Freedom of Expression in Egypt. Annual report 2007", [www.hrinfo.net](http://www.hrinfo.net)

BBC Country Report Egypt (2007), <http://news.bbc.co.uk>

Black, Jeffrey (2008): "Egypt's Press: More free, still fettered", in: *Arab Media & Society*, January 2008

CIHRS (2007): Cairo International Human Rights Service: "Freedom of the media and fairness of elections", Cairo 2007

Dziadosz, Alex (2008): "The Tangled Web We Weave", in: *Egypt Today*, March 2008, pp. 116-123

EOHR (2006): Egyptian Organization for Human Rights: "Journalism in Egypt: Caught between laws and the government", [www.eohr.org](http://www.eohr.org)

Internet World Stats (2007): Usage and Population Statistics: Egypt, [www.internetworldstats.com](http://www.internetworldstats.com)

ITU (2007): International Telecommunication Union, August 2007

IDSC (2007): The Cabinet Information and Decision Support Center: Egypt's Description by Information 2007, Vol. 1, Cairo 2007

SIS (2007): Egypt State Information Service, May 2007, <http://sis.gov.eg>

Shehab, Shaden (2007): "Steps to the syndicate chair", in: *Al-Ahram Weekly*, 15-21 November 2007, p. 3

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## GEORGIA

On November 22-23, 2003, coup d'état took place in Georgia. According to political vocabulary, it is better known as 'Rose Revolution'. Revolved society did not forgive the ruling party mistakes made during the parliamentary elections (inaccurate voters' lists, frauds, manipulations, etc.) and did not let the newly elected parliament start its work. Citizens and the opposition leaders, *Mikheil Saakashvili* among them, burst into the session hall holding roses and wrecked the legislative body's first meeting preventing it from legitimization. President *Edward Shevardnadze* resigned putting an end to his 11-year long presidency (1992 – 2003). Prior to that, during the Communist governance, he had headed the Soviet Socialist Republic of Georgia for 13 years (1972 – 1985).

*Mikheil Saakashvili's* first presidency lasted for four years instead of five. Events unfolded in October-November 2007 (when police using using heavy-handed tactics, including tear gas and water cannon broke up the opposition Demonstration) and the political crisis forced him to announce snap presidential elections. As a result of January 5, 2008 Presidential Elections, *Mikheil Saakashvili* received 53.47 percent of votes, while his opponent from the Opposition Coalition, *Levan Gachechiladze* followed with 25.69 percent.<sup>1</sup>

These are two politically crucial dates which significantly changed the landscape of democratically development in Georgia during the last five years. The Saakashvili's government declaratively accepts the major democratic values: command of law, free media, and sanctity of private property. The legislative base points on this. In fact, the government's actions bear the marks of authoritarian rule which it justifies with the peculiar circumstances of the transitional period. Meanwhile, democratic institutions in the country, including media, are in stagnation.

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<sup>1</sup> [www.cec.gov.ge](http://www.cec.gov.ge) – official web-site of the Central Election Commission.

## 1. General Conditions

Georgia is located in the South Eastern Europe south to the Caucasus mountain ridge. It borders Russia, Turkey, Armenia and Azerbaijan. Officially the country area is 69.700 square kilometers. Abkhaz and Ossetian Autonomies' territories formally also are the part of this area, though as of today, they are not under the jurisdiction of the Georgian government. According to the last, 2002 census, Georgian population is 4.4 million.<sup>2</sup> Social and economical problems and military conflicts which occurred as a result of the collapse of the Soviet Union caused 15 percent of Georgian population to leave the country: some emigrated, some returned to their ethnic home lands.

These processes also influenced the education quality. For several years, work of schools, especially in regions was deranged, free dissemination of information and knowledge transfer was impeded because of the ruined communications. 88 percent of the population over 15 years old can freely write, read and exchange information in the Georgian state, language.<sup>3</sup> This is preconditioned by the fact that people in the minority populated regions (Kvemo Kartli, Samtskhe-Javakheti) practically do not speak Georgian language. They studied during the Soviet times in Russian language which remained a communication tool only in these regions and stopped being language used in state work.

All television stations in Georgia operate in Georgian language. Law on Broadcasting of Georgia obliges them to translate all movies, soap operas and other products produced abroad before airing. Private television stations avoid non-Georgian language programs because they are not commercially viable. Only Public Broadcaster of Georgia periodically airs news in Abkhaz, Ossetian, Azeri, Armenian and Russian languages.

*Public Broadcaster of Georgia* was established on January 18, 2005 after the Law on Broadcasting of Georgia was enforced. It was launched on the basis of the former state television which included two television channels and three radio frequencies.

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<sup>2</sup> [www.statistics.ge](http://www.statistics.ge) – official web-site of State Department of Statistics, "Statistics Georgia".

<sup>3</sup> [www.statistics.ge](http://www.statistics.ge) – official web-site of State Department of Statistics, "Population Census 2002".

On June 10, 2005, Georgian parliament elected the first Governing Board of the Public Broadcaster. On August 19 the same year, the Board nominated Director General through an open competition. Formally, Public Broadcaster should be protected from political, commercial and private interests. The first Governing Board could not ensure this. Public Broadcaster was in crises which lead to the Board's resignation before the end of the term.

Three television companies, *Rustavi 2*, *Imedi* and *Mze* broadcast nationally. All the three companies are private though with clear political stands. During the Rose Revolution in November 2003, *Rustavi 2* was the most oppositional disposed television. It refused to stand in between the two conflicting parties. It preferred to become the opposition partner. This decision damaged the station's reputation as well as the role of the media in general. After this, *Rustavi 2* changed ownership several times. Currently, TV *Mze*, entertainment television *Stereo 1* and *Rustavi 2* comprise one media holding owned by the offshore company "*Geo Media Group*" registered on Marshall Islands and "*Industry Group*" which, in turn, is owned by MP *David Bejuashvili* (his brother, *Gela Bejuashvili* was the Minister of Foreign Affairs in 2005 -2008 and currently is the head of the Intelligence Department).<sup>4</sup>

Tycoon *Badri Patarkatsishvili* was the founder of *Imedi TV* from the very beginning.<sup>5</sup> He returned to Georgia from Russia in 2001 and established his own media holding. *Imedi TV* played exactly the same role during the November 2007 events as *Rustavi 2* did four years before with the only exception of its co-owner himself having political ambitions and deciding to run for presidency during the snap elections. The current government appeared to be much more radical than its forerunner. On November 7, special task forces absolutely illegally burst into the *Imedi* premises, damaged the equipment, harassed the staff and turned the station off the air. As a result of international pressure and civil protests, the television was allowed back on air; later on, however, *Imedi* itself temporarily suspended broadcasting. *Badri Patarkatsishvili* decided to pass his shares and managerial rights to *News Corporation*.

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<sup>4</sup> "The Georgian TV's has anonymous owners", newspaper "Resonance", December 18, 2007.

<sup>5</sup> While this document was in the process of submission, it was announced that on February 12, 2008, businessman *Badri Patarkatsishvili* died of heart attack at his home in London .

National television companies as a rule are owned by entrepreneurs for whom media is not the major business. They run other, more significant businesses the success of which depends on the government's favor. All television companies are subsidized except for the Public Broadcaster which is funded by all taxpayers liable to income tax. 1,5 percent of income tax goes to the Public Broadcaster's budget. In 2006, the amount comprised 18.45 million GEL (approximately 8.2 million Euros).<sup>6</sup>

In Georgia, the law prohibits the state and political parties to own media outlets. Currently there are no state shares in any of the 7 Tbilisi-based and 31 regional television companies.<sup>7</sup> The only exception is *Ajara TV* which also had has a state TV status. Despite some envisaged reforms the status of Adjara TV has not been decided upon until today. Most probably because the management does not want to let go the state subsidiaries that are paid to Adjara TV.

The majority of radio stations are situated in the capital. 20 out of 30 licensed radio stations broadcast from Tbilisi.<sup>8</sup> They easily retransmit their programs to the regions via relay lines as well as through partnership with the regional radio stations. *Radio Imedi*, *Public Broadcaster*, *Radio Green Wave* and *Radio Sakartvelo* have the best networks. Radio Sakartvelo is the only radio holding in Georgia, it unites four radio stations: *Fortuna*, *Fortuna +*, *Ar Daidardo (Don't Worry)* and *Autoradio*.

Two community radio stations exist in Georgia from 2006: *Radio Marneuli* and *Ninotsmida community radio*, *NOR*. The radios were established by the local communities with the support of BBC World Service Trust and local Association Studio Re. Unfortunately but the Georgian National Communications Commission does not grant them licenses to the community radio stations and they have to go on air through loudspeakers.

If broadcasting needs to be licensed, formally, only registration in the Tax Service is needed to publish a newspaper. The registration procedure is quite simple. Altogether 88 newspapers are published in Georgia, out of those, 31 are produced in

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<sup>6</sup> [www.gpb.ge](http://www.gpb.ge) – official web-site of Public Broadcasters of Georgia.

<sup>7</sup> [www.media.ge](http://www.media.ge) – media-portal about Georgian media. "Media atlases".

<sup>8</sup> [www.media.ge](http://www.media.ge) – media-portal about Georgian media. "Media atlases".



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Tbilisi. Only four newspapers are published daily: *Rezonansi* (the 'oldest' Georgian paper, moderate publication), *Akhali Taoba* (New Generation), *24 Saati* (24 Hours) (the most loyal to the government) and *Sakartvelos Respublika* (Republic of Georgia) (former government publication). Their cumulative circulation reaches 10-12,000. Newspapers *Versia* and *Alia* come out three times a week (cumulative circulation 12-13,000). Additionally the four sports newspapers are published on a daily basis.

Weekly publications have higher circulation figures. They range from 40,000 to 80,000. Weekly newspapers (*Kviris Palitra*, *Kronika*, *Asaval-Dasavali*, *The Georgian Times*) as well as magazines (*Sarke*, *Tbiliselebi*, *Rating*, *Gza*) exist. Weekly publications are noted for more yellowness. The publishers justify this with market and society demands.

There are no daily newspapers in the regions. Almost all regional papers are weekly. Some publications come out even more rarely. While regional television companies are marginally funded from the local budgets and governors' funds (financial resources allocated for informational support of televisions' activities), newspapers operate with very scarce funds with a significant donor support. Among donors especially distinguished are *Institute for War and Peace Reporting* (IWPR), "*Open Society – Georgia*" Foundation (OSGF) and *the Eurasia Foundation*. In 2005 – 2007, *Konrad Adenauer Foundation* provided support to the local media through seminars and training lead by the local and international trainers. Donor activities contributed to preservation of the local newspapers' editorial independence and neutrality. Especially distinguished are newspapers in Batumi, Kutaisi, Gurjaani and Akhaltsikhe.

Without donor support local print media would have experienced major difficulties surviving, but this support was not regular. Currently, *the Media Development Loan Fund* (MDLF) implements a project with *Newspaper Batumelebi* (Batumi, 4,000 circulations). The project envisages in two years turning the newspaper into a solvent publication and supporting its institutional development. Dutch foundation *Press Now* implements a project with newspaper *Samkhretis Karibche* (Akhaltsikhe, 3,500 circulations).

Internet access is in no way limited by the legislation. Georgian National Communications Commission only regulates the cable services policies. Several Internet service providers exist offering different services in terms of quality, form and price. ADSL service price varies from 50 to 70 GEL (approximately 20-30 Euros). Despite the obvious growth, Internet access among population still remains low, especially in regions where no modern telephone systems exist and living standard is low. Age is also an issue. Absolute majority of the population over 40 does not have computer user skills.

All national television companies have their websites which are updated several times a day ([www.gpb.ge](http://www.gpb.ge), [www.rustavi2.com](http://www.rustavi2.com), [www.imedineews.ge](http://www.imedineews.ge), [www.mze.ge](http://www.mze.ge)). Several Georgian newspapers also have websites (*24 Saati* - [www.24saati.ge](http://www.24saati.ge) , *Asaval-Dasavali* – [www.asavali.ge](http://www.asavali.ge) , *The Georgian Times* – [www.geotimes.ge](http://www.geotimes.ge), and the web portal [www.open.ge](http://www.open.ge), where electronic versions of different newspapers are posted). News agencies also have their own websites. Government has the same influence on these online resources as on the media outlets to which the websites belong. Though several independent electronic portals exist in Georgia: [www.civil.ge](http://www.civil.ge), [www.nregion.com](http://www.nregion.com), [www.apsny.ge](http://www.apsny.ge), [www.iwpr.net](http://www.iwpr.net), [www.pankisi.info](http://www.pankisi.info), as well as specialized electronic portals: [www.media.ge](http://www.media.ge), [www.humanrights.ge](http://www.humanrights.ge), [www.radio.ge](http://www.radio.ge) successful operation of which is mostly ensured by donor support. Internet advertising is a rare occasion.

By the end of 2006, the number of ADSL-Internet users grew by almost 81 percent compared to 2005 and reached 27,700.<sup>9</sup> Internet is the second fastest growing segment on the communications market after mobile communication service. 2007 estimates show that the number of ADSL-Internet users reached 75,000. ADSL-technologies are mostly shared by several users, so the number of users, in fact, is four times bigger and is 300,000 (approximately 8.3 percent of population over 15 years old). Especially rapidly is growing interest towards Internet of younger generation, under 15 years old.

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<sup>9</sup> [www.gncc.ge](http://www.gncc.ge) – official web-site of Georgian national Commission of Communication. “Annual Report – 2006”.

Currently, national television channels can be viewed on the 92 percent of Georgian factual territory. As mentioned above, factual territory does not include Abkhaz and Ossetian Autonomies, which comprise 18 percent of the total country area. Ninety five percent of Georgian population lives in the coverage area and receives television signal free of charge (indirect charges, such as electricity or public broadcasting fee (1.5 percent of income tax) are not included).

Population mostly uses cable broadcasting services to watch foreign channels. There are cable service providers in Tbilisi, Batumi, Rustavi, Kutaisi, Poti and Zugdidi offering users service packages which also include Georgian channels. In smaller cities and villages population uses satellite dishes. Rarely do local channels transmit certain foreign channels.

About 70.7 percent of total broadcasting revenue belongs to air television broadcasting, 19 percent – to cable and 10.23 percent – to radio broadcasting.<sup>10</sup>

96 percent of population can listen to radio. This audience is served by national as well as local radio stations.

Newspapers' cumulative daily circulation figures reach 100-120,000. Various organizations and institutions are major subscribers. Most of the circulation is sold out through stands and kiosks. In average, four people read one newspaper issue which means that approximately 400-480,000 individuals a day refer to print media (11-13 percent of population over 15 years old). Decrease in the number of reading audience is obvious if compared to 1970-80s, however, over the past few years, newspapers' circulation has gradually grown and reading audience has again developed.<sup>11</sup>

People in Georgia use all media for information dissemination as sources. The frequency of referring to certain sources is different. Television is used as information source very often, newspapers and radio are used often. Level of trust towards online

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<sup>10</sup> [www.gncc.ge](http://www.gncc.ge) – official web-site of Georgian national Commission of Communication. “Annual Report – 2006”.

<sup>11</sup> [www.statistics.ge](http://www.statistics.ge) – official web-site of State Department of Statistics, “Population Census 2002”.

information sources is high among Internet users though the number of users itself is not big. Absolute majority of Internet users are members of numerous forums and mostly use them as information sources which has not been referred so far indicates that often society relies on orally disseminated and unchecked information. During the period from November 7 to November 17, 2007, when the State of Emergency was enforced on the territory of Georgia and all television broadcasters, except for Public Broadcaster, were prohibited to broadcast news programs, online forums became the major source of information in Georgia.

Information disseminated through television channels (to the least extend, when disseminated through radio or news agencies) reflects author's position, comments and views. Such practice of information presentation indicates low professional level and impedes the formation of independent public opinion turning media into a propaganda tool. As a result, political life takes an extremely polarized character.<sup>12</sup> Society is forced to accept or decline an already established and provided evaluation rather than form its own opinion on a certain event based on facts. This way, media, especially broadcasters, does not influence the formation of public opinion but is busy with disseminating and propagating already established views. If assessed against television broadcasting, it can be said that media has little influence on formation of public political opinion, however, if assessed including print media, it can be estimated that media has significant influence.

In Georgia, the law prohibits the state to own media outlets. However, owners of almost all more or less influential electronic media are business partners of the government. Success of their businesses is directly related to the government's favor. In the last four years, the government gradually managed to spread autocratic control over the activities of these businessmen. Formally the government is kind and liberal; it freed businesses from 14 taxes keeping only seven in force. Businessmen are grateful and regularly pay taxes without hiding real figures. Whoever does not or cannot pay taxes is punished according to the law. In fact, the government toughened administration of taxes so that payment of the remaining seven taxes became a very serious issue weakening the businesses and significantly decreasing

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<sup>12</sup> Ia Antadze, "Editorial independence and Information obtaining", Media Conference "Discussions about the Georgian Media", 2005.

the number of solvent taxpayers. Amounts generated through collection of taxes turned out to be scarce and not enough for the government to implement social projects. Therefore, the government publicly refers to businesses to allocate funds in support of state projects. This angers businessmen but they still pay those unofficial taxes because they are aware that otherwise official tax collection procedures will be more strictly enforced. According to the last four-year dynamics, the number of businessmen meeting with the President for 'candid conversations' significantly decreased.

Owners of television companies are less worried by the profitability of their media businesses since their major concern is profitability of their primary businesses. They do not focus on running their television companies for profit. Subsidized media are a good tool for government for manipulation:

1. Journalists are under constant fear of losing their jobs, or that the owner won't be able to pay their salaries, or that television will be closed because it is not commercially viable. Scared journalist will not say anything which may cause discontent of the owner or the government;
2. Owners have acute desire to control editorial policies so that journalists by any chance do not say anything which may cause the government discontent and will spoil current relations with the government;
3. The government will always remind journalists that their owner can leave them jobless any time and that's why, if they wish to keep working, it is better they are friendly to the government.

Out of businessmen who own media, currently Badri Patarkatsishvili was the only one opposing the government. Nevertheless he neither is interested in making his Imedi TV profitable. Two years ago, when he still had good relations with the government, per his request, footage on a corruption case was not aired during one of Imedi's most influential programs, *Droeba*.

Owners of such television companies actively interfere in management and human resources.

The only television where transparency of the editorial policy is ensured by the law is Public Broadcaster. Public Broadcaster's Governing Board nominates only Director General, who announces open competition for all other managerial positions.

Radio stations, newspapers and online publications in Georgia are all private except for two public radios which are part of the Public Broadcaster.

State owned Ajara TV as well as Public Broadcaster are rather very friendly towards the government. Any critical views about the government's activities are inconceivable. Privately owned Rustavi 2 became a propaganda tool in the government's hands. The government is aware that it can conduct a more successful propaganda campaign via influential television channel. Badri Patarkatsishvili's Imedi TV kept critical stance towards the government, while Kavkasia TV's position is very critical.

Critical approach towards the government and scepticism towards the official information is mostly typical for newspapers and radio companies. So far capital controlled by the government has not been involved in this type of media. Even though these media, especially newspapers, are struggling financially, their editorial independence is quite secured.

Because of such healthy criticism and scepticism, newspaper reporters are not allowed or invited to the President's press conferences which take place only couple of times during a year. These press conferences are officially called 'meetings with the media'.

After the government sessions, Ministers regularly come out to journalists and conduct briefings. When needed, they organize separate press conferences in the ministries. Attendance is not limited and broadcasting rights are not exclusive. However, there are some public servants who did not conduct a single press conference for the last two or three years (for example, the former Defense Minister, Irakli Okruashvili, Interior Minister, Ivane Merabishvili, former Prosecutor General, Zurab Adeishvili).

The major goal of the press conferences is promotion of achievements rather than providing public with information. This is why public servants consider journalists as part of their PR campaigns rather than independent information providers.

## 2. Legal Environment

On August 24, 1995, Georgian Parliament endorsed *the Constitution of Georgia* which, with various amendments and additions, is in force until today. Chapter 24 of the Constitution remains unchanged from the very first day.

1. *Everyone has a right to freely receive and disseminate information, express and disseminate their opinion orally, in writing or otherwise;*
2. *Mass media are free. Censorship is not allowed;*
3. *State or individuals do not have a right to monopolize means of mass information and distribution;*
4. *Rights envisioned by the points 1 and 2 of this Chapter may be limited by the law to ensure conditions necessary for the state security in democratic society, territorial integrity or social security, crime prevention, protection of other rights and values, preserving information confidentiality or protection of the courts independence and objectivity.*

This Chapter of the Constitution guarantees the major democratic rights for every citizen of Georgia. Any other law which would limit these rights was not enforced.

On June 24, 2004, the Parliament enforced *the Law on Freedom of Speech and Expression*. The law decriminalized defamation which means that the Criminal Code no longer contains the chapter envisioning punishment for libel. Though the government never imprisoned anybody for libel, it does not mean that it did not use this chapter for intimidating free media.

The new law provides broader identification of what the freedom of expression means. Facts and opinions are separated. Opinion is defined as evaluative statement, viewpoint, comment, also in any form expression of views which represents attitude towards any person or object and does not contain fact. Opinion

is secured with absolute privilege. Statements made during political debates, by members of the parliament or sakrebulo while fulfilling their duties, during pretrial and court sessions and in front of public defender cannot be subject for a libel case.

Novelty is also that the new Law fully obliged a plaintiff and not a defendant, when applying to court, to prove that the defendant's statement is arguable, damaging for dignity or false.

The Law on Freedom of Speech and Expression envisages that a person only can be amenable for disclosure of secret information if its protection is a job responsibility and if its disclosure represents an obvious, direct and significant threat to the merits protected by the law. Journalists are not amenable for disclosure of information containing state secret.<sup>13</sup>

The right to freely receive and disseminate information is guaranteed by Chapter 24 of the Constitution. Public discussion about the freedom of information lasted for four years and ended with the Parliament enforcing *the General Administrative Code* in June 1999. Chapter three of the Administrative Code is fully devoted to the freedom of information. Freedom of information requirement applies to all state and self-government bodies as well as to all bodies which are fully or partially funded from the state budget and bare certain authority imposed on them by the state. The Code united all such individuals, bodies and organizations under one category: public institution. Public institution is obliged to immediately disclose public information. The maximum period for delivery of public information is ten days.

Georgian legislation is quite liberal. Adding to everything, according to Chapter 24 of the Constitution, media is free and censorship is prohibited. None of the legal or standard acts allows for any legal censorship from the state bodies. No discriminative laws exist which would prevent any person or group of people, organization or union from entering journalism profession. No legal body exists which, on behalf of the state, would review published materials or footages in advance. These laws work but the situation is far from ideal.

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<sup>13</sup> Irakli Kotetishvili, "Commentary about the Law on Freedom of Speech and Expression", Magazine "Tavisufleba" (Liberty), #10 (34), October, 2004.



The government which came in force as a result of the November 2003 revolution tries to impose limitations to freedom of information. No common system exists which would regulate the procedures for receiving information from the ministries and other public bodies without obstacles. Especially difficult is to receive information from the Interior Ministry, Ministry of Defense, City Municipality and energy distribution organizations. Information (or commentary) of any form or capacity from these and other bodies can only be received upon the approval of the press service chief. It is almost impossible to contact press services especially for regional journalists. It is difficult to obtain official information but as soon as journalist relies on sources under cover, reproaches regarding violation of professional standards are castled. In the current circumstances, issues concerning army, police and energy resources are out of the journalists' agenda which creates information deficiency.

Another important factor impeding the full enforcement of the legislation is the deficiency of editorial independence. This factor is stipulated by the relations between the state and media owners from one side and between media owners and journalists from the other. Majority of media owners appeared to be on the government's side because of their business interests. As a result, media owners and journalists (editors) occupied opposing camps: media owners - side by side with the government, journalists - opposite to the media owners and the government. Such division complicated conscientious activities of journalists (which imply obtaining and publication of topical and challenging information) since it did not coincide with the media owners' interests. International organizations identified this occurrence as media self-censorship. In fact this is censorship exercised by the government via media owners.

What makes the situation even more difficult for journalists is nonexistence of the major tool of defense: full-fledged contractual system. Absolute majority of journalists do not have working agreements or are on monthly contracts which do not indicate real salary figures and other information envisaged by the Labor Code. Enforcement of contractual system is related to legalization of media environment which can endanger many media outlets and lead to their closure.

Analysis of media legislation versus real picture of media activities is inadequate. During the last four years, media legislation was maximally liberalized and improved, however, media did not become freer on this background. On the contrary, freedom of media experienced a slight decline. Once more should be separated operation of television companies and of newspapers and radios. The latter enjoy more liberty.

After Mikheil Saakashvili first came to power (in January 2004), social-political talk shows on all national television channels were abolished. All media owners, separately from each other but simultaneously, announced that such programs are not commercially viable and do not have high ratings, that society is tired of political discussions and it is better to start producing entertainment programs. Again, simultaneously, all channels started airing satirical-comic shows with a slightly mirthless humor which resulted in a forcible closure of *Iberia TV*. Euphoria about Rose Revolution was so strong in the society in general and among journalists in particular that this fact did not cause any opposition.

In summer 2004, government took the following preventive measure having arrested *Revaz Okruashvili*, the editor of the Gori-based regional newspaper *Khalkhis Gazeti* for drug usage and sale. In fact, he was not forgiven for publishing reports critical of the local government. Okruashvili's arrest caused protests as a result of which he was liberated through judicial procedures. Despite such outcome, a fear virus infected regional media. Local journalists orderly though hardly manage to fight it which costs them dearly since local authorities, police and prosecutors many times requited journalists working in Kakheti, Shida Kartli, Guria-based regional newspapers. Local television companies, due to already known reasons, are reluctant to air challenging footages and succeed in avoiding similar problems.

In April 2004, media owner, *Bidzina Ivanashvili* made an individual decision and closed his television company, *9<sup>th</sup> Channel*, leaving a lot of journalists, cameramen, producers and technical personnel jobless. He still has not made any statement about what became the reason for the television company closure. Assumption that by closing the company, Ivanashvili tried to earn the President's loyalty is not groundless.

In summer 2005, one of the parliament majority leaders, *Giga Bokeria* directly told the anchor, *Irakli Imnaishvili* during the live air that “journalists like yourself should leave the profession.” Several weeks later, Imnaishvili’s program ‘*On the Edge of Choice*’ was closed by the channel’s owner, David Bejuashvili. It is difficult to directly connect these two events, but the fact is that after the politician’s statement the program, which by that time had quite high ratings, was closed.

A group of individuals from the ruling team stood out granting themselves a liberty to interfere in the channels’ editorial policies. Some achieved this through negotiations with media owners, some – through friendship with editors and producers, some – through directly blackmailing journalists. Gradually a number of footages which were never aired were amassed. A list of untouchable topics grew and exceeded the number of covered ones. All television companies had lists of people never to be recorded for footage and never to be invited to the studios. Editors deny existence of such lists but these people still are never put on air.

Legal censorship does not exist in Georgia. This is confirmed by the Georgian legislation. However, illegal, covered censorship does take place which is reflected through the above mentioned occurrences. Information and proposals to toughen media legislation occurred periodically but the only restriction imposed by the government in summer 2007 was ban on video-audio recording during court sessions. Even to shorthand court hearings, journalists have to ask for judge’s approval; otherwise they will be asked to leave the courtroom and might become a subject for administrative reprimand.

The biggest threat for journalists in the circumstances of such covered censorship is to lose the job. This is a common practice as a result of which a system of no working agreements (or short-term, one-month contracts) was established on the media labor market.

On November 7, 2007, after having twice dispersed the protest rallies in the city center the government showed that it can take even more radical measures. It considered that Imedi TV’s broadcasting posed a threat and , having , sent the special task force to the television company Imedi. Special task forces broke into the

Imedi premises, physically and verbally harassed the journalists and other staff members and finally entered the operating room and the studio turning the channel off the air. Such a violent closure of Imedi TV indicated on two things: one, that the government is capable of conducting an illegal act (it did not have the legislative authority to cease broadcasting of any television channel and suspend the license); another, that the government has a selective approach towards the democracy (I will act as I want). For the moment of this document writing, the property of the company's owner is still under arrest and the license issue is passed for resolution to the Georgian National Communications Commission.

Law on Broadcasting of Georgia enforced on December 23, 2004, states that only the Commission has the authority to accept license request applications, announce an open competition, grant and administer the licenses. The Law however, does not grant the Commission with a sole authority to cancel the licenses. This is a prerogative of the court. According to the law, television and radio companies are required to be licensed. Newspapers do not need licenses; to start operating they only need tax service registration. Georgian National Communications Commission is a public legal entity and includes five members.

The Commission rejects a license application if not all the necessary papers are submitted, if it is submitted by an administrative body, a staff member associated with administrative body, juridical person related to administrative body, political party or a staff member of a policies party. In all other cases, the Commission reviews the application and makes a decision on the basis of open competition.

The Commission is authorized to warn the license holder, fine, temporarily suspend the license and point the license holder on the violations which need to be taken care of. A reason for license cancellation can be the license holder's request, his/her death, and temporary suspension of the activities envisioned by the license for three months in a row or for 120 days during a year. The Commission is also authorized to cancel the license if the license holder fails to correct the violations in the set period of time.

So far, the Commission temporarily suspended the licenses of only two television companies: Imedi and Kavkasia. Later on, however, the Commission itself cancelled these decisions.

Georgian National Communications Commission announces a license competition in case at least one candidate application for the frequency appears. The competition is transparent and its process can be viewed by any interested party on the Commission's website [www.gncc.ge](http://www.gncc.ge). However, that since September 2006, the Commission does not announce competition for two community radio frequencies (candidates are two community radio stations in Marneuli and Ninotsminda). Commission justified the first rejection to announce the competition by ongoing inventory of frequencies. The second request was confirmed as accepted and the Commission will post the competition announcement on its website as soon as it is announced (though the Commission was obliged to announce the competition immediately upon the request was received). The third rejection to announce the competition dated December 26, 2007, the Commission justified as follows: "Once in two years the Commission identifies and makes public the plan of broadcasting frequencies and teleradiobroadcasting priorities for license seekers generated as a result of public opinion survey. The research is planned to be conducted by June 2008. After that, the Commission will be able to review the compliance of the license seeker's broadcasting conception with the identified teleradiobroadcasting priorities. Therefore, your request will be reviewed after the teleradiobroadcasting priorities are identified."

This fact confirms that the Commission has a practice of rejecting license requests.

Law of Broadcasting of Georgia also obliges the Commission to draw up and pass as law *the Code of Conduct for license holders*. For more than two years various versions of the draft Code are reviewed by the Commission with the participation of the broadcasters' representatives but the Code still remains as a draft.

### **Journalists status**

Journalists do not have to receive any official approval from the state to enter the profession. It is enough for them to represent any registered media organization. Since the state does not grant any approval, it cannot take it away. The status of

independent journalist cannot be regulated. As to the government and parliament sessions, they are public and their attendance is regulated by relevant acts. Accredited journalists are allowed to attend the parliament sessions but are placed on the balconies. Any person except for the members of the parliament is prohibited to enter the session hall. The plenary sessions of the parliament are broadcasted live by the Channel 2 of the Public Broadcaster. The government sessions are broadcasted live only in case they are attended by the President and he wishes these sessions to be broadcasted live by all the channels. Accredited journalists are not allowed to the government session hall. They watch the live broadcasting of the sessions in the specially allocated rooms. After the sessions are over, they meet with the Ministers in the Briefing Room.

There are no monopoly limitations for newspapers and the Internet. As to the tele- and radio broadcasters, the Law on Broadcasting of Georgia prohibits a person or a legal entity to possess independently or with an interdependent person or legal entity more than one terrestrial broadcasting license for television and one for radio in any one service area. Licenses are of two types: general and specialized. General license holder broadcasts various social-political and scientific-entertainment programs. Specialized licenses are granted only to musical, entertainment, sports or any other specialized broadcasting. Currently, only Rustavi 2 TV violates this provision: it possesses 2 general licenses in Tbilisi. Commission only regulates the activities of license holder companies and not the identity of associated with them individuals or groups. This is why it does not have any mechanisms against the MP, David Bejuashvili who in different legal forms owns three general broadcasting licenses in one broadcasting zone (Tbilisi): two belong to Rustavi 2 and one belongs to Mze TV. He also owns one specialized license of TV Company, Stereo 1 which is musical-entertainment. Such kind of a monopoly directly serves political goals: for the air to be filled with programs of the same political orientation and ideology, for the news programs production and broadcasting to follow the same standard. The Commission did not take any certain actions against these violations.

In the Georgian broadcasting area an accepted norm is when a broadcaster yields its license under violence, blackmail or any other form of pressure. This is how a propagandistic *TV Alania* (targeted to the audience residing on the territory of South

Ossetia) goes on air through the frequency of the *TV Company Obiektivi*, while military channel *Sakartvelo* broadcasts through the *TV 202* frequency. Information exists that *Sakartvelo* belongs to the Ministry of Defense. In any case, in 2007, according to the Law on State Procurements, an agreement was signed between the Ministry of Defense and television company *Sakartvelo*. *TV 202* Director, Shalva Ramishvili was arrested in August 2005 for money extortion from MP *Koba Bekauri* and still remains in custody.

Journalists and non-government sector representatives mostly refer to courts in regard with obtaining public information. Public information remains topical during a certain period of time, after that it loses its news effect. Courts do their best to stretch such administrative queries in time so that requested information loses its importance.

The murder of the journalist, *Giorgi Sanaia* in July 2001 has not been revealed until today. Neither are revealed cases of physical pressure on journalists in Kakheti, Shida Kartli and Samegrelo. Governor of Imereti, *Akaki Bobokhidze*, who together with his security after the live air had severely beaten journalist Irakli Imnaishvili, temporarily stepped down but later on returned to the Governor's position and occupies it until today.

### **3. Political Conditions**

The major problem in Georgian media is superficial coverage of the government decisions/decrees. This is especially obvious when journalists argue with the government representatives and, as a rule, lose. The reason for this is that evaluation of the government's actions requires certain knowledge which journalists often do not possess. One of the major challenges facing contemporary Georgian journalism is to increase professional level. Anchors of social-political talk-shows do not even try to look into the discussion topics. This is why discussions about Georgia's membership in NATO and about women's rights reveal an equally low level of professionalism.

Xenophobic attitude in general and anti-Armenian and anti-Chinese hysteria in particular are visible in the Georgian media of the 21<sup>st</sup> century. If the first one is based on the historically established false stereotypes, the latter is developing in front of our eyes and is caused by the latest increase in migration from China to Georgia. Media gives structural order to the fears blindly occurring in the societies which are stirred up by various political and social groups. For example, Imedi's popular weekly program *Droeba* aired a footage stating that in Georgia, mostly Azeri or Armenian families have three of four children. Rustavi 2, in turn, expelled one of the participants of reality show *Geobar* only because during the first live show he openly announced that he is a homosexual. The same can be said about the coverage of various religious groups, where words of negative character prevail. Professional standards almost do not work in diversity coverage.

Such attitude is not generated by the government policies. The government is mostly interested in marginalization of oppositional political forces in which television broadcasters readily provide their help. Excluding Imedi TV, all other television companies are political partners of the government.

As a result, self censorship is much more obvious in case of television companies, more rare in case of newspaper and practically absent in case of radio companies.

In 2007, we were discussing the case of unidentified air bombing of a settlement in Upper Abkhazia during the staff meeting in Rustavi 2. We decided to investigate this case in depth but one of the journalists asked me: "Is it in the interest of the government?" Excessive care about the government's interests drew the majority of journalists into a self censorship. They lost skeptical stance towards all topics including the ones important for the state security.

An example of censorship is when journalists and producers negotiate their materials with the various officials. Often they do not even need approval since they know the officials' position and even share it. Investigation of information sources in different state and public institutions was replaced by selections of advisers and consultants who provide journalists with messages and point to the major directions.



Shalva Ramishvili, founder and director of TV 202 currently serving his sentence for money extortion states in a newspaper interview: “I am surprised how people can have hopes for the President. I was friends with him for three years. He captured his classmate, Kistauri, a little earlier – Davitadze. Does anybody think that Saakashvili will extend a hand? This is a person who does not have personal and friendly dignity. Once he told me – we are geniuses, he – in politics and myself – in art.”<sup>14</sup> When a journalist, an editor or a media owner occupies such a position, he/she puts him/herself on a ‘difficult’ professional track. President’s friendship is not an indulgence. If one wants to benefit from such an indulgence, this turns into a sort of corruption. One of the former Channel 1’s (currently Public Broadcaster) anchors, *Koka Kandiashvili*, regretted over live broadcasting that his friend Mikheil Saakashvili does not answer his phone calls.

In terms of Internet, none of the regulating laws or legislative acts works. Sufficient funds and desire is enough to become a provider. The government can not block Internet users.

On the background of such unofficial relations, works unofficial legislation and, accordingly, the government often turn to unofficial repressions. No legislative basis for repressions against the media exists. The government can pressure media owners to fire journalists, cancel any, even popular, program, close a television after all. Otherwise, it can violently invade any broadcaster and turn it off air as it happened to the television company Iberia in 2004 and television company Imedi in 2007.

This is why we can conclude that there is a real threat of the government’s repressions and the situation is strong aggravation, especially in the light of 7<sup>th</sup> November 2007 events.

The government almost never uses such measures against print media. From one point it can be explained by the government yet not considering newspapers as serious power which can facilitate independent public opinion, from the other, by

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<sup>14</sup> The Newspaper “Akhali versia”, November, 21, 2005.

newspapers' low circulation which makes them less profitable businesses. Salaries of journalists working in print media are also much lower than on the ones working for television companies. However, President Saakashvili often states that he does not read newspapers. State Chancellery, the ministries and local administrative institutions were strictly prohibited to subscribe for the newspapers. This also is an indirect form of repressions against print media.

Paper is not produced in Georgia. The print paper is imported from Russia, China and Turkey. Economic embargo put an end to the import of paper from Russia. Several private newspaper distribution networks exist which cumulatively do not cover the whole territory of Georgia.

#### **4. Economic Pressures**

Despite several exceptions, Georgian media did not become established as sustainable free businesses. This is impossible in the country where advertising market turnover in 2007 comprises 0.2 percent of the Gross Domestic Product (GDP). Turned into numbers, this amount equals 25 million Euro and is based on the price lists. The real amount is slightly smaller than that. According to the Georgian National Communications Commission, the cumulative revenue of the broadcasting companies (including VAT) is 52.2 million GEL (approximately 23 million Euro).<sup>15</sup> The share of advertising placed in the newspapers and weekly magazines is quite scarce.

Advertising sales is the major source of revenue for media around the world. Such a low turnover on the Georgian advertising market is mainly caused by the low competition in the Georgian business environment. Business and enterprise in Georgia was and still is oligarchic, which means that business groups are closely related to or dependant on the state.

Media business in Georgia is mostly subsidized. Such subsidies are not always transparent and a lot of so called 'black' money is involved in the media business.

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<sup>15</sup> [www.gncc.ge](http://www.gncc.ge) – official web-site of Georgian national Commission of Communication. "Annual Report – 2006".

Often media outlets and certain journalists are funded only to prevent them from producing and airing critical reports.

We already talked about television broadcasters: funding of the television companies running at a loss by close to the government businessmen is a sort of indirect subsidizing from the government. Apart from this, certain ministries and institutions produce advertisements and place them on different channels for better promotion and presentation of their activities.

Subsidies indirectly influenced print media as well. This is the model of exempting print media from certain taxes. From the very beginning, it only concerned exemption from the Value Added Tax; later on, during the Parliament hearing, they were exempted from the income tax as well. Funds generated from these taxes are so scarce that the government can afford liberating print media from them. According to the Georgian Tax Code, these privileges will be in force until 2009.

This is as much a corruption arrangement as is the government's initiative to sale the rights for publishing tender announcements and public information according to the Law on State Procurements. The government sold the whole package as one lot. The winner became newspaper *24 Saati* which kept this rights in 2006 as well as in 2007 and keeps on publishing these announcements in 2008. It seems that the government was so satisfied with the first tender, that it automatically extended the contract. Naturally, other newspapers are deprived of such benefits but they enjoy the higher level of editorial independence. Subsidized media is very friendly towards the government.

Similar situation is in the regions. Local authorities pass the funds allocated for informational support to the favorable papers and television companies without announcing any tenders.

The biggest problem for the media companies is unhealthy business environment when an advertiser places advertisements in a media outlet according to the political views. What's more, advertiser does not place advertisement in the outlet unflavored

by the government. Such application of administrative resources creates uncompetitive environment on the media market.

## **5. Non-State Repression**

The government so actively applies illegal repressions that non-state repressions almost are not visible. Mostly such repressions become visible when a channel or a newspaper publishes a story devoted to a religious issue. Immediately a priest will appear or a member of the Orthodox Parents' Union. Such actions are not planned by the Patriarchy though some representatives openly or semi hidden supports and manages such protests. Orthodox religion and the Church to certain extend are a tabooed topic. Such protests are often directed against media outlets and certain journalists.

The other form of non-state repressions is attitude of political parties' representatives towards journalists and media outlets. Representatives of the ruling party as well as opposition members selectively boycott different media and refuse to participate in their programs. Several opposition parties in 2006 boycotted Rustavi 2 TV, while the ruling party representatives in 2006-2007 boycotted Imedi TV.

No violent attitudes are noted towards journalists from the non-state bodies. As a result, no cases exist when the government institutions are obliged to protect journalists from such repressions. Therefore, to summarize the analysis of the last five year, it can be said that no qualitative changes occurred.

## **6. Conclusions**

During the last four years, the government showed that it not only can but also is willing to co-exist with clan groups. It manages to do so through establishment of autocratic control and monopolisation of corruption. The government is well aware that the major interfering power in this case is a well informed society. The society is well informed only in case the country has free media. This is why the government utilizes all available resources to establish control over the media: starting with covered censorship and brute interference into the editorial policies and ending with

the encouragement for establishment of corruption systems in media. This way, it is very easily for the media to lose the society's trust.

The quality of media freedom significantly deteriorated during the last five years.

Taking into account all stated above, it can be said that media in Georgia is free but with significant limitations. Media legislation and conscientious work of some journalists point on media freedom. The major limitations are illegally posed by the state.

International organizations and foundations operating in Georgia support the increase in the media freedom quality. Special reference should be made to the Konrad Adenauer Foundation which, in 2005-2007, increased its activities in the media field. On the first stage, the Foundations conducted introductory seminars in seven regions of Georgia covering all regional media. With the participation of local experts, the Foundation studied the problems faced by the regional media. Based on the study results, the Foundation published a report and planned the future strategy. The Foundation brought in several German experts and journalists also from regional media to support Georgian regional media. The experts conducted a series of training in Batumi, Gori, Kutaisi and Gurjaani. Very important was the training-seminar devoted to the online media development conducted in Tbilisi, Batumi and Zugdidi in August 2007. Konrad Adenauer Foundation was the first to turn the local media's attention towards the better use of online resources. Together with the radio Deutsche Welle, the Foundation conducted a seminar in radio management in which Tbilisi and regional radio managers participated together.

Special attribution should be made to the media conference "Discussions about the Georgian Media" organized by the Foundation in December 2005 in Chakvi. Almost all Georgian media representatives, independent journalists and experts participated in this conference. The conference materials were put in a separate publication.

It would be crucial if the Foundations actively participated in the establishment of a journalism school where future journalists would acquire European professional values. Journalism education in general is a serious problem in Georgia.

To ensure freedom of media in Georgia it is necessary to:

- develop and administer free editorial policies in which not only the government but also media owners would not be able to interfere;
- develop a transparent system of public information provision;
- develop media as businesses which will take the media owners' political interests from the agenda and limit the inflow of unidentified funds.

These are not only necessary but also obligatory conditions for the development of free media in Georgia.

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## **Bibliography**

“Building Democracy in Georgia”, International Institute for Democracy and Electoral Assistance (IDEA), 2003.

- *Discussion Paper #1: “Attempts to Establish Democracy in Georgia”;*
- *Discussion Paper #6: “Human Rights in Georgia”;*
- *Discussion Paper #7: “Developing a Democratic Community in Georgia”;*
- *Discussion Paper #9: “Ethnic Conflicts and Breakaway Regions in Georgia”;*
- *Discussion Paper #10: “The Capital and the Regions of Georgia”.*

“Discussions about the Georgian Media”, Media Conference, KAF, 2005.

“Georgia: Corruption Index”, Global Integrity, 2007

Reports of European Centre for Minority Issues, Jonathan Whitley, October, 2006

## **MALAYSIA**

### **1. General Conditions**

The literacy figures (definition: age 15 and over can read and write) for the total population is 88.7%, with male literacy (92%) slightly higher than female literacy (85.4%) (Census 2002, according to Department of Statistics, 2008).

The World Education Report (1993) states that Malaysia then had one of the lowest literacy rates (78.4%) compared to her other Southeast Asian neighbours, like Singapore (100%), Indonesia (81.6%), Thailand (93%), and the Philippines (89.7%), respectively (Zaman, 2002). Today, the country's population is 27.17 million (Department of Statistics, 2008) and the Malaysian literacy is 85%.

The national language which is Malay is used in official functions of the country but English still is an important second language. Generally, the population is bi-literate; that is, they speak and understand their own mother tongue and the national language. Some people are tri-literate; that is, they speak and understand their own mother tongue, the national language, and English (Zaman, 2002).

There are 35 radio stations (17 of which are state-owned and they comprise both national and community stations, and 18 private stations). As for TV stations, there are three TV organisations, namely the state-owned Radio Television Malaysia (RTM) which has two channels or stations; Media Prima which has four stations; and Astro, the only Pay-TV operation which offers over 100 channels or stations.

Media Prima is the biggest media group in Malaysia, owning all main private television stations and controlling approximately 54% of Malaysia television viewership, with its closest rival the pay-television satellite operator, Astro, controlling a market share of roughly 29%. RTM controls 17% of the market.

Media Prima wholly-owns TV3, NTV7 and TV9 and holds 99.5 per cent interest in 8TV. TV3, Media Prima's flagship television station and the number one free-to-air television station in the country, finished the 2007 season dominating the year's top

20 programmes. (New Straits Times, Jan 4, 2008). The station has the number one news segment, "Buletin Utama" (Main Bulletin), and is the top choice for prime-time viewing. (New Straits Times, Jan 17, 2008). TV3 recorded a 33 per cent share of viewers in 2007 among over a hundred channels available on satellite and FTA TV (New Straits Times, Jan 4, 2008). The group also controls radio stations Fly FM and Hot FM, with a combined listenership of 3.5 million. Media Prima has a 43 per cent stake on the equity of The New Straits Times Press which has four newspapers in its stable, namely the English dailies The New Straits Times and Malay Mail, and Malay dailies Berita Harian and Harian Metro. Media Prima is Malaysia's biggest listed media group. This group is said to reach 22 million Malaysians daily: about 11 million television viewers, seven million newspaper readers and four million radio listeners. Malaysia's population is a little over 25 million. As of 2005, Media Prima is the biggest media group in Malaysia, controlling approximately 48% of Malaysia television viewership, with its closest rival the pay-television satellite operator, Astro, which has a market share of roughly 20 to 30%.

Astro All Asia Networks Plc, the group that has the monopoly over Malaysia's subscription television operation, reaches about 10 million viewers in some two million homes representing a penetration rate of approximately 38% of Malaysia's TV households. Astro began operating in 1996 and today offers over 100 channels with a wide mix of foreign and local programmes. It's sister company Airtime Management & Programming runs the eight radio stations in its stable, namely Hitz, Mix, Light & Easy, Era, My, Xfresh, THR, and Sinar. AMP introduced format programming to Malaysia and the company claims that six out of ten radio listeners tune in to any of its eight stations each week (Astro, 2008).

There are six English dailies, six Chinese language dailies, five Malay dailies, and three Tamil (a South Indian language) dailies in Peninsular Malaysia. According to Nielsen Media Research, in the past five years, overall readership of these newspapers has continued to increase from 51 per cent in 2003 to 55 per cent in 2007 and this was primarily due to the growth of Malay dailies readership. The top Malay dailies are Berita Harian (holding 9% of the total newspaper readership) and Utusan Malaysia (8%). The top English dailies are The Star (8%) and New Straits Times (2%), top Chinese language dailies are Sin Chew Daily (8%) and China Press



(5%), and the Tamil dailies are Malaysia Nanban (2%). (New Straits Times, Oct 10, 2007).

In Sabah, there are 11 regional newspapers, of which five are Chinese language dailies, one Malay daily, one English daily and four tri-lingual dailies (a combination of English, Malay and Kadazan which is a Sabahan language). In Sarawak, there are nine dailies, out of which five are Chinese, two Malay, and two English.

Harakah is a newspaper founded in 1987 and published by opposition Muslim fundamentalist party Parti Islam SeMalaysia (PAS). Constant intimidation tactics by the government has forced this paper only be published twice a month, instead of twice a week. The Rocket is the publication of the Chinese-based opposition Democratic Action Party which has been in publication since 1966. On record, the Rocket is sold to party members only but it is not difficult for members of the public to get their copy from some newsstands, just like the Harakah. In Nov 8, 2006, the opposition People's Justice Party (Parti Keadilan Rakyat) was refused a printing permit for the party's official paper by the government.

The majority stakeholder for The Star (English daily) is Huaren Holdings, the investment arm of the Chinese-based political party Malaysian Chinese Association (MCA) while the New Straits Times Press (under which are two English dailies and two Malay dailies) is under Media Prima which is owned by UMNO-linked Malaysian Resources Corporation Berhad. The main Tamil newspapers, Tamil Nesan and Malaysia Nanban, are owned by the head of the Indian-based political party, the Malaysian Indian Congress (MIC). UMNO is the party that is heading the National Front (Barisan Nasional) ruling coalition in Malaysia. MCA and MIC are the main parties in the coalition.

Last year four Chinese-language dailies - Sin Chew Daily, Guang Ming Daily, China Press and Nanyang Siang Pau - were consolidated under one company owned by a timber tycoon, Tiong Hiew King, known for his close relations with the ruling party (CIJ, 2007). As for the two Malaysian states in the island of Borneo, the newspapers there are either owned by the local politicians or tycoons linked to politicians.

In 1996, Malaysia introduced its first satellite television, ASTRO (All Asia Television and Radio Company). ASTRO is owned by Binariang which in turn is own by one of the most successful businessmen in Malaysia, Ananda Krishnan a close associate of the previous Prime Minister, Dr Mahathir Mohamed (Abdul Wahab, 2006).

It was not until 1984 that a privately owned television station, TV3, was allowed to operate, which essentially broke more than twenty years of government monopoly of the broadcast medium. The Privatisation Policy that was introduced in 1984 brought about the establishment of TV3 (Abdul Wahab, 2006). TV3 is now owned by

Independent newspapers do exist in Malaysia and the main ones are Malaysiakini, Merdeka Review and Malaysia Today. These newspapers offer news and an avenue for public discourse that do not see print in the mainstream media. These include issues that deemed seditious (more about this in the answers to Section 2.1 to 2.4) and issues the government disallows the mainstream media to report on. Due to this, the government has resorted to using intimidation and fear to get these internet newspapers to conform to its policies and to keep its monopoly on information although in 1998, the government introduced the Communications and Multimedia Act which assures that the internet would be free from control. Then prime minister Dr. Mahathir Mohamad, had an ambitious plan to transform Malaysia into an information technology centre. Thus resulted in the establishment of Multimedia Super Corridor (MSC) at the cost of US\$20 billion. The motive of Mahathir was primarily to take full advantage of ICT for the purposes of accelerating the economic development. However to attract and secure foreign investments to make MSC a success Mahathir has been forced to guarantee that there would be no censorship of the Internet (Abdul Samad, 2001). As a result during the Mahathir administration (1981 to 2003), raids were carried out on the offices of internet newspapers and website owners were questioned by the police.

The ruling coalition has kept a control over the media. Mainstream newspapers as well as television channels are owned or controlled by the governing coalition parties. Given this scenario new political forces released by the Internet, which made its debut in Malaysia in 1996, have created dilemma for the political establishment

(Abdul Samad, 2001). All disgruntled elements within the political spectrum have channelled and sent through the Internet.

“The proliferation of web sites critical of the government has increased. The Internet serves as an important alternative media in Malaysia and provides space for the pro-opposition views and news ... Oblivious to the power and speed of Internet, Mahathir underestimated the growth of the opposition to his ousted Deputy Prime Minister Anwar Ibrahim and his reformation agenda which started in 1998. Prior to the emergence of Internet, Mahathir could overcome nearly every crisis by controlling the ‘authentic’ news and information reaching the public,” said Abdul Samad in his paper “The double edged sword : a brief comparison of it and Internet development in Malaysia and some few neighbouring countries in the context of digital divide”.

In the early days of internet in Malaysia, Malaysiakini.com, Laman Reformasi, Freeanwar.com, Harakahdaily.com and FreeMalaysia.com are five out of the fifty over websites which give alternative news coverage. “They were visited by more than 250,000 visitors daily. In addition to such web pages are ‘e-groups’ discussion platform. Because of the vacuum for a platform for intellectual discussion in Malaysia the Internet has become a haven for those Malaysia who longed to voice their long, long repressed opinions and ideas. Sangkancil@malaysia.net is one of the many electronic discussion groups which has earned a great reputation for intellectual discussion ranging from politics, religion, race, culture and nationalism,” said Abdul Samad.

The owner of Malaysia Today, Raja Petra Kamarudin, was probably one of the first to initiate the move to offer alternative news to the public and he did so in the form of the website [www.freeanwar.com](http://www.freeanwar.com) in the mid 1990s. Although the website initially started as a campaign and an online response to the sacking of Anwar Ibrahim as the deputy prime minister and subsequently his imprisonment for sodomy, the website grew as people craved to hear the political backroom dealings, and at the same time financial and sex scandals were unearthed. Some of the information is uploaded without confirmation from credible sources but the website and others like it became a much-awaited alternative to the mainstream news, especially during the

dark days when the political turbulence in otherwise quiet and stable Malaysia left many Malaysians wondering what was happening.

The government officials' response to what was posted on these websites were either to deny the stories or to issue statements condemning the authenticity of the sources and subsequently threatening to bring the portal owners to court. Raja Petra was imprisoned under the Internal Security Act in April, along with nine other 'reformasi' (reformation) activists, for allegedly seeking to overthrow the government by "militant means". He was released after 52 days (Kamarudin, 2001).

In 1996, journalist M.G.G Pillai started a political discussion group called Sang Kancil (Pillai, 2001). "I am a 'banned' writer to government-controlled newspapers in Malaysia, my views heretical to those in power, and my writings appear regularly in usually Malay magazines on the fringes. There is no formal ban, of course, but it has been made clear to me my articles would not be accepted in the mainstream," he said in his commentary on the US-based Media Channel website. Shortly after this, he was sued by a Mahathir-linked tycoon in a US\$40 million libel suit. Pillai lost the suit, and this case triggered a wave of mega-suits against journalists (more of this further down).

The intimidation and harassment continues in the present Badawi administration, although the Prime Minister promised to be less restrictive with the media.

Here are some of the incidents that affected press freedom between Jan 2006 and July 2007:

July 23, 2007      Malaysian student in Taiwan, Wee Meng Chee, was under fire for his music video on YouTube, of the national anthem with rap lyrics, mainly about his feelings concerning corruption, discrimination and race relations. The government threatened action under the Sedition Act and the National Anthem Act. The police however conceded that it was unable to charge Wee for posting the video abroad. Wee was subsequently compelled to issue an apology.

- July 23, 2007 UMNO, the main political party, lodged a police report against the owner of the blog Malaysia Today, Raja Petra Kamarudin, charging the latter as insulting the King, over comment posted by others in his blog. Malaysia Today often carries stories about the internal issues of UMNO politics, corruption by the higher echelons of police and the alleged interference of the Prime Minister's son in-law, Khairy Jamaludin in the country's administration.
- July 13, 2007 Police nabbed blogger and National Justice Party (PKR) staff Nathaniel Tan and held him for four days under the Official Secrets Act. Nathaniel was accused of possessing documents alleging the deputy minister of Internal Security, Johari Baharum, of corruption, but the said document is again an anonymous comment posted on his blog and a link to a website accusing Johari. Nathaniel was subsequently released without a charge.
- July 10, 2007 The youth wing of UMNO filed a complaint against blogger Tian Chua, also the Information Chief of PKR. He was investigated under the Communications and Multimedia Act following the publication of a photomontage dubbed "dinner-for-three". The picture is a response to the ongoing trial of a Mongolian national who was murdered last year. One of the accused in the trial, Abdul Razak Baginda is a close aide of deputy prime minister, Najib Abdul Razak. The picture depicts the DPM, the Mongolian murder victim lookalike, and Abdul Razak Baginda at a dinner.
- April 20, 2007 Malaysiakini.com was sued by the Sarawak state chief minister Taib Mahmud. The online daily published a story implicating Taib Mahmud and his family members as the recipient of RM32 million (USD9 million) in kickbacks in return for timber export concessions.
- Jan 19, 2007 Two bloggers sued by New Straits Times Press for defamation
- Dec 12, 2006 Editors called by cabinet ministers for a meeting and told not to play up stories on the soon-to-be-implemented highway toll increase

- Nov 28, 2006 Parti Keadilan Rakyat's (opposition - People's Justice Party) appeal to have a newspaper permit rejected
- May 18 & 23, 2006 Tamil (an Indian language) newspaper Makkal Osai officials received threats to burn down their offices and a lawsuit over a comment (that puts the government in a bad light) by a cabinet minister that was published. The minister denied saying it.
- February, 2006 Publication of Prophet Muhammad cartoon: Sarawak Tribune suspended indefinitely (it eventually closed down); Chinese dailies Guang Ming and Sarawak Evening Post suspended for two weeks.
- January, 2006 Two senior editors of China Press forced to resign over an "error" in reports about a woman being made to do squats in the nude by a policewoman at the police station to see if she was concealing drugs in her private parts. The paper ran grabs from an MMS in its front page.

According to AC Nielsen (2007), in the past five years, overall readership of any dailies yesterday has continued to increase steadily from 51 percent in 2003 to 55 percent in 2007. The increase is due to growth of Bahasa Malaysia dailies readership. English, Chinese and Tamil dailies' readership remains stable. Nielsen Radio Audience Measurement (RAM) shows that total radio listenership remains high – reaching out to 92 percent or 14.4 million individuals aged 10 years and above in Peninsular Malaysia. On average, a radio listener tunes in for 23 hours a week. In the last two years, the total TV viewing trend has been stable at 93 percent reach. Internet users increased from 15 percent (July'05-June'06) to 18 percent this year, with a two percentage point growth in home users. Internet users still skew towards PMEBS, other white collar workers and students.

Malaysia has a relatively low household Internet penetration of 12.8% (The Edge, 2007) but there are 13,528,200 Internet users as of Sept/2006, which is 47.8% of the population, according to Malaysian Communications and Multimedia Commission.

My rough estimation on media as source of information in Malaysia would be a 3 (often). A sizeable number of people seek the media for information, and this

information comes in various languages (newspapers, tv and radio broadcasts) and for the urbanites and educated, there is the internet.

The media have a significant influence on the formation of political opinion in Malaysia. The interesting paradox here is that although most people are aware that the media is controlled, yet many do form political opinion based on what is presented in the media. However, there is a rising number of people who are consciously seeking information outside mainstream media.

More and more urbanites are said to be turning to the Internet as signs of frustrations with the mainstream and traditional media peaked with launch of various initiatives to boycott the media, according to Centre for Independent Journalism.

CIJ picked a few online sources to get an idea of the number of visitors to their blogs and sites during two major rallies organised by BERSIH, a non-governmental organisation that is calling for free and clean elections, and HINDRAF, a non-governmental organisation fighting against abuse against the Indians, in November last year.

“Most website owners said during those days they recorded a high numbers of visitors. Some of the bloggers reported the number of readers to have quadrupled during these events and one even reported of having to double his website’s bandwidth to 25mbps and run two servers to manage the traffic<sup>1</sup>. Important blogs and news websites like Merdeka Review ([www.merdeka.com](http://www.merdeka.com)) and Malaysiakini ([www.malaysiakini.com](http://www.malaysiakini.com)) recorded a high-rate growth in their number of readers,” said CIJ in its report “Blogs, news portals see higher numbers during rallies”.

“Open source video broadcasting website, YouTube ([www.youtube.com](http://www.youtube.com)) recorded a total number of 274,470 viewers watching the HINDRAF rally report and a total of 90,310 viewers for the BERSIH rally report, which was broadcasted by the Al Jazeera news network. The heightened interest could have been generated by the sheer number of people who participated in the first rally and the reports of the use of water cannons and tear gas by the authorities to control the crowd as well as the

massive road blocks imposed in the city. Apart from the minute-by-minute update on blogs, individuals were also recording interviews from the scene and uploaded as wav files and sending photos via MMS”, said the report.

State-owned media exist. Editorial departments are not protected by law from their coverage being influenced by government authorities.

The staff members of the state-owned television and radio stations are considered civil servants, and so the appointments of people to key positions have to be vetted and endorsed by the Minister of Information under which these television and radio stations come under. The national news agency, Bernama, used to be under the Ministry of Information but now it has been corporatised. However, appointments to key positions are still determined by the government.

For the private media organisations, there is the hidden hand of the state in appointing people to the top positions in the main media organisations. Media Prima director Kamarulzaman Zainal, who oversees TV3's news and current affairs section, was the former press secretary of Prime Minister Abdullah Ahmad Badawi. NSTP's editorial advisor is Kalimullah Masheerul Hassan, who was previously the media organisation's group editor-in-chief, is linked to the Prime Minister. As for the leading English daily The Star, which is owned by the Chinese-based MCA political party, the major appointments have to be endorsed by the party.

State-owned media sometimes sets the agenda for private media. There have been numerous times when a private media organisation is faced with a situation whether to publish a particular controversial story or a news item that would reflect negatively on the government and its leaders, the tendency is to always check the state-owned radio and television (the state does not own any newspapers) or the national news agency which is Bernama, a quasi-government organisation.

Both state-owned and private media organisations can be evaluated as doing propaganda for the government. In this regard, there are no differences between press, radio and television coverage.



All journalists have equal access to press conferences held by government officials with the purpose of informing the public of government programmes and policies, and to give the government's version of an issue or incident and stress that this is the official version, and therefore the truth. However, there were times when journalists from the independent online newspapers were asked to leave press conferences by government officials. Eg: There are times when either the Prime Minister or the Deputy Prime Minister calls for a closed-door meeting with editors of media organisations to inform the editors on how a particular issue should be highlighted or blacked out. However, only the mainstream media editors would be invited. At the point of writing this report, a meeting was called by the Deputy Prime Minister to brief editors on what sort of media coverage is expected of the government for the upcoming general elections. (I am privy to this information because I have been in the media for 14 years, and more importantly my deputy editor husband attended the meeting.) It is mandatory for editors to comply with what has been instructed by the Prime Minister and Deputy Prime Minister.

Press conferences are allowed to be broadcast.

## **2. Legal Environment**

There were laws, regulations and unwritten instructions on the way the media was to operate which caused some to say that Malaysia had a constitution "guaranteeing freedom of speech, but not freedom after speech" (Wong, 2000). Article 10 (subsection 1) of the Federal Constitution promises every citizen the right to freedom of speech and expression, to assemble peacefully without arms, and the right to form associations. Its subsection 2, however, allows Parliament to impose restrictions on national security, public order and morality. The laws and regulations that affect the press deal primarily with secrecy. The government's obsession with secrecy dates back to colonial times (Padman, 2001). For 12 years from 1948, the British (and later Malaysian) government instituted measures to resist a violent campaign against communist insurgents and in the process, shackles were put on the media.

In 1948, the Printing Presses Ordinance was introduced to control ownership of printing presses and publications. This was repealed and in its place came the

Printing Presses and Publications Act in 1984, during the Mahathir (former prime minister Dr Mahathir Mohamad) administration from 1982 to 2003. The annual publishing and printing permit may be revoked or not renewed without judicial review. In 1987, during the Operation Lalang, the licenses of four newspapers were revoked on the grounds that these publications were printing information that were seditious, therefore contravening the Sedition Act 1948.

Section 4 of the Sedition Act specifies that anyone who "does or attempts to do, or makes any preparation to do, or conspires with any person to do" an act with seditious tendency, such as uttering seditious words, or printing, publishing or importing seditious literature, is guilty of sedition. It is also a crime to possess a seditious publication without a "lawful excuse". The act defines sedition itself as anything which "when applied or used in respect of any act, speech, words, publication or other thing qualifies the act, speech, words, publication or other thing as having a seditious tendency".

Among the offences cited under section 3(1) concern the powers and the status of the Malay Rulers, citizenship rights of non-Malays, Malay special rights and privileges, the status of Islam as the official religion, and the status of Malay as the national language. In addition, an amendment to the Sedition Act had provided it with broad and vague definitions of "seditious tendencies" that include a tendency to bring into hatred or contempt or to excite "disaffection" against any Ruler, the government or the administration of justice. This coupled with the ISA (Internal Security Act 1960) has nullified the guarantee of the freedom of speech and expression in the Federal Constitution's Article 10. For decades Malaysians have not been allowed to openly discuss these issues, and those that question the relevance in pursuing policies that uphold communalism and the need for communal politics.

In 1960, the Internal Security Act came into force enabling preventive detention without trial. In 1972, the Official Secrets Act took effect. Three cases where OSA was used against the media in 1985 and in all three cases hefty fines were imposed - New Straits Times' Sabry Sharif story on irregularities in military aircraft purchases, two Asian Wall Street Journal foreign reporters' investigative story and a Far Eastern Economic Review foreign correspondents story citing an alleged official government

document. Amendments were made to the Act in 1986, adding provisions for mandatory prison terms. In 1988, the Broadcasting Act brought the electronic media under government control (Padman, 2001; Wong, 2000 and Syed Arabi 1998). The number of laws adversely affecting press freedom had increased since Mahathir became prime minister. Academic and former Malaysian Human Rights Commissioner Hamdan Adnan says there are presently 47 pieces of such legislation and ordinances (Syed Arabi, 1998).

The media in Malaysia reflects the culture of 'soft authoritarianism' (Wong, 2000) where the institutions of a democratic state and the division of its power exist in principle but have been made ineffective or absent in practice. Several practitioners and academics in Malaysia feel that the 1969 race riots have given the government a good excuse to continue with media controls in the name of nation building, economic development and, more crucially, racial harmony. Edmund Terence Gomez and K.S. Jomo in *Malaysia - Political Economy* as saying that the authoritarian style of Mahathir's government has on one hand enhanced economic growth and material well being while on the other hand led to abuses of power and a shrinking of democratic space (Wong, 2000).

Apart from legislation, the government has used force and threats to make the media comply and one such incident was in 1987 during Operation Lalang. In a bid to thwart what would have become a major race riot, probably bigger than the one in 1969, Mahathir declared an operation where over 100 people were arrested under the Internal Security Act, four newspapers were closed down for instigating racial unrest but no journalist was arrested. One of the four newspapers, The Star, was allowed to return if it complied with certain conditions and two of them were that the daily had to replace certain senior editors with those from the government-owned Bernama news agency, and the paper had to promise to toe the line in its reporting, according to editors of The Star. Since then, the media organizations have come to understand the vulnerability of their existence and have learned to conduct self-censorship when dealing with controversial stories and learned to wait for instructions from the government before running a story. When race riots broke out at a lower-income settlement called Kampung Medan in the outskirts of Kuala Lumpur in 2001 between Indians and Malays, the editors of The Star waited for a response from the

government as to how they should treat the story. They and the editors in other media organizations were told to downplay the racial sentiments.

A new law has been added with the advent of the Internet – the Communications and Multimedia Act 1998. The Act provides a regulatory framework to make Malaysia a major global hub for communications and multimedia information and content services (Loong 2001). Mahathir promised not to censor the Internet to ensure the success of the Multimedia Super Corridor, which is a Silicon Valley-type project in Malaysia, so as not to deter foreign investment. In practice the provisions of the Act restricting telecommunications interception appear to be regularly ignored or overridden by other statutes, including the ISA (Privacy and Human Rights 2003). In 1998, police detained four people under the ISA on suspicion of spreading rumors of disturbances in Kuala Lumpur. Inspector General of Police Abdul Rahim Noor said told the media then that the suspects were detained after police tracked their activities on the Internet with the assistance of Internet service provider Mimos Berhad. The provider later claimed that it did not monitor the activities of its subscribers.

There is no such restriction by law, however editors are periodically given a briefing by the Prime Minister, the Deputy Prime Minister as to what sort of reporting is expected and what sort of news to black out. Usually, news about the opposition parties are either blacked out or played down, unless the news item reflects negatively on the opposition parties or their leaders. The media organisations are also reprimanded should they report about corruption within the ruling government or personalities linked to the government or about failed or weak policies and projects. The press should not project a bad or weak picture of the government and its leadership unless certain personalities have fallen out of favour of the main leadership and the media chiefs have been given the nod to report on them. Within the media organisation as well, the political masters have their set of orders and their agenda. The task of the media organisation is to ensure their political masters look good and their opponents either within the party or otherwise is made to look bad.

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Nobody is excluded by law from working as a journalist.

There are times when the state authorities demand that certain news stories or features be faxed, emailed or sent to them for vetting. A journalist who writes commentaries and analyses on politics for a leading English daily once said (to this writer) that she had to fax over her articles to certain government officials close to the Prime Minister's Department to get their approval. The same English daily had to fax over to these same officials a pullout they were doing for the Aug 31, 2007 National Day celebration to get their approval, an official of the newspaper said (to the writer).

The press in Malaysia has the Information Ministry and the Internal Security Ministry to appease. The Information Ministry's task, among others, is to ensure the media content is controlled while the Internal Security Ministry controls and issues printing and publication permits in the country effected by the Printing Presses and Publication Act. Printing and publication permits have to be renewed annually.

About a week before Christmas in 2007, The Herald, the 13-year-old weekly published by Kuala Lumpur-based Archdiocesan Pastoral Centre for the Catholics

community in Malaysia, was facing difficulty in renewing its printing and publication permit. The Internal Security Ministry had demanded that its Malay section must be scrapped and the use of the word “Allah” when referring to God must be stopped. Public and global outcry forced to the government to retract this order on Dec 31, 2007, and The Herald has been promised a renewal of its publishing permit for 2008, with no conditions attached. This is the latest of incidents involving the printing and publication permit. Prior to this, numerous newspapers have been issued warnings over articles they published, some newspapers have been shut down or their publications suspended. There are numerous cases of editors being removed from their posts. The government officials have also asked media organisations to take action against editors or journalists who have allowed certain articles, which put the government in a bad light, to be published.

Malaysia has always had laws and regulations that restricted the media. There were no attempts to enact new laws to fight terrorism. However, there are attempts to set up a press council, a move which has been opposed by the journalist union and certain sections of society. One of the non-governmental organisations against this move is the Centre for Independent Journalism (CIJ). The CIJ feels that without the repeal of licensing provisions in the Printing Presses and Publications Act, a press council forms merely another layer of control. “In a situation where there is very restricted space for media freedom, the canons of journalism are paid mere lip-service. The establishment of a Media Council, or a complaints committee with a similar function (however preliminary given that a Media Council is not in place yet) will not address the root of the problem of unethical reporting in Malaysia and/or the impact of political control and manipulation of the media,” said the organisation in its website.

There is a tinge of difference on the way the media has been treated during the Mahathir administration (1981 to 2003) and the Badawi administration (2003 to present). Mahathir would periodically call for meetings with the editors of the mainstream media organisations and tell them what is to be covered and what are the stories that should be downplayed. When editors are faced with a situation like the Kampong Medan racial riots in 2001, the editors waited for instructions from the Prime Minister, his department, the Home Ministry, etc before proceeding. This is the standard action for editors in that they are required to seek clarification before going

ahead with stories – and the instructions are usually very clear and precise. However, during the present administration, instructions are coming from the usual sources, and also from the Prime Minister's son-in-law Khairy Jamaluddin, and from a fellow editor, Kalimullah Masheerul Hassan – and almost on a daily basis, according to two senior editors in two English dailies. This despite assurances from the Prime Minister, upon him taking office, that the media was to be freer than before.

Media freedom, therefore, has gone from bad to worse.

Legal censorship exists in the form of the Sedition Act, the Official Secrets Act and the Internal Security Act. The issues that are prohibited have been listed above.

Media organisations are usually not keen on employing people closely linked to opposition party leaders and people who are unionists.

Journalists do not need an official state permission to practise their profession. But they would need to get themselves registered with the Information Ministry through the media organisation that they work in. Foreign journalists or correspondents would need to register with the Information Ministry as well for accreditation.

Journalists have the legal right to participate in all public meetings of the government and parliament, however, there have been cases where only the journalists with the mainstream media are allowed to participate in public government meetings, and the online newspaper journalists asked to leave. The decision to allow or not to allow is up to the official handling the meeting. As for Parliament proceedings, only the mainstream media journalists are allowed. However, the Hansard is available for public consumption from the Parliament website (<http://www.parlimen.gov.my/op.php>).

Once the doors of the public government meetings are opened to journalists to participate, it can be rightly assumed that the meetings can be broadcast. For Parliament proceedings, there are no legal restrictions on coverage but because there is surprisingly no immunity for parliamentarians during the proceedings, all that is discussed is subject to the Sedition Act. There are to be no discussions on the

sovereignty of the King and Sultans, the special privileges for the Malays, and such. However, Parliament proceedings are not telecast live but only certain clips or video grabs, deemed to be not detrimental to the government and its leaders, are allowed to be broadcast or published.

The formation of monopolies and cartels on the part of private media companies are not prohibited by law.

State control over the media has not diminished as restrictive laws and unwritten policies are still there. The move to further commercialise the media industry in the 1980s with the setting up of the first television station was to show that the state was moving towards democratization when in actual fact it was not. The newspaper organizations then were only involved in the print medium. However, over the last 15 years, mergers and acquisitions have been taking place turning the landscape into one where there are fewer but bigger industry players. Newspaper organizations have merged with television and radio stations in a move to bring variety and also to stay away from the one-product company situation. As these companies diversify, the power within the industry has been confined to a handful of companies, and this makes it all the more easier for the state to control and manipulate the media to suit its political goals.

Journalists do not have the right to legally challenge state repression.

### **3. Political Conditions**

Those who are in opposition parties, labour movement, left-wing politics, demonstrators or street protestors are given scant publicity. This is because the government does not want dissenting views to be published or aired. However, with the advent of the internet, many are seeking alternative views from blogs and online newspapers and news portals.

Self-censorship exists at all levels of gatekeeping – from the reporters to the editors, and this habit started during the Mahathir administration. Reporters have been told to report on matters that do not antagonise the government and also the advertisers.



During elections, the self-censorship is even more severe. No Malaysia journalist can claim he or she can freely investigate government or corporate scandals (Padman, 2001). Part of the reason is because they have limited access to information and another part is because of controls and because these controls are in place, therefore a journalist has to resort to self-censorship.

At the same time, there have been instances where the media organisations have made moves like this: on April 18, 2006, the first news analysis for a new column by Mustafa K Anuar, the Joint-coordinator for Charter2000-Aliran, was rejected by New Strait Times without reason, on March 8, 2006, the former president of the Malaysian AIDS Council Marina Mahathir had her article in the Star withheld and only published days later after censorship, the first time in 17 years that her column was withheld, over the last two years, at least eight writers have been barred from the pages of the Chinese language Oriental Daily News as a result of political intervention.

Self-censorship especially occurs in areas such as politics, corporate scandals, corruption involving high-ranking officials and corporate figures, political instability, religious and racial discontent, failure of government projects, and such.

Ever since the shutdown of four newspapers under the Internal Security Act during Operation Lalang in 1987, there is a fear in newsrooms of a similar incident happening although no journalist was arrested. Verbal threats have been issued by government officials either in public or in private to media officials and editors since then to keep media practitioners in constant fear. One of the newspapers, English daily The Star, was allowed to operate again by then prime minister Mahathir Mohamad provided certain conditions were met and one of these conditions included the sacking of several editors.

On Nov 9, 1996, the police arrested 60 organisers and participants at the APCET II conference in a hotel in Kuala Lumpur following the unlawful disruption of the conference by Youth members from the parties in the ruling coalition. Among those arrested were local and foreign journalists. APCET II was a peaceful and legitimate attempt to seek a peaceful resolution to the illegal annexation of East Timor by Indonesia.

The 1987 shutdown of newspapers was the last such act of state repression.

Access to the internet is not hindered by the state, but there are claims of “cyber troopers” being set up by UMNO to get into blogs, websites and news portals to create havoc, disrupt public discourse, make accusations, etc – to sabotage discussions in the internet. News portal owner Raja Petra Kamarudin wrote that when he was called up by the police for questioning over a police report made by an UMNO official that his postings were seditious in July, 2007, he talked to the police about the existence of “cyber troopers” (Kamarudin, 2007).

There were occasions during the last five years when several people felt the Badawi administration was going to impose the Internal Security Act and the media was the target. Attempts were made by those in the mainstream media to toe the line.

The internet has opened a floodgate of information for public consumption and the government officials are trying hard to counter this. Whether there is any truth to the information posted cannot be ascertained but the public is bent on believing it after years of being left in the dark. The Badawi administration is dealing with a medium that it is finding hard to control, and something which Mahathir himself was unable to get a good grip of. The next best thing to do was probably to intensify fear and hope those behind this would back off.

#### **4. Economic Pressures**

Private media are not subsidized by the state. The private market ad revenue is substantial enough for the main media organisations to operate with clear profits.

#### **5. Non-State Repression**

The religious departments in the government have on numerous occasions come out with stinging statements over news reports and coverage that can make Muslims react heatedly. In the eastern state of Sabah, the Bugis people occasionally send death threats to the journalists there should there be news reports that do not put them in good light. These threats have remained just that. Non-state repression

happens only occasionally. I cannot recall of an incident, however, when the Malaysian government has prosecuted these acts.

State authorities can effectively protect journalists because of the amount of control the authorities wield over media organisations, but I do not recall of an incident when this has happened. The state has never functioned as the guardian of the journalists when it came to issues of rights and protection for journalists.

## **6. Conclusions**

There is no freedom of the media. The changes in the past five years have been for the worse.

The major obstacles to free media coverage are limited access to information, repressive media laws, and intimidation and fear tactics by government officials.

The KAS supports journalists by offering fellowships for working journalists to do their MA at Ateneo de Manila University. The course plan of this programme is practical and very hands-on.

However, I can't seem to think of any way which KAS can intensify its efforts towards establishing free media in Malaysia. It is up to Malaysians to desire it and force the government to remove the shackles on media.

*Vanitha Nadaraj*

## Bibliography

Abdul Samad, Ramli (Aug 16-25, 2001): "The double edged sword : a brief comparison of it and Internet development in Malaysia and some few neighbouring countries in the context of digital divide". Paper presented at the 67th IFLA Council and General Conference

<http://www.ifla.org/IV/ifla67/papers/029-163e.pdf>

Abdul Wahab, Juliana (Nov 27-29, 2006): Communication Technology and the Television Industry in Malaysia. Paper submitted for the ARC Asia Pacific Future Network International Conference: Media, Policies, Cultures and Futures in the Asia Pacific Region. Organised by Curtin University of Technology, Perth, Australia

AC Nielsen data (2007): <http://www.acnielsen.com.my/site/20071001.shtml>

Astro All Asia Network Plc website <http://www.astroplc.com/05/>

Centre for Independent Journalism (Dec 16, 2007): "Freedom of Expression: 2007 a year of persecutions".

[http://www.cijmalaysia.org/index.php?option=com\\_content&task=view&id=281&Itemid=5](http://www.cijmalaysia.org/index.php?option=com_content&task=view&id=281&Itemid=5)

Centre for Independent Journalism (Feb 5, 2008): "Blogs, news portals see higher numbers during rallies",

[http://www.cijmalaysia.org/index.php?option=com\\_content&task=view&id=292&Itemid=1](http://www.cijmalaysia.org/index.php?option=com_content&task=view&id=292&Itemid=1)

Department of Statistics, Malaysia (2008)

[http://www.statistics.gov.my/english/frameset\\_keystats.php](http://www.statistics.gov.my/english/frameset_keystats.php)

Kamarudin, Raja Petra (Aug 18, 2001): "So begins my ordeal as ISA detainee".

<http://www.freeanwar.net/articles/article180801.htm>

Kamarudin, Raja Petra. (July 26, 2007): "A comedy of errors" The Corridors of Power.

<http://www.malaysia-today.net/blog2006/corridors.php?itemid=6773>

M.G.G. Pillai (April 4, 2001): "The Internet Tail Wags The Media Dog In Malaysia."

<http://www.mediachannel.org/views/oped/pillai.shtml>

New Straits Times (Oct 2, 2007): "Adex expected to close year on positive note", English daily's Internet edition.

New Straits Times (Jan 4, 2008): "Media Prima: Online ads to see big jump", English daily's Internet edition, report by Reuters.

New Straits Times (Jan 17, 2008): "TV3 the choice channel for Malaysians in 2007", English daily's Internet edition.

Padman, Padmaja (2001): "Malaysia: Consensus, Compromise and Compliance." Coronel, Sheila S. (ed). *The Right To Know - Access to Information in Southeast Asia*. Quezon City: Philippine Center for Investigative Journalism.

Syed Arabi Idid, (1998): "Malaysia. Walking the Tight Rope." *Press Freedom and Professional Standards in Asia*. Singapore: Asian Media Information and Communication Centre.

The Edge (Nov 5, 2007): "Is WiMAX the next big thing?", English business weekly, Internet edition.

Wong, Kean, (2000): "Malaysia - In the grip of the government." *Losing Control - Freedom of the Press in Asia*. Williams, Louise & Rich, Roland (eds). Asia Pacific Press.

Zaman, Halimah Badioze (2002): "Glimpses into Research on Literacy in Malaysia". This invited paper was originally presented as part of the first IRA Multilanguage Literacy Symposium, held in July 2002 in Edinburgh, Scotland, following the 19th

World Congress on Reading.  
<http://www.readingonline.org/international/malaysia/article.html#author>

### **Recommended Reading**

Rodan, Gary (2005): "Transparency and Authoritarian Rule in Southeast Asia. Singapore and Malaysia". Routledge: London and New York.

Padman, Padmaja (2001): "Consensus, Compromises and Compliance" Coronel, Sheila S. (ed) *The Right to Know – Access to Information in Southeast Asia*. Philippine Center for Investigative Journalism. Quezon City

Wong, Kean, (2000): "Malaysia - In the grip of the government." *Losing Control - Freedom of the Press in Asia*. Williams, Louise & Rich, Roland (eds). Asia Pacific Press.

M.G.G. Pillai (April 4, 2001): "The Internet Tail Wags The Media Dog In Malaysia." <http://www.mediachannel.org/views/oped/pillai.shtml>

Mustafa K. Anuar (2000): "Country Report: Malaysia". *Media and Democracy in Asia*. Singapore: Asian Media Information and Communication Centre.

## **NIGERIA**

The Nigerian mass media has a long and proud history of freedom, deriving in large part from an activist tradition since colonial times. This freedom is today beset by a wide range of problems ranging from a legal environment designed to cripple and hamper it to low literacy rates and adverse economic conditions. The return to civilian rule in 1999 has not significantly improved media freedom. As the economic and political gap widens between the ruling groups and the mass of Nigerians, the state and the media (the one acting for the former and the other predominantly for the latter) are locked in an increasingly violent struggle over the freedom of the media to report and comment on social events and issues.

### **1. General Information**

By the definition of literacy as the ability of a person of age 15 and above to read and write and to understand simple statements in a specified language, the literacy rate in English (the official language) in Nigeria is placed at 68% (2003 est.: CIA World Factbook). The literacy rate in local languages is 25%, differing between men and women at 30% and 20% respectively (Okigbo, C.: 2002). Literacy in English similarly varies along gender lines: 75.7% amongst men and 60.6% amongst women. In the absence of research-based statistics, it is difficult to make categorical statements about the distribution of literacy in English along lines of ethnic-nationality, religion, geo-political region, and social class. It is obvious, however, that significant differences occur in this respect, with generally higher rates of literacy amongst the ethnic groups of the southern and middle-belt regions, which are predominantly Christian and animist, and amongst the upper and middle social classes.

Behind this distribution of literacy in Nigeria are historical and socio-economic factors. The English language gained entrance into the country through English-speaking missionaries and traders, who first made contact with ethnic groups and state entities in the Atlantic coast of southern Nigeria in the 17th century. Following them inland by the principal waterways of the rivers Niger and Benue, the language appeared among the ethnic groups and state entities of the southern inland and the middle-belt. For various socio-historical reasons internal to these groups and entities,

these missionaries and traders made greater headway amongst them than amongst those in the Fulani Caliphate that ruled in the northern regions. This laid the foundation for the unequal penetration and development of literacy in the English language between the south and the north of the country. Colonisation by Britain in the early 20th century and the introduction of colonial education institutionalised the English language in Nigeria. Although the colonising power amalgamated the southern and northern protectorates of Nigeria in 1914, the Dual Mandate and system of Indirect Rule it adopted in governing the colony resulted in significant differences in the development of colonial education in the south and the north of the country. Whereas English-based education — and, thus, literacy in English developed — rapidly and extensively in the south, its progress was more restricted in the north (where Islamic education was predominant). (Ajayi 1964 and Ayandele 1966). This difference persists until date, in spite of postcolonial efforts to encourage universal English-based education across the country. Accounting for this in part is the uneven pattern of the class formation demanded by the development of industrial capitalism in the country. With the greater development of industry in the south, a greater proportion of the labour force in the south is involved in economic activities requiring prior training in the English-based education system.

The skewed pattern of wealth distribution in the country also accounts for differences in literacy rates amongst its social classes, ethnic nationalities, and genders. Although governments since the country gained independence have provided free or subsidised education at various levels, the investment in education (as in the social sector as a whole) has become increasingly inadequate over the decades. This has become particularly so since the structural economic crisis of the country that commenced in the early 1980s. Measures adopted to address the crisis included drastic cuts in expenditure on social services and infrastructure, including education and literacy programmes. This resulted in the decay of the education system and the drastic fall in the quality of education and of literacy. It also transferred a greater share of the burden of education to the individual and the family. Thus, the quantity and quality of education acquired is today principally a function of the wealth and social resources an individual or their family commands. Nigeria exhibits a skewed distribution of social resources, however, in which abject poverty and destitution coexist with fantastic wealth and affluence. Thus, the less than 20% of the population



that comprises the upper and middle social classes appropriates more than 60% of the social wealth while the more than 80% that comprises the lower classes appropriates less than 40%. This results in a higher capacity amongst the former to acquire a greater quantity and better quality of education, accounting for the higher literacy rates amongst them. This difference in the literacy rates between rich and poor translates almost directly into a similar difference between town and country, since the wealthy (and education services and facilities) are concentrated in the urban areas and the rural poor constitute the majority of the lower classes.

A similarly skewed distribution of wealth along gender lines in favour of the male sex explains the difference in literacy rates between the genders. While this manifests in the lower ability of women to afford education for themselves, its dominant manifestation is in the widespread practice in families of discriminating against girl-children in the provision of education. This practice springs only in part from traditional modes of thought and values that consider men (and therefore boy-children) to be superior to women (and therefore girl-children). The experiential evidence of its greater prevalence amongst the poor suggests strongly that it is also a method amongst them of allocating scarce resources, on the pragmatic calculation that educating a boy-child is likely to yield a higher return on investment in a male-dominated and competitive world.

In the final analysis, the rates and distribution of literacy amongst social groups in Nigeria have a constraining effect on the development pattern of the mass media and on media use in the country. First, all mass media organisations and channels are located in the urban areas and have them as their primary audience; second, radio has remained since independence the most important mass medium for the majority of Nigerians; third, the owners and operators of the mass media have been predominantly men; fourth, the contents, concerns, and ideology of the mass media have been predominantly patriarchal; and fifth, the consumers of mass media products and services are predominantly men.

There are 100 (one hundred) radio stations in Nigeria distributed as follows: 13 AM stations, 72 FM, and 15 Shortwave. About 80 of these stations are owned by the federal or the state governments while 20 are private enterprises (Guy Berger: 2007).

There is only one community-based radio station (UNILAG FM, operated by the Mass Communication Department of the University of Lagos); the government has been tardy in approving licenses for such stations. There are also about 76 television stations, of which various governments own about 62 and private investors 14. The print media are estimated to consist of about 40 newspapers (of which eight are privately owned) and 15 magazines, all privately owned. The state therefore has an overwhelming dominance in the ownership and control of mass media channels.

The enabling law of the National Broadcasting Commission, the body charged with registering and regulating the broadcast industry, excludes political parties (as well as religious organisations) from being granted license to own or operate electronic broadcast media (see Section 10 of the National Broadcasting Commission Decree No. 38 of 1992). In contrast, there is no law against print media ownership and operation by political parties; however, none at present publishes a newspaper or magazine.

This situation is to the advantage of the ruling party at the federal level or in a state. Instruments establishing government-owned media typically require their management by a board of directors. The president or the governor, as the case may be, appoints these to the exclusion of the opposition parties, the civil society, or other sectors of the society. The president or a governor is therefore able to appoint his or her party members and other loyalists to these boards, making the mass media agency they govern into an instrument of the government and the ruling party. Thus, while the law prevents political parties from owning and operating media organisations, the monopoly of powers in the hand of the chief executive to appoint the governing members of state-owned media effectively allows ruling parties to do so.

Further, both the federal and the state governments until recently ignored provisions requiring these media to be governed by Boards and generally chose to run them through sole administrators appointed by the president or the governor. These appointees owe their loyalty often not to the government or the party but to the appointing authority — i.e., the president or the governor — and determine the

operation and content of the media organisation in their keep to serve his or her political and personal interests.

About 22 independent internet newspapers exist; these are however mostly online editions of print newspapers. They include *Al Mizan*, *Business Day*, *Daily Champion*, *Daily Trust*, *Financial Standard*, *Guardian*, *Independent*, *New Age*, *Newsday*, *Nigerian Tribune*, *Pointer*, *Port Harcourt Telegraph*, *Punch*, *Sun*, *This Day*, *Tide*, *Triumph*, and *Vanguard*.

State authorities have generally refrained from censoring these online editions of print newspapers. Being internet editions of print publications, however, the pressure of censorship applied to their print editions is transmitted to them. Thus, for instance, the prevention of a journalist working for a print newspaper from covering a state activity translates directly into lack of information about that activity in both the print and online editions of the newspaper.

The principal advance represented by the use of internet technology by newspapers in Nigeria has been the expansion of their audience. Where previously most of their primary audience was located in the country, their contents now potentially reaches millions of people across the world through their online editions. It must be noted, though, that even the publication of online editions has done little to enlarge their readership within the country. According to 2007 statistics by the International Telecommunications Union (ITU), only eight million Nigerians (or 5.9% of the population) have access to the internet. Most of these — probably up to 90% — gain access only through cybercafés that charge per hour and are therefore do not spend time on the net unless it is absolutely necessary for their purposes. The option of downloading online web pages for offline viewing does not exist for most internet users because they do not own personal computers.

Nigeria has a population of 135,031,164 (ITU estimate for September 2007) and has an estimated 8,000,000 persons with access to the internet, accounting for 5.9 % of the population. The ITU estimates for 2002 were that there were 15,249,000 (fifteen million two hundred and forty-nine thousand) households with radios. At an average of two persons per household, that would give 30,498,000 (thirty thousand four

hundred and ninety-eight thousand) persons with access to radio in 2002. The equivalent figures for television were 6,286,400 households and 12,572,800 (twelve million five hundred and seventy-two thousand eight hundred) persons. Those figures have risen substantially since then in all probability, and access to radio and TV should be in the range of 60% and 30% respectively of the population.

Assessing access to the print media is more problematic. These media have neither the mechanisms nor the inclination to collect and analyse their circulation data, and there exists no independent monitoring data. Although an Audit Bureau of Circulation (ABC) exists, membership is optional and the bureau only works with figures it receives from member organisations. As these media organisation typically inflate these figures to make their publications more attractive to advertisers, ABC figures are of doubtful reliability. Nonetheless, access to the print media (magazines and newspapers) is probably in the neighbourhood of 35%, taking into consideration the fact that each copy of a newspaper edition is read by up to two persons.

Radio and television are the most frequently used sources of information in Nigeria, with radio being by far the most important and television the next most important. Newspapers and magazines are also frequently the source of in-depth information for the literate who can afford them. Most internet users employ that medium for communication by email and for research rather than for news. Verbal exchange of information is also an increasingly important source of information, especially with the advent of GSM telephony.

The mass media play a key and highly significant role in the formation of political opinion in Nigeria. The Nigerian media has a long history of independent political and social activism by which it has earned the confidence of the populace since colonial times. Although the state acquired dominance in media ownership in the early years following independence in 1960, a private media has always existed first in the print sector and (since the late 1990) in the electronic sector. This private media have largely continued in the traditions of the pre-independence media in their independent-minded and activist journalism. Thus, they have largely retained the credibility and political influence gained by their colonial predecessors. They have therefore been able to mould the political opinion of the populace. This was particularly obvious in the years of struggle (1983-1999) to end military rule in the

country. The private media, especially the print sector, was able to draw on its activist tradition in the anti-colonial struggle to serve as the voice and instrument of the struggle against military rule, consolidating its already enormous influence amongst Nigerians. This influence has been reinforced by the strong tradition of journalistic professionalism in the Nigerian media, despite its activist partisanship on the side of democracy and human rights. The private Nigerian media is widely perceived as reliable and credible in their reporting, enabling most media consumers to rely on them in forming their political opinion.

In contrast, the state-owned media are generally perceived as merely propaganda instruments of the federal and state governments. The state has sought to employ these media as instruments of national unity and ideological mobilisation for national development. State media have therefore tended to stress the positive and to ignore or even deny the most egregious of problems in the society, aiming to defuse social tension and conflict. This is apparent in every instance of massive confrontation between the state (or its ruling groups) and any oppressed social group, as it was in the long struggle against military rule. State media typically denied such confrontations or played down their severity, in part to douse passions and in part to enable the state and the ruling groups continue in the blissful notion that all was social amity and peace. At the root of this character of state media has been the fact that they lack independence from the state authorities. For these reasons, they are seen as mere instruments of the state to paper over and disguise the existing and rapidly worsening contradiction between the mass of Nigerians and the ruling groups. They therefore have little influence in the formation of political opinion in the country. The conclusion then is that the private media play the leading and dominant role in the formation of political opinion in Nigeria. This cuts across social class, ethnic nationality, religion, and gender.

State-owned media exist and indeed constitute the majority of media channels in the country. Eighty of the 100 radio stations in existence are owned by the federal or various state governments; they also own 62 of the existing 76 television stations and 32 of the 40 newspapers. Only in magazines do these governments own no channels, all 15 existing magazines being private enterprises. Recently, however, the federal government has privatised the *Daily Times* and the *New Nigerian* newspapers, its

flagship publications. This may be in recognition of two facts: first, leadership in the print media is solidly in the hands of the privately owned press; and second, most Nigerians turn to radio and television as their principal sources of information. Letting go of these publications is therefore probably an attempt to cut losses and to focus investment in areas of greater returns. Thus, the federal government has held on to its television and radio media, the Nigerian Television Authority (NTA) and the Federal Radio Corporation of Nigeria (FRCN, better known as Radio Nigeria).

These state media are editorially subject to the preferences of the state, in the absence of any law specifically protecting them from editorial pressure from government authorities. This is made worse by the fact that the president or the governor, as the case may be, appoints the governing boards of these media without participation by the civil society or any other social sector. Even worse, most government authorities until 2000 failed to appoint even such boards but preferred to run state media through sole administrators. Under challenge by civil society organisations that went to court on the matter in 2000, the federal government and various state governments reverted to law and appointed governing boards for such state media as the Nigerian Television Authority and the Federal Radio Corporation of Nigeria.

Although the private media have greater credibility amongst Nigerian, the state media are the source of the overwhelming bulk of published information. *The latter have a clear hegemony in this respect.* This has been due primarily to restrictions on the private media, especially in the electronic sector. Thus, only electronic media owned by the federal government are licensed for nation-wide broadcast; attempts by private media to broadcast their programmes nationally have been forbidden by the National Broadcasting Commission, the broadcast regulatory body (Berger 2007). Thus, only the federal government has the ability to reach all Nigerians in the country simultaneously, placing in its hand enormous media power. While no similar restriction exists on private print media, such factors as the low level and quality of literacy and the gigantic problems of distribution severely constrain the reach of the private media. This is in addition to the fact that state print media outnumber private print media by a ratio of about 2:1, since most state governments publish their own newspaper.

In respect of editorial inclination, state media are primarily propaganda instruments of government. There is little significant difference in this respect amongst state media, be they print, radio, or television media.

The federal government and various state governments hold regular press conferences to inform the public about their programmes. Journalists do not have equal access to these conferences, due to the practice of media accreditation. Accreditation to attend these conferences is entirely at the discretion of the government and, while in principle every media organisation may be accredited, it is usually those in its good books that in fact are. Accreditation has been withdrawn from certain journalists for displeasing the government.

The broadcast rights for these conferences belong to state media; but private electronic media are allowed to hook up to these media to air them and to re-broadcast them.

## **2. Legal Environment**

The right to freedom of opinion is recognised and established in the 1999 constitution as a fundamental human right. Section 39.1 states that, “Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.” Section 38(1) reinforces this: “Every person shall be entitled to freedom of thought, conscience, and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.”

This right to freedom of opinion is construed as including the right of individuals or groups to free expression, which is in turn concretised in the right to own and operate media of mass communication. Section 39.2 states that, “Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish, and operate any medium for the dissemination of information, ideas, and opinions.” However, that section makes private ownership and operation of electronic

media subject to authorisation “by the President on the fulfilment of conditions laid down by an Act of the National Assembly.” This power is exercised through the National Broadcasting Commission under the National Broadcasting Commission Decree No. 38 of 1992 as amended by the National Broadcasting Commission (Amendment Decree No. 55 of 1999. Section 10 of the 1992 decree forbids the granting of broadcast license to political parties and religious organisations, effectively restricting their right to freedom of expression.

Moreover, the right to freedom of opinion is of little practical significance if it does not include the ability to express ones opinion in the public domain not only by word but also by peaceful action. The Public Order Act was for long an effective instrument for preventing the free and peaceful expression of opinion by public meetings and demonstrations. The Act subjects the right to hold such public meetings to prior approval by the police authorities. The police have used this power to deny the civil society and government opponents the right to express their opinion freely concerning government policies and practices.

Although the Nigerian mass media has won the de facto right to operate more or less freely, there is no explicit, justiciable, and specific recognition of press freedom in the 1999 constitution. Section 39.2 recognises the right of citizens to “own, establish, and operate any medium for the dissemination of information, ideas, and opinions” but this only amounts to the right to own and operate not the right to operate with freedom.

The only section that recognises the right of the mass media to operate freely is Section 22. Two points are noteworthy in this section, however. First, it only recognises the freedom of the mass media “to uphold the fundamental objectives contained in [Chapter 2 of the constitution] and uphold the responsibility and accountability of the Government to the people.” Thus, it ties the freedom of the press to the objectives of the state and would limit it to matters of governmental responsibility and accountability. As the objectives — outlined in Chapter 2 of the constitution — are the essential articulation of the official state ideology of national development, this section aims to make the freedom of the mass media an instrument of that ideology. From this perspective, the freedom of the press



recognised in Section 22 easily transmutes into a duty to serve the state ideology; indeed, it is significant that the Section 22 is entitled *Obligation of the Mass Media*. Second, this statement of media freedom in Section 22 is in Chapter 2 of the constitution, entitled Fundamental Objectives and Directive Principles. This chapter contains numerous statements that could be construed as granting or recognising certain rights including, in addition to press freedom, the right to education, housing, employment, and the equitable distribution of social wealth. None of these is justiciable, however; i.e., they cannot be enforced in any court of law. This applies to the right to press freedom stated in Section 22: the statement has no force of law.

The press has been operating in freedom therefore on the basis Section 39 which grants every person the right to “receive and impart ideas and information without interference.”

The problem of access to official information is perhaps the most important confronting the Nigerian media in the performance of its function. Although Section 22 of the 1999 constitution charges the media with the responsibility “to uphold the fundamental objectives contained in [Chapter 2 of the constitution] and uphold the responsibility and accountability of the Government to the people,” numerous pieces of legislation operate to defeat that purpose. In the constitution itself, Subsection (3)(a) of Section 39 — the very section that ostensibly recognises the right of free expression and of press freedom — permits the government to make laws “for the purpose of *preventing the disclosure of information received in confidence*, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films...” The Official Secrets Act, first enacted in 1962, is an example of such a law to prevent the “disclosure of information received in confidence.” This law denies the mass media and other unauthorised persons access to information in the possession of the government or its agencies, and provides for imprisonment for 11 years for the public official who releases such information without authorisation and for the person who receives it. Other legislation that restrict access to official information include the Public Complaints Commission Act of 1975, the Statistics Act of 1987, the Criminal Code Act of 1990, and the Evidence Act of 1990.

Led initially by the Civil Liberties Organisation and then Media Rights Agenda, civil society organisations have since 1993 campaigned for greater access to official information. The Freedom of Information Bill that they initiated in 2000 passed in the House of Representatives on September 2, 2004 and in the Senate in November 2006, and only required presidential assent to become law. President Olusegun Obasanjo refused March 2007 to sign it into law, however, on grounds of rejecting a provision for the judicial review of a refusal by any government agency to grant access to information in its keep. Having run the six-year gauntlet of legislative passage from 2000 to 2006, the bill has to recommence the process with the new National Assembly that commenced sitting in May 2006.

There exists no single and specific law that may be described as a censorship law in Nigeria; however, there exists a battery of provisions in various laws that individually amount to censorship in their effect and collectively create a censorious environment for the Nigerian mass media. For example, Chapter 7 of the Criminal Code of 1990 outlaws what it describes as sedition and seditious or undesirable publications, these being the products of a “seditious intention.” It defines a seditious intention in Section 502 as one to create, among other things, hatred, contempt, or disaffection against the government, the president, or the governor of a state, to create discontent in the populace, or to promote hostility between social classes. Chapter 21A of the same code forbids “obscene publications” (these being specifically print publication). Section 233(1) of the code defines an obscene publication as one that in its effect tends “to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.” Section 88(a) of the law also forbids any publication “likely to provoke or bring into disaffection any section of the community” and bans songs “the words of which are likely to provoke any section of the community.” Finally, Section 58 empowers the relevant minister to ban the importation of any publication considered seditious or undesirable. Other laws with similar censorious provisions are the Obscene Publications Act of 1990, the Printing Press Regulation Act of the same year, and Offensive Publications Decree of 1993.

In respect of broadcast media, they have to obtain pre-broadcast approval from the NBC for their programmes. A list of these programmes along with a brief description

of each has to be sent to the regulatory body for approval each quarter before they are put on air, on the pain of sever sanctions including withdrawal or suspension of broadcast license. Further, television stations are required under the Press Law of 1993 local to limit foreign programming to 40 percent of their daily broadcast content. The same law also places a bar of 20 percent foreign content for satellite broadcasting. All of these create a censorious environment for the mass media.

The media are not barred from covering or reporting the activities or words of any social group or individual. Yet there is an unspoken understanding that the media should exercise “caution and due consideration” in its reporting. This amounts to a demand for media self-censorship, and the practice of self-censorship is indeed widespread.

Section 39 grants every Nigerian the right of free expression and there exists no known law that specifically denies any person or category of person that right. The law, however, does regulate who may practice as a journalist. The Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 creates the Nigerian Press Council (NPC) to, among other things, register person who may practice as journalists. This law defines a journalist as any person who is “paid for gathering, processing, publication, or dissemination of information” requires such a person to be licensed to practice on pain of imprisonment. The civil society and media organisations have stoutly opposed the law and its purpose of registering journalism practitioners; but the law in fact goes way beyond merely compiling a register of journalists, dangerous to media freedom as that is. The law also empowers to suspend a journalist from practicing and actually lays down conditions under which a person may be registered as a journalist. These relate mainly to acquiring the necessary journalist training in accredited institutions, and this has allowed the government and the NPC to insist that the purpose of the law is only to raise the standard of professional practice and to weed out quacks from the profession. The civil society and media organisations have argued (correctly, in my opinion) that journalism differs from other professions in that it arises from the fundamental right of free expression and plays a systemic role such as other professions do not. Moreover, the effect of allowing the state to determine who practices as a journalist are in the final analysis damaging to an order founded on

democracy and human rights in a way that state determination of who practices as a lawyer or doctor is not.

All of these laws and policies establish a legal environment hardly conducive to media freedom. However, there is no legal requirement for media organisations to have their reports approved by state authorities before publication. This is not necessary in light of the vast array of laws that prescribe punitive sanction for various media infringements.

Nevertheless, the law establishes regulatory bodies for the mass media. The National Broadcasting Commission is empowered by the National Broadcasting Commission Decree 38 of 1992 to amongst other things, grant broadcast licenses, regulate the broadcast industry, investigating and punishing broadcast media misconduct, and establishing and enforcing a national broadcasting code. The Nigerian Press Council is established by the Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 to regulate the print media, register journalists, accredit journalism courses in tertiary institutions of learning, and investigate and punish actions by journalists that violate the press code.

There has been no change in the legal environment of the media industry in the past five years, despite spirited efforts by civil society and media organisations to change the legal framework to enhance media freedom. The most significant of such efforts was the campaign for the Freedom of Information Act: the bill was passed by the National Assembly but did not receive the assent of President Obasanjo and did not become law. A second effort was that for a Nigerian Media Law to harmonise and consolidate all media laws into one and to amend those with adverse implications for press freedom. That law remained stuck in the National Assembly until the end of the tenure of the last legislature.

In the absence of these changes, the legal framework of the media in Nigeria remained essentially the same in the past five years. The evaluation of the state of media freedom in the period would be therefore that there was no change (0). Although the government and its security agencies showed much concern about the terrorist attack of 9/11 and the security implications for Nigeria, there was little

movement for the enactment of anti-terror laws in the country. The 9/11 attack and its security ramifications therefore had little effect on media freedom in Nigeria.

There has been no significant change in media operation and coverage in the past five years. The evaluation of the state of media operation and coverage in the period would be therefore that there was no change (0).

While no specific censorship law exists, as stated above, several legislation have provisions with censorious implications for the mass media.

Further, the Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 requires publications to register with the Nigerian Press Council, as part of which they have to submit their mission statement and objectives of the publication. As the council has power to deny a publication registration if its mission and objectives do not meet its approval, this amounts to a means of systemic censorship. Similarly, the conditions for the grant of broadcast licenses amount to systemic censorship. Section 9 of the Nigeria Broadcasting Commission Decree of 1992 requires a license applicant to give “an undertaking that the licensed station shall be used to promote national interest, unity, and cohesion and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred, and disaffection among the peoples of Nigeria.” According to the NBC law, the commission can revoke a station’s license where “in the opinion of the Commission the station has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission and whose decision is upheld by a majority of members of the Commission”. It lies entirely with the commission to decide what the “national interest” is and what offends “religious sensibilities” or promotes “ethnicity, sectionalism, hatred, and disaffection.” This effectively empowers it to take censorship action, including the revoking of broadcast licenses, against media organisations of whose broadcast content it disapproves. Thus, the National Broadcasting Commission has been able to employ its regulatory powers in a manner that in many instances amounts to censorship. An example of this is the standing ban it has placed on the live broadcast of news and features programmes from foreign media organisations.

In the absence of a consolidated censorship law, it may not be appropriate to speak of the consequences of acting in breach of such a law. There are various laws with censorious provisions, though, and these include punitive provisions for breaches. Chapter 7 of the Criminal Code Act of 1990 forbids sedition and the importation of seditious or undesirable publications. A first offender who produces a seditious publication under this law is subject to a two-year prison sentence, a fine, or both, while a subsequent offender is liable to imprisonment for three years. Possession of a seditious publication is punishable under the law by imprisonment for one year, a fine, or both. Various acts (including the importation, possession, publication, sale, offering for sale, distribution, reproduction of a publication banned under this law) attract a term of imprisonment, a fine, or both. Production, distribution, or reproduction of a publication categorised as obscene under Chapter 21A of the Criminal Code of 1990 is punishable by imprisonment, a fine, or both.

As stated above, some of the licensing conditions under NBC law amount to systemic censorship. The law empowers the commission to revoke the license of a station that violates its license conditions or the NBC code. The commission has employed this power in numerous instances. For example, it applied a range of sanctions against privately owned Freedom Radio on March 28, 2006 allegedly for violating the broadcasting code. These included bans on broadcast operations between 5 pm and 10 pm daily, on broadcast of political programmes, and on certain specific programmes (Special Programme, and the Hausa-language programmes *Kowa Ya Tuna Bara*, *Kowane Gauta*, and *Kowane Tsuntsu*). The station was fined N200,000 and ordered to pay up within 48 hours. Explaining the action, the NBC alleged that it found the station's political and talk show programmes lacking in "the maturity required of such programmes" and that programme guests and callers made "unguarded comments that violate provisions of the NBC Code always tending to overheat the polity." This is a clear instance of censorship.

Media establishments have to be registered by state authorities. Quite apart from registration as legal business entities, media organisations have to be registered with either the Nigerian Press Council (for print publications) or the National Broadcasting Commission (for broadcast media).

The Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 provides for the “Documentation of Newspapers,” under which publications must register with the Nigerian Press Council. Registration requires submission of the mission statement and objectives of the publication. Publishing without registration attracts a punishment of three years of imprisonment, a fine of N250,000.00, or both. Every additional day of the offence attracts a fine of N5,000.00. The National Broadcasting Commission Decree No 38 of 1992 similarly forbids a radio or television station from broadcasting unless it is granted a license by the National Broadcasting Commission. The conditions that applicants for licenses must satisfy include majority ownership of the business entity by Nigerians and the payment of various fees. Meeting all the conditions does not guarantee a successful application, however; the NBC law leaves the decision to grant broadcast licenses completely at the discretion of the president.

These regulatory bodies are not independent of the state authorities, and are in fact administrative extensions of the federal government. The Executive Secretary of the Nigerian Press Council is a presidential appointee on the recommendation of the Minister of Information and Culture. Although other members of the council are supposedly drawn from the media industry, the NPC law transforms them into government functionaries: Section 5A(2) of the law says they are to enjoy conditions of services the same as those of persons serving in equivalent positions in the federal civil service. Similarly, the chairperson and Director-General of the National Broadcasting Commission are appointees of the president on the recommendation of the Minister of Information. The members of the committee are appointed by the president. Although the NBC law requires that they be drawn from various interest groups including the civil society, the mass media, the ministry of information, and the state security agencies, it makes no provision for consultation with these sectors in respect of the selection of their representatives. Further, the law empowers the minister of information to issue directives to the commission and puts the latter under obligation to implement such directives.

The NBC may revoke broadcast licenses where it believes that a broadcast station “has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission

and whose decision is upheld by a majority of members of the Commission”. This is most vague and subjective, leaving room for the NBC to employ its powers arbitrarily. The commission has defined three categories of sanctions for erring stations but has not been specific on what particular offence would earn them. Thus, for instance, it says a broadcast license may be revoked for “a serious breach” of the NBC code but does not explain what is considered “a serious breach.” Apart from this, Section 8 of the NBC law provides that: “A licence may be revoked by the Commission in the following cases, that is -

- (a) Where the prescribed fee has not been paid on the due date,
- (b) Where the licence has not been put to use within a period of one year after issuance,
- (c) where it is found that the licence was obtained in breach of the provisions of section 13 of this where it is found that the provisions of he said section are not being compiled with, and
- (d) where in the opinion of the Commission the station has been used in a manner detrimental interest or where a complaint from the public has been upheld after a public hearing instituted by the commission and whose decision is upheld by a majority of members of the Commission”

There have been very few actual cases of license revocation and these have been in connection with non-use of the license or the non-payment of the required fees. The Commission has more frequently imposed lesser sanctions such as a warning or the suspension of a licence.

Section 17 of the Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 requires that every practicing journalist be registered with the Nigerian Press Council. A person is qualified for registration under Subsection 1 of this section if:

- a) He has attended a course of training recognised by the Nigeria Union of Journalists so acquired with the cognate experience recognised by the Nigeria Union of Journalists; or b) The course was conducted at an institution so approved, or partly at one such institution and partly at another or others; or
- b) He holds a qualification as approved; or



- c) He holds a certificate of experience issued in pursuance of article 22 of this Decree.

He or she may also qualify if, according to subsection 2, “if he satisfies the Council that immediately before the commencement of the Decree he had not less than five years experience as a journalist.” In addition, Subsection 3 requires him or her to satisfy the council that:

- a) He is of good character;
- b) He has attained the age of 18 years;
- c) He has not been convicted in Nigeria or elsewhere of an offence involving fraud or dishonesty;
- d) He has been trained at an approved mass media institution;
- e) He has a general professional orientation which covers the basic requirement of information leading to a qualification not less than a diploma; and
- f) He has good knowledge of the politics and socio-economic affairs of his society acquired from an approved institution.

A person may be denied registration unless they meet these and other conditions, and a registration may be withdrawn from a practicing journalist if the infringe the Journalists Code of Conduct drawn up by the council. The media and the civil society have put up stiff resistance to this law requiring the registration of journalists and the MRA and NPAN have filed different suits in court to stop its implementation. There has been no instance, therefore, of the actual denial or withdrawal of registration.

Only journalists accredited by a concerned government agency are allowed to observe its meetings; that includes the legislature at both the national and state levels. As this accreditation is discretionary, journalists cannot be said to have a *right* to be present at such meetings. Thus, for example, on August 22, 2005 a Presidential Committee investigating jailbreaks at two prisons shut the door against journalists and prevented them from observing and reporting on its proceedings. Committee Chair Senator Stella Omu explained that the proceedings were not yet for media reporting and that the presence of the media could prevent witnesses from testifying.

Journalists or media organisations that fall out of favour with a government agency may be denied accreditation to cover its activities. For example, the National Assembly on July 26, 2006 revoked the accreditation of all journalists covering the activities of the national legislature and set new conditions for re-accreditation. These included presentation of current tax clearance certificates and evidence of legal registration of their media houses.

As a result, such agencies mostly grant accreditation to state media and to journalists from private media seen to be cooperative with the government. There is therefore no equal access in practice for all journalists to government meetings.

Some meetings are broadcast, however, with various legislatures and government agencies allowing even live broadcast of some of their activities. However, as in the case of accreditation, certain “unfriendly” stations may not be allowed the right to broadcast them.

Section 9(5) of the National Broadcasting Commission Decree No 38 of 1992 provides against the development of media monopolies and cartels. It states that, “It shall be illegal for any person to have controlling shares in more than two television stations.”

The existing media monopoly is held by the government, which controls more than 70% of media channels in the country. However, some media organisations — notably DAAR Communications, owners of RayPower Radio and Africa Independent Television, the leading broadcast media stations in the country — have been attempting to build a network for simultaneous national broadcast. While this is not in itself an attempt to build a monopoly, it does evince a tendency to enlargement that could in future lay the foundation for media monopolies. The NBC has opposed such attempts and threatened to withdraw the licenses of media organisations involved.

This phenomenon is at present limited only to the electronic media. Hampered by the problems of low national literacy, the inadequate communication infrastructure for distribution, and the harsh economic environment, print media organisations have not shown any tendency to developing monopolies.

Journalists enjoy the constitutional right as other citizens to challenge violations of their rights, including repressive actions or policies by state authorities. According to Section 36(1) of the 1999 constitution: "In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality."

Acting under this right, media organisations and practitioners have challenged state actions they consider repressive. For example, both the Media Rights Agenda (MRA) and the Newspapers Proprietors Association of Nigeria (NPAN) went to court in 2001 to stop the implementation of the Nigerian Press Council Decree No. 85 of 1992. The MRA also filed suit in 2000 to challenge the government's long practice of not appointing government boards for state media as required by law.

### **3. Political Conditions**

There is no legal provision forbidding media reporting of political issues concerning any particular section of the population or any social strata. However, certain factors (including the social distribution of wealth, the rate and distribution of literacy, and the structure and distribution of the media itself) predispose the media to focusing its attention on certain social sectors and issues. Thus, the media in general tend to give more attention to urban matters than to rural ones. One reason is that the communication system is generally better in the cities and towns, enabling easier collection and dissemination of information. Second, the private media depend principally on advert and sale revenues: since the distribution of social wealth concentrates most resources in the urban areas, that is where the greatest advert and sales revenues come from. Third, the literacy rates are far better in the urban areas, making the cities and towns the most promising markets for the print media and a large portion of the electronic media.

For these reasons, issues of concern for rural dwellers (including political ones) tend to receive little attention in the mass media. Such issues include land dispossession

by state officials and business interests, disfranchisement by politicians, and the embezzlement or misuse of public resources by political office holders.

With the exception of persons in prison or in police custody, there are no sections of the general population deliberately prevented by state action from exercising their right to freedom to receive or disseminate information. As regards prisoners and persons in detention, both the Prisons Act and penal practice denies prisoners access to published information.

Self-censorship is an unspoken but widespread practice in the Nigerian mass media. The panoply of laws inhibiting free expression and the regulatory laws enforced by the NBC and the NPC have created a culture of “caution and due consideration” in media reporting. This amounts in practice to self-censorship. Beyond determining the veracity and newsworthiness of stories, media channels also have to weigh their implications in terms of the displeasure of the government and its regulatory agencies. Publishing without such due consideration could lead to punitive reprisals by such agencies. The experiences of RayPower Radio, AIT, and Freedom Radio provide a good example of this. The NBC shut down Freedom Radio in March 2005 for two weeks allegedly for violating the NBC broadcasting code. Civil society activists and journalists insisted, however, that the closure was for airing a song critical of president Obasanjo’s unconstitutional bid for a third term in office. The regulatory body also shut down RayPower Radio and AIT, the country’s leading private radio and television stations, on October 23 of that same year allegedly for “unprofessional coverage” of a plane crash that claimed the lives of all 117 passengers and crewmembers. Gbenga Aruleba, deputy general manager (news) of DAAR Communications (owners and operators of the broadcast media), denied this allegation, however, and said the shutdown was for countering the official line on the crash broadcast by the state-owned NTA and for criticising aviation authorities for negligence of duty. Such punitive measures encourage media self-censorship.

This pressure towards self-censorship applies not only to the private media but also to state media. Operating as media arms of the government, state media are under the more or less direct control of government officials and take care not to report matters that might embarrass the government or otherwise displease state officials.

They therefore operate principally as propaganda instruments of the government and cannot report events and issues freely.

This culture of self-censorship embraces all sectors of the mass media but is most evident in respect of political issues and those concerning ethno-religious and similar social conflicts.

Unlawful attacks on journalists and media organisations are very common in Nigeria despite the advent of civilian rule in 1999. Such incidents include physical assault on journalists, seizure or destruction of journalistic equipment, raids on or sealing up of media offices, and confiscation of publications. The following cases are a selection from hundreds reported in the media and collated in *Media Rights Monitor*, organ of Media Rights Agenda:

1. October 14, 2003: A team of police officers beat up Suleiman Osasuji, a sports journalist with *All Sports* newspapers, using their hands, whips, and gun butts. The incident occurred at the Abuja Stadium, venue of the All Africa Games (COJA 2003) where he was on assignment as media officer with the organisers of the games
2. May 17, 2004: Soldiers from the 81<sup>st</sup> Division Garrison, Dodan Barracks in Ikoyi, Lagos, assaulted, arrested, and detained Savannah Peters, a reporter with *Island News*, and seized her camera. Miss Peters was on assignment to investigate a report of a luxury bus filled with valuables
3. June 22, 2005: Police in Lokoja, the Kogi state capital, arrested Segun Omolehin, State Chair of the Nigeria Union of Journalists (NUJ), at a meeting initiated by the Police to improve police-media relations in the State. Relation had soured and the police had launched a campaign of harassment against the media following media stories on June 20 of an encounter between Kogi State Commissioner of Police, Mr. Thomas Bamidele, and armed robbers
4. 14 May 2006: State security agents raided the office of DAAR Communications Limited in Abuja and confiscated the master tape of a documentary on failed efforts by past Nigerian leaders to perpetuate themselves in office. The company owns and operates RayPower radio and

the Africa Independent Television (AIT). The documentary was on-air at the time of the raid and the security agents terminated its further broadcast

5. August 16, 2007: Yomi Onashile, Ekiti State Commissioner of Police in South West Nigeria, threatened journalists with arrest, detention, and prosecution for what he described as “sensational reporting,” accusing some print media journalists of bias in their crime reporting since his assumption of office
6. January 10, 2008: Security agents in Ibadan, the Oyo State capital in South-west Nigeria, arrested and detained Fidelis Mbah of the BBC and Tade Oludayo of Silverbird Television and Rhythm FM radio for photographing a statue of the “Unknown Soldier” recently unveiled in front of Government House in the city.

Hundreds of such incidents are on record on the website of MRA ([www.mediarightsagenda.org](http://www.mediarightsagenda.org)) and occur very often.

Internet access is not hindered by state measures.

The threat of formal or informal state repression of the media and the frequency of actual instances has not changed significantly in the past five years. The status evaluation for the period is therefore “no change”.

The reason for this lack of change is that the structural functions of the media and the state (and, therefore, their structural relation to each other) have not changed in any significant respect in the past five years of civilian rule. The essential function of the existing state machinery is the protection of the existing social order founded on relations of inequality and exploitation between ethnic nationalities, genders, and social classes. The growing atmosphere of conflict in the country since the late seventies and especially in the late eighties indicates the growing crisis of the social order, and the role of the Nigerian state has been to manage this conflict. The basic strategy in this respect has been the repression of the forces striving for the transformation of the present social order on a radically democratic basis. While the ruling groups have come to accept the inevitability of such change, they fear that it may proceed at a pace and in directions that threaten their strategic interests. They

use the state therefore to manage the process of social change in a manner that accords with those interests.

In contrast, the media (especially the private media) have predominantly - if not consistently - represented the forces of change. As was glaringly obvious in the struggle against military rule, its choice of issues and events to report could and often have political implications that could be wielded against the state and the ruling groups. Thus, when the press gave abundant media space and time to the Civil Liberties Organisation in its campaign on prison conditions in the early 1990s, it was an unspoken yet trenchant criticism of the military regime General Ibrahim Babangida at the time. Similarly, media reports of the state of affairs in various aspects of life today could translate into a criticism of the present ruling groups, which they see as acts undermining their legitimacy.

For these reasons, the state and the media find themselves more or less on opposite sides of the social divide. This is despite (in fact, it explains) efforts by the state to co-opt the media and build friendlier relations with them. The stringent regulatory regime describe in previous sections of this report indicate, however, that control and repression are the strategic approach by the state to relations with the media. The repressive practices of state agencies such as the police, the army, and the state security organs derive from and feed into this strategy, creating a general atmosphere of media repression.

There exists no legal provision for state monitoring of the production and distribution of print media products. Print media do not have to submit their contents for state vetting, they obtain newsprint on the general market, and the security agents have no legal powers to monitor the distribution of newspapers or magazines. However, the law makes the production, importation, or distribution of seditious or obscene materials a criminal offence. State security agencies and the police often take advantage of these and other laws to attack vendors and seize newspapers and magazines they consider offending. The following is a selection of cases:

1. May 8, 2004: Officers of Kick Against Indiscipline (KAI), a paramilitary organisation of the Lagos State government confiscated from vendors and

destroyed newspapers and magazines, accusing the vendors of street hawking. Some vendors were beaten up.

2. February 10 2005: State security agents raided vendors on Old Market Road, Onitsha in Anambra State and confiscated large numbers of copies of a number of publications including *The News*, *The Source*, and *The Week* (all news magazines), and *Hallmark* newspaper. The State Security Service (SSS) explained that the publications had stories on the Movement for the Actualization of Sovereign State of Biafra (MASSOB), an organisation banned by the government. A vendor was arrested and detained at an unknown place
3. January 28, 2008: A Magistrate Court in Uyo, the Akwa Ibom State remanded Samuel Asowata, Editorial Board Chairman of *Fresh Facts* newspaper to prison custody after his arrest by police on January 21 for alleged sedition. The police had also arrested Bright Essien Ewoh, a newspaper distributor, on January 24 and arraigned him before a similar court the next day. Mr. Asowata's arrest was in connection with a January 21 story in the newspaper captioned *Akpabio in N5.5bn Housing Scam?* Mr. Ewoh was arrested for alleged sedition and conspiracy in connection with the distribution and sale of the *Fresh Facts* edition containing the story. Godswill Akpabio is the governor of Akwa Ibom State.

Such incidents occur very often. Although state authorities do not directly employ such methods to exert editorial control on the private media, the practice does encourage self-censorship amongst private newspapers and magazines.

#### **4. Economic Pressures**

There is no formal or regular system of subsidisation of the private media by state authorities. Some private media do pursue and get adverts from the state, albeit on a very irregular basis. Such media cut across all sectors: television, radio, newspapers, and magazines. In the absence financial figures from the media or the government in this respect, it is not possible to determine the amounts of money involved in such political adverts or how it compares with commercial adverts by business organisations. It clear that private businesses are a greater source of advert



revenues for the private media. Advert revenue from the state is so infrequent and irregular to constitute a major source of income for the private media.

State adverts, therefore, do not constitute a serious mean of editorial control of the private media. While this does act as a not-insignificant source of pressure towards editorial friendliness towards the state for media establishments that do receive such adverts, it does not significantly change the general attitude of the private media sector towards the state. *The media audience expects the media to be neutral if not critical of the government.* For this reason, a private media organisation seen as friendly towards the state runs a very serious risk of losing a significant portion of its audience. Most media establishment therefore balance between neutral objectivity and critical objectivity, with the electronic media tending towards the former and the print media towards the latter.

This difference between the electronic and the print media is explained in part by the fact that radio and television are subject to greater and stricter monitoring by the NBC than the newspapers and magazines are by the NPC. In addition, though, it is due to the character of the audience of each media sector. Consumption of print media products (newspapers and magazines) tends to require a higher level of literacy and general education than consumption of radio and television programmes. Print media consumers tend on the average therefore to be more politically sophisticated and active than electronic media consumers. This feeds into the fact that the print media audience live predominantly in towns and cities, where the major and most intense social conflicts tend to occur, and consist of a relatively higher ratio of radicalised critics of the government and the ruling groups. All of these factors predispose the print media to a more critical attitude toward the state.

The dependence on advert revenues is the principal economic factor undermining the editorial independence of the mass media. Relatively low literacy rates and adverse economic conditions in Nigeria have resulted in low and economically unprofitable rate of subscription and newsstand sale for media organisations. They are compelled therefore to rely on advert revenue to sustain their operation and to make a profit sufficient to justify their investment.

This gives business organisations that provide these adverts a degree of influence that is unspoken yet significant enough to influence the editorial decisions of media organisations. Further, it also provides room for clandestine government influence over such decisions. This is because most business operations in Nigeria depend in one degree or another on government goodwill. While it is impossible to ascertain this in the absence of admission by such businesses, it is a commonplace perception that in periods of acute conflicts between the state and other sectors of society the government applies pressure on big business to channel their adverts to government-friendly media houses. This would pressure or encourage more media establishment to adopt a neutral or friendly attitude toward the state.

## **5. Non-State Repression**

Nigeria has experienced a proliferation of militias and militant non-state groups since 1993. However, these groups have generally refrained from attacking journalists or media organisations. One of the relatively few incidents in which they attacked the media took place on August 11, 2007 in Port Harcourt, the capital of Rivers State in the Niger-Delta region. On that day, members of a militia in that city bombed the offices of the state-owned Radio Rivers, destroying section of the administrative block and a number of persons. This was apparently in response to state security and military operations against the rival militias in the state who had been engaged in a violent confrontation that had claimed scores of innocent lives. Another case that may or may not be one of an attack by a militia group occurred on June 5, 2007 when two gunmen attempted to kidnap Christian Madueke, a staff of privately owned newspaper Punch, when they could not find another staff member whom they sought. They threaten the staff with their weapons and Madueke escaped only by jumping out of a second-floor window.

Generally, however, thugs allied to politicians and political parties have been the greater source of attacks on the media in the past five years. The following is a selection of such attacks.

1. January 30 2008: Thugs in Lagos beat up Bayo Onanuga, Managing Director of *TheNews* magazine, after he gave evidence in a libel suit brought against

the magazine by Bode George, the South West Chairman of the ruling party, the Peoples Democratic Party.

2. May 23, 2007: Suspected political thugs armed with axes, machetes, and guns disrupted transmission, and vandalised and looted broadcast equipment after invading the premises of the Broadcasting Corporation of Oyo State (BCOS) in Ibadan, the Oyo State Capital in South-west Nigeria. They also injured workers of the media establishment

Politicians and political parties are usually behind such attacks; they are usually politically motivated therefore and occur when a political or a party perceive a media establishment or a particular journalist to be undermining their political interests. Such attacks are less frequent than those by various state agencies but they occur *very often* enough to be a real threat to media freedom. This is especially as the state has not shown any capacity to protect journalists and the media from them. This is in part because these thugs are faceless and are not easy to identify for prosecution; it is also due in part to the fact that their sponsors are powerful political figures able to manipulate the police and the judiciary.

There have been no significant changes in this situation in the past five years. Although non-state attacks on the media are not as serious or frequent as attacks by state agencies they are a significant enough to threaten the free operation of the media, especially in their coverage of political matters. In terms of frequency of such attacks, the impression is that there has been little change (0).

## **6. Conclusions**

The general state of media freedom in Nigeria today is a bit ambiguous. Without doubt, the press operates with a great degree of freedom; yet, both the legal framework and the worsening social conflict portend and allow much room for state restriction on that freedom. The media operate relatively freely, but it is freedom within what we might think of as a very large but shrinking cage framed by existing media laws, with state agencies and adverse economic conditions striving to cripple the media even within the cage. We may best categorise the state of the media as freedom with major restrictions.

The degree of media has not changed significantly in the past five years (0). The former government of President Obasanjo was very antagonistic to the media and to media freedom, as may be seen in the great frequency of attacks and restrictions on the media, as well as in the president's refusal to sign the Freedom of Information Bill into law. That antagonism lasted all eight years of his government (1999-2007). The new government of President Umar Musa Yar'Adua has expressed its intention to uphold the rule of law and the constitution, and to respect human rights. In the ten months since May 2007 in which it has been in office, it has taken certain actions that many consider encouraging in that respect. These have included respect of rulings by judicial bodies and measures to effect electoral reform. However, the actual state of media freedom has not improved in any significant manner. We may only speak of a promise of greater media freedom, if the government talk of respect for the rule of law, human rights, and the principles of democracy is more than just a posture. A convincing indicator of this would be the fast-track passage into law of the Freedom of Information Bill and a radical review of all media laws to remove undue restrictions on media freedom and free expression.

All journalists of my acquaintance list the following among the major obstacles to media freedom:

1. Obstacles preventing access to information in the possession of state and governmental agencies
2. Adverse conditions of service, often including the non-payment of wages for up to six or seven months
3. Attacks by state agencies on journalists and media organisations
4. An increasingly restrictive legal framework in which the government exercises undue control over the mass media through the regulatory agencies, the National Broadcasting Commission and the Nigerian Press Council
5. Excessive interference and even control of editorial policy by media owners, including the state and private owners

In my estimation, these factors are indeed major obstacles to media freedom in Nigeria. I would add the generally low rate of literacy in the country and the decline in the quality of education across all levels of the educational system. A poorly

educated populace results in the final analysis in a weak mass media. The state and powerful social groups easily subjugate and co-opt such a body of mass media, rendering it unfit to play its structural role in the defence and development of democracy.

Media support by the Konrad Adenauer Foundation (KAF) has taken the form of training programmes. There is much room to do a lot more in this regard. A key area of need is that of revising the legal environment under which the media operates in Nigeria. Much work has been done and is being done in this respect; yet, more assistance is needed here. A second key area of need is that of addressing the problem of attacks on the media by state and non-state organisations. The focus at present is on monitoring and reporting such attacks. There is a need to go beyond this, however; the KAF might consider supporting organisations interested in working to end the impunity of such attacks by bringing their perpetrators to justice under the law. A third area of need concerns the problems of censorship and self-censorship in Nigeria. There has been no comprehensive and well-structured study of the problem beyond the citing of specific instances. Such a study could embrace in its sweep not only the legal provisions with censorious effects, but also the actual practices of state and non-state actors that have the effect of unduly limiting free expression and media freedom. The Foundation might consider running or supporting projects in these areas.

*Osaze Lanre Nosaze*

## **Bibliography**

Berger, Guy (2007): *Media Legislation in Africa – A Comparative Legal Survey*. Grahamstown, South Africa: United Nations Educational, Scientific and Cultural Organisation

Akinfeleye, R. (2006): “Democracy, the media and national interest”, Paper presented at the Nigerian Press Council national workshop, 9-12 April, Lagos

Nosaze, Osaze Lanre (2005): *Clear and Present Danger – The State of Human Rights and Governance Year 2004*. Lagos, Nigeria: Civil Liberties Organisation

Servant, Jean-Christophe (2003): *Which Way Nigeria? Music under Threat: A Question of Money, Morality, Self-Censorship, and the Sharia*. Copenhagen, Denmark: Freemuse

Soyinka, Wole (1996): *The Open Sore of A Continent: A Personal Narrative of the Nigerian Crisis*. New York: Oxford University Press

## PHILIPPINES

### 1. General Conditions

The Philippines' National Statistics Office (NSO) reports that 88.6 percent of Filipinos aged 10 to 64 are functionally literate. Breaking down the data by gender, there are more women than men who are functionally literate: 90.4 percent of females and 86.8 percent of males.

The figures come from the 2003 Functional Literacy, Education and Mass Media Survey (FLEMMS), the national survey that determines literacy among Filipinos, conducted by the NSO.<sup>1</sup>

The NSO defines a functionally literate or basically literate person as one who can read and write, also classified as Level 1 literacy. Others levels are Level 2 referring to those who can read, write and compute; Level 3 referring to those who can read, write, compute and comprehend; and Level 4 referring to high school graduates and higher.

The National Statistics Office estimates that of 5.1 percent of functionally literate Filipinos lack numerical skills or cannot compute. The survey also found that 1 in 10 are illiterate, which means they can neither read, nor write. Literacy levels are at their highest in the National Capital Region and lowest in the Autonomous Region for Muslim Mindanao.

The quality of education in the Philippines has been deteriorating over the years, with the public educational system particularly problematic. A recent study by the Asian South Pacific Bureau of Adult Education found that 81 percent of children aged 8 to 11 were attending primary school, but only 55 percent in the 12 to 15 age range were

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<sup>1</sup> National Statistics Office, *Functional Literacy, Education and Mass Media Survey*, retrieved from [http://census.gov.ph/data/sectordata/fl03\\_lsf.html](http://census.gov.ph/data/sectordata/fl03_lsf.html)

attending high school. This indicates high drop out rates by the time Filipino children reach high school level.<sup>2</sup>

As of June 2007, there were 382 AM radio stations and 628 FM radio stations all over the country, according to the National Telecommunications Commissions, the government agency that regulates the broadcast industry.

There are seven daily national newspapers: the Manila Bulletin, Philippine Star, Philippine Daily Inquirer, Manila Times, Malaya, and the Daily Tribune. There are two business papers that publish only on weekdays: BusinessWorld and Business Mirror. There are also at least 18 tabloids publishing daily. There are also hundreds of local newspapers in the various cities and towns all over the country.

Political parties in the Philippines are not driven by ideology or principles. Rather, they are temporary alliances of individuals with similar interests or personal loyalties. It is not unusual for Filipino politicians to flit from one party to another pursue their political ambitions. Hence there are no real party lines or platforms to promote or popularize.

However, politicians and their families do own media entities (small community newspaper or radio stations) in towns and cities outside the capital although there is no count or study on this issue.

According to the website Internet World Stats, the number of Internet users in the Philippines has almost doubled in two years, from 7.8 million in 2005 to 14 million as of December 2007. The same website notes that there has been a 600 percent increase in Internet users in the Philippines since year 2000, when the number of users was pegged at only 2 million. There were 123,00 broadband subscribers in the Philippines as of September 2007.

Although there are a few independent online news sites, the most popular sources of news on the Internet are the online editions of newspapers and broadcast networks,

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<sup>2</sup> Asian South Pacific Bureau of Adult Education, *Philippines' Summary Report: Mapping Out Disadvantaged Groups in Education*, ASPBAE, 2007



which are popular with the huge community of migrant Filipinos scattered in various countries.

Almost all of the population have access to and watch TV, by far the biggest source of news and information among Filipinos—98.8 in Metro Manila, 97.5 in Luzon Island, 98.2 in the Visayas and 92.6 in Mindanao. In Metro Manila, media consumption from highest to lowest are: 1) television; 2) newspapers; 3) radio; 4) cable TV ; and 5) magazines. Outside the capital however, radio is the second most used medium after television, with newspapers at third.<sup>3</sup>

A 2006 AC Nielsen survey found that 20.1 percent of the population in Metro Manila had used the Internet in the past 12 months, while the figure is 17.7 nationwide.<sup>4</sup>

In 2004, a radio listenership survey was commissioned by the Kapisanan ng mga Brodkaster ng Pilipinas (KBP) or the Association of Broadcasters in the Philippines, a private organization of broadcast network executives. The study covered two of the biggest cities in the country: Manila and Cebu. Among its findings was that majority of listeners in the two cities listened to radio at least 10 hours a week, and on the average spent some 20 hours a week listening to the radio. However, radio is mainly a source of music and entertainment rather than news.

The survey noted that “everybody watches TV.” It also found that 5 a.m. to 10 a.m. and from 3 p.m to 5 p.m. are the hours when there are more radio listeners than there are TV viewers. “From 6 p.m. to 10 p.m. television is the medium of choice,” the study said.

The media in general are a very powerful sector in Philippine society, exerting highly significant influence on Filipinos. A number of political and social upheavals throughout Philippine history were triggered by writers and journalists exposing injustice or corruption, arousing public opinion that has shaped mass actions.

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<sup>3</sup> 2007 Media Factbook, Association of Accredited Advertising Agencies (4As). pp 25-27

<sup>4</sup> 2007 Media Factbook, Association of Accredited Advertising Agencies (4As). p 107

Each medium designs its content to suit its target audience. Television, for instance, which targets from the middle to lowest economic classes, would have a different content from cable TV and newspapers. Despite these differences, major political news and information are carried, printed or broadcast across all media, influencing public opinion across social classes.

There are many examples of the influence of mass media on the formation of political opinion over the past decade. In 2000, investigative reports into the lifestyle and business interests of then President Joseph Estrada turned public opinion against the once popular movie actor, who eventually faced an impeachment trial. A captive Filipino audience watched as television station aired the live coverage of the impeachment trial of Estrada, who later resigned.

In 2005, Estrada's successor Gloria Macapagal Arroyo nearly suffered the same fate and was forced to apologize to the public when media organizations aired wiretapped phone conversations between her and an election official, Virgilio Garcillano. Those conversations, known as the "Hello, Garci" tapes, took place in 2004 shortly after she ran for President, while the Commission on Elections was still counting the votes. In one of those taped conversations, the President was heard discussing with the election official the number of votes she would get.

In late 2007 and early 2008, an expose by a newspaper columnist triggered Senate investigations into a \$329 million peso broadband network deal supposedly overpriced to accommodate kickbacks for Arroyo's husband and close political associates. In February 2008, media coverage forced authorities to present a key witness who had been taken forcibly into police custody. A cross section of Filipinos again started holding rallies and calling for Arroyo's resignation after what has since been viewed as a botched abduction. Filipinos again watched as the Senate held whole day hearings, which were covered and aired live on television and radio.

State-owned radio and television stations do exist in the Philippines but they do not function as public broadcasting corporations. Instead, they are mouthpieces of the government and form part of the official communication network designed to serve the President and her officials.

In August 2004, President Gloria Macapagal Arroyo issued Executive Order No. 348 creating an Office of the Communications Director, who was given the rank of Cabinet member and was tasked with directing the operations of “the public sector mass media and the public information system of the government.” The Communication Director’s main task is to “coordinate the dissemination, through the mass media, of policies, programs, achievements, reports and activities of the President and the administration.” The Office of the Communications Director is under the Office of the President.

Among the entities that are listed under the Office of the Communications Director are the sequestered newspapers and tabloids under the Journal Group, and three government-owned and controlled TV stations: RPN Channel 9, NBN-Channel 4, and IBC-Channel 13. For radio, the government has the Bureau of Broadcasts which runs a nationwide network of radio stations called Radyo ng Bayan (People’s Radio).

The Communications Director is now called the Secretary for Government Mass Media, a position held by a former broadcast commentator who has served the Arroyo government since 2001 and also helped her campaign for the presidency in 2004. News and programs that are broadcast or published on government media focus on the President, her family, her government and their activities.

State-owned media are practically propaganda vehicles of the government (3). Ratings-wise, however, government television stations attract only a negligible fraction of the viewing public. On the official government station, NBN Channel 4, the ratings go up mostly during the Lotto draw, which is aired on that channel. Most of the television audience is shared by the two biggest broadcast network, ABS-CBN Channel 2 and GMA Channel 7, both private commercial networks.

Government officials are aware of the power and reach of the media, and so it is common for government agencies to call press conferences to announce major events, or hold regular press conferences for beat reporters assigned to those offices. These press conferences are open to all and are a means of making public government programs.

One official who does not hold regular press conferences is President Gloria Macapagal Arroyo, who is accessible to media only during presidential activities and speeches. It is her executive secretary and spokesperson who speak in her behalf during regular palace press conferences. The absence of regular presidential press conferences is a glaring departure from the practice of previous presidents, especially Corazon Aquino and Fidel Ramos, who faced the media regularly and granted regular interviews to journalists.

## **2. Legal Environment**

Freedom of opinion is implied in the Bill of Rights of the 1987 constitution and is a right ingrained among Filipinos. Freedom of opinion was recognized as far back as 1898 when the Filipino revolutionary movement, after overthrowing Spanish colonization, drafted a charter considered the first democratic constitution in Asia.<sup>5</sup> Known as the Malolos Constitution, it recognized every Filipino's "right to freely express his ideas or opinions, orally or in writing, through the use of the press and other similar means."

The Philippine revolutionary government, however, was short-lived. American colonizers soon took over and molded a Philippine educational, government and legal system after their own. Hence the rights to free speech and expression in the Philippine constitution are echoes of similar provisions in the American charter, and are interpreted using English and American jurisprudence.<sup>6</sup>

Freedom of the press and free media coverage are guaranteed under the 1987 constitution of the Philippines. Section 4 of the Bill of Rights says, "No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances." Section 7 provides people with the right to information "on matters of public concern," ensuring access "to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government

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<sup>5</sup> Teodoro and Kabatay, p. 1

<sup>6</sup> Teodoro and Kabatay, p. 2

research data used as basis for policy development... subject to such limitations as may be provided by law.“

Framers of the 1987 constitution viewed the right to information provision as a safeguard against a repeat of the repressive, dictatorial rule of former President Ferdinand Marcos. Members of the constitutional commission envisioned the right to information as a weapon to ensure an open and honest government. They pointed out, however, that the right to information refers not only to government's duty to make available information involving public interest. It also refers to citizens being vigilant and exercising their right to demand information.<sup>7</sup>

Presidents Corazon Aquino and Fidel Ramos both passed executive orders granting the public access to government information and documents. Aside from this there is also Republic Act 6713, the Code of Conduct for government officials and employees, which requires them to make available information sought by the public. The law cites exceptions that government functionaries can invoke when denying access. These exceptions include cases when the information, document or record involves national security, when disclosure would jeopardize a person's life and safety and cause unwarranted invasion of privacy, and when the subject matter is still being discussed and finalized.

Although the right to information is considered a self-executing right, which means no supplemental law needs to be passed for it to be exercised, media groups and non-government organizations have been lobbying for the passage of a Right to Information law that will ensure speedy and systematic access to government data and documents by the general public. In most government agencies, the instinct is to withhold, rather than to release, data to the public. Journalists have no problem accessing such information: they do manage to obtain requested documents from official government functionaries, if not from sources they cultivate in the course of their work. The media and NGO alliance Access to Information Network (ATIN), however, sees the need for a law that will make the release of information an obligation and not just a favor given to journalists. ATIN also believes that while some

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<sup>7</sup> Teodoro and Kabatay

government officials and agencies do release information to journalists, they do not the same to the general public.

The Philippines' Revised Penal Code classifies defamation into two types: libel and slander. Libel is defamation done through writing, including the mass media, while slander is oral defamation. Persons suing for libel have the option of seeking criminal as well as civil action, which means they can seek damages that may range from P200 to P6,000, as well as the imprisonment of offenders with term ranging from one day to six years.

There have been several cases of libel filed against journalists, some of them demanding outrageously enormous amounts in damages and seeking the imprisonment of reporters and editors. This has led media practitioners to believe that libel is used as a tool to get back at the media, and not necessarily to defend a person's honor and reputation. Philippine presidents Corazon Aquino and Joseph Estrada have used it against journalists who have written articles critical of their performance while in office. Recently, President Gloria Macapagal Arroyo's husband Jose Miguel Arroyo filed 11 counts of libel against 46 journalists for writing various stories about him at the time his wife was facing a severe political crisis in 2005.

Because libel is a criminal offense, libel suits have resulted in journalists getting jailed, especially in far flung provinces where journalists do not have ready access to legal counsel and support from their peers. On January 22, 2008, a radio commentator from northern Mindanao was arrested and thrown in jail for failing to attend hearings arising from a libel suit against him. The judge recommended no bail.

In March 2007, the publisher and seven editors of the leading newspaper Philippine Daily Inquirer were jailed for one hour after they posted bail in connected with the libel suit filed by the President's husband, Jose Miguel Arroyo. The publisher and editors were told to voluntarily surrender to a Manila Police Station, where they were detained while awaiting the court's release order. A similar thing happened to the editor of a community newspaper from Palawan province in Southern Philippines who was sued for libel by a congressman. Although the two parties had amicably settled, the judge chose to ignore the settlement, and ordered the arrest of the editor

when she showed up for a court hearing in June 2007. She spent the whole day in detention while awaiting a release order from the court.

In the Bill of Rights, the right to privacy refers to citizens enjoying freedom from government intrusion rather than government enjoying freedom from media criticism. Again, this is a principle put in place in the 1987 constitution after the Marcos dictatorship, which was marked by arbitrary arrests, searches and seizures.

The relevant provisions are Section 2 of the Bill of Rights, which provides for people's "right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature..." Likewise, Section 3.1 guarantees the privacy of communication and correspondence, except when a court of law orders otherwise.

As far as the privacy of individuals is concerned, the Revised Penal Code penalizes certain acts that are seen to constitute invasions of privacy. These cover public officials revealing secrets or causing the wrongful delivery and publication of documents, and trespassing by private individuals on a person's home.

Philippine jurisprudence says that the right to privacy of public officials is narrower than that of ordinary citizens. The courts have ruled that public officials are public figures like movie stars, sports personalities, and similarly famous individuals who are known to and have appeared in public. As such, the public has a legitimate interest in their work and their character, and media reportage about them is justified. However, the courts draw the line on matters involving aspects of a public official's life that have nothing to do with or do not affect his public duties.

In general, government regulation of media coverage is seen as constituting prior restraint, defined as government restrictions on the media before actual publication and seen as a curtailment to the freedom of the press and free expression.

Coverage of court proceedings, however, is another matter. In October 1991, the Philippine Supreme Court banned the live coverage of court hearings "to protect the parties' right to due process, to prevent the distraction of the participants in the

proceedings and in the last analysis, to avoid miscarriage of justice.” The High Court issued the order after broadcast stations aired live the testimony of former President Corazon Aquino in the libel suit she filed against the late Luis Beltran, at that time editor of the daily newspaper *Philippine Star*. Beltran had written in a column that Aquino “hid under her bed” during the August 1987 coup attempt.

There are no bodies or commissions that regulate coverage by the print media, but there are a number of government and non-government agencies that may impose restrictions on the broadcast media.

The Movie and Television Ratings and Classification Board (MTRCB) is a government body that reviews programs on television and movies, as well as publicity materials in print relating to such shows. In May 2005, the MTRCB issued a memorandum circular requiring television public affairs, news documentaries and similar programs to submit their material to the Board for review before broadcast. Television newsrooms and media groups protested the memorandum, called it prior restraint, and branded it a suppression of TV news coverage. The protests forced the MTRCB chair to revise the memorandum, specifying this time that the Board would review public affairs programs only after they had been aired.<sup>8</sup>

There is also the National Telecommunications Commission (NTC), the government agency that assigns broadcast frequencies, and regulates the broadcast and telecommunications industries. NTC issues the certificates of public convenience for broadcast networks and may revoke these certificates in case of violations of NTC rules and regulations.

In April 2005, the Armed Forces of the Philippines circulated copies of a compact disc detailing the peace and order situation. In that report, it identified certain groups as “enemies of the state,” including the Philippine Center for Investigative Journalism, the National Union of Journalists of the Philippines and the Catholics Bishop

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<sup>8</sup> Mass Media Laws and Regulations in the Philippines, 3rd edition, 2006.



Conference of the Philippines. Media groups protested what was perceived to be government's adversarial attitude toward the press.<sup>9</sup>

At that time, the Philippine Congress was already deliberating the proposed Human Security Act, entitled "An Act to Secure the State and Protect our People from Terrorism," which was the government's response to terrorist threats.

Human rights groups and non-government organizations protested the passage of the law for allowing government intrusion into the privacy of individuals on the mere suspicion of their having links to terrorists. Section 7 of the Human Security Act allows the surveillance of suspects and interception and recording of communications. Media practitioners saw this provision of the law as a restriction on free coverage. As a concession, the Philippine congress inserted an exception, which reads, "Surveillance, interception and recording of communications between lawyers and clients, doctors and patients, journalists and their sources and confidential business correspondence shall not be authorized."

Still, this provides little comfort to journalists, and reinforces the view that directly or indirectly, the Philippine government has been attempting to constrict the democratic space that allowed journalists free and easy access to sources.

In the evening of 29 November 2007, journalists got what they considered a taste of the effect of Human Security Act. Policemen handcuffed scores of journalists and photographers following the takeover of the Manila Peninsula Hotel by two military officials under detention and facing trial for rebellion. These members of the media were then herded into buses and hauled to a police camp south of Metro Manila where they were "processed."

Earlier that day, the two military officers walked out of a court hearing and proceeded to the hotel, the police were supposed to begin an assault but were stopped by the presence of journalists covering the two officers. Police officials defended the arrest of journalists by saying that the journalists had obstructed police operations. The

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<sup>9</sup> Fel Maragay and Romie Evangelista, Bishops, Journalists, Enemies of the State, *Manila Standard Today*, April 7, 2005, retrieved from [http://www.manilastandardtoday.com/?page=news02\\_apr07\\_2005](http://www.manilastandardtoday.com/?page=news02_apr07_2005)

government said the “processing” of the journalists was done to determine whether those who covered the siege of the Manila Peninsula were genuine journalists and to ensure that media ranks had not been infiltrated by military rebels posing as reporters. Media organizations decried the police action as a curtailment of press freedom.

Less than two months after the incident, the Secretary of Justice, Raul Gonzales, issued an advisory to chief executive officers of media networks and heads of press groups. In his advisory, Gonzales warned the media “that that your respective companies, networks or organizations may incur criminal liabilities under the law, if anyone of your field reporters, news gatherers, photographers, cameramen and other media practitioners will disobey lawful orders from duly authorized government officers and personnel during emergencies which may lead to collateral damage to properties and civilian casualties in case of authorized police or military operation.” News directors and heads of media organizations saw this as yet another threat to press freedom.

Press groups viewed these government restrictions as strong aggravation on press freedom and prompted them to seek legal redress.

There are no laws that require government licensing of newspapers. However, a law passed almost a century ago requires publishers, editors, managers, owners and stockholders of a newspaper to register with the Bureau of Posts for them to avail of mailing privileges.<sup>10</sup>

Broadcast companies are required to obtain certificates of public convenience from the National Telecommunications Commission (NTC) before they can operate. The NTC assigns radio and television frequencies to broadcast stations and enforces telecommunication rules and regulations. Aside from this, broadcast companies are also required to apply for a congressional franchise, which is granted by the House of Representatives.

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<sup>10</sup> Limited Protection: Press Freedom and Philippine Law, p. 19

The President appoints commissioners of the NTC, and therefore the agency may not be totally free from political interference.<sup>11</sup> Similarly, managers and owners of radio stations wanting to operate either a local or national station have to deal with politicians and seek a sponsor or sponsors in Congress to be able to obtain a franchise from the House of Representatives.

Journalists do not need official state permission to practice their profession.

In general, journalists are allowed access to public meetings of the government and parliament. Most meetings can be broadcast. Exceptions are executive sessions (closed door hearings) of congressional investigations.

The 1987 Constitution explicitly prohibits media monopolies. Section 11 of the General Provisions (Article XVI) requires Congress to “regulate or prohibit monopolies in commercial mass media,” and bans “combinations in restraint of trade or unfair competition.” This provision seeks to prevent the concentration of media ownership in the hands of only a few entities, which happened shortly before and during the martial law years.

When then President Ferdinand Marcos declared martial law in 1972, one of his first actions was to shut down the media, which were owned by the country’s richest and most powerful families. He called these families oligarchs who used the tri-media ownership—newspapers and radio and television stations—to protect their business interests. However, the Marcos government itself took over ownership of some of these media entities and used them to control the flow of information during his administration.

The constitution also bans foreign ownership of the mass media. Section 11 requires that ownership and management of mass media be limited to Filipino citizens or corporations that are wholly-owned by Filipinos.

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<sup>11</sup> Limited Protection: Press Freedom and Philippine Law, p. 21

In recent years, however, there have been repeated attempts to amend certain provisions of the 1987 constitution, including the provision on media ownership.

Media organizations have always turned to the courts for relief from state repression. In January 2008, more than 100 journalists filed suit to stop what they considered growing restrictions on press freedom. The cases were an offshoot of the Manila Peninsula siege, which resulted in the arrests of journalists and increased threats of punitive action against the media issued by various government officials.

The two cases were part of a concerted campaign by various media groups to confront increased state restrictions on the media. One group composed of 36 journalists signed a petition asking a Regional Trial Court to issue an injunction against government from further threatening or arresting media persons and demanding P10 million in damages ((\$245, 600). The court granted the petition two hours after it was filed, saying, ""Considering the extreme urgency, and that great and irreparable injury (that) would result to the Plaintiffs before the matter can be heard on notice, the Temporary Restraining Order is hereby granted." The injunction was good for only 72 hours. The media groups sought an extension of the restraining order but were denied. If the media groups win the case, they intend to put the P10 million peso damages into a trust fund for the defense of press freedom.

The other group of journalists filed a writ of prohibition and injunction before the Supreme Court. Eighty-one signed the petition asking the High Tribunal to prevent the government from making any more threats and arrests, and for imposing any more limits to the freedom of the press. The High Court has yet to act on this petition. Among those named respondents in both cases are the Secretaries of Justice, National Defense, Local Governments, the Director-General of the Philippine National Police and the Chief of Staff of the Armed Forces of the Philippines.

Journalists likewise filed a class action suit against First Gentleman Jose Miguel Arroyo who they said abused the right to sue for libel when he named 46 journalists as respondents in a case he filed in 2006. Arroyo asked the court to dismiss the

class suit, since he himself dropped the libel charges in 2007. The court, however, denied Arroyo's motion to dismiss and ordered the case to proceed.<sup>12</sup>

### 3. Political Conditions

There are still many groups, issues and areas of the country that are underreported or suffer biases from reportage in the national media. There are many reasons for the exclusion. One of these reasons is the physical inaccessibility of groups and communities living in extremely remote areas of the country such as ethnic minorities or indigenous peoples. Another reason is the tendency of the media to focus on events in accessible urban centers, prompting media critics to call this Manila-centric or city-centric reporting. A third reason for the exclusion is the highly commercial orientation of the media which tend to focus on familiar issues and groups that "sell" or will attract readers and viewers.

However, there is also a lively provincial press in the Philippines, hundreds of community newspapers and radio stations spread out all over the archipelago trying to reach unreported or underreported sectors and issues. There is also the growing Philippine blogosphere, composed of thousands of weblogs or blogs, which feature issues and events that the mainstream media overlook. There have been times when big issues start out in the community press or blogs and are picked up by the national media.

Since 1986 until recently, journalists and media companies did not have to fear state repression. It was only under the Arroyo administration that the media had to contend with state repression, or at least the threat of it. Veteran journalists have, in fact, likened the Arroyo to Ferdinand Marcos, and have labeled her administration a dictatorship in disguise, or a democracy in name only.

The Arroyo administration has used the law and various government agencies against the media. In 2005, at the height of the political scandal involving wiretapped conversations between Arroyo and an election official, the Secretary of Justice

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<sup>12</sup> Yap, DJ. "Mike Arroyo's bid to junk journalists' case quashed", *Philippine Daily Inquirer*, 16 January 2008

threatened to file suit against media entities caught playing the wiretapped conversations for violating the law on wiretapping. Days later, the National Telecommunication Commission sent out a memorandum to broadcast entities warning them that their licenses could be revoked for airing the contents of the tapes. (In February 2008, the Philippine Supreme Court upheld the freedom of the press and ruled that the warnings made by the Secretary of Justice and the National Telecommunications Commission were both unconstitutional).

#### **4. Economic Pressures**

The state does not subsidize the private media. However, there are government agencies known to be regular advertisers in print and broadcast.

The biggest of these advertisers is the Philippine Charity Sweepstakes Office (PCSO), a charitable institution under the Office of the President which administers the lotto and sweepstakes draws. In 2006, the PCSO ranked first among the top 10 brands advertised in the media, defeating other commercial products that include shampoo, coffee, cigarette, beer, and lotion. It also ranked 10<sup>th</sup> among top companies in terms of gross advertising expenditure.

The Philippine Amusements and Gaming Corporation (PAGCOR) is another consistent advertiser on government and private media and is estimated to be spending some P1.25 billion every year for advertising and public relations.<sup>13</sup>

#### **5. Non-State Repressions**

Journalists in Metro Manila, the capital region, are free to do their work without fear of attacks from non-state groups and organizations. But the same cannot be said of journalists working outside the capital, if one were to go by the locations where journalists have been attacked or killed in the last few years.

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<sup>13</sup> Philippine Sweepstakes Office Accused of Spending Money for Lavish Concert, *The Mindano Examiner*, November 2, 2007, <http://zamboangajournal.blogspot.com/2007/11/philippine-sweepstakes-office-accused.html>

Since the restoration of democracy following the fall of the Marcos dictatorship in 1986, 70 journalists and media practitioners have been killed in the line of duty. A study conducted by the Center for Media Freedom and Responsibility (CMFR) found that about half or 33 of the killings took place under the present government of President Gloria Macapagal Arroyo, who assumed office in 2001 after her predecessor Joseph Estrada was ousted from office for corruption. The CMFR study also said that 90% of journalists killed since 2001 were reporting about corruption and other illegal activities such as drug trafficking and illegal gambling.<sup>14</sup>

Almost all of the attacks took place in provinces or cities outside Metro Manila. Journalists have been killed even in highly urbanized areas of Cebu in Central Philippines and Davao in the South. The most recent was the killing of Francisco Lintuan, a radio commentator from Davao City, who was shot dead by still unknown gunmen on Christmas eve 2007.

Many of the cases remain unsolved. Although local government officials or policemen have been named prime suspects in some of the cases, these attacks are still considered non-state because they are not part of a systematic government policy against the press. But it is the culture of lawlessness and impunity prevailing in the country that has made journalists easy targets of assassins—law enforcers are unable to protect journalists and to pursue, arrest and convict the killers.

Although attacks on journalists in the Philippines have alarmed media groups, the number of journalists slain in 2007 has actually decreased from previous years. In 2005 and 2006, the New York-based Committee to Protect Journalists considered the Philippines the most dangerous country in the world in which to be a journalist. That notoriety now belongs to Russia, where in 2007 there were 25 percent more journalists killed than in the Philippines.<sup>15</sup>

The Philippine National Police has set up a Task Force to investigate and solve the killings of journalists but its success rate has been low. Although the Task Force

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<sup>14</sup> Khan, *The Deadly Journalist's Task of Exposing Corruption*

<sup>15</sup> Khan, *The Deadly Journalist's Task of Exposing Corruption*

claims that a good number of cases solved, its definition of “solved” was that possible suspects were identified but still not yet in police custody or on trial.<sup>16</sup>

## **6. Conclusions**

Press freedom exists in the Philippines because it is a right provided for in the constitution. It continues to be upheld because the media fight to protect that right, and citizens demand truthful reportage from journalists.

However, as Filipinos have known from experience, governments have tried to curtail this freedom, as the media push for more transparency especially amid growing political crises. Media groups have noted how the democratic space that allowed journalists to report freely has narrowed in the last few years, as government tried skirting the constitutional provision, imposing limits on press coverage, and punishing with libel suits journalists who expose the truth. The Southeast Asian Press Alliance counts this as part of the “weakening” and “backsliding” of press freedom among Southeast Asia’s most liberal press systems. The situation in the Philippines could be considered as one of freedom of the media with major restrictions.

There are a number of incidents that point to a strong aggravation affecting media freedom.

Early in the morning of February 25, 2006, policemen raided the office of the newspaper *The Daily Tribune*, confiscating copies of the newspaper’s issue for the day. At that time, President Gloria Arroyo had placed the country under a state of emergency, following a supposed coup d’etat attempt by restive soldiers. At that time, Arroyo was facing allegations that she cheated when she ran for the presidency in 2004.

In the following months the February 2006 raid, the government would take other direct action seen as attempts to harass and intimidate the media. These include filing libel suits against journalists and their media outfits, and announcing that it was

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<sup>16</sup> Teodoro, More Engaged than Critical, *Businessworld*, December 14, 2007.



blacklisting certain media persons. There were also reports that the military had classified some media outfits as among “enemies of the state.”

The arrests of scores of journalists in the after they covered two military officers who lay siege to the Manila Peninsula Hotel in November 2007 was seen as a direct curtailment of press freedom.

Indirectly, the Arroyo administration issued Executive Order 464 that limits journalists’ access to information by preventing officials from testifying before congressional bodies without prior consent from their superiors. Arroyo invoked executive privilege and the separation of the powers of co-equal branded of government to justify the order. Lawyers’ and media groups however saw the executive order as an abuse of discretion on the part of the President and a means to withhold information from the public at a time her government was facing a political crisis in 2006. As a result of this executive order, officials of the executive department who in the past would routinely testify on summons of the Senate and House of Representatives could now invoke the EO 464 if they refused to testify.

Most journalists would agree that the biggest obstacle to free media coverage is the negative attitude of the country’s political leadership toward the media, which manifests itself in restrictive policies and pronouncements. This distrust toward the media stems from the government’s own insecurities: the media have been examining allegations that President Gloria Arroyo cheated in the 2004 elections, and that her she, her friends and family are involved in corrupt business deals.

The Konrad Adenauer Stiftung supports journalists by funding the work of investigative reporters as well as the training and education of journalists.

In the long term, KAS takes part in the professional growth and development of Filipino journalists by making available to them the opportunity to obtain the degree Master of Arts in Journalism offered through the Konrad Adenauer Asian Center for Journalism at the Ateneo de Manila University. The program’s pioneering online distance learning method is specifically designed for working journalists who do not have the time as well as resources to attend traditional classes. Through this online

program, journalists not only review the basics and upgrade their skills; they also have a forum to discuss issues affecting their work and the Filipino journalism community.

Nearly half of the 49 reporters, writers, editors and producers who have graduated from the ACFJ are Filipino.

KAS can intensify its support by exploring other media initiatives such as funding programs or projects involving journalists in the online media or the blogosphere. It can also support award-giving bodies that recognize good journalism, such as the Jaime V. Ongpin Awards for Excellence in Journalism.

*Luz Rimban*

## Bibliography

Asian South Pacific Bureau of Adult Education, *Philippines' Summary Report: Mapping*

*Out Disadvantaged Groups in Education*, ASPBAE, 2007

Association of Accredited Advertising Agencies (4As), *Media Factbook 2007*

Center for Media Freedom and Responsibility (CMFR), *Limited Protection: Press Freedom and Philippine Law*, CMFR, 2007

Khan, Rachel E., "The Deadly Journalist's Task of Exposing Corruption". *Center for Media Freedom and Responsibility*, retrieved from

[http://www.cmfr.com.ph/\\_storiesanalyses/deadly\\_journalists\\_task.html](http://www.cmfr.com.ph/_storiesanalyses/deadly_journalists_task.html)

Maragay, Fel and Romie Evangelista, "Bishops, Journalists, Enemies of the State", *Manila Standard Today*, April 7, 2005, retrieved from [http://www.manilastandardtoday.com/?page=news02\\_apr07\\_2005](http://www.manilastandardtoday.com/?page=news02_apr07_2005)

National Statistics Office, *Functional Literacy, Education and Mass Media Survey*, retrieved from [http://census.gov.ph/data/sectordata/fl03\\_lsf.html](http://census.gov.ph/data/sectordata/fl03_lsf.html)

Philippine Sweepstakes Office Accused of Spending Money for Lavish Concert, *The Mindano Examiner*, November 2, 2007, retrieved from <http://zamboangajournal.blogspot.com/2007/11/philippine-sweepstakes-office-accused.html>

Teodoro, Luis and Rosalinda Kabatay, *Mass Media Laws and Regulations in the Philippines* (3rd edition), October 2007

Teodoro, Luis, "More Engaged than Critical," *Businessworld*, December 14, 2007

Yap, DJ. "Mike Arroyo's bid to junk journalists' case quashed", *Philippine Daily Inquirer*, 16 January 2008

## POLAND

The media in Poland nowadays are facing intriguing and difficult time. The Polish media system is being shaped permanently in very chaotic way. The new governments and political elites tend to use the media to further the goals of the transformation and reform. But nobody in this state-in-transition is ready to make decision about crucial dilemmas, like: What is the position of the media between the state and the market? What is the character of financial foundations in a competitive marketplace? The broadcasting law is still far from its final shape in the Polish Parliament – year 2002 brought a big corruption scandal in this area to light. There is a presumption that the newly-created system of media organization supposes to be closer to the power center than to the society at large.

One can name two main tendencies observed since the 1990s in Poland:

New and large consumer groups emerged. They learned very quickly how to be a good consumer. We talk not only about the young and very young generation of consumers, but about groups consisting of all classes, sexes, ages, and levels of education. Very often the older generation gives many manifestations of their desires, which are significant for the consumer culture. These groups live with media; it means that they treat media as a peaceful (in many cases) ecological system around them.

New institutions of commodity producers launched their activity in Poland. In some sense they serve as “signs of democracy” and a lot of people link consumerism with democracy and human rights.

If we add the enormous rise of the new media, namely electronic interactive as well as the enormous rate of TV watching (almost 4 hours daily for Poles), then we have a full sketch of the Polish media landscape.

And the other one dimension should be taken into consideration in this discussion. From the end of WWII, up to 1989 breakthrough we can distinguish three spheres:

- An official social sphere inhabited by communist/socialist parties and government dependent institutions. All cultural, social, and even local groups of inhabitants were controlled by the Communist Party. Freely expressing one's opinion was dangerous, if not impossible. The propaganda system, as well as Orwellian-like control, influenced not only people's opinions in all media, but also box office statistics.
- Since 1976 we can talk about an oppositional sphere in Poland, which existed in the margins or under the cover of official one. These were clandestine activities resulting in Solidarity Movement during 1980-1981. There were books printed in small illegal publishing houses and brought from abroad with no formal permission, which were distributed among young university students as well as pensioners. VHS films and audio tape recordings of political cabarets and speeches were very popular among the majority of Poles.
- The Roman Catholic Church was the leader and the structural base for the third sphere in Poland, namely the religious sphere, implemented in cultural and educational activities in churches or other buildings belonging to the Church (Jakubowicz: 1992).

Before 1989 Polish press was designed both to serve as a propaganda instrument and as an instrument of party control. The official newspaper of the Communist party, "Trybuna Ludu", was established principally to achieve these goals. The daily, whose circulation in the late 1980s approached nearly 1.900.000, had dominated the market.

After 1989 the Polish newspaper market had totally changed. The new political system brought freedom of speech, of the press, and of associations, which meant independence and neutrality in the majority of Polish papers. In April the same year, censorship was abolished.

Nowadays the most prestigious daily with the largest circulation is "Gazeta Wyborcza", established in 1989 to support Solidarność before the parliamentary

elections. The paper has gained a predominant position in the market, and maintained it until the present - although the rivals were established, for instance: daily "Dziennik. Polska-Europa-Świat" published by Axel Springer Poland. "Super Express" and "Fact" are the contemporary Polish papers which were intended as a popular newspaper inclined to sensationalism.

We are facing the peculiar situation of one of the largest Eastern European society members of society generally accept essential part of "citizenship".

### **1. General Conditions**

The literacy rate in Poland stands at 99.7 per cent, consisting of people who completed primary school.<sup>1</sup> Poland has lived an educational boom, with more investment in schools at home and – after the accession to the EU – with many Poles completing their education abroad.

In 2007 there were 8 public TV channels and 109 private TV channels including regional community based stations<sup>2</sup>.

There were 7 public national radio channels, 7 public local stations in Białystok, Bydgoszcz, Gdań, Koszalin, Kraków, Lublin, Łódź, Olsztyn, Opole, Poznań, Rzeszów, Szczecin, Wrocław and about 250 private radio stations.

The total number of newspaper circulating in the country is about 2500.<sup>3</sup>

There is a 'common knowledge' that some media are 'associated' with some political parties. This is a process of being 'united': Civic Platform (PO) is close to TVN broadcasting company, Law and Justice (PiS) is 'united' in some sense with Television Trwam. Law and Justice is also controlling in fact public television stations in 2007 as well as public radio stations (PR) and in January 2008 the leaders of PiS party announced that they are ready to run TV-PiS broadcasting over the Internet and would not comply with the political line.

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<sup>1</sup> [http://www.unesco.org/education/efa\\_report/tables\\_excel/Table2.xls](http://www.unesco.org/education/efa_report/tables_excel/Table2.xls) data of entry: January 2008

<sup>2</sup> "Press" (12), November 2007

<sup>3</sup> "Media & Marketing. Polska" (10), October 2007

There are some other cases when political parties run de jure their own media: Democratic Left Alliance (SLD), for instance, runs “Trybuna” daily newspaper, and the Union of Real Politics (UPR) established weekly magazine “Najwyższy Czas” (“Highest Time”).

There exist some independent internet newspapers, for instance: <http://www.wiadomosci24.pl/>, <http://www.pardon.pl/>. There exist also a lot of very popular Internet tabloids, e.g. <http://pudelek.pl>, <http://plotek.pl> etc. Moreover, every large newspaper has its own homepage and sometimes a web portal as well. In fact some of them (e.g. <http://gazeta.pl>) became internet newspapers.

State authorities do not have rights to censor these internet newspapers because they are published under the scheme of the press which is free from censorship. We can talk about one important exemption from this general view. There are some evidences that local government authorities look very carefully on local newspapers as well as on internet coverage and interpretations of the politically and socially oriented decisions. In some cases there were attempts of exercising pressure towards journalists and editors to publish or do not publish some issues inconvenient for the regime.

In some sense the internet improved very much its working conditions for free coverage. A lot of institutions and groups of consumers have free access to obtaining information as well as produce it. One of the examples is enormous career of journalists and politician’s blogs.<sup>4</sup>

From the beginning of the Internet in Poland, there has hardly been any obstruction. In October 2007 the proportion of those people who have access to the Internet was 3.8 million, 36 per cent of the population.

A lot of Polish users think that the main obstacles in the dynamic development of the Internet are not the money but the inefficient old law, which is not adequate to the nowadays situation and hierarchic bureaucratic structure of Polish telecommunication

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<sup>4</sup> the list of blogs, instructions and netiquette on [blog.pl](http://blog.pl)

industry. Many things changed but still law is not prepared for protecting the copyright of the acting firms and their clients. Despite of the progresses in privatization the Polish Telecommunications is still acting as a monopolist on this market.

The typical user of Internet in Poland is a young man (less than 30-years old) who lives in big city, graduated from technical university. But new impressive movements on this map are also visible. For instance: the number of women's users drastically came up (only 22% women in 1995 declared using the Internet what contrasts with 49 per cent in 2006<sup>5</sup> ). But the number of all users of internet services growth very fast. Taking into example the radio on Internet we are surprised that in 2005 only 1 per cent of internauts listen to radio but in 2007 there were three times more of them<sup>6</sup>. The reasons for using Internet in Poland are: communication with people and correspondence, searching for information, using press services. Internet in Poland is going to be much commercialized: almost all main firm, travel agencies, cellular telephone operators and car dealers have their own Web pages. Shopping on-line is also growing despite the relatively small number of credit card holders.

About 90 per cent of people have access to radio, TV, newspapers and the internet (including international satellite programs). Generally speaking citizens use the media (TV, radio, press, internet, others) as a source of information very often. Among them television is the main source of information, next three other types of media: radio, press, Internet, what means that they are used often. Then the verbal exchange of information is using occasionally.

With no exaggeration one can say that the influence of the media on the formation of political opinion in Poland is highly significant. The media in Poland exert considerable influence on political opinion - some observes of the media and political scene says about "mediatization" of political sphere. The reasons are primary that people in Poland generally do not trust politicians and think that they should not be trusted although they generally trust journalists.

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<sup>5</sup> <http://www.egospodarka.pl/20642,Polskie-kobiety-w-internecie,1,39,1.html> data of entry: January 2008

<sup>6</sup> data delivered by Radio Track, Millward-Brown SMG/KRS, cited by „Polska. The Times”, January 28, 2008.



There is the growing group of citizens for whom the media exerting only little influence on the formation of political opinion. The reasons for this attitude are very unclear: some of them make a choice of one medium - for instance: conservative oriented daily - and deny any access to other kind of media. This is very typical for ultra-catholic groups consisting of readers of "Nasz Dziennik", listeners to the Radio Maryja, and for watchers of television Trwam. This attitude supposes to be typical also for some readers of post-communist daily "Trybuna".

Majority of them do not respect political information coming from any other media and think that the other media manipulate and forge information. On the other side - they are certain that "their" media deliver the "truth", the "only truth" and "nothing but truth". There are some important consequences of that thinking on journalistic methods of interrogation. For journalists who opt for such trends it is obvious that they invite to their studio or interview in newspapers some special categories of guests. Namely: those who agree with the program line of the medium. The others are excluded from the invitation. And more: it is obvious that those guests have very much time for explanations of their points of view as well as the questions delivered to them are not embarrassing at all.

Generally speaking, the social background of the media consumers does not determine the level of influence on the formation of political opinion. But it determines which medium will be trusted. Young, educated people living in the cities tend to confide in liberal media such as TVN, „Gazeta Wyborcza”, TVN24, RMF and Zet etc. People living in the country prefer public/state owned radio and television stations (TVP, PR) and private TV Polsat. A lot of people - majority of them are older than 55 - are directed by Radio Maryja<sup>7</sup>.

Right now there exists quasi-state run newspaper, television channels, supported partially by license fee. There is also one newspaper, "Rzeczpospolita", partly owned by the state (49 per cent). Government does not have direct influence on the media although the Parliament and President can indirectly influence it by appointing

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<sup>7</sup> which is on 6 position in ranking in 2006 <http://mediafm.net/radio/5583,EstyMedia.pl:-sluchalnosc-radia-tygodniowa-.html> data of entry December 2007

members of the National Broadcasting Council. The Ministry of Treasury along with private investors appoints the leading positions of daily "Rzeczpospolita".

In the sphere of television and radio channels National Broadcasting Council (KRRiT) took the power of regulatory body. It consisted of five members. Two of them are appointed by the lower house of the Polish parliament, one - by the Senate and two - by the President of Poland. The term of office of each of the members is now six years. The members of KRRiT appoint Boards of Directors of each media: one for television, 17 for radio (central and local branches). The Boards of Directors are responsible for choosing the acting chairpersons. This supposes to be the most important source of the "politicization" of Polish public media. It means that the processes of nominations for positions are based on political bargains where professional and psychological features of the candidates are less important. Political oriented National Broadcasting Council nominates political oriented members of the Boards of Directors, and then the same orientation is copied when other directors are chosen. Last years the strange tendency was established, namely: giving up with public contest for candidates. Obligatory by law (partially) open to the public contests and hearings of the candidates for leading positions in public media were denied from the beginning or in further stage of the process.

For Polish media users are clear that the published and broadcasted opinions determined by public/state owned media reach and sharedifferent groups' media users in comparison to private media. In television there are nearly the same shares pubic/state . When we speak of radio case we can see the hegemony of private media or clear majority of shares of private media. In press and Internet is clear that the private media dominate - more to say: for the Internet state owned media hold almost no shares of the published opinion.

In Poland it is difficult to valuate the coverage of public/state owned media It depends on which party controls the media Board of Directors controls state/public owned media, the National Broadcasting Council (KRRiT) is now being controlled by the opposition parties (majority of the members were appointed in 2005, when PiS, LPR and Self-Defense were ruling the country). Now they are in opposition, but they still could control the Council. So till October 2007 the number was de facto (some kind

of propaganda for government) and now it is quite the opposite. The power of influencing media users is executed in agendas of television news magazines (the position in it or the lack of some topics) as well as by political oriented selection of guests of publicist television and radio magazines.

The press offers the broadest spectrum of coverage. The majority of radio and television programs of state/public media, and they are controlled by state, few corporations by private investors or cooperatives, some of them are controlled by the Church or foundations (one of them is run by reverend Tadeusz Rydzyk). Therefore the coverage in those media would be less broad than in the press or Internet. The press system largely consist of newspapers and magazines controlled by few editors but there are many titles that are owned by parties ("Trybuna" daily, "Najwyższy Czas" weekly) or by small editorial firms – those last are rather independent ("Nie" weekly is owned by the last spokesman of communist government, Jerzy Urban). Therefore the coverage in press (and especially in the Internet) is much broader than the coverage in radio and television.

The government regularly holds press conferences to inform the public about its program. All journalists have equal access to press conferences and all of them allowed to be broadcasted. One of the well known exceptions was the TV Trwam case in Sejm press conference. In 2007 when Jarosław Kaczyński was a Prime Minister the situation occurred that the journalists in Sejm were deprived from covering of celebration of signing the treaty between coalition parties. There was one exemption that ultra Catholic TV Trwam was invited to broadcast the event. Afterwards the protest of Sejm reporters was organized spontaneously.

## **2. Legal Environment**

Freedom of opinion is established in the constitution and defined as a fundamental individual right in Poland. The Constitution of the Republic of Poland of April 2, 1997 secures the freedom, rights and obligations of persons and citizens. In it is confirmed that everybody has guaranteed the freedom of thought and speech, freedom to

express opinions, to acquire and to disseminate information shall be ensured to everyone<sup>8</sup>.

The freedom of the press and free media coverage is established in the constitution. In Article 54 it is said that “the preventive censorship of the means of social communication and the licensing of the press shall be prohibited. Statutes may require the receipt of a permit for the operation of a radio or television station”<sup>9</sup>.

There are some laws which determine the access to information and the protection the privacy of office bearers. Namely: the Bill of October 6, 2001 about access to public information. The office bearers are expected to publish the information about the income and assets of their and their spouses. Everything else is protected by the bill about preserving private data.

Censorship is partially and not directly regulated by law. There is covert self-censorship in the field of so called “religious feelings and “catholic values” (what every broadcaster should obey). But it has to be confirmed that the censorship through state authorities is not permitted by law.

Some issues of the coverage about certain people, groups, institutions are restricted by law - and mainly it is about r Article 196 of the Penal Code states: „Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years”. Some people were sentenced because of that, e.g. for posting „blasphemous” picture online. Polsat, private TV station, was sentenced in 2007 to pay a huge fine (about euros 140.000) for making jokes of handicapped host of the religious program in Radio Maryja (the guest of Polsat TV maintained that she making joke directed to unknown person).

cultural that causes censorship cases, e.g. homosexuality. On , 25, ehensible for the Polish public.ded to see cut scene on YouTube Internet service.And - it is obvious in

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<sup>8</sup> data of entry: January 2008

<sup>9</sup> data of entry: January 2008

nowadays Poland - that media reports are not examined by state authorities before publication. The main body that regulates media coverage on behalf of the government (partially) supposes to be KRRiT in respect to radio and television. It is important to add that KRRiT has no formal and legal connections with the government (however it is said in Bill that Board and government "should cooperate"). Nevertheless - as said above - it is one of the most "political oriented" regulatory body, therefore it represents the interest of the government (or acts as an anti-government institution).

During the past five years the legal implementation of media coverage has been modified by the Act of 29 December 2005 on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting. The parties PiS (Law and Justice), LPR (League of Polish Families) and Samoobrona (Self-Defense) took control over public media by this act. However, earlier public media were also controlled by parties: SLD (Democratic Left Alliance) and PSL (Polish People's Party). When we evaluate the effect of these modifications on freedom of the media it has to be said that it was just change and no change at all in quality.

It is hard to notice whether 9/11 and Anti-Terror-Laws have impacted on the freedom of media coverage. Legal censorship does not exist in Poland and there are no groups, institutions or issues who are censorship. As well as it is not a problem with certain people, groups or organizations contrary to law excluded from their jobs as journalists or from their right of free speech.

Radio and TV stations have to be licensed and registered by state authorities before publication or broadcasting, newspapers are independent and free of licensing. Licensing organ is called the National Broadcasting Council (KRRiT). In December 1992 the Sejm passed the Broadcasting Act, which came into force on March 1, 1993. Under the law, the Council was appointed as a state organ competent in matters connected with radio and television. Earlier, a draft had been prepared to change constitutional regulations introducing the National Broadcasting Council to the basic act. The National Broadcasting Council has worked since April 28, 1993.

State authorities are not totally independent because they are appointed by politicians and they serve politicians as well. Pursuant to the Act of 29 December 2005 on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting (Official Journal of 30 December 2005, No 267, 2258) the term of office of the previous National Broadcasting Council of Poland (KRRiT), which consisted of nine members, has expired and new board has been established. The act has reduced the number of members of KRRiT from nine to five. Two of them are appointed by the lower house of the Polish parliament, one - by the Senate and two - by the President of Poland. The term of office of each of the members is now six years.

Now the main reason for refusing or taking away the license/registration is that there is not enough frequency or the station did not start with broadcasting or it did not fulfill the program declarations. It is worth to say that during some crisis resulting nervous communication between KRRiT and private broadcasters it happened that both side are conscious about strong power of regulatory body refusing the license. But the licenses/registrations are taken away very rarely.

Journalists do not need an official state permission to practice their profession, although few years ago there were some projects of new Media Bill that obligate journalists and editors to be holders of university level diploma in journalism.

Journalists have the legal right to participate in all public meetings of parliament, but there are not public meetings of the government in Poland. They have equal access to the meetings but they need identity card with pass. They are usually granted of it unless a journalist is suspected of being terrorist etc. Only meetings of parliament are allowed to be broadcasted - in fact all the meetings of parliament are broadcasted by one of state owned channel.

There is a law prohibiting all the monopolies and cartels: Act of February 16, 2007 on competition and consumer protection<sup>10</sup>. There are also several other laws regarding monopolies and cartels<sup>11</sup>.

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<sup>10</sup><http://www.uokik.gov.pl/download/Z2Z4L3Vva2lrL2VuL2RiZmF1bHRfb3Bpc3kudjAvMjYvMS8xL3VzdGF3YV9hbml0bW9ub3BvbG93YV9lbi5wZGY> data of entry: January 2008

The main organ of control is the President of the Office of Competition and Consumer Protection. She reports directly to the Prime Minister, who appoints her from amongst the members of the State Staffing Pool. The competence of the President of the OCCP comprises in shaping of antimonopoly policy and consumer protection policy.

In terms of competition protection the primary instrument at the President's disposal comprises antimonopoly proceedings in cases of competition restricting practices – abuse of a dominant position on the market and prohibited agreements (cartels). Those may result in a decision to discontinue the questioned activities and in a fine. The President of the OCCP is also authorized to control concentrations in order to prevent a situation in which as a result of a merger of undertakings, an entity dominating the market would be created.

One can say that private monopolies and cartels of the media do not exist in Poland. There are some “media groups”: partnerships, joint stock companies which own different kind of media. There are also great corporations, which have some limitation: e.g. Agora S.A. has radio station, the popular newspaper, some magazines and a web portal. Other corporation, ITI, controls a few popular TV stations and the most popular Polish web portal, Onet.pl. Father Tadeusz Rydzyk’s media empire consists of a quite popular radio, a television station and a daily newspaper.

These media monopolies pursue certain political aims mainly during electoral campaigns. It could be said that before 2007 parliamentary elections ITI and Agora were against Justice and Law (supported partially Civic Platform or some other liberal parties), Rydzyk’s media group supported Law and Justice.

State authorities do not take actions against private media monopolies due to the fact they sometimes use them (e.g. former Prime Minister Jerzy Buzek felt insulted by public TV station delivered his speech to the private station). But generally speaking the authorities usually want the media and journalists to be rather their allies than enemies. We can not speak about state repressions against them.

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<sup>11</sup> ([http://www.uokik.gov.pl/en/legal\\_regulations/national\\_legal\\_acts/competition\\_protection/](http://www.uokik.gov.pl/en/legal_regulations/national_legal_acts/competition_protection/)) data of entry: January 2008

### 3. Political Conditions

In Poland it would be hard to find sections of the population or particular social strata whose political matters are not represented in media coverage. All sectors of the population are represented in media coverage. Some of the groups are represented much more: some politicians, celebrities of different categories as well as civic servants who committed some crime.

There are no sections of the population deliberately excluded by state actions from their right to freedom of information.

The important issue in last years is self-censorship in media coverage in state/public TV and Polish Radio. The chairmen of Polish TV and Polish Radio were questioned by the Parliamentary Commission for Culture and Media on 6 December 2007, concerning matters of political bias and the best way of financing public broadcasters.

The majority of allegations were in respect of the Polish TV. The investigative panel was mainly interested in the role of deputy head of the News Agency Patrycja Kotecka, accused of putting pressure on Polish TV reporters to prepare materials compromising the Civic Platform and dismissing those who would not comply with her methods. She was also accused of stopping a program when a guest turned up to be critical to the particular party, Law and Justice.

The censorship occurs mainly to politics, religion (especially with respect to late Pope John Paul II), and moral values.

The journalists, media companies or organizations could feel fear of state repressions because of refusing of licensing or prolonging the license. KRRiT use this argument very rarely but there is a threat that it could be effective. The reason is that the evaluation of the broadcaster is based rather on “free” interpretations of their activity and not on real achievements.



There is no information that access to the Internet could be hindered by state measures. It supposes that the Internet is about to be the important way of political communication (see the career of politicians blogs).

The actual fear of state repressions no changed in quality during the past five years. State/public owned media do not monitor the production and distribution of print media. It is obvious that all political parties want to dominate over state/public media. But the biggest problem is probably the fact that the people who controls the most influential media are sometimes in close relations with politicians. In effect, sometimes public opinion is informed about some affairs with delay: "Gazeta Wyborcza" for a few months did not publish information that its editor in chief were proposed to give bribe by the person sent by ruling party (on July 22, 2002 the famous Polish film producer Lew Rywin suggested a bribe from the Agora company, first from Agora's president Wanda Rapaczyńska, and then Adam Michnik, editor in chief of "Gazeta Wyborcza"). Rywin claimed that he was sent by the Prime Minister Leszek Miller and had connections to an undetermined "power group" that could impose restrictions on TV station ownership for newspaper publishers. The bribe sum was 17.5 million USD. And sometimes probably is not informed at all.

#### **4. Economic Pressures**

The Polish Republic Constitution guarantees equal rights and opportunities to all enterprises, regardless of their form of ownership. Private media are not subsidized by the state. Otherwise: according the Cinematography Bill of 2005 the broadcasters were obliged to pay 1, 5 per cents of their revenues to the Polish Film Art Institute.

But the state has still an important influence on the economy of the media. The above mentioned case of Lew Rywin case is a good example of the tendency. "Non-economic" factors used to play important role in previous time. Needless to say that there is no new Media Bill due to unclear political pressures and corruption scandals on this field.

The important means of economic pressure directed to all media is in hands of KRRiT. The Council has the right to fine broadcaster for many elements of their

program: including sex, obscenity, unmoral behavior or not respecting Christian values. It could vary from fines (up to euros 140.000 with possibility of being cumulated, doubled or tripled) for making fun of handicapped to fines for showing eating worms in American reality show (both cases refer to fines against private station Polsat). The distress of the fine comes not only from the amount of the sum but also immediate execution. The money is sent by alleged offender to the bank account and can be taken away after 2-3 years of juridical process.

The interesting overlapping of the political issues and economic ones can be shown on the example of newest project of Media Bill delivered to the Sejm in January 2008. When the financial situation of local TV station of public/state broadcaster was discussed then one of the most possible solutions supposes to be the shift of ownership from the main/central station to the local government. Politicians - delivering economic arguments - move the station to the local government which consists of politicians.

## **5. Non-State Repression**

Journalists or media companies in Poland - according left wing and liberal analytics - may fear repressions through non-state groups or organizations, namely through the Catholic Church and groups of religious fanatics. Repressions rely on prosecuting for offending religious feelings.

Sometimes these groups repress journalists as well as politicians. Father Rydzyk, the founder and head of Radio Maryja, a popular/populist, conservative and nationalistic radio station, who once enabled ruling Kaczyński's twin-brothers to take power in the country, sparked a storm of controversy when the weekly "Wprost" released tapes on which Rydzyk calls the President Kaczyński a "conman" and his wife a "witch" who should be put to death.

The tapes, recorded in April 2007 during a lecture Tadeusz Rydzyk was giving at his Catholic college (the reverend runs his own media empire consisting of radio and television stations, a newspaper and a school of so called "Catholic journalism"), showed Rydzyk complaining that Lech Kaczyński and his wife Maria had betrayed

him when they dismissed parliament's plans to tighten already strict anti-abortion laws.

The problem was that so far Father Rydzyk has been the biggest ally of Kaczyński's. The Kaczyński's government had always sought strong relations with Father Rydzyk and his media empire as a means of courting Poland's ultra-Catholic and nationalistic voters. Cabinet ministers were regular guests, and Mr Kaczynski's twin brother, Jaroslaw, the prime minister, was among 150.000 at a ceremony to celebrate the station's 15th anniversary of radio in 2007. The controversy will further blacken the reputation of Radio Maryja, which has attracted frequent accusations of xenophobia and anti-Semitism.

Freedom of speech, abortion, euthanasia, cloning is among the topics the non-state repressions become likely. And it worth to say that the accusations are used rather rarely (2-3 cases per year), but every time they are discussed in very emotional way. It is has to say that the state authorities effectively protect journalists - there are no problems in Poland with attacks on journalists (we can name 1 or 2 during last 3-4 years).

The actual intimidation through non-state repression did not change during the past five years: the present situation of freedom of the media is stable.

## **6. Conclusions**

The free coverage of the media has generally evaluated as no change in quality [0]. Despite the statement of 2007 made by the former Prime Minister Jarosław Kaczyński that "there is no free media in Poland", it has to be said that there are free media in there. Recent 2 years has seen the particular pressure on journalists, editors and media owners to be on the right side of the "barricade", on the site of government. There were some speeches deliver by the members of ruling right wing party, PiS, that for some politicians and observes reminds old style propaganda rhetoric.

Speaking about general situation of freedom of the media in Poland we can describe it as freedom of the media with minor restrictions (radio, television) and quite unrestricted freedom of the press, internet.

Free coverage of the media in Poland generally changed during the past five years due to the existence of internet coverage as well because of much more level of professional character of the media. Needless to say that during January 2008 crisis between the President of Poland and Prime Minister about the regulations concerning priority of information on military airplane catastrophe resulted that the commercial station TVN24 has got news about the event as a third subject - after Ministry of Defense and before the National Security Bureau of the President. And no media institution or person responsibly in media sphere was accused due to that fact. So we can say about improvement of the effect on freedom of the media (+2) wondering whether it a global change or local Polish situation.

Speaking from the point of view of journalists and asking what are the major obstacles to free media coverage we can name three of them: political pressure, Catholic Church influence, auto censorship of some journalists and editors.

Some words have to be said about importance of investigative journalism in Poland last years. Investigative journalism as well as provocative one plays an important role in media sphere as well as in politics. Grzegorz Kuczek (TVN) and Igor Ryciak ("Newsweek") bought at the flee market false ID cards and using them they opened bank account. Next the journalists made some false activities, namely renting cars, loaning some expensive video and audio equipment. The other group of provocative journalists bought a big amount of dynamite; others gave money to the prosecutor as bribery.

Their intentions very clear: they tried to reveal the weakness of the security system or the gaps in bureaucratic regimes. In some cases they were treated as real corruptors of the state system and the formal prosecution was imposed. It is needless to say that they feel informal acceptance from the people and group of journalists - in majority of the cases the charges were dismissed.

One of the most important cases is linked with Beger-gate In 2006 (the other popular names for that were: “tape scandalous” or “truth tapes”) Renata Beger, Member of Parliament, participated in provocation organized in her hotel room by the TVN station reporters. She invited the prominent members of ruling political party PiS for party negotiations, delivering suggestion that some members of her party Samoobrona (Self-Defense) are ready to join PiS. Then the video coverage of negotiation was revealed in the political oriented TVN show “Teraz My” (“Right Now: We”). There was the big scandalous followed by national discussion about the limits of provocations created by journalist. Andrzej Morozowski and Tomasz Sekielski, TV journalists running this project, were holders of prestigious Best Journalist Prize of 2006 founded by magazine “Press” as well as they were acclaimed as the unmoral provocateurs by some conservative groups.

It is worth to add that the extraordinary career of investigative journalism in Poland is still in progress. One of the winners of the Best Journalist Prize in 2007 was Marcin Kącki from “Gazeta Wyborcza” who published series of articles on sex scandalous in Self-Defense party (member of the coalition of ruling parties). The crisis based upon “truth tapes” and other similar cases (when prominent member of TVN Program Board was accused of being the informer of secret service) showed another important factor of Polish media scene. There was not one univocal notion or interpretation on this issue. The journalist group was not united: there were not normal debates with rational arguments but full of emotions fights depends upon the political inclinations. It was said that the most inconvenient for journalists situation can occur, namely: the group will be described as one lived in closed fortress surrounded by the enemies.

There is a famous article 212 in Polish penal code stating that there are charges (up to 2 years of imprisonment) for those who offend or impute persons or institutions. Some judges and prosecutors use this charges against journalists who do not fulfill “peculiar accuracy” describing cases during their work. What supposes to be the most strange in that cases is an unpublicized character of those judicial processes

which results in impossibility of covering the process of legal proceedings. At least 5 journalists describing illegal behavior were sentenced<sup>12</sup>.

It will be worth to finish with a general overview of Polish media scene. Poles trust journalists very much. Young people are very eager to learn this profession (in some known faculty of journalism there are more than 10 candidates for one student's position). Nevertheless, at the same time the obligations that society directs towards this professional group are rather fastidious. It is expected that the journalist will be an efficient media worker; the messenger of news; the teacher who can explain mechanism of life; and master of ceremony or clown. These are roles impossible to play and to learn.

Another problem is linked with political pressure upon journalists and editors. In state/public media, it is obvious, in private media it becomes to be more and more visible (it is said that remarkable TV journalist was withdrawn from the high position in commercial television because of pressure of ruling political party).

The obstacles of free coverage are very complex in Poland. They combine political pressure and religious tensions, economic reasons as well as growth of the number of media workers what could cause the decline of professional skills.

*Wiesław Godzic*

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<sup>12</sup> Sierakowska, Judyta (2007) *Odwet Temidy*. "Press" 8 (139), pp. 38-41

## **Bibliography**

Bondebjerg, Ib, Golding, Peter (eds.) (2004): *European Culture and Media*. Bristol: Intellect Books.

Dahlgren, Peter (1995): *Television and the Public Sphere. Citizenship, Democracy and the Media*. London, Thousand Oaks, New Delhi.

Godzic, Wiesław (1993): "Changing Media Landscapes in Poland", in: Bechdorf, Ute et al. (eds.): *Watching Europe. A Media and Cultural Studies Reader*. Amsterdam: Amsterdam Cultural Studies Foundation, pp. 218-225.

Jakubowicz, Karol (1989): *Poland: Media System in Transition*. "Intermedia" 17 (2), pp. 25-28.

Jakubowicz, Karol (1992): "Media and the Terminal Crisis of Communication in Poland" in: Raboy, Marc, Dagenais, Bernard (eds.): *Media, Crisis, and Democracy. Mass Communication and the Disruption of Social Order*. London, Newbury Park, New Delhi: Sage, pp. 79-93.

Jakubowicz, Karol (2007) *Media publiczne. Początek końca czy nowy początek*. Warszawa: WAiP.

## RUSSIA

### 1. General Conditions

Literacy rate in the Russian Federation, adult total (percentage of people ages 15 and above) is 99%.

In 2007, according to the data of the Federal Agency for printed media and mass communications, a total of almost 72 000 mass media were registered in the Russian Federation, among them over 59 000 printed media. This number includes 35 500 newspapers and weeklies (7 374 all-Russian and 28 126 regional and local periodicals). However, not all of them really appear. According to experts' assessment, out of the 26 980 officially registered newspapers (2007) only 17 to 18 thousands are really printed (the 2007 report of the Federal Agency for printed media and mass communications on the Russian market of periodicals).

1 978 radio stations were registered in Russia in 2007. 113 of them were broadcasting in/from Moscow and 91 in/from St Petersburg.

There are 2 500 registered TV stations.

Several of the 15 officially registered Russian political parties print own newspapers, particularly the Single Russia (the overwhelming majority party in the Parliament), the Communist party of the Russian Federation, the Union of right forces, the democratic party "Yabloko", and the Patriots of Russia.

Apart from the online versions of many country-wide newspapers, there exist thousands of various internet newspapers and media outlets. The internet remains the most open, independent and pluralistic information space. It is a fast growing branch. The number of Internet users grew by 40% in 2007 and reached 35 million (24,6% of the total population of Russia amounting to 142 millions).



In 2007, the Foundation for the Defense of Glasnost registered 5 cases of censorship related to online information resources out of the total 33 registered cases of censorship in mass media. One of those 5 cases was registered in Moscow.

Apart from this, the Foundation has registered 41 cases of hindering of the operations of a series of internet editions, particularly of those highly critical of the government.

In 2006, 99% of the population of the Russian Federation (over 140 million) were covered by the existing TV broadcasting networks. About 1,5 million people (1% of the population) had no access to TV (particularly in the remote mountainous districts of the Northern Caucasus, southern Siberia, Far East, or in some northern regions of the Russian Federation).

The coverage has slightly improved since early 1990s (in 1990, 2,1% of the population had no access to TV). More importantly, however, is that the Russian territory is increasingly covered by multiple TV stations. In 1990, 36,4% of the Russian population were able to receive 3 TV programs or more. By 2006, this ratio increased to 88,3%. In 1990, 4% of the population were able to receive only one single TV station. By 2006, this number dropped to 1,4 % (data of the Federal statistical service of the Russian Federation, 2007).

About 21% of the total population of Russia (about 30 Million) don't read any newspapers, although this is not the question of the availability of the latter but, rather, the reflection of the generally declining interest in newspapers. Local printed media has the biggest circulation (over 30% of the audience) followed by regional press (about 30%) while the federal daily press has the lowest circulation (18% of the audience).

The number of those having access to internet is growing fast although still remains relatively low. In 2001, 29 people from 1 000 used the internet. This number increased to 246 (35 million) in 2007 which corresponds to a growth by factor 8,48 within six years.

How frequently do citizens use the media as a source of information?

- Federal TV channels                      very often    (85% of Russian citizens receive their information from the federal TV broadcasts)
- Regional TV channels                    often    (40%)
- Press                                        often    (31%)
- Internet                                     often    (25%)
- Regional radio                            occasionally (13%)
- Local radio                                occasionally (10%)
- verbal exchange of information        occasionally

How significant is the influence of the media on the formation of political opinion?

- Rather little influence                      radio, internet
- Significant influence                        press, regional TV
- Highly significant                            federal TV

The social background of the media consumers does affect the level of influence of specific media. This is particularly true with regard to the limited access of the low income social groups to the satellite and cable TV networks, as well as to the internet (16% of the population live below the poverty line). The regional differences as well as the gaps between the urban and rural areas do affect the influence of different media. Those social and regional differences strongly affect the diversity of the media available to specific groups of the population thus affecting their ability to freely seek and disseminate information.

Over the past years, the interest of the public in general information was decreasing following the trend of an increasing depoliticization of the public opinion, particularly among the younger generations.

These trends contributed to the elevation of the importance of the federal (state or state controlled) television widely available virtually for free as a major source of the information while the circulation of the country-wide newspapers of general interest was gradually dropping (an average Russian spends 13 minutes daily on reading

newspapers). The spread of the satellite and cable TV, as well as that of the internet in urban areas has not yet compensated this development.

The governments are widely represented on the media market at all levels (federal, regional and local), although there are significant differences as far as particular types of media are concerned.

The federal Media Law stipulates (Art. 19) that editorial departments exercise their profession independently. Interference by government authorities (as well as by other actors) into their work is prohibited (Art. 58).

The Media Law does not regulate directly the procedure of appointing the editors-in-chief who take final decisions on releasing every issue. It leaves that issue to the statute of the media outlet passed by a two thirds majority of the members of the editorial departments and approved by the owner. In practice, editors-in-chief of state-owned media are appointed by the respective government or their appointment is overwhelmingly influenced by the government. Wherever professional boards assist the government in respective decisions, political opposition has no influence on them.

While the market of country-wide disseminated newspapers is characterized by the dominance of private media (only one country-wide newspaper is owned by the state), the broadcasted public opinion as well as the regional and local media landscape are marked by the hegemony of state-owned media. Two thirds of TV and radio stations at all levels are state-owned or controlled otherwise. Over 40% of local and regional newspapers are owned or controlled by local or regional governments although the presence of private printed media on the market differs from one region to another.

The hegemony of the state-owned media is particularly strong among the sources of information most often used by the population – federal TV and the local media – with the exception of the fast growing internet.

The coverage of the state-owned media is either very friendly towards government or is degrading into pure propaganda.

The country-wide press is more diverse and pluralistic than the TV coverage. There is a reasonable degree of diversity and pluralism in the private radio coverage as well.

The Media Law provides (Art. 38) that the authorities shall inform mass media about their activities by responding to the requests for information, holding press conferences, and by disseminating reference, statistical and other materials. Editorial departments can request relevant information from any government agencies (art. 39). The provision of information can only be denied if it is subject of state, commercial or other secret protected by Law (Art. 40).

The access to specific governmental agencies including to the press conferences is provided through accreditation. Events attended by accredited journalists can be recorded. The Law does not discriminate mass media as far as their access to the government agencies is concerned. However, the accreditation of any journalist can be withdrawn provided he/she or the editorial department have violated the rules of accreditation or have disseminated information hurting the honor and dignity of the agency concerned (Art. 48). Though the latter must be confirmed by a court ruling, this defamation clause leaves room for practical discrimination of individual journalists or media.

The Foundation for the Defense of Glasnost registers relatively high numbers of cases when access to relevant information is denied to journalists, including denial of audio or video recording or photographing of individual events, decline of requests for accreditation, restriction of the attendance and of the observation of various public meetings held by the authorities). In 2007, the Foundation registered 238 such cases (in 2006 – 240, in 2005 – 233, in 2004 – 213, in 2003 – 109).

A special Law of 15 December 1994 amended on 16 October 2006 regulates the coverage of the activities of the authorities by the state-owned media. It gives the accredited media representatives the right to retrieve or copy records of open

meetings made by the press services of respective agencies, or to record those meetings and broadcast press conferences in the audio and/or video format (Art. 4). The Law further details which information provided by which government authorities' press servicers must be mandatory reproduced by state-owned media.

## **2. Legal Environment**

Article 29 (1) of the Constitution of the Russian Federation guarantees the freedom of opinion. Article 29 (2) prohibits the propaganda of social, racial, national or religious hate or enmity, as well as the propaganda of social, racial, national, religious or linguistic superiority.

This Article, as the whole Chapter II of the Constitution establishing individual rights and freedoms can not be subject of any amendment.

Article 29 (4) of the Constitution establishes that everyone has the right to freely seek, receive, transfer, produce and disseminate information by any legal means. The listing of information subject to state secrets protection shall be established by Federal Law. Article 29 (5) guarantees the freedom of mass media.

This Article, as the whole Chapter II of the Constitution can not be subject of any amendment.

The Civil Code of the Russian Federation protects the honor and dignity, as well as the (business) reputation of Russian citizens without particularly specifying those of officials (except for the President of the Russian Federation). Under the Civil Code and the Media Law, mass media responsible for the dissemination of "false information" can be obliged by a Court to paying a compensation to the individuals or organizations concerned.

Similar cases and particularly those of "deliberate" dissemination of "false information", however, can be treated on the basis of the Criminal Code shall the individual or an organization concerned claim the "false information" disseminated represents "slander". In the case of a criminal offence the penalty can reach from

financial sanctions through barring journalists from exercising their profession (up to five years) to an imprisonment.

The final choice of the way to go (apart from some fine nuances) remains with the individual or the organization which intends to bring a media outlet to the court. For a variety of motives, the defamation claims are predominantly brought to the courts within the Civil Code procedure and are seldom treated as a criminal offence. The number of such cases brought to the courts has been permanently growing since 1994 often threatening to bankrupt the respective media.

For almost eight years since 1997, the Supreme Court of the Russian Federation was discussing the implementation of the defamation clauses in the Russian legislation. In 2005 it agreed on a resolution establishing that the claims shall be proportionate and shall not undermine the existence of the media concerned.

In 2007, the Foundation for the Protection of Glasnost registered 220 civil processes against media outlets (229 in 2006, 382 in 2005, 373 in 2004, 378 in 2003). 124 procedures were completed, 64 of them (above 50%) were lost by the media. At the same time, it recorded 46 cases of the criminal prosecution of journalists in 2007 (48 in 2006, 42 in 2005, 35 in 2004, 34 in 2003).

There is no special legislation determining the access to information and/or the protection of the privacy of the “office bearers”. The Media Law mainly refers to the general limits established on the access and the dissemination of information established by the Russian laws on the protection of the state secrets and of the personal data.

Media coverage is regulated by the Media Law of December 27, 1991 with later amendments. It is also regulated by a wider set of Media legislation including, apart from the basic Media Law, such acts as the Law regulating the coverage of the government activities by the state-owned media (1995), Law on the Languages of the Peoples of the Russian Federation (1991), as well as media coverage relevant provisions of other laws, such as of those on elections, combating of extremism.

The Constitution of the Russian Federation (Art. 29(5)) prohibits censorship. So does the Media Law. Art. 3 of the latter prohibits the government officials, institutions, organizations and agencies, as well as the non-governmental organizations to demand that the editorial departments obtain their permission prior to publicizing any information or materials. It neither allows imposing any prohibition on the dissemination of information or materials, or of their parts. The Law prohibits establishing and funding any organizations, institutions and bodies, or of any job positions whose functions would include exercising censorship of mass media.

The Constitution of the Russian Federation (Art. 55 (3)) allows that individual human rights and freedoms are limited to the extent necessary to protect the constitutional order, public health and moral, the rights and legitimate interest of other individuals, and in the interest of the defense and of the security of the county. Under the Martial Law (Art. 56), the freedom of opinion and the media freedom may be restricted or suspended.

The basic Media Law has incorporated specific restrictions of the free access and dissemination of information introduced by other laws, particularly by the legislation on combating extremism and on elections. The access to and the dissemination of information on any special counterterrorist operation is practically exempted from the regulation by the Media Law and is governed exclusively by the commander of the operation. This tacitly gives the person in charge the right to exercise censorship.

The Media Law in principle does not exempt any individuals, groups, institutions or issues from free coverage by media. However, there are some restrictions established by related laws and partially incorporated into the media legislation. Those restrictions include, in particular:

Information about candidates (parties) disseminated during the electoral campaigning shall exclude any attempt of establishing of a negative image of the rival candidates. This clause is often interpreted as prohibiting any critique of candidates (parties) running in the elections. Breaches of this clause may result in arresting the printed materials or in a denial to broadcast relevant materials.

In the area of the conduct of a special antiterrorist operation information gathering and media coverage is determined by the commander of the operation. The coverage of anti-terrorist operations is in general subject to tough restrictions while the dissemination of the information about the individuals involved and about their families is governed by the laws on state secrets and on personal data.

The dissemination of any information about any organizations that have been banned by a court decision and included on the list of extremist organizations is prohibited unless the respective material explicitly refers to their legal ban.

The Media Law of the Russian Federation does not exclude any individuals, groups of people or organizations from working as journalists or from expressing their opinion provided they exercise their profession legally (i.e. the respective media are duly registered, and the journalists have appropriate identification cards).

Any examination of the media reports by state authorities prior to their publication (broadcasting) falls under the definition of censorship and is prohibited. However, the examination of the video materials submitted by political parties or candidates for free broadcasting by public TV within their elections campaigning can be seen as an exemption from this rule.

There are no governmental committees or bodies that are entitled to regulate media coverage. However, a governmental regulatory body – the Federal Agency for the supervision of the implementation of the legislation on mass communications and on the cultural heritage has specific powers related to the registration of the media outlets as well as to the suspension or the termination of their activities on the grounds of the violation of the Law.

The 1991 Media Law has been amended nine times from 2003 (it was amended five times from 1992 through 1999, and another six times from 2000 through 2002).

Apart from some technical amendments, further elaboration of some relevant concepts, and without changing the original regime of the functioning of the mass media, the most relevant amendments were incorporating toughening provisions



flowing from the amended legislation on elections, and on combating terrorist and extremist activities. Those amendments in particular:

Expanded the definition of the abuses of the freedom of media (Art. 4) to include the dissemination of public appeals supporting or justifying terrorism or extremism, of any information about any organization that has been banned by a court decision and included on the list of extremist organizations. The 2006 version of the article also has included the clause giving the commanders of antiterrorist operations the power to determine the gathering of information on the territory of the conduct of the operation. It has also prohibited the dissemination of information on the means and tactics applied during any anti-terrorist operation, and has included an explicit reference to the laws on the protection of state secrets and personal data to govern the release of any information about those involved into the operation.

Introduced the possibility of suspending the operations of a media on the grounds of the violation of the legislation of the Russian Federation on elections and referenda (Art. 16.1).

Abolished the tax relief for mass media within two years from the appearance of the first issue or from the first broadcast (Art. 19, § 3).

Expanded the list of the duties journalists.

Introduced the responsibility of the editorial departments for the reproduction of an electoral material published by another media (Art. 57, § 2).

The amendments introduced since 2003 have resulted in more than “slight aggravation” of the free media coverage, but can hardly be qualified as a “strong aggravation” as they do not change the original legal regime of the functioning of the mass media in the Russian Federation.

The Law on Combating Extremism adopted of 2002 amended in 2006 and 2007 has expanded the grounds for restricting free media coverage particularly of the activities of special services and forces.

The major modification of the free media coverage took place either prior, or at the very beginning of the past five years period of time. Those changes tightened government control over the federal TV, local and regional TV, radio stations, printed media. Over the past five years, this control was consolidated. Those modifications have resulted in a strong aggravation of the free media coverage.

Censorship is prohibited by the Constitution and the Law. However, it remains an informal practice in both state and private media. In 2007, the Foundation for the Defense of Glasnost registered 33 cases of censorship mainly by local authorities (2006 – 28, 2005 – 23, 2004 – 29, 2003 – 12).

Cases of excluding journalists from their jobs are rare. More often they are subject to criminal prosecution or unlawful dismissal. In 2007, the Foundation for the Defense of Glasnost registered 12 cases of unlawful dismissal of editors or journalists (2006 – 16, 2005 – 11, 2004 – 5, 2003 – 14) and 46 cases of criminal prosecution of journalists (2006 – 48, 2005 – 42, 2004 – 35, 2003 – 34).

While the freedom of expression can in principle be exercised by virtually any group, the political opposition and non-governmental organizations most critical of the government are refused access to the state controlled media. Thus the possibilities for the articulation of the full diversity of interests are limited.

Before beginning their operations, all mass media must obtain registration from the designated state registration agency, or from its territorial branch.

Exemptions from the registration requirement include mass media established by the authorities for the purpose of disseminating official materials; periodicals printed in less than 1 000 copies, radio and TV programs broadcasted through cable networks limited to one state body, educational institution or enterprise, or having no more than 10 recipients; audio and video programs disseminated in no more than 10 copies.

The registering state agency is part of the government structure and is neither independent nor impartial.

The registration can be refused if:

- the application is submitted by individuals or entities not eligible to establish mass media
- the information provided is false
- the title, thematic focus or specialization of the media abuses the freedom of mass information
- another mass media with the same form of dissemination is already registered under the same title.

Any change among the founders of the media outlet, changes in the title, language, form of dissemination and the territory covered require a re-registration.

The registration can be cancelled by a ruling of a court if

- it has been obtained in a fraud way
- the registered media has not been published (broadcasted) within a year upon registration
- the statute or the agreement with the editorial department has not been approved within three months upon the publication of the first edition (broadcast)
- the media outlet has been registered for the second time

The operations of a mass media can be terminated by the ruling of a court if it has, within 12 months, repeatedly abused the freedom of the press and has been repeatedly warned by the registering state agency. Its operation can also be terminated in case of non-implementation of a court's decision suspending its operations.

In 2007, the Foundation for the Defense of Glasnost registered 15 cases of the termination of the operations of the mass media (all with the local or regional dissemination with only one exception of an over-regional TV-program). In 2006, it registered 26 such cases, 23 in 2005, 16 in 2004 and 7 in 2003. This makes out less

than 0,1% of all registered mass media which justifies the conclusion that registration is withdrawn rarely.

Journalists don't require any special state permission or certification.

Journalists have the legal right to attend public meetings of the government and parliament on the basis of accreditation. Although the Law does not discriminate mass media as regards their accreditation rights, the latter may be affected by the rules established by the respective authorities which also have the right to withdraw accreditation if a journalist violates established rules or on the grounds of defamation.

Journalists attending public meetings of the government have the right to record them, or to receive copies of the records made by the press service of the respective agency.

The Foundation for the Defense of Glasnost keeps the record of denials of recording or photographing public meetings, declines of requests for accreditation, restriction of the attendance and of the observation of various meetings of the government. In 2007, it recorded 238 such cases (2006 – 240, 2005 – 233, 2004 – 213, 2003 – 109).

In the Media Law, there are no specific clauses prohibiting establishing cartels on the media market. However, this market is subject to general rules not allowing for the monopolization or for the establishment of cartels in individual sectors.

The Russian media legislation provides for legal remedies to protect the rights of the media and of the journalists. The legal practice indicates, however, that media and journalists seldom win cases against government.

### **3. Political Conditions**

The diversity of the printed press ensures that political matters of different sections of the population are represented in the media coverage. However, the predominance of the state media in the most relevant segments makes this representation largely marginal. The possibilities for the publicly relevant articulation of different social and

economic interests beginning with pensioners, housing communities through political opposition is insufficient and is hindered for political, economic and legal reasons.

While the political opposition explains this situation by the policy of the government seeking to manipulate media, the government itself claims it wants to exclude corruption of the mass media by business, by extremist political groups, as well as in order to exclude hostile influences from abroad.

Although political opposition, non-governmental organizations or social movements are not explicitly deprived from the right to seek and disseminate information, the exercise of this right is limited by the government through reduced access to the most relevant state media and information, by economic means, labor legislation and taxation, deficient distribution system and other sanctions. There is a strong tendency towards marginalizing government critical media.

The self-censorship is a wide spread practice across the whole spectrum of media including TV, radio and press. This is particularly true with regard to the state owned media. The delegation of censorship functions to the editors-in-chief given the full responsibility for the content of the media coverage and the single power to decide which material is published (broadcasted) or not, has largely replaced censorship by government authorities to become an issue of editorial politics.

If not just repression, journalists and media are confronted by different sorts of sanctions from the state if they don't follow suite with the established rules that are often applied by the authorities but are not necessarily linked to particular media coverage of this or another issue. Those sanctions include:

- denial of the access to information (238 cases recorded in 2007)
- moral compensation claims (220)
- temporary detention of journalists by police, security services etc (140)
- arrest of an individual edition of a periodical (92)
- criminal prosecution of journalists (46)
- denial of access to printing facilities (34)
- practices of unofficial censorship (33)

- termination of the use of the broadcasting possibility (27)
- termination of a media outlet (15)
- unlawful dismissal of editors and journalists (12)
- termination of the offices lease for media outlets (7)

Access to the internet is free with the exception of schools where the access to the world web is filtered in order to exclude visiting sites not compatible with the educational purposes.

The Foundation for the Defense of Glasnost registers an increasing number of conflicts related to the freedom of information in Russia. In 2007, it has registered 1 502 such conflicts (2006 – 1 345, 2005 – 1 322, 2004 – 1 236, 2003 – 1 119 conflicts. This constitutes a 34% growth over the past five years.

Particularly growing is the number of cases of temporary detention of journalists (140 cases in 2007 versus 22 in 2003), arrest of the edition (92 cases versus 32), unofficial censorship (33 cases versus 12), denial of access to information (238 cases versus 109), termination of the publication (15 versus 7), criminal prosecution of journalists (46 cases versus 34).

The effect of those sanctions on the *present situation* of freedom of media can be evaluated as strong aggravation on the scale applied. The reasons for this development seem to be both the fear of a sort of an “orange revolution” widely spread within the government, and the approach of the crucial parliamentary and presidential elections in December 2007 and March 2008 which were to ensure a smooth transfer of the political from President Putin to his designated successor Dmitrii Medvedev.

The state-owned media don't control either the distribution of paper, or the distribution networks. However, the deficient residual distribution system lacking proper competition is still controlled by the government making the distribution very expensive to independent press, or impossible if the entry into the distribution system is denied.

The government also controls the access to broadcasting facilities and, indirectly, printing facilities.

Such controls are used not to influence the content of the mass media but, rather, to sanction the most critical media.

In 2007, the Foundation for the Defense of Glasnost registered 27 cases of the deprivation of the access to broadcasting facilities (18 in 2006, 23 in 2005, 14 in 2004 and 24 in 2003) and 34 cases of the refused access to printing facilities (50 in 2006, 38 in 2005, 33 in 2004, 65 in 2003).

Thus the authorities often apply sanctions to the private media.

#### **4. Economic Pressures**

Most of the regional and local state-owned media receive subsidies from the regional and/or local budget. At the same time, private media is not supported by public money. While there is no consolidated data available on the local government spending on the media, in 2006 the Federal Agency for printed media and mass communications has launched disbursing public grants to support socially relevant projects in mass media. In 2006, it disbursed grants amounting to 127,582 Millions of rubles (3,5 Millions Euros). Apart from this, the Agency supported periodicals for disabled persons with further 23 Millions of rubles (640 000 Euro).

The amount of the public support of media, however, is negligible as compared with the media market. In 2007, the capitalization of the three biggest media holdings (Rambler, RBC and STS) exceeded 7,5 Billions of US \$. The total value of the mass media advertisement market in the Russian Federation amounted in 2006 to 6,5 Billions of US \$. The cash flow of only printed periodicals amounted in 2007 to 4 Billions of US \$ (the 2007 report of the Federal Agency for printed media and mass communications).

The coverage of the subsidized media is extremely government friendly often degrading into propaganda thus corresponding to the value between.

Media companies have to struggle with a great number of problems which include, inter alia, the declining interest of the population, unstable regulatory environment, rigid taxation system and accounting requirements, deficient distribution system, deficits of the regulation of the intellectual property rights, underdeveloped advertisement market, badly developed but potentially promising regional and local media markets still dominated by the state owned media.

## **5. Non-State Repression**

A greater number of conflicts related to the freedom of press is registered which can be attributed to the non-governmental “repressions” of journalist. Those include the following:

- attacks on journalists (75 cases registered in 2007, a total of 371 from 2003)
- intimidation of journalists (27 cases in 2007, 147 from 2003 through 2007)
- attacks on the offices of the editorial departments (11 cases in 2007, 74 from 2003)
- murder on journalists (8 cases in 2007, 58 from 2003)

The persons and/or organizations behind the attacks are not exactly known since the official investigation most often fails to succeed. The background of the recorded cases justifies the assumption of a greater variety of the motives behind them which include political (government critical journalists and media are often a target for attacks), business and criminal.

The data above also justifies the conclusion that non-state “repressions” are often used against journalists and media.

The state authorities have proven both unable and/or unwilling to effectively prosecute attacks against journalists. It is to note, however, that journalists are not an exceptional example of the inefficiency of the law enforcement in the Russian Federation. It is also true that authorities often perceive journalists, particularly the



independent ones, as an unwelcome challenge which deserves not a protection but a protection from.

The feeling of being not protected by the state is widely spread among journalists.

The intimidation through non-state repression has remained, in the average, at the same level over the past five years.

## **6. Conclusions**

The general situation of the freedom of media in the Russia Federation can be characterized as the freedom of the (political) media with major restrictions.

The free coverage of the media has strongly aggravated over the past five years.

The major obstacles to free media include:

- tight government control over state-owned media;
- informal influence taken by the government authorities through either the major stake holders of the media holdings, or through editors-in-chief on the editorial policy of many private media outlets;
- sanctions applied to most critical journalists and media; economic problems;
- deficient, inefficient and excessively expensive distribution system;
- declining interest of the population, particularly of the young generation, in the printed press.

I am not aware of any sustainable work done by the KAS in the Russian Federation in support of free media and independent journalists

The possibilities for engaging systematically and in a sustainable way in promoting free media in the Russian Federation are very limited. Such measures taken particularly by a foreign entity are often perceived by both federal and local government as an unwelcome and hostile interference into the internal affairs of the

country. Apart from this, the scope of the problems and issues involved makes it impossible for one foundation to make any difference.

However, reasonable support could be given to the encouragement and development of the culture of free media by socializing particularly young and talented regional and local journalists through allowing them to gain direct experience of how and in which political, legal, economic and ethic environment the free press operates in the mature democracies.

This effort would be most effective if the activities of the relevant media and journalist associations in Russia as well as the external actors promoting the freedom of media pool their resources and thoroughly coordinate their activities in order to avoid duplication and to maximize the eventual synergies from their activities.

*Dr. Andrei Zagorski*

### **Further Readings**

The Federal Agency for Printed Media And Mass Communications: [www.fapmc.ru](http://www.fapmc.ru)

The Foundation for the Defense of Glasnost: [www.dgf.ru](http://www.dgf.ru)

The Russian Union of Journalists: [www.ruj.ru](http://www.ruj.ru)

## SENEGAL

### 1. General Conditions

The literacy rate in Senegal is 39.3%. This relatively low rate is due to the insufficient means devoted by the State to generalizing education. Besides, there is still a strong resistance against the establishment of modern schools, particularly in the rural world. The number of girls attending school is extremely low compared to the number of girls among children of school-going age. But there is an important group of people who can read and write in national languages and in Arabic and who are not taken into account by official statistics.

In January 2008, there are 75 radio stations, 4 television stations and 21 daily newspapers published on a regular basis. Private radios have been in existence since 1994, the year which marked the end of the State monopoly on the electronic media. The first television station has been operating since 2005.

Three private radio stations are owned by influential members of the ruling party, the Senegalese Democratic Party. At the opening of the radios, these officials held respectively the positions of President of the national Assembly, of Prime minister and of minister. The latter was also in charge of propaganda for the ruling party. In addition to these radios which started broadcasting two years before the 2007 presidential and parliamentary elections, more than five daily newspapers are directly owned by leading members of the ruling party or are closely controlled by them. The opposition owns no medium of any kind.

There are three main independent newspapers that can be accessed on the Internet; they generally go over information already given by the private or public media. They sometimes publish exclusive information.

So far the government has not attempted to gag these newspapers and they are very independent. There have not been any particular improvements of working conditions on the Internet to ensure the freedom of content of these media, but the operators who put their newspapers on line are not complaining about the existing working conditions. In Senegal, an estimated 540 000 people have access to the Internet

according to statistics published by the Observatory on Information Systems, Networks and Information Highways (Osiris, which gives reliable information). There are approximately 800 Internet access points in the country.

On the contrary, there are no statistics on the number of Senegalese citizens who have access to all the classical media, to the Internet and satellite broadcast programmes.

It should be underlined, however, that radio is by far the most popular medium. It is widely used as a source of information.

Television and newspapers are far behind. The use of the Internet as a source of information is not very common. Verbal communication remains a powerful means of sharing information.

In any case, the media impact strongly in shaping the political opinion in Senegal. It is partly because of the public's generally low level of education. People take for granted what the media say, most of the time without a critical analysis.

The State-run media make up an important group with regard to their number. In the broadcast media, they are components of the Radio Television of Senegal (RTS) with one TV channel and twelve radio stations located in Dakar and inside the country. The State controls the government daily "Le Soleil" which is the most powerful newspaper in terms of financial capacity, technical infrastructure and human resources. There is a single national news agency, the Senegalese Press Agency (APS) which is also State owned.

There are no laws protecting State media newsrooms from government pressure. Their officials are directly appointed by the government without consultation with any other organisation. They are selected from among journalists close to the political regime and systematically defending its options.

The influence of the State media on the public opinion has significantly declined with the development of the private media which began in the mid 1970ies. It has become clear that the influence the private media has a greater influence on the political opinion of the Senegalese people.

The State media's editorial line is in total conformity with the government's policy. They are systematically favourable to the government and are often used as political propaganda instruments. This has installed suspicion within the public. The State-run television and the government daily newspaper play very well this role. Television is the window of the government and is the medium closest and most loyal to the regime.

The State radio and the government daily remain favourable to the government with a slight opening towards the opposition and groups that are not allied to the government.

Ministers, the Head of State and his spokesperson frequently give press conferences to inform the public of the government's policy. These meetings can be broadcast without any restrictions by public or private radio and television stations. As a general rule, all channels are admitted but in practice the State-controlled electronic media coordinates these meetings.

## **2. Legal environment**

Free opinion and free speech are established as fundamental rights of the individual by the Constitution of the Republic of Senegal, in its article 8. However, some provisions of the Penal Code and the Code of penal procedure contain restrictions to this fundamental right.

The limitations apply to notions such as disrupting public order, attempts against the State's security or offence against the President of the Republic. They are frequently cited as reasons to accuse political opponents or journalists and put them on trial before a tribunal. They also serve as a justification for preventive detentions sometimes followed by a release without trial.

The Constitution also establishes in its articles 10 and 11 the right for a free press and a free content of the media. But the enforcement of these provisions is, in turn, limited by the laws relating to threats against public order and State security and offence against the President of the Republic.

Offence against the morale of the army and/or citizens is another charge used against press reports of events in Casamance. This province of Southern Senegal has been the scene of an independence rebellion for twenty-five years. The government does not tolerate press coverage of this conflict without the supervision of a military or political authority.

This sentiment has led the authorities to bring in the notion of sensitive information to characterise any disclosure by journalists of information within the competence of national defence that can be used against Senegal by a hostile country. The most unexpected contents may find a place in this definition.

The law on defamation exists in Senegalese law and can be invoked by everyone including ordinary citizens and authorities. It is a key factor for access to information because its very strict enforcement by tribunals very often leads to the condemnation of journalists in a contentious matter.

The severity of this law lies in the fact that the evidence given by the journalist, even if it is irrefutable, is not admissible beyond ten days. Moreover, if the evidence has not been obtained from official sources, the journalist may be faced with a new accusation of possession of administrative documents.

In fact, it is very difficult for journalists to make investigations because the evidence likely to support their assertions can be seen as new offences and, therefore, backfire on them.

The publication by a local newspaper of an official letter between the Finance minister and the President of the Republic about a corruption affair in the customs services, has led to the imprisonment of the paper's editor for several weeks. But the authorities never confirmed nor denied whether the information contained in the letter was true.

The 1996 Law on the press partially reflects the spirit of the provision on defamation. Its article 34 stipulates that the journalist "*has a duty to respect people's privacy*". It however adds that this injunction is only valid only if this so-called privacy "*doesn't interfere with the public duties these persons are invested with or pretend to be invested with*". This section of the law sets the limits of the protection of the public authorities' privacy against press investigations.

The same Law on the press states (article 26) that the journalist has free access “*to all sources of non confidential information and the right to investigate freely facts relating to public life*”. But the authority may interpret the law according to circumstances and according to the information the journalist is seeking. The sources authorized to the journalist are not very likely to disclose interesting information. This creates a certain ambiguity in practice.

The Law on the press defines the principles guiding the journalist’s professional behaviour, therefore dictating the content of the media. Almost all the articles of its chapter relate to the definition of principles such as freedom of information, of comment and criticism, information verification, respect of other people’s convictions, etc.

The law makes no provision for censorship before publication. Nevertheless, severe measures can be implemented if the authority finds some flaws in the content of the newspaper in circulation. The withdrawal of the newspapers from sale is then ordered on the grounds that its content is against the law.

In 2001, a photomontage of the Prime minister of the time led to the withdrawal from sale of a newspaper’s entire edition. It was followed by legal proceedings. The content of the media is subject to restrictions regarding certain questions which are given a treatment explicitly limited by the authorities. It is namely the case of information about the independence rebellion that has been going on for twenty-five years in Senegal’s Southern province of Casamance. The infringement of this restriction has led to a twenty-four hour suspension in 2006 of the private radio station Sud Fm and the arrest of its working staff found on the premises. This radio had broadcast an interview of the leader of the separatist movement’s military wing. In 2007 a newspaper editor spent several weeks in jail because of his paper’s comments on the army’s attitude in the face of rocketing prices that occurred throughout the year in Senegal. Also in 2007, two other journalists were arrested and held in detention for two months following the publication of an article on the President of the Republic’s late night outings. The article was described as an offence against the Head of State and false report.

Between 2000 and 2002 at least five journalists of the daily newspapers *Le Matin* and *Le Populaire* were arrested and summoned for questioning by the criminal investigation department for reporting information on the Casamance conflict. A correspondent of Radio France International was also asked to leave Senegal following her interview with a military leader of independence rebellion.

Reports about the army, judges, high-level administration and government officials also expose journalists to summoning by the criminal investigation department, arrests and trials.

These officials protected by law are bound by the duty of secrecy. Their statements are very formalized and are subject to hierarchical approval. They are not free to make comments in the press on matters relating to their duties. There is not a prior authorization of the government or any other authority before the publication of newspaper articles or the broadcast of radio or television programmes. The launching of a newspaper is done in the same conditions. Article 11 of the Constitution stipulates: "*the creation of a newspaper for political, cultural, sports, social, recreational or scientific information is free and is not subject to any prior authorization. The law requires only a simple declaration and submission of legal documents*". The content of public and private radio and television programmes is also broadcast without a prior authorization. It may however be subject to remarks and criticism from the National Council for the Control of Broadcasting (CNRA). The Council's members are exclusively appointed by the government without consultation with any association or union. The CNRA took office on the eve of the 2007 presidential and parliamentary elections.

There is also a press council named the Council for the Respect of the Professional Code of Ethics (Cred) which groups representatives of the journalists, editors and consumer associations. There is no government authority over this council which can be seized by the public, the authorities or individuals for matters regarding professional ethics in the treatment of information. The Cred can also seize itself. In 2004, a minister reported in a newspaper as possessing properties abroad had seized the Cred. Unfortunately, this case, like many other cases, the Cred could not be efficient. That is why the public almost never appeals to this institution.



The implementation of the laws on the media has remained unchanged during the last five years. The existing law on the press has not gone through modifications since it was voted by the national Assembly in February 1996; The government has not kept its promise to abolish prison sentences against journalists sentenced for press offences. The Union of Information and Communication Professionals (Synpics) is trying to obtain this decriminalization.

The 11<sup>th</sup> of September 2001 attacks in New York have not inspired any exceptional laws in the press sector. No law against terrorism has been voted either which could impact on the free content of the media.

In fact, the content of the media has gone through some modifications as a result of frequent conflicts between the independent press and the political power. Journalists have become more cautious in the way they report events about the independence rebellion in Casamance. Likewise, statements, facts and actions by the President of the Republic are treated with more circumspection. All these developments have to some extent modified the content of the media.

Legal censorship doesn't exist because no publication or broadcasting is subject to the government's prior approval.

On the other hand, as aforementioned, certain groups, namely military and civil servants, are subject to the duty to preserve secrecy in their jobs. This restriction is seen as a matter of regulation, not of censorship. Journalists complain about this provision which they consider as an attempt to withhold information and a refusal by the authorities to give account of public affairs governance to citizens.

If the information broadcast by press organisations is not desired by the authorities, the sentences applied so far include withdrawing newspapers from sale, closing radio and television stations and arresting journalists. These measures occur afterwards. In case of a trial, the fines are variable. However, the amounts claimed may go far beyond what the accused press organisations can afford. As a consequence, they are exposed to the risk of going bankrupt, all the more as news organizations are financially extremely fragile in Senegal.

News organisations may be also subject to measures of suspension and prohibition from publication. Two daily newspapers were banned in 2007 for releasing articles

seen as pornographic by a tribunal under the instructions of the authorities. The journalists who wrote these articles were held in detention for six months, the longest prison sentence ever for journalists.

After a while, the press organisation and its editorial staff are disorganized and the organisation very likely to go bankrupt.

In the printed press there is no prior authorization to create a newspaper. A simple declaration of publication is required. The managers of the newspapers must however submit legal records before the paper goes in circulation..

Things become more complicated in the electronic media because radio and television need a frequency to broadcast their programmes. The first radio stations came into existence between 1996 and 2000. It was a launch period which allowed economic operators to obtain licences in relatively easy conditions. However the decision belonged to the political power through the minister of Communication. Since 2000, the date of the political power shift known as 'alternance', the licence is delivered by the (Artp) which is directly controlled by the President of the Republic. It is therefore not politically independent.

Many requests for frequencies have been turned down. The official justification is that there are very few frequencies. But it is mostly because the authorities are reluctant to let groups or individuals they do not control enjoy the right to broadcast freely their programmes.

With television the authorities are even more parsimonious. Only four licences have been granted since 2005, after a long wait by the applicants.

However, none of the licences granted to radio or television organisations has been withdrawn by the authorities. The closing down of private radios occur as a result of bankrupt situations. Temporary closing happen in cases such as Sud Fm following the broadcast of the interview of a leader of the independence rebellion in 2006 or when the radio or TV organisation fails to pay copyright taxes. But these situations are extremely rare.

In Senegal, the journalist profession is, in fact in practice, free and accessible to anyone. No official authorisation is needed. No degree is compulsory. As a matter of fact, the majority of Senegalese journalists have not attended professional schools. They have been trained on the job.

The Law on the press and the collective Convention for journalists define as a journalist any graduate of a school of journalism or any person whose main and regular activity is the exercise of his profession in a newsroom, this activity being the main source of his income. The second part of this definition explains the rush towards newsrooms of many people mostly students or university drop-outs or other individuals who see the press as a means to escape unemployment.

Journalists have the right to attend all public meetings of the government and parliament. Access to these meetings is allowed to all press organisations, even if the authorities always make sure that the State media is present to ensure favourable coverage. These meetings can be also broadcast by all media organizations without restriction, whether it is national Assembly sessions or press conferences by members of the government.

The Senegalese Law on the press does not allow monopolies and limits (the number of) trusts. The monopoly on the audiovisual has existed until 1994 in favour of the State radio and television. This year has seen the appearance of private radios and the disappearance of the State monopoly on the electronic media. Such a monopoly has never existed neither by law nor in practice in the printed press. Trusts are limited by the Law on the press which says in its article 4 that no one “*can own or hold the majority of more than three mass media enterprises*”. This provision is rather vague because it tolerates that certain promoters can be owners of several radio stations, several newspapers and of one TV channel.

There is no private monopoly in any media sector. The situation, despite its complexity with regard to other types of media concentration, does not allow to speak truly of trusts, in the present state of the Senegalese press.

We cannot attribute to owners of several media organisation well defined political projects, even though some of them give their opinions with much determination and regularity in their own newspapers and/or the waves of their own radio or television stations.

Political authorities enforce the law on the establishment of trusts in a fairly flexible manner. It would be noted in this regard that with regard to media control, no promoter has reached so far a number which could be a source of concern for the

authorities. Besides independent press organisations are widely shared out among different owners.

Journalists can use legal appeals to confront State repression. The Constitution and the Law on the press define the principles and the conditions for exercising the freedom of opinion and the *raison d'Etat* which the authorities want to put on top of the public's right to be informed. On these occasions, the press enjoys most of the time the support of the civil society and many lawyers who volunteer to defend the journalists.

The attitude of the tribunals is fairly variable. They have the possibility to arrest the State's repression or, on the contrary, to ratify it. During the *Sud Fm* trial mentioned earlier on, the judge rejected the accusations made against the journalists. But in other cases, the tribunals go in the direction according to conforming with the wishes of the authorities. It was the case of the six-month imprisonment without remission verdict inflicted against the journalists accused of writing articles of pornographic nature and the suspension of their newspaper.

### **3. Political conditions**

Generally, the preoccupations of the Senegalese populations are taken into account in media programmes. But it is worth underlining that some social categories or some sectors of activity are privileged. The media have a keen interest in politicians to the detriment of matters relating to economy, poverty, education, health and the situation in the rural world, for example.

These sectors are confronted with issues of unemployment, income generation, access to health care and education. Good governance and local governance are also among the preoccupations of citizens who need to know and enjoy their rights.

So is the state of women in a predominantly male society or of children who are so often ignored by the media.

The press is attracted by very active and organised groups such as political parties, trade unions and civil society organisations who all have programmes of activity of which they regularly keep journalists informed. Besides these associations are often engaged in activities that fuel controversy, which attracts the media.

Generally, from a general point of view, no category of people is deliberately excluded from the treatment of information. However, there is a need to balance this statement and underline the fact that the State media, television in particular, almost never give members of the opposition the opportunity to give their views on the situation of the country or any aspect of national or international news. This attitude is deplored and described as ostracism by opponents of the government. The civil society and the journalists' union also deplore it but they are unable to change it because it is deeply rooted in the habits of the media which are instruments at the service of the political power. Yet the government daily newspaper and the State radio are less hermetically closed to the opposition than the State television, even if editorial lines are invariably benevolent towards the authorities and their political parties.

Another key characteristic of the Senegalese press, taking all media into account is its clear preference for politics and other subjects such as like sports or social issues. It does very little field reporting and investigation and usually limits its coverage to reporting events. Investigation could have allowed to bring to light the realities of the rural world, of the state of women and children, of health or of access to electricity and safe water in areas outside urban centres. The Senegalese press remains an urban phenomenon. Almost all the newsrooms have their offices in the capital, Dakar.

Auto censorship is a reality in the Senegalese media, public as well as private. It is the rule in the State- controlled media which follow the positions outlined defined by the government. These media avoid making any comments likely to embarrass the political power with which they are identified.

The press as a whole is very careful in the treatment of information relating to religion, especially Muslim brotherhoods to which 95% of the country's population are affiliated. Journalists avoid antagonizing brotherhoods and their spiritual guides. This behaviour reflects either a sincere sentiment or a cautious demeanour. The sentiment of affiliation is real in many journalists. They treat religious matters like sacred matters without objectivity or critical appreciation. This attitude may also be inspired by a certain caution. In 2007 a journalist was severely beaten up with bicycle chains by followers of a religious chief on the grounds that the journalist made

disrespectful reports about their guide. A few years before, followers of another religious chief set fire to a journalist's room on similar grounds.

Among other facts installing self-censorship, it is worth mentioning the pernicky attitude of the government regarding the army and the information treatment of the situation in Casamance, the propensity of the public prosecutor for summoning before the criminal investigation department and the tribunal journalists accused of being irreverent towards the President of the Republic and the character pas trop extensible of notions of disruption of public order, offence against national security, false report, offence (?violation of)against morality.

Self-censorship occurs is done in all sectors of the media (newspapers, radio and television). Matters relating to sexuality are also treated with a modesty inspired from a cultural heritage largely shared by the public. A newspaper specialised in scandals has been definitely banned from publication by the authorities.

With regard to self-censorship on topics of sexuality, it is a little less obvious in newspapers because of the use of French which tone down certain words a little better than words in national languages. Electronic media organisations have many difficulties dealing with these subjects and avoid such topics.

Journalists, press companies and news organisations may fear State repression with regard to respect of the law. The trials of journalists by the authorities and summonings before the criminal investigation department are fairly frequent. There are four types of sentences :

- prison sentences
- fines that are sometimes very heavy
- measures of temporary suspension or indefinite prohibition of the press organisation
- expulsions: reserved for foreign journalists, such as the correspondent of

Radio France International who was asked to leave the Senegalese territory after her interview with the head of the military wing of the independence rebel movement in Casamance.

All these scenarios have been worked out by Senegalese tribunals against journalists and press organisations. But if trials are more frequent, they rarely end up in effective condemnations to the above-mentioned sentences. Very often the political authorities drop pending charges or the verdict is not effectively enforced.

The State does not put obstacles to the Internet. There are presently about a dozen daily and weekly newspapers that are on line on the Web sometimes even before they are on sale in the street. At least six private radios broadcast their programmes on the Internet where it is also possible to access sites animated by journalists, politicians or other people. Different organisations also have Web sites where they can freely express themselves. Many Senegalese citizens participate in discussions on the Internet.

The fear of State repression has seriously aggravated in recent years the last few years. It has not reached panic but undoubtedly unquestionably there has been an escalation compared with the situation which prevailed until 2000. Relations between the regime and the press were not exempt from conflicts but had at no time developed into the kind of confrontation they now occasionally have with the new political regime. The regime in place since 2000 often engages a trial of strength with the independent press which it wants to subject to its dictate. To the extent that the President of the Republic had indicated announced in 2007 that he could not see why he should continue to grant financial support to a press which continuously challenged him. Yet this financial support is a law voted by the national Assembly.

The State media have no control over the fabrication and the distribution of the printed press. Certes, the government newspaper owes the most powerful colour rotary press in Senegal and prints some independent newspapers. But there is a tough competition on the market. There is a tendency by independent newspapers to acquire sophisticated printing companies. Four of them have their own rotary press including two colour ones. These printing companies broaden the competition and propose printing services to other newspapers.

As a result, therefore, the situation gives the authorities no control mechanism to exert pressure on independent newspapers.

Printing paper is directly imported by some independent newspapers for their own use or purchased from economic operators in this sector. There has been an attempt to group all newspapers into a purchasing plant to reduce the costs of the imported printing paper but the initiative failed.

#### **4. Economic pressure**

The State grants the privately-owned media ( printing and audiovisual) an annual financial aid the terms of which are outlined by a Law on the press (articles 58 to 61). The amount has gone up, from 40 million CFA francs in the 1990/2000 decade to 300 million CFA francs since 2006 and 2007.

In spite of this significant increase, the amount of the aid to the press remains low compared with the needs of the media who are its beneficiaries.

In addition to this annual aid, the State regularly allows free of charge the broadcast of normally charged advertisements for ministries, public agencies and enterprises. Ministries frequently make announcements on children's vaccination campaigns, the fight against certain diseases such as malaria or HIV/AIDS, registration of young girls for school or of young voters on the electoral lists. State enterprises such as the Port of Dakar, the national Lottery, the electricity company broadcast commercials or announcements on the private radio and TV stations.

The profits generated by these commercials are very much appreciated by the privately-owned media. However, they do not have a real an effective impact on the editorial line of this press. The privately owned media are generally very critical towards the State.

This freedom has a price because the authorities may decide to punish and deliberately withdraw these commercials from certain media they regard as being hostile to the government. The privately-owned group Sud Communication which manages about ten radio stations in Dakar and the interior of Senegal is sometimes "forgotten" in advertising campaigns during periods of tension with the government. Other media enterprises may or may not receive the same treatment depending on the nature of their relationship with the authorities at the time these advertising campaigns are taking place.



The content of the privately owned media benefiting from the aid to the press or from government promoted commercials is very similar on the three media (newspapers, radio and television). The critical approach of these media organisations is reinforced by their desire to give the opposition the possibility to express itself on their airwaves or in their newspapers. This is not always to the authorities' liking.

The fragile financial state condition of the privately-owned media is worsened by the weakness and lack of equilibrium of the advertising market. Three factors contribute to this aggravation :

- the State television continues to take huge shares of this advertising market by taking advantage of the weak equipment capabilities of its private competitors who each cover only a tiny part of the national territory around the capital Dakar ; the government daily newspaper also takes advantage of this powerful position of proximity with the State compared to its competitors;
- the attitude of some State companies who exclusively reserve their advertisements for the government controlled media for fear of being suspected of connivance ?complicity with a press often in bad terms with the authorities.
- The weight of charges is a heavy one for the privately owned media (rents, telephone and electricity bills, vehicles for field reporting, paper and wages).

## **5. Non-State repression**

Journalists must deal with threats from non-State organisations. Physical abuse, (see above attack bicycle chain and set fire on a news correspondent's room), threats and insults on the phone.

These attacks are carried out by political militants or members of religious brotherhoods or, to some extent, by supporters of sports clubs. In case of attacks from political groups, State journalists are exposed to irreverent remarks from opposition militants who regard them as a government mouthpiece.

Yet, non State controlled repression is fairly rare. Self-censorship attitudes act like fire-doors which subdue or cancel potential conflicts. In theory, the State pursues the

perpetrators of attacks against journalists. But in fact, this initiative is very selective. No action was taken against those responsible for the bicycle chain attack on a journalist. The victim had yet laid a complaint and disclosed the names of his assailants. The silence of the authorities can be justified by finds its explanation in the personality of the spiritual guide to whom the assailants are affiliated. He is a powerful religious guide and an important electoral intermediary whose voting instructions can direct the choice of thousands of voters. During the February 2007 electoral campaign followers of the same chief violently attacked the vehicle of a group of journalists covering the activities of a candidate who was not his ally. There was no legal follow-up of this case.

State protection of journalists is extremely rare. A journalist and author of a book which annoyed the President of the Republic had benefited State protection for some time. It's a unique example.

Non-State controlled repression has significantly intensified in the last past five years because of the arrival of religious chiefs in the political environment. Their followers transpose on the political ground their devotion to their spiritual guide. They do not tolerate that any criticism should be made against him by his adversaries or journalists. These politician religious chiefs themselves cannot accept their words and actions to be treated by the media as coming from any politician.

This increasing tension is also due to rivalries within the ruling party. Each group has a tendency to classify the media and journalists according to the treatment they give to the different protagonists.

## **6. Conclusions**

Freedom of the press exists in Senegal. Restrictions have increased in number and in diversity. The strong high aggravation of the situation results from the repressive attitude of the government towards journalists and press organisations.

The free functioning of the media has changed because of the multiplication of trials and threats against journalists and also because of the conflicting relationship

between the independent media and the authorities. Self-censorship and cautious attitudes are observed.

To many journalists, obstacles to the existence of a free content of the media are essentially financial. They call for increased support from the State. Press publishers received by the President of the Republic of Senegal in December 2007 renewed this request. Others put the emphasis on the confusion affecting the journalist status. Current trends within the journalists' union are in favour of the creation of an Order of journalists in order to regulate the entry into the profession and increase bring up the level and the status of information professionals.

From the author of this study's viewpoint of report, there is above all a problem of training. People get into the profession without a serious preparation. Without a sufficient knowledge of writing techniques and genres and completely ignore the professional code of ethics of journalists. The training also applies to New Information and Communication Technologies (IT). The legal environment should lift the threats of the law against the media and journalists. This renovation of the legal framework is not at all designed to place the journalist above the law, as some authorities would argue.

Konrad Adenauer Foundation provides gives significant support to Senegalese journalists through a fairly diversified action: organising meetings between journalists and political actors to share mutual viewpoints, the impact of national languages in radio and television information treatment, a better knowledge of the world of enterprises, local governance and the lives of teenagers, the weight and the role of religions etc. The Foundation also collaborates with the school of journalism of the University of Dakar. It allows the students to be better prepared for their future by giving them the opportunity to meet with personalities and actors from all sectors.

Konrad Adenauer Foundation could help in the strengthening the training of journalists who took the job without being prepared. An experience made carried out by the authorities to that effect has been fruitful but it only involved a small section of the persons interested by this initiative. The initiatives of the Konrad Adenauer foundation could be targeting regional correspondents dispatched inside the country

by all the media organisations present in Dakar which have their offices in present in Dakar. Their lack of training is even more serious, that it is their duty to gather and treat information about the rural world, the most deprived section of the population.

*Mame Less Camara*

## THAILAND

### 1. General Conditions

Based on 2002-2004 census overall adult literacy rate of 93. percent. 95 percent male and 91 percent female. Twelve years free basic education nation wide, ending at age 18. Education is compulsory from 7-16 years of age. In 2006 an estimated 6 percent of students completed six grade. There are 20 state universities, 26 private universities and colleges and 120 other institutions of higher learning (Unesco 2007).

How many media outlets exist? Newspapers: 21 Thai language, Two English language. Thai terrestrial television stations: six (Channels 11, 3, 5, 7, 9 and a new public broadcasting channel, Thai Public Broadcasting Service, formerly iTV then TITV. One cable channel (UBC). Community radio stations: 300 (Business Wire 2007).

Political parties run their own media. While Prime Minister Shinawatra Thaksin owned iTV, formerly an independent station. It was purchased just before the 2001 elections by Thaksin's Shin Corporation (The Thaksinization of Thailand, 2005). In 2007 the military government turned it into Thai Public Broadcasting Company, South East Asia's first public broadcasting channel. The military own virtually all radio stations. The state owns all terrestrial television stations.

Independent internet newspapers exist. The best example is Pantip.com, a popular Thai language website. It is one of the few, if only websites, requiring a Thai ID card to subscribe. Another is Sanook.com. Yes, Thai authorities do censor websites. For example after the 2006 military coup many websites were closed if deemed critical to "national security." Google was banned from Thailand for several weeks on claims of lese majeste against the monarchy.

The Thai Computer Related Offenses Act of 2007 was passed in November, 2007. It focuses on computer crimes. The Cyber Crime Act of 2007 is designed to seal off

criticism of the monarchy and the military (Ubonrat Siriyuvasak, Chulalongkorn University : New Media For Civil Society and Political Censorship In Thailand).

State authorities have tightened their surveillance of internet sites since the coup on grounds of “ national security” or if they are pro-Thaksin. Internet censorship operates through the Royal Thai Police, who have blocked over 32,000 websites and the Communications Authority of Thailand. The total number blocked as of January, 2007 was thought to be around 45,000. The Ministry of Information and Communication Technology blocks indirectly by informally “ requesting” the blocking of sites by Thailand’s 54 commercial and non profit ISPs. The main reasons for blocking websites were: pornography 56 percent, sale of sex equipment 13 percent and threats to national security 11 percent, which includes criticism of the king, government or military. All websites are blocked in secret and the criterion is not disclosed by the government. On the other hand after the coup pro-Thaksin websites such as pvtthai.com, shinawatradio.com and hi-Thaksin.org popped up. Websites are blocked by a URL and/or an IP address. Most sites concerning the violence in Thailand’s deep south are blocked. Google’s shared site with You Tube was blocked for several days in April 2007 because of alleged lese majeste against the monarchy. Strict criminal libel and lese majeste laws are also used to close sites. Reporters Without Borders commented in a press release of 16 October, 2007 under the heading “ Government Repression No Longer Ignores Bloggers “freedom violations:” “ Several countries fell in the ranking this year because of serious, repeated violations of the free flow of online news and information. In Malaysia (12<sup>th</sup>) Thailand (135<sup>th</sup>) Vietnam (162<sup>nd</sup>) and Egypt (146<sup>th</sup>).

In 2007 13 percent, or 8,465,800 out of a total population of 67,249,4565. (Internet World Statistics ) This compares to a 12.4 percent penetration in Asia but is well below the world total penetration of 19.1 percent.

No up to date figures are available but Thailand’s radio and television coverage across population areas is almost universal. The latest statistics available for the main categories are: 8.466 internet users (2006) 204 AM radio stations and 334 FM (1999) There are six terrestrial TV stations and 37 cable and satellite channels. There are 54 channels operated by one cable operator, UBS.

How frequently do citizens use the media?

- TV	very often
- radio	often
- press	occasionally
- internet	often
- verbal exchange of information	often

Television remains by far the main source of information, given the demographics of Thailand. 85 percent speak Thai. The core population is 33.7 percent in the central region, including Bangkok; 34.2 percent in the Northeast; 18.8 percent in northern Thailand and 13.3 percent in southern Thailand. These demographics are important in analysing media coverage.

The media is not as influential as in other countries because Thailand is a poor country where making a living is first priority. Therefore, Thais look to television, and with the growth of community radio in recent years, radio, as their main source of entertainment and general information rather than focusing on politics. These changes during election time when the prevailing party or parties in power use the state's monopoly of radio and television to woo voters with promises.

Thai media focuses on sensationalism, soap operas and a general "dumbing down" of content compared to other jurisdictions. Secondly, the military and state own virtually all radio and television. In this regard objective, hard news is neutralised through a diet of "light" information and entertainment rather than serious political discourse. In recent years, however, this trend was reversed by the Thaksin government. To quote Ubonrat Siriyuvasak, a noted social commentator when observing the complete dominance of radio and television by the Thaksin government: "Saturating the air waves with one way communication is turning state controlled media into propaganda machines, enabling the government to sell its populist policies to the masses in an effective manner, as well as creating a good public image for the government" ( The Thaksinization of Thailand).

The majority of Thailand's 67 million people are rural poor. They are easily influenced by television, by far their main source of entertainment and information. The urban, middle class of Bangkok tend to be more discerning readers of the mainstream and business media. With the state owning all radio and terrestrial television stations the ability to influence Thais through these mediums is immense. A third demographic could be those marginalised by society, including HIV/AIDS sufferers, illegal immigrants, some ethnic minorities and those affected by violence in the deep south.

Radio is owned by the military and run through a state organisation called MCOT. All six, commercial terrestrial television channels are owned by the state. A seventh, new, channel, Thai Public Broadcasting System will become South East Asia's first public broadcasting channel. Regarding protection, the 2007 Constitution contains detailed provisions relating to freedom of expression as well as freedom of the media. The relevant sections are: Section 37 states: "A person shall enjoy the liberty of communication by lawful means. The censorship, detention or disclosure of communication between persons, including any other act disclosing a statement in the communication between persons shall not be made except by virtue of the provisions of the law specifically enacted for security of the state or maintaining public order or good morals.

Section 39 states: A person shall enjoy the liberty to express his or her opinion, make speeches, write, print, publicise and make expression by other means. The restriction on liberty under paragraph one shall not be imposed *except by virtue of the provisions of the law specifically enacted for the purpose of maintaining the security of the State, safeguarding the rights, liberties, dignity, reputation, family or privacy rights of other persons, maintaining public order or good morals or preventing the deterioration of the mind or health of the public.*

The emphasis that while the Constitution guarantees freedom of expression, in Thailand it comes with the caveats noted, which are primarily aimed at protecting national security and the monarchy.

In addition to the above, Section 39, in summary: prohibits the closure of newspapers or electronic media premises; prohibits censorship " except during the time when the



country is in a state of war or armed conflict; stipulates a Thai national only can own a mass media business and states no grants or subsidies can be made by the State to private newspapers or other mass media.

Articles 326-33 of the Thai Penal Code do provide protection but academics argue that “ the right to prove truth is limited in a manner that simply cannot be justified” (Prachatai: Supalak Ganjanakhundee, “ My Understanding of the draft 2007 constitution, July 2007).

The government appoints to committees and overseeing bodies. In the case of State radio and television this is generally done through the Public Relations Department of the government. Some other examples are the National Broadcasting Commission, which issues licences; MCOT, which runs the radio networks ( 77 percent state owned ) the military which owns MCOT and the National Legislative Assembly (2006-2007) Even the newest TV station, TPBS, although “ independent “ has a government appointed board drawn from the educational, private and state sectors.

Given the reliance on television for their informational needs by most Thais, the state ownership of television and radio means public opinion can be, and is, moulded to meet the political, social and economic objectives of the government of the day and, to a lesser degree if they are not running the country, the military. All of these broadcasting outlets are beholden to either the military or the State through licensing agreements. With over 80 percent of Thais relying on television as their primary source of news, it gives the State run media overwhelming advantage in moulding public opinion.

However, it should be noted that Thai governments are particularly sensitive toward the English language media’s ability to attract international attention.

Media are generally close to the government.

While it is state owned, the electronic media, even under military rule, was still able to comment on events of the day without overt external censorship. The pressure came more through self censorship owing to the draconian criminal libel and other laws

(*lese majeste*) that have been used unashamedly in the past by politicians and the military. One good example: In December 2006 a Swiss man painted over pictures of the King of Thailand in a fit of drunkenness. While the Associated Press and The International Herald Tribune both reported the incident, it was not reported within Thailand. The Asian Human Rights Commission commented at the time: “ The story is important because it reveals the extent of self censorship in Thailand’s media since the military coup of September 19, 2006. Even straight news events with a remote connection to the junta or royal family are not covered” (Asian Human Rights Commission, Media Release, 12 December, 2006).

It should be noted that the Reporters Without Borders world wide press freedom index in 2007 ranked Thailand 135<sup>th</sup> out of 169. In 2005 Thailand was ranked 107<sup>th</sup>, then a drop from 59<sup>th</sup> in 2004.

Radio and television coverage tends, as outlined above, to be more “soft“ or “neutral“ on the government because of its ownership. The Thai press, however, are far less restrained, despite tough libel laws.

A regular Tuesday post cabinet press conference is conducted by the Prime Minister and Ministers hold numerous conferences of their own. Journalists have equal access. Barring of journalists from such conferences because of the editorial stance of their newspaper ( as opposed to state owned radio and television ) is rare.

The prime minister’s press conference is broadcast. As all channels are owned by the state they are not refused the right to broadcast. This extends to the international broadcast media, such as the BBC, ITV, CNN.

## **2. Legal Environment**

The 2007 Constitution, Section 37 states that “ a person shall enjoy the liberty of communication by lawful means. “ However it goes on to say such freedom and censorship shall not be made except where it relates to national security , public order or good morals. Section 39 also enables freedom of expression, but adds the caveat that censorship can apply in the event of armed conflict. The same section

also outlaws closure of a radio and television station and “pressing house. Foreign ownership of media is allowed. However, the most restrictive law under the constitution is Section 29, which makes restrictions that are limited to purposes determined by the Constitution, as opposed to Section 39, which is much broader. 8. (Source: Parachute: Spaak Ganajanakhundee “ My understanding of the draft 2007 constitution. 18 July, 2007 ),

The amendments to the original constitution in the 2007 Constitution are designed to uphold the military’s right to impose martial law or any other form of control over the media in the name of national security and to protect the monarchy.

As above, Sections 29, 37 and 39 of the Constitution refer to upholding freedom of expression. If yes: What and whom does the amendment refer to and with which consequences?

It refers to the military and political establishment and their powers to invoke such censorship as deemed fit, including criticism of the monarchy.

Articles 326-333 of the Thai Penal Code establish the defence of criminal defamation, with penalties of up to two years. This law is seen as somewhat obsolete and outlining a disproportionate punishment to fit the crime. The most celebrated example of its use by an office holder was the Shin Corporation, owned by Thaksin Shinawatra when PM and Ms Supina Klangarong, founder and secretary general of the Campaign For Popular Media Reform. Supina faced up to USD10 million in fines if she lost. She did not as the military coup intervened. Her salary was USD375 a month.

Under the 1941 Printing and Advertisement Act, the Royal Thai Police Special Branch has the authority to issue warnings to publications for violations such as disturbing the peace, interfering with public safety or offending public morals. The Official Information Act established by the 1997 Constitution was passed to enforce transparency in government but it does not always work. Official information requests to authorities like MCIT are refused on the grounds of National security and “interference with law enforcement.” Thailand has been governed by decree from

time to time under martial law, as in the case of the 2006 military coup where radio and television stations were taken over by soldiers and 300 community radio stations subsequently shut down.

The 2006 Constitution permits censorship in cases of national security through the Internal Security Act. Lese majeste, pornography and threats to public morals are also given as reasons.

The law protects the monarchy from criticism, with sentences of up to two years applicable. Martial law in the three southern provinces of Yala, Narathiwat and Pattani restricts coverage of the Muslim majority in these provinces. In the far north the Karen refugees from violence in Burma and certain Thai hill tribes are marginally treated.

Nobody is barred from the journalistic profession. However, some groups like the Karen tribes people of Burma, who live in camps along the Thai-Burmese border and are considered “stateless” would have difficulty working as journalists. The Thaksin government directly threatened two foreign journalists with revocation of their work permits for allegedly undermining the state, and implied expulsion to others, but these threats were rarely carried through with.

In the case of state radio and television internal self censorship exists. In the case of the more independent press some newspapers, given they history and connections to the ruling elite, are softer on the government than others. This varies according to the tone of the government of the day. For example during the Thaksin era large, mass dailies practiced self censorship. In 2003 the Thai Journalists Association severely criticised the trend of self censorship.

The Ministry of Information and Communication ( MCIT) monitors internet sites and regularly closes them down. The Government Public Relations Department effectively runs radio and television, with some parts of the military which own radio stations imposing their own rules.

There have been changes in the last five years. The 2007 Constitution adds important riders to sections relating to freedom of expression. Under the interim constitution of 2006 the military government closed down over 300 community radio stations. Under the Thaksin government the criminal libel laws were used to intimidate critics (WACC 2008). These modifications amount to a slight aggravation of the media situation.

The main impact of terrorism on media coverage has been the ongoing effect of the Southern Islamic insurgency. Governments fear this could spread to tourist centres like Phuket and to Bangkok itself.

The Thaksin government used libel cases, economic pressure on newspapers, acquisition of the major television station iTV ( owned by Thaksin's company, Shin Corporation ) shareholder ownership of hostile newspapers by Thaksin cronies and direct and unrelenting criticism by Thaksin himself to intimidate many newspapers into self censorship. Under the military government community radio stations, seen by locals as a source of important information, were closed ( 300 ) to avoid criticism of the coup.. Radio and television continue to be “ neutral” in their coverage of political events. However, the newspapers, including some who went “ soft” during the Thaksin years, remain highly critical of the government. These modifications amount to a strong aggravation of the media situation.

The Karen hill tribesmen of Burma; Islamic insurgents in the south, certain aspects of the monarchy are off limits eg criticism. The military can censor its state owned radio stations and the government the internet and state television in the event of a “national security” issue.

The right to free speech is sometimes infringed, this would mainly apply to community radio stations and internet sites that are seen as anti-government.

Thailand's criminal libel laws issued heavy fines and prison sentences for what most other jurisdictions would see as civil defamation (note: Supinya Klangnarong vs Shin Corporation above ) Sondhi Limthongkul, a fierce Thaksin critic at one stage had 40 complaints laid against him by Thaksin and associates. In 2005 the Bangkok Post

published a story alleging large cracks had appeared in the runway at the new Suvarnabhumi resulted in the reporter being sacked as a result of Government pressure. The lese majeste laws against criticising the monarchy are frequently invoked, particularly by points scoring politicians. In 1986 a politician who made a disparaging remark about the monarchy was convicted, imprisoned and banned from politics ( Wikipedia 2008).

All media have to be licensed or registered. The Thai National Police Department has the authority to revoke or suspend the licence of newspapers. The severity of penalties varies, depending on the political climate and the sensitivity of the issue.

The National Broadcasting Commission is government appointed to issue licences for radio and television. Radio frequencies lie with Public Relations Department, the Mass Communications Organisation of Thailand (MCOT) the Posts and Telegraph Department, the military and state universities. None of these are politically independent. It should be noted, however, that in 2004 UNESCO launched a campaign in Thailand to create an advocacy programme to establish a transparent and accountable licensing and code of conduct for community radio. 10. (Unesco 2007)

Usually licenses are revoked or refused because of real or alleged criticism of the government, the military or the monarchy. Also publication or broadcast of offensive, pornographic or other material contrary to the strict moral tone of the country. This happens somewhat often and mainly applies in the cases of community radio stations, if they are licensed, and internet providers.

Thai Journalists do not need government permission to practice their profession. However, foreigners need to be accredited and can be punished by rebuking it. This would usually apply to a foreign journalist who has published an article outside the country perceived to be critical of the government or the monarchy. The most celebrated case was under Thaksin Shinawatra, who threatened to remove the work permits of two Far East Economic Review journalists for an article implying tension between Thaksin and the palace. The magazine was banned and expulsion threatened but removed after an apology from the editor.

Surprisingly to many outsiders, the military government of 2006 was more open to media participation in such events at Parliament than the Thaksin government. Even newspaper reporters, who are more critical, have equal access.

State owned channels are not refused the right to broadcast. One historical exception was a case of protest in 2002 when Nation Multi Media Group, a trenchant critic of Thaksin's government, pulled political broadcasts from its channel of its own violation in protest at officials pulling off air from a government owned station one of its programmes critical of the government's handling of the Far East Economic Review issue.

The Competition Act, 1999 and the Price of Goods and Services Act, 1999 are to promote fair and free trade within a competitive environment. The Competition Commission is charged with enforcing the Competition Act which applies to all types of business operations with some exceptions, such as groups of farmers, cooperatives and co operative societies.

However, in TV and radio a state ownership monopoly does exist. The only media monopoly in Thailand is the state run radio network MCOT and the television channels, Channels 1, 3, 5, 7, 9 and TPBS.

The most celebrated case is the Supinya Klangnarong vs Shin Corporation case whereby an individual contested in court a large libel suit, in which she is to have alleged that Shin Corporation had benefited financially from Thaksin Shinawatra's prime minister ship. The Thai Supreme Court threw the case out. In the case of national emergencies, however, the State can override the media.

### **3. Political Conditions**

The Islamic militants of the three southern provinces are rarely heard in the media. Also the Karen people of Burma, who are deemed stateless and illegal immigrants. The rural poor receive a less coverage than the ruling elite and middle classes.

In the Islamic militant case it is succession from Thailand into an independent Islamic state covering three provinces in the South. For the Karen it is to return to their homeland in Burma without persecution.

This is in the South because martial law there controls censorship of media coverage. For the Karen the reason is that they are considered stateless.

State electronic media virtually never cover them except in a negative way. In the South this is due to “ national security.” Newspapers rarely do investigative journalism into the actions of authorities in both these cases.

Self-censorship exists in radio and television because of state ownership. In some newspapers because of their historical links to the political and economic establishment. This is driven by advertising revenue as much as anything. Another reason for self censorship is *lese majeste* against the monarchy.

Journalists have to fear state repressions against the law, to a degree at least, particularly the press as it is more independent and critical. In 2002 Nation Multi Media executives were investigated by the Anti Money Laundering Agency for perceived tax violations. This was done through a single anonymous tip off and was credited to the Thaksin government. It was quickly dropped after a media and public outcry. This kind of state repression happens often. In the sense that the military closed over 300 community radio stations, Thaksin used the libel laws, financial muscle (state advertising contracts being withheld from critical newspapers) and self censorship is practiced.

The Royal Thai Police have blocked over 32,000 websites on the grounds and the Ministry of Information and Communication Technology can informally “ request” the blocking of websites by ISPs. Failure to comply has been accompanied by state threats to withdraw licences. The main reasons for blocking the sites are: pornography 56 percent, sale of sex equipment 13 percent, threats to national security 11 percent, which includes criticism of the king, government or military. Most sites concerning the Muslim South situation are blocked. Thailand blocked Google’s, YouTube outlet in April, 2007 for alleged *lese majeste*. Several technologies are



employed to censor the internet, such as caching, blacklisting a domain name or address or redirection to a government homepage.

In the past five years, the actual threat of state repression has worsened considerably. The number of repressions has distinctly increased. The Thaksin government set a new benchmark for sophisticated media intimidation. The military then carried on with it in a more blunt way by simply closing websites and community radio stations and, in the end, introducing the Internal Security Act which gives it wide powers. This phenomenon is created by the lax application of the laws which leads to a breakdown in political and civil society which, in turn, sees the military intervening to preserve the status quo of a stable constitutional monarchy.

#### **4. Economic Pressures**

The only major media outlet that will not carry advertisements is Thai Public Broadcasting Service, Southeast Asia's first fully public television channel. All other media are subsidised by the state in the sense that they carry advertising and much of this comes from state agencies.

In 2008 the Thai advertising industry expects ad spend to reach around THB100 billion or about Euro2.08 billion. This is an increase on previous years but is countered by concerns within the industry that the coalition government being formed will be unstable and therefore not spend as much as a stable government. No breakdown of how much is spent by government agencies was found.

The coverage of the subsidized media is close to the government.

Electronic media are more neutral because they are all state owned, while the press has a relative free reign, within the law, to be more critical of the bureaucracy and politicians. The new TPBS has a mandate to be independent, but it is still government financed. This also applies to some newspapers, who found their voice once to challenge the Thaksin government once civil society rose up in protest.

State control of advertising budgets can, and has, impact on newspapers which are not government owned. This device was used by the Thaksin government to bring some newspapers into line for fear of going out of business.

## **5. Non-State Repression**

generally, journalists or media companies do not have to fear repression by non-state groups, although there have been numerous incidents of supporters of political parties attacking newspaper offices. Thailand has many interest groups and NGOs who all compete for media attention and can be violent in their reactions to negative media coverage. The business elite during the Thaksin years also sought to influence private newspaper coverage through equity stakes.

Public sector vested interest groups are behind these non-state groups. These also include some large companies with close links to politicians who have attempted to take over media companies as “Trojan horses.” The best example is when Grammy, a large entertainment company, tried to buy into a shareholding in Matichon, one of the most outspoken newspapers against the Thaksin government. It failed after a huge public protest.

Any perceived or criticism of the monarchy when public pressure can force the media to apologise or self censor. During election time party supporters have attacked reporters. During the Thaksin vs civil society confrontation of 2005 newspaper offices were attacked. Very difficult to estimate but it is rare, usually confined to the emotions surrounding political issues or unrest in civil society such as when supporters of Thaksin attacked The Nation newspaper offices in 2005 in support of him.

State authorities only very rarely prosecute attacks against journalists. There is a natural tension between media and state authorities. Police action tends to be reluctant and successful prosecutions rare.

State authorities can effectively protect journalists if they choose to but in more cases than not state authorities have taken no action against attacks on journalists, or, at best rudimentary action.

Thaksin brought with him a new and more sophisticated approach to controlling the independent media through intimidation, use of libel laws and economic pressure. This encouraged his business associates to try and invest or buy into troublesome newspapers. The general acceptance of the 2002 war on drugs in which many innocent people were allegedly killed by the police also set a tone for violence becoming more acceptable in Thai society. This amounts to a strong aggravation of the media situation.

## **6. Conclusions**

Thailand was rated 135 out of 169 countries in 2007 for media freedom by Reporters Without Borders. In 2004 it ranked 59<sup>th</sup> and in 2005 it was 107<sup>th</sup>. The Thaksin administration and the military rulers after the coup set back Thailand's hard won reputation for media freedom.

Two administrations over the last five years, the Thaksin and military governments, have reduced newspaper, television, radio, community radio and internet freedom through the imposition of martial law, application of draconian libel suits under the criminal penal code, introduction of the all encompassing Internal Security Act. There has thus been a strong aggravation of media freedom in Thailand.

The Internal Security Act, and other Acts as outlined above, enables state intervention in the name of "national security." Military intervention in civil society, including censorship of the independent media, as application; state ownership of all television; military ownership of the radio network; draconian action against internet sites and providers citing pornography, lese majeste and other laws. The possible return to power of Thaksin, if not as Prime Minister, through his nominees in the People Power Party, which won the December 2007 election.

Main obstacles are further: Continued state majority ownership of television and radio and the 2007 Constitution which was written by the military appointed National Legislative Assembly to protect the interests of the ruling elite. The election of the

PPP to power, with Thaksin's financial support and his overwhelming influence on the existing government.

The KAS supports journalism in Thailand through seminars, lectures, supporting university courses, publication of academic books and articles, including, in Asia, the Asian News Network, Asia Media Directory.

KAS could, however, undertake more courses through academic institutions relating to freedom of the media; analysis of media laws.

## **Bibliography**

*Asian Human Rights Commission, Media Release, 12 December, 2006*

*Business Wire, 2007.*

*Duncan McCargo and Ukrist Pathamanand. The Thaksinization of Thailand.: Thaksin's Political Discourse pp.189.*

*Duncan McCargo and Ukrist Pathmanand; The Thaksinization of Thailand. Thaksin's Polical Discourse; pp 193.*

*Internet World Statistics. Sources Nielsen/NetRatings, ITU. Copyright 2008.*  
[www.internetworldstats.com](http://www.internetworldstats.com)

*Prachatai: Supalak Ganjanakhundee, "My Understanding of the draft 2007 constitution", July 2007*

*Ubonrat Siriyuvasak, Chulalongkorn University : New Media For Civil Society and Political Censorship In Thailand*

*Unesco 2007: [www.unesco.org/cgi-bin/webworld](http://www.unesco.org/cgi-bin/webworld)*

*WACC 2008: [www.wacc.org.uk/wacc/regional\\_associations/asia/asian](http://www.wacc.org.uk/wacc/regional_associations/asia/asian)*

*Wikipedia 2008: "Censorship In Thailand".*

## TURKEY

### 1. General Conditions

In Turkey where the population is precisely 70.586.256 according to Turkish Statistical Institute (TUIK)<sup>1</sup>, illiteracy rate among the age 15 and over (87.4 percent of the total population) is 13.5 percent. The enrollment ratios by educational level between 1990 and 2006 indicate a distinct gender gap. Despite the social responsibility projects and campaigns (i.e. “Baba Bizi Okula Gönder” – Dad Send Us to School and “Haydi Kizlar Okula” – Come on Girls, Let’s Go to School) to encourage poor families sending their daughters to school, the illiteracy rate among female population is approximately % 21. The Eight-Year Compulsory Basic Education Law, which was passed in 1997 and extended primary education from five to eight years is expected to improve the literacy rate overtime. The secondary school enrollment statistics for girls have been lower than those for boys, mostly as a result of economic and cultural factors (Gök & Ilgaz 2007). According to Education at a Glance 2006: OECD Indicators Report<sup>2</sup>, the duration of education for girls is approximately 11.2 years.

43 national daily newspapers exist in Turkey with a total circulation of 5 million.<sup>3</sup> Among those dailies, there are four sports newspapers (Pas Fotomaç, Fanatik, Efsane Fotospor, Fotogol) with a strong emphasis on Turkish soccer teams and league. The circulation of those four sports newspapers is 513.000 (almost 10 % of the total circulation). There are also 9 newspapers that are printed in other languages than Turkish. Those are Agos weekly published both in Armenian and Turkish, Apoyevmatini in Greek, Azadiya Welat in Kurdish, Iho in Greek, Salom weekly in Ladino and Turkish, The New Anatolian in English, Today’s Zaman in English,

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<sup>1</sup> The press release on new census of population system on January 21, 2008: <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=3894>

<sup>2</sup> The report can be reached at [http://www.oecd.org/document/52/0,3343,en\\_2649\\_39263238\\_37328564\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/52/0,3343,en_2649_39263238_37328564_1_1_1_1,00.html)

<sup>3</sup> The circulation numbers of some of the national newspapers between January 21-27, 2008 are listed below: Source: <http://www.medyatava.net>

Zaman : 768.057	Posta : 736.473	Hürriyet: 504.175	Sabah : 432.718
Milliyet : 275.147	Aksam : 202.108	Star : 173.311	Türkiye : 143.841
Yeni Safak: 128.226	Bugün : 100.169	Cumhuriyet: 70.118	Radikal : 31.612
Taraf : 13.325	Birgün : 6.231		

Turkish Daily News in English and finally *Türkei Kurier* in German. There are 212 local newspapers in 61 different cities. 3,450 periodicals, half of them weekly, are published in Turkey. The average daily circulation of local newspapers varies between 1,000 and 15,000.

Except TRT public service channels, 24 national, 16 regional and 224 local television channels and 36 national, 108 regional and 944 local radio channels broadcast in the country.

There are also 76 TV channels on cable among which 10 of them are foreign. There are 5 radio channels operating on cable.

Kurdish-language broadcasts, banned for many years, were introduced by the state broadcaster in June 2004 as a part of reforms intended to meet EU criteria on minorities. Some overseas-based Kurdish TV channels broadcast via satellite.

There are no political parties run their own radio, TV stations and newspapers. However this picture might be deceptive when it comes to the complexity of the political involvement and the media in Turkey. For instance daily *Cumhuriyet* which is a staunch defender of secularism in the country acts like an official publication of moderate leftist party CHP (Republican People's Party). *Cumhuriyet* is widely read among the military, diplomatic and academic circles because of its opposition to conglomeration trends in the media and also its anti-American and anti-globalist positions. Its editorial line mainly focuses on the possible dangers of Islamization of the country coming with the rise of Islamist AKP (Justice and Development Party) government.

Starting with Turgut Özal's tenure between 1982-1991, religious communities, cults, and sects came to the realization of the power of the media and have been encouraged by the right-wing, conservative political parties for the last three decades. They gradually became extremely powerful during the current AKP government and recognized the myriad possibilities (economic and political) this particular party could offer to them. Despite the complexity of the Islamic media scene in Turkey, there are well-known dominant actors that have become more

visible by their close links with the political establishment. For instance, Fethullah Gülen, a religious cult leader who lives in the United States, has been using the daily Zaman, to spread his message to his Nursi community whose name comes from the village of Nurs but brings to mind the word Nur, meaning 'light' in Arabic. Starting with the wealthy businessmen of Izmir, Gülen mobilized resources allowing him to control Zaman, a television channel (Samanyolu TV), 25 radio stations and 2 weekly magazines (Aksiyon and Sizinti). His wealth is claimed to be 25 billion dollars (Akyol 2008).

Various Islamic newspapers support different religious sects and congregations such as daily Türkiye (Isikcilar sufi sect), Yeni Asya (Nur sect) and Yeni Mesaj (Icmal sect) and keep close relations with the AKP government. However there is one particular newspaper that has direct links with the AKP. Yeni Safak was founded by Yakup Yönten and Tufan Mengi who were known as close friends of the Prime Minister Recep Tayyip Erdogan. Because of the financial problems, the newspaper was sold to Ahmet Sisman in 1995 and eventually Albayrak family purchased the newspaper. Albayrak family changed Yeni Safak's editorial line from defending the ideas and belief of radical Islamist ideology "Milli Gorus"(National View) where its manifesto indicates "‘just order’ will overcome the ‘worthless order’ in the West, because it is based upon violence, injustice and exploitation" into a moderate Islamist position. When one of the columnists, Sadik Albayrak became in-laws with the Prime Minister, he had to quit his job. However, Yeni Safak continues to support AKP government in a conservative, moderate Islamist editorial line. In 2005, Ahmet Tasgetiren the chief columnist resigned when his article, critical of Tayyip Erdogan was rejected to get published in the newspaper.

In short, the AKP government is gradually creating its own media conglomerate with various newspapers, magazines, television and radio stations in an effort to eliminate harsh criticism from opposition.

The number of Internet users in Turkey increased from 7.5 million to 20 million between 2002 and 2007. There are approximately 60 Internet news portals in the country. Since the overall trust to the mainstream media is extremely low, the young population prefers to get their news from those news portals. Some of the most



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popular news portals are Independent Communication Network ([bianet.org](http://bianet.org)), [internethaber.com](http://internethaber.com), [gazeteport.com](http://gazeteport.com), [iyibilgi.com](http://iyibilgi.com), [stargundem.com](http://stargundem.com), [gazeteci.tv](http://gazeteci.tv), [objektifhaber.com](http://objektifhaber.com), [aktifhaber.com](http://aktifhaber.com), [sansursuz.com](http://sansursuz.com), and [imedya.com](http://imedya.com). There is no censorship on those Internet sites unless they tackle the delicate issues, such as alleged Armenian Issue, criticizing Atatürk, etc.

Independent internet newspapers and blogs create a promising platform for the quest of hardcore news in Turkey. Since there has been a growing skepticism and cynicism about the mainstream media's reliability, readers turn their faces to the Internet for the search for more objective and less biased news and analyses.

In other words, censorship is not explicit, but self-censorship occurs among online journalists, who are concerned about violating many restrictions. Furthermore, media organizations are nearly all owned by giant holding companies with interests in many sectors beyond media, and they therefore influence news to serve their own business interests, in addition to allegedly trading positive coverage for political favors.

In total number of 17.5 million households in Turkey adult viewers spend 5.5 hours while children spending 3.5 hours in front of the television set daily. According to NOP World Culture Score Index,<sup>4</sup> weekly numbers of Turkish people's listening to the radio is 13.3 hours and surfing on the Internet is 10.6 hours. According to AC Nielsen research, 7 million households have a digital satellite TV receiver.<sup>5</sup> Also, around 1.5 million digital satellite STB units are deployed in Turkey annually. There are only 1 million households currently using pay-TV services. This represents about 6 percent of the total market. Today there are over 20 million internet users in Turkey, most with ADSL broadband access, and the infrastructure is rapidly shifting to fiber-to-the-home delivery.

On a scale of 1 to 4 (1: almost never, 2: occasionally, 3: often, 4: very often), citizens use TV as a source of information most so TV can be rated as 4, radio 3, press 3, Internet 3.

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<sup>4</sup>See <http://www.marketresearchworld.net/index.php?option=content&task=view&id=102&Itemid=>

<sup>5</sup> Interview with Mustafa Gözalan, Executive Board Member, Dogan Media Group for *World Vision* Issue 8, July 2007 at [http://www.nds.com/worldvision/thirty\\_eight/article\\_1.html](http://www.nds.com/worldvision/thirty_eight/article_1.html)

The influence of the media on the formation of political opinion in Turkey has rather low with an estimation of 2 on a scale of 1 to 4. Since the Turkish press has a history of becoming the mouthpiece of governing political parties and of large corporations in order to receive social, political, and monetary benefits, the public does not trust the press.

The official abolition of the state monopoly was ended with an amendment of Article 133 of the 1982 Constitution and the amendment defined the public broadcaster TRT (Turkish Radio Television Broadcasting Corporation) as an “autonomous” corporation. Following this change in the Constitution, the long-awaited Radio and Television Bill was passed by the Parliament on April 13, 1994, to regulate both private and public service broadcasting. The bill provided for the establishment of a Radio and Television Supreme Council (RTÜK) to determine whether all broadcasts followed the basic guidelines put forward in the Bill. This new Council was made up of nine members, appointed by the Parliament. The RTÜK Board includes six Justice and Development Party (AKP) nominated members and three Republican People’s Party (CHP) nominated members. As its structure indicates, RTÜK is not independent entity. Most of the members are elected by the AKP and supporters of the government. RTÜK has the authority to sanction broadcasters if they are not in compliance with the law or its expansive broadcasting principles; fines and cancellation of programs or licenses occur. The broadcasters criticize the broadcasting law for being too vague and restrictive and the penalties of RTÜK for being harsh and disproportionate.

For instance, on October 2, 2007 when Deputy Prime Minister Cemil Çiçek ordered the broadcast media to restrict their reporting on the death of 12 Turkish soldiers on October 20 in an attack by the Kurdistan Workers Party (PKK). Çiçek sent a letter to the Radio and Television Supreme Council (RTÜK) asking it to censor coverage of the fighting.

Around 70 % of TRT’s funding comes from a tax levied on electricity bills and a sales tax on television and radio receivers. As these are hypothecated taxes, as opposed to the money coming from general government funds, the principle is similar to that of the television license levied in a number of other countries. The rest of TRT’s funding

comes from government grants (around 20 %), with the final 10 % coming from advertising. In the past TRT has been used a propaganda tool by numerous governments however after the deregulation of the media scene, TRT began to lose its dominance in the Turkish politics. Still today, as a public broadcaster, it has to follow the official ideology and discourse.

The public broadcaster TRT has 4 national television channels: TRT 1 (general), TRT 2 (culture and art), TRT 3 (youth channel with sports and music programs and broadcasts live from the Turkish National Grand Assembly at specific hours), TRT 4 (education). TRT has also a regional channel TRT-GAP for the south-eastern region of Turkey and two international channels TRT-INT for Europe, USA and Australia, and TRT-AVRASYA for Middle Asia and Caucasus.

If the coverage of state-owned TV broadcaster TRT is to be evaluated, “very friendly towards government” would be an appropriate rating.

## **2. Legal Environment**

The preamble of the 1982 Constitution initially states that “no protection shall be afforded to thoughts or opinions contrary to Turkish national interests.” On October 17, 2001, a number of constitutional amendments were adopted to improve the freedom of expression and press for the country’s prospect to join the EU. The new preamble does not mention “thoughts or opinions” instead the term “activity” has been substituted.

Although Article 28 states that “the press is free and shall not be censored,” a number of provisions make it an offense to write or print any news or articles that threaten the security or “the indivisible integrity of the State within its nation and territory.” Similarly although Article 31 states, “individuals and political parties have the right to use mass media and means of communication other than the press owned by public corporations. The conditions and procedures for such use shall be regulated by law. The law shall not impose restrictions preventing the public from receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than

national security, public order, public morals, or the protection of public health,” Article 13 allows extensive exceptions and permits restrictions on the grounds of protecting national security, public order, public peace, public interest, public morals, and public health (Çatalbas 2007). In the former version of Article 26 and 28 before the 2001 amendments, there was a clause that banned the use of languages “prohibited by law.” That prohibition was removed from the amended Articles 26 and 28 allowing Kurdish-language broadcasting and publishing.

In February 6, 2002, a “mini-democracy package” (Law No. 4744) was adopted in the process of preparing for EU accession.

Article 7 of the Anti-terror Law was amended to restrict the context in which propaganda could be prosecuted as a criminal offence, whereby this was redefined to read as “propaganda which encourages terrorism.” An amendment to Article 8 reduced the upper limit of the duration for suspension of broadcasts that may be imposed on Radio and TV stations for broadcasts of propaganda against the territorial integrity of the state from fifteen days to seven days, and changed the aggravating situation clause (use of printed mass media) to limit the increase in the penalty to “one third” instead of “from one third to half.”

In May 2002, the Parliament passed a new media law. The law, intended to strengthen the powers of RTÜK hastened the concentration of media ownership by letting the country’s private media barons bid on public contracts and trade on the stock exchange. The law also prohibits broadcasts that “violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk,” or that “instigate the community to violence, terror, or ethnic discrimination” and imposes similar restrictions on the Internet. In June 2002, the Constitutional Court temporarily froze certain parts of the law, but censorship and other restrictive provisions remain in effect.

Another major change to the justice system has been the May 2004 abolition of State Security Courts. These courts, comprising both civilian and military judges, tried cases against the integrity of the state and had been accused of human rights abuses and an absence of due process.

The enactment of the amended Turkish Penal Code (TCK in Turkish) on June 29, 2005 fell short of meeting the expectations on promoting freedom of press. Some provisions, which the authorities had used before to breach international standards related to freedom of expression, were carried over from the old Penal Code. For example, Article 159 which criminalized acts that “insult or belittle” various state institutions reappeared as Article 301 of the new Penal Code in the section entitled “Crimes against symbols of the states sovereignty and the honour of its organs.” The law, Article 301 of the Turkish penal code is certainly the best-known of Turkey’s restrictive speech laws, but in fact there are a number of others that, taken together, effectively undermine freedom of expression as still in the Turkish Constitution. Article 301 states, “1. Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years. 2. Public denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures shall be punishable by imprisonment of between six months and two years. 3. In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third. 4. Expressions of thought intended to criticize shall not constitute a crime.” The attempt to draw a distinction between criticism and denigration is highly problematic. The lack of legal certainty of the crime leads to arbitrary interpretation by prosecutors and judges. Notorious Article 301 has been used against scholars, writers, and journalists and has been invoked with increasing frequency in 2006 and 2007. It gained notoriety when Nobel laureate Orhan Pamuk and Turkish-Armenian journalist Hrant Dink were charged under the law for speaking out about Turkey’s role in alleged mass killings of Armenians in the early 20th century. In 2006 55 people were brought to trial under Article 301 of the Turkish Penal code, and six of them were sentenced. Of 199 people on trial, 37 were being tried for “insult” or “slander”, 23 for “inciting to hatred and hostility,” 14 for “influencing the judiciary,” 8 for “alienating the public from military service,” and one for “membership in an illegal organization.” 83 people became defendants for “terrorism.” The year 2007 started with the murder of Agos editor-in-chief Hrant Dink. The charges under Article 301 against Hrant Dink were dropped posthumously, but his son, Arat Dink was convicted in the same case. The Turkish government announced that it would revise the law and bring it to Parliament for a vote.

Beside Article 301, many of the penal code violations have an impact on the newsgathering profession and the wording is extremely vague. For instance Article 278, Section (1) indicates “a person who fails to inform the competent bodies about the crime being committed shall be imprisoned or a term of up to one year.” Similarly Article 329 and Article 336 made impossible for investigative journalists to expose political or military corruption. Article 329, Section (1) indicates “A person who discloses information whose nature requires it to be kept secret for reasons relating to the security, or internal and external political interests of the State shall be sentenced to imprisonment for a term of five to ten years,” while Article 336, Section (1) reads “A person who discloses information whose disclosure has been prohibited by the competent authorities through laws or regulatory procedures and whose nature requires it to be kept secret shall be sentenced to imprisonment for a term of three to five years.”

The new Penal code also increased prison sentences where the media are involved and was in stark contrast to the Press Law. As an example, where journalists write about an on-going police investigation, the current Press Law (article 19) provides for large fines, while the new Penal Code (article 288) carries prison sentences from six months to three years.

Article 318 of the Penal code has not been modified as part of the reforms with a view to rapprochement with the European Union. It provides for jail terms of six months to two years for distributing propaganda or encouraging activities that could divert the population from military service. The sentence is increased by a half for journalists and news media.

Similarly, the government has not touched Law 5816, under which insulting, the founder of the Republic, Mustafa Kemal Atatürk is punishable by one to three years in prison. In this case against, the sentence is increased by a half for journalists and news media.

In June 2006, Parliament revised the Law to Fight Terrorism, greatly widening the scope and number of crimes punishable as terrorist offences, introducing articles

liable to further restrict freedom of expression, and failing to restrict the use of lethal force by law enforcement officials. In July the President approved the Law but applied to the Constitutional Court for the annulment of two articles relating to sanctions against the press. Freedom of the media “could be undermined by provisions allowing the suspension of periodicals and introducing the liability of chief editors and of press and media owners for publishing terrorist propaganda or praise in press and media organs.”<sup>6</sup>

Although many positive steps have been taken such as abolishing the death penalty and removing restrictions on minority language education and broadcasting, protection of civil liberties including women’s rights, broadening freedom of association and religion, taking stronger measures to protect against and prosecute torture, expansion of some articles to widen the types of cases that can be penalized, led to the question of how real is the Turkish government’s alleged commitment to human rights. Besides how these changes would be put into practice is more important than their existence on the paper. These modifications can be rated as a slight improvement.

There is a maze-like ownership structure of Turkish corporate entities in Turkey. This situation should not be treated as idiosyncratic since there are rapid and uncontrolled spread of free-market policies and deregulation trends in the post-1980s “nascent democracies” of Spain, Greece and Portugal (Önis 2003). Although concentration of ownership is a global phenomenon, there remain major problems in Turkey regarding the legal protection of media workers (the lack of unions) and free speech rights.

Dogan Media Group (DYH), Turkey's leading media conglomerate, includes newspapers, magazine and book publishing and distribution, printing, television and radio broadcasting and new media. It operates eight national newspapers, 24 magazines and six printing facilities in Turkey, as well as one in Germany. The holding also involved in media distribution, broadcasting (Dogan TV) and retail online sales including music and book stores.

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<sup>6</sup> Commission of European Communities, Commission Staff Working Document: Turkey 2006 Progress Report, Brussels, November 8, 2006, page.6.

Axel Springer AG, the German media giant, owns 25 percent of the shares of Dogan TV Holding. This is the leading broadcasting company in Turkey, with an estimated 24 percent audience share and a 36 percent estimated ad market share.

The multimedia groups again are the main actors in the private broadcasting market: Dogan Group owns Kanal D, Star TV and CNN-Türk, Çukurova Group owns Show TV and Sky-Türk, Digitürk, Dogus Group owns NTV, e2, Cnbc-e, Feza Group owns Samanyolu TV and MNG Holding owns TV8.

An a sole bidder, Çalik Group gave an offer of \$1.1 billion for the tender of ATV and Sabah newspaper and purchased those media outlets. The group led by businessman Ahmet Çalik has good relations with the AKP government and Prime Minister Recep Tayyip Erdoğan's son-in-law Berat Albayrak is a part of Çalik's management. Çalik Group is currently engaged in textile, energy, construction, finance and logistics sectors. The Savings Deposit Insurance Fund (TMSF) seized control of Sabah, Atv and other assets of Merkez Yayın Holding in April, 2007. This attempt is a result of seeking to recoup debts of about \$ 900 million from Dinç Bilgin, the previous owner of the media titles, whose lender Etibank collapsed in 2000. Currently, TMSF sent the results of the ATV-Sabah tender to the Radio and Television Supreme Council (RTÜK) and the Competition Board and the necessary approval has been received in the beginning of 2008.

Sabah sells nearly 430,000 copies a day, making it the country's fourth-biggest newspaper, and ATV was the second most-watched channel with 9.5 percent audience share in July, 2007 according to AGB Nielsen Media Research.

In September 2007 Rupert Murdoch entered the broadcasting market in Turkey by acquiring the 51 per cent share of Ihlas Group's TGRT channel.

### **3. Political Conditions**

Kurds as the largest minority in the country (approximately 15 million) are kept silent in media coverage. They are mostly associated with terrorism (the PKK), and are portrayed as divisive and as putting forth unreasonable demands (Sezgin & Wall



2005). Scholarly research also confirms the nationalistic coverage of the mainstream press<sup>7</sup> tending to define the nation via perceived internal and external threats. The coverage of the mainstream press regards Kurds as enemy others, belittling and discrediting their existence and cultural values. The choice of words and pictures to describe Kurds is mostly biased. While the news coverage is expected to build bridges between different cultures, the mainstream press continues to reaffirm and reproduce prejudices.

There are sensitive issues such as criticizing Atatürk and his legacy, the military and publishing news and articles about the “alleged” Armenian genocide and Kurdish issue contrasting the official ideology which are off limits. For instance, Law 5816 under which insulting Atatürk is punishable by one to three years in prison. In this case against, the sentence is increased by a half for journalists and news media.

Article 318 of the criminal code has not been modified as part of the reforms carried out since 2002 with a view to rapprochement with the European Union. It provides for jail terms of six months to two years for distributing propaganda or encouraging activities that could divert the population from military service. The sentence is increased by a half for journalists and news media. “Conscientious Objection” as a human right is a taboo in Turkish media. If a columnist or reporter publishes anything on this subject, it is very likely to be charged under Article 218 of the Turkish Penal Code which criminalizes “alienating the public from military service” and face several years in prison.

As a result of those articles of Penal Code, self-censorship among columnists, reporters, political cartoonists is extremely common. Cartoonists are not immuned by those legal restrictions so there are many charges against editorial cartoonist who draw on dailies and weekly humor magazines (Tunç 2002). As a sign of intolerance, Prime Minister Recep Tayyip Erdogan has often targeted cartoonists by taking them to trial between 2005- 2008.

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<sup>7</sup> See Arusyak Yumul and Umut Ozkirimli’s article, “Reproducing the Nation: ‘Banal Nationalism in the Turkish Press,” in *Media, Culture & Society* 22 (6): pp. 787-804.

Although discrimination on the basis of personal characteristics is illegal under the Penal Code, it is still very common to see stereotypical images, anti-Semitic expressions and sexist discourse on Turkish newspapers and news magazines. As minorities approximately 25,000 Jews, 3,000 Greek Orthodox Christians, 50,000 Armenian Orthodox Christians live peacefully in Turkey. They are integrated with the Turkish establishment. However there are still difficulties to openly publish about being a non-Muslim or a non-believer.

On May 4, 2007 a bill passed by Parliament allowing the authorities to block websites with content deemed to have insulted the memory of Atatürk, was signed into law by the former President Ahmet Necdet Sezer on 22 May, 2007. As a result of this law, an Istanbul court ordered the national telecommunications company Turk Telecom to block the video-sharing site YouTube on numerous occasions in 2007 and 2008 because of content regarded as “insulting” to Atatürk.

Therefore, legal restrictions extended to the Internet. Article 8 of Law 5651 on the “Prevention of crimes in the computer domain” calls for content to be blocked if it violates a 1951 law on “crimes against Atatürk.” The article says: “When there is sufficient evidence of the improper aspect of content (...) access must be blocked.” As well as punishing “crimes against Atatürk,” Law 5651 also punishes “inciting suicide” (article 84), “sexual abuse of children” (article 103), “prostitution” (article 227) and “inciting drug use” (article 190).

The actual state repressions changed for the better during the past five years with the help of the prospect of European Union membership. On a scale of -3 to + 3, Turkey can be rated as +2 (with strong improvement). However there are still rare instances such as Kanal Türk TV channel’s being intimidated by the ruling party because of their critical reporting in February 2007.

#### **4. Economic Pressures**

The only income of the private media is advertising revenues. Especially private channels cannot survive without commercials. According to the recent RTÜK (Supreme Council of Radio and Television) regulations, the duration of commercials

has been cut down from 20 minutes to 6-7 minutes. This resulted as a sharp increase of prices on national television stations. However, the public broadcaster, TRT, is not in a brutal competitive environment where ratings are the key criteria for success. TRT's financial status is secured by state subsidies but it still trying to get a share from the advertising sector.

In Turkey the advertising market is worth 3.7 billion (1 YTL = 1.7 Euro). 40 % of this market goes to television commercials (approximately 1.4 billion YTL) where 90 % of this share belongs to Dogan, Merkez and Dogus Groups.

15 % of TRT's income comes from the commercials and TRT's share of advertising market is only 5 %. 55 % of its income comes from electric bills however that subsidy share on bills has been reduced from 3.5 % to 2 %. With this recent decision, public broadcaster got a big blow from the AKP government. Its revenues decreased 22 %. In 2007 TRT's total income is around 590 million YTL with 168 million from tax stamps, 270 million from electric bills and 55 million from advertising revenues. 7500 personnel are on TRT staff. TRT's total annual expenditure is approximately 696 million YTL. Therefore the financial situation of the state broadcaster is not very promising. According to Nielsen AG reports, its ratings dropped from the 5<sup>th</sup> rank to the 8<sup>th</sup> in 2007. Only 4 out of 100 households watch TRT. There has been an ongoing mismanagement in the institution with overcrowded staff and unappealing programs for the last decade.

Although political advertising is banned in the country, Television Producers Association (TVYD) and CEOs of private channels are currently trying to negotiate with RTÜK to lift the ban.

One of the biggest concerns in terms of diversity in media in 2007 is AKP government's attempts to establish its own supporters in media. The television channels, radio stations and newspapers are enjoying the financial support and favors from the government in return they are used as propaganda tools. Islamic newspapers such as Zaman, Yeni Safak and Vakit are open supporters of the ruling party whereas Sabah has been sold to a businessman who has close links to the Prime Minister. Similarly Kanal 24, Fox TV and Samanyolu are big supporters of the

AKP government. In 2008 ATV will be in the hands of Çalik Group who also purchased Sabah. As a result, the issue is not the state broadcaster TRT's being friendly towards government but rather the powerful private media conglomerates' unconditional support. TRT's role and share in the media scene is negligible however big media companies' close links with the government makes a great damage to the alternative and oppositional voices that never get heard in the society.

## **5. Non-State Repressions**

Following Hrant Dink's assassination, discussions on the concept of "deep state" came up again on the country's agenda. The criminal organizations within the state are believed to be behind the real Dink's murder. Turkish political system composed of high-level elements within the Turkish military, security and intelligence services, the judicial branch. There have been allegations that the deep state is in close contact with foreign intelligence agencies, mafia, drug and arms dealers, and even human traffickers. The notion is similar to that of a "state within the state," but additionally the deep state operates in the dark, using extra-judicial means, such as death squads.

The "deep state" is wedded to a fiercely nationalist, statist ideology who if need be are ready to block or even oust a government which does not share their vision. They believe they act on behalf of the nation and the state and so may sometimes be willing to ignore the law.

Since Turkey is still going through a strong nationalist backlash, the influence of the deep state makes it difficult for journalists to write critically about five major areas: Atatürk, the Kurds, the security forces, the Armenian killings, and the Turkish presence in Northern Cyprus. There is no direct evidence that the deep state is behind the Article 301 prosecutions, and only circumstantial evidence that it has had a hand in the spate of ultra- nationalist films, books and television programmes that have flooded the market over the past two years (Freely 2007). It is believed that the more Turkey breaks free of the "deep state" the more it will become a more open, transparent society.

The fear of the deep state repression on liberal media increased during the past five years and can be rated as a strong aggravation.

In addition to deep state's existence, one of the major problems in the media sector is the anti-union environment. Trade unions are constantly under attack by corporate media owners. Prior to the 1990s, many journalists were members of the Journalists Union of Turkey (TGS). TGS protected journalists' rights and negotiated collective bargaining agreements with the Turkish Newspaper Owners Trade Union. However, after the 1990s, union organizations began to fade away in the whole publishing and broadcasting spheres in Turkey. This situation left all the journalists vulnerable to all kinds of economic and social crises (Tunç 2003). Media owners used blunt tactics such as threatening journalists with job termination if they did not leave the union and also journalists were forced to sign clauses from the labor code defining them as "ordinary" labor (clause No: 1475), as opposed to a clause in the labor code (clause No. 212) which offered journalists special legal protections and minimum salary and working entitlements (Christensen 2007).

## **6. Conclusions**

As a conclusion freedom of the media in Turkey has major restrictions with a combination of the concentration of ownership, lack of labor rights and problematic press/speech laws. With the help of the country's legal attempts to adjust the EU laws, the freedom of the media slightly improved (+1) in the last two years.

From the point of view of journalists who live in Turkey, the major obstacles to free media coverage are the infamous Article 301 of the Penal Code, and many other vague clauses in Penal code used to penalize journalists and the sensitive issues that cannot be challenged such as criticizing Atatürk and his legacy, the military and publishing news and articles about the "alleged" Armenian genocide and Kurdish issue.

The civil engagement is extremely important to raise awareness of those issues in the Turkish society. Thus Konrad Adenauer Stiftung (KAS)'s efforts to collaborate with the civic organizations (i.e. Turkish Journalists Association-TGC), organizing

seminars, workshops, and conferences for the local media professionals and supporting publications on scholarly media research and giving scholarships to young people for graduate education receive a great amount of appreciation and respect in Turkey.

However, KAS can be even more active in supporting free media by acting as a catalyst among media departments of Turkish and German universities, focus on the labor rights of the mainstream media professionals and can also intensify its efforts to spread the media literacy education for young people in Turkish society.

Asli Tunç

## Bibliography

Akyol, Hüseyin (2008): *Haber Basinından İslamci Medyaya* (From Press to Islamic Media). Istanbul: Agora Kitaplığı.

Bianet 2007 Medya Gözlem Raporu (Media Monitoring Report) at <http://www.bianet.org/bianet/kategori/bianet/104186/bia-2007-medya-gozlem-raporu-tam-metin>

Gök, Fatma / Ilgaz, Deniz (2007): "The Right to Education" in: Arat, Zehra F. Kabasakal (ed.): *Human Rights in Turkey*, Philadelphia: University of Pennsylvania Press.

Freely, Maureen (2007): "Why They Killed Hrant Dink" *Index on Censorship* (2), pp. 5-9.

Önis, Ziya (2003): "Domestic Politics, International Norms and Challenges to the State: Turkey-EU Relations in the post-Helsinki Era", in *Turkish Studies* 4 (1), pp. 9-34.

Sezgin, Dilara & Wall, Melissa A. (2005): "Constructing the Kurds in the Turkish Press: A Case Study of *Hürriyet* Newspaper", in *Media, Culture & Society* 27 (5), pp. 787-798.

Tunç, Asli (2002): "Pushing the Limits of Tolerance. Functions of Political Cartoonists in the Democratization Process: The Case of Turkey", in *Gazette: The International Journal for Communication Studies* 64 (1), pp. 47-63.

### **Further Readings**

Bek, Mine Gencil (2004): "Tabloidization of News Media: An Analysis of Television News in Turkey", in *European Journal of Communication* 19 (3), pp. 773-785.

Christensen, Christian (2007): "Breaking the News. Concentration of Ownership, the Fall of Unions and Government Legislation in Turkey", in: *Global Media and Communication* 3 (2), pp. 179-199.

Çatalbas, Dilruba (2007): "Freedom of Press and Broadcasting" in: Arat, Zehra F. Kabasakal (ed.): *Human Rights in Turkey*, Philadelphia, University of Pennsylvania Press.

Özyürek, Esra (2006): *Nostalgia for the Modern: State Secularism and Everyday Politics in Turkey*. Durham: NC: Duke University Press.

Tunç, Asli (2004): "Faustian Acts in Turkish Style: Structural Change in National Newspapers as an Obstacle to Quality Journalism in 1990-2003", in: Spassov, Orlin (ed.): *Quality Press in Southeast Europe*, Sofia: Southeast European Media Centre.

## UKRAINE

During the Orange Revolution freedom of the media was achieved as a main pillar of democratization. This was consolidated during the political crisis in 2007 where the press coverage showed a balanced presence of all main protagonists.

However, the situation of the mass media shows severe deficiencies: Low wages of journalists lacks in their education and dependence of mass media on various financial and political groups result in major corruption problems regarding press coverage. Ultimately, the independence and trustworthiness of the mass media suffer and socially relevant topics are not sufficiently published.

### 1. General Conditions

The problems of deficiencies regarding mass media are certainly not a result of insufficient literacy level: The literacy rate in the Ukraine exceeds 99% (according to independent studies of the World Bank and the UNO), which corresponds to the rates of most developed countries. This is a result of a highly developed educational system in the Ukraine.

Due to the increasing importance of television and internet, the share of newspapers and magazines is falling, but the total quantity of newspapers still seems impressive: According to official data 22.794 periodicals are registered in Ukraine (with 9948 being distributed nation-wide, regionally and internationally, with 3.809 newspapers, 4.626 magazines, 381 bulletins, 77 almanacs, 816 collections, 185 calendars, 54 digests of the publications of the first type and 12.846 being published locally including 10.740 newspapers and 2106 journals and magazines). However, according to expert evaluation only about 8.000 periodicals are factually being published, of which the most important are the newspaper "Fakty" (2.65 Mio readers), the newspaper "Segodnya" (1.33 Mio Readers), "Komsomolskaya Pravda v Ukraine" (1.08 Mio readers), "Ekspress" (789.59 thousand readers).

As for the radio and TV stations the total number of currently registered companies amounts to 1.377 (858 broadcasters, 43 production studios, 13 distributors, 463



program service providers). There are 15 nation-wide television networks, 4 regional television networks, 15 nation-wide radio networks and 8 regional radio networks.

The sector of internet publications has been increasing considerably over the past years. Many printed periodicals publish electronic copies of their papers online. But there are e-publications, which have no printed analogues, for instance, proUa, "Ekspert-Centr", "Ukrayinska Pravda", Korrespondent.net etc.

The political segment of internet publications was significantly promoted by the disappearance and murder of G. Gongadze in 2000, who was editor-in-chief of the internet publication "Ukrayinska Pravda" and the national uproar that followed.

Generally internet space in Ukraine is not subject to censorship. The activity of internet publications in Ukraine is not regulated by any separate legislative tools, but this freedom was on the verge of being restricted in 2005: Transportation and Communication Minister E. Chervonenko planned an order "On securing the order of conducting state registration of electronic media" obviously attempting to secure state control over internet media. The open protest of journalists and the internet community and the threat of internet media owners to transfer their resources to foreign servers forced the authorities to drop their plans. As already mentioned, dependency of mass-media on various financial and political groups remains an acute problem for the society. Still it would be wrong to speak of monopoly in the Ukrainian media, as there are too many different groups controlling the media.

As for political parties, most of them have secured influence over TV channels, radio stations and newspapers, either by tycoons owning newspapers (e.g. Party of Regions deputies R. Akhmetov and A. Derkach, "Our Ukraine" member A. Tretyakov or by direct influence of the parties).

Additionally regional elites control local and non local TV Channels and radio stations. Due to poor advertisement rates this also holds true for many provincial newspapers, which are under strong influence of local administrations. The newspapers and radio companies representing the interests of business structures, which oppose local power, continually suffer under intense pressure. Therefore

deputies of the Ukrainian parliament declare moratoria for mass-media inspections for the elections period.

To give some examples, the municipal channel "Kyiv" is under control of the city mayor L. Chernovetskyi and the news channel "24" (28) is controlled by Lviv mayor A. Sadovyi (Leshchenko S., 2006)

Chernovetskyi also succeeded in consolidating such newspapers as "Hreshchatik" (10.000), "Vechirnyi Kyiv" (45.000) and "Ukrayinska stolytsia" and the weekly private newspaper "Zakon i biznes" (21.000). Sadovyi secures influence over private newspaper "Postup" (Data source: Leshchenko S., 2006).

Among protagonists having influence over media naturally the state should be contemplated as well, which in total owns about 4% of the TV and radio sphere and 5% of the newspapers. Among state publications the following are worth being mentioned: "Uriadovii Kurier" (87 thousand) (Cabinet of Ministers publication) and "Golos Ukrainy" (160 thousand) (publication of the Verkhovna Rada).

Apart from this, the state owns the National Television Company and the National Radio Company (both are broadcasting nation-wide), Ukrainian TV film studio "Ukrtefilm", State Television and Radio Company "Kultura", State Television and Radio Company "Vsesvitnia Sluzhba", "Ukrainske Telebachennia i Radiomovlennia", State City Television and Radio Company "Siverska" (Novhorod-Siverskyi of Chernihiv Oblast) and Kryvyi Rih City State Union of Television and Radio Broadcasting. There also are about 815 municipal television and radio companies, controlled by local authorities. There is no difference in allegiance to the executive power among various kinds of state media sources.

In all these cases the corresponding authorities entirely control the personnel and editing policy of the mass media, which results in a very friendly attitude of the state controlled media towards the government. But the dominance of private media remains and the state owned media almost hold no share of the published opinion.

The government, as well as other authority centers, regularly holds press-conferences. Access to these press-conferences is open for the representatives of all mass media types. Starting from 2005, there are no limitations based on political preferences. The access is only limited through physical room space of the premises, where press-conferences are held. Thus prior accreditation of the journalists is necessary. Private TV channels often enjoy the same rules in this respect as state channels.

To evaluate the extent of the media's influence on the public opinion the citizens' access to media and their behavior of consuming media has to be considered. According to the report of the World Bank access to the main communication sources in Ukraine makes up the following:

- Telephone main lines (per 1.000 people) 256,
- International voice traffic (minutes per person) 36,
- Mobile subscribers (per 1.000 people) 366,
- Population covered by mobile telephony (%) 96,
- Internet users (per 1.000 people) 97,
- Personal computers (per 1.000 people) 38,
- Households with television (%) 97.

All in all, these indices are quite satisfying compared to neighboring countries.

However, according to survey results, conducted by the Institute of Sociology of the National Academy of Sciences of Ukraine within the framework of the all-European research, 92.8 % of the respondents stated that they had no internet access and had never used it, while only one per cent of the population uses it on a daily basis. The latter is one of the worst indicators among European countries. (Golovaha E., Gorbachyk A., Panina N. 2006)

According to the same research, information deficiency is compensated by intensified share of TV watching. 45 % of the population watches TV more than two and a half hours on workdays (Ukraine is only surpassed in this respect by Greece (64) and Great Britain (50)). Radio listening rates are considerably lower. The overwhelming

majority of the population either do not read newspapers on workdays (26.7%) or spend less than one hour for that (55.6%)

The frequency of use with respect to the different media sources is the following:

- TV very often  
(according to Golovaha E., Gorbachyk A., Panina N. 2006, Ukraine displays the highest rate in Europe)
- radio often
- press often
- internet very often (those with internet access)
- verbal exchange of information often

It can be concluded that there is a significant influence of the media on the formation of political opinion in the Ukraine. Ukrainians often refer to the media materials covering political events, but political partiality and political commitment of the most Ukrainian media are generally known and most citizens spend considerable time turning to political news of the mass media of various political commitments.

Still, the level of confidence in mass media remains relatively high. According to surveys, conducted in June 2007 by the Ukrainian Institute of Social Research and the Social Monitoring Center, 58% of the population trust television, 50% trust radio, 46% trust newspapers. To compare, only 51% have confidence in the Armed Forces, for police it is 27%, for the Cabinet of Ministers - 31%, for the Verkhovna Rada - 23%, for political parties - 22%, for courts - 25%, for the public prosecutor's office - 30%.

## 2. Legal Environment

Generally the legal environment for issues concerning the freedom of speech, mass media and collection as well as distribution of information consists of the fundamental rights stated in the Ukrainian constitution and three laws regulating those rights in more detail: The law "On information" (adopted on October 2<sup>nd</sup> 1992), "On Printed

Mass Media (Press) in Ukraine” (adopted on November 16<sup>th</sup> 1996) and “On Television and Radio Broadcasting” (adopted on December 21<sup>st</sup> 1993).

The legal fundament of the freedom of opinion and speech is secured in Article 34 of the constitution of the Ukraine, which was adopted on June 28, 1996. The Article deals with the freedom of speech and opinion. It states: “Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs. Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice. The exercise of these rights may be restricted by law in the interests of national security, territorial indivisibility or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice”.

It is evident, that the article consists of three parts, the first and second part guaranteeing the freedom of speech and determining how to exercise this fundamental right and the third part regulating cases of restricting the freedom of speech. In contrast to the European Convention on Human Rights (which the Ukraine joined on July 17<sup>th</sup>, 1997) the Ukrainian constitution lacks the supplement that restrictions of the freedom of speech should be “specified by the law and are necessary in democratic society”, but all other provisions are generally the same.

Article 32 of the Constitution considers the issues of privacy protection: "The collection, storage, use and dissemination of confidential information about a person without his or her consent shall not be permitted, except in cases determined by law, and only in the interests of national security, economic welfare and human rights”.

Article 15 of the Constitution of Ukraine forbids censorship, stating that there should be no structures, which legally realize censorship activity and that no people, groups or institutions can be banned from coverage. The period of prohibiting coverage of certain politicians or public characters came to an end at the turn of 2004. Now there are no examples of implementing (or attempting to implement) political censorship. Attempts of the authorities to control mass media contents were replaced by

economic censorship, meaning strict control by mass media owners. As a consequence of the rights provided by the constitution journalism is a free profession without prohibitions, there is no special permission required for journalists to exercise their profession. Journalists of printed as well as TV media may participate in all public activities of the government and of the parliament. However, they need to undergo the accreditation procedure, which is not of discriminating nature.

Unfortunately the reality of the Ukrainian mass media indicates that this constitutional provision is not observed, although it has improved significantly since the “Orange Revolution”.

It can be concluded that the rights secured by the constitution of the Ukraine correspond to major norms accepted in civilized countries.

The restrictions of the freedom of speech and privacy protection are regulated in more detail by the law “On information”, Articles 28-37. This law is of fundamental character and considers the main principles of information relations, defines the trends, principles and sorts of information activity, spheres, sorts and sources of information, and access modes. The forms of the information request, cases of denial and postponement, as well as appeals of the denied requests, order of payment for information provision and finally confidential information are considered. The law regulates that access to open information should be provided through systematic publication of such information in officially printed periodicals and its distribution through mass media.

Information with restricted access is divided into confidential and secret information. Confidential information namely includes data about a person (education, marital status, religion, health state, date

It should be mentioned that the comment on the Law of Ukraine “On information” of the Constitutional Court of Ukraine on September 30, 1997 regulates journalistic activities with the goal of restricting the distribution and storage of information: “it is prohibited not only to collect, but also to keep, use and distribute confidential information about a person without its prior consent, except cases, provided by the

law, and only in the interests of national security, economical wealth, rights and freedoms of a person". Legal provisions for information access in Ukraine are constantly violated.

The Law of Ukraine "On Printed Mass Media (Press) in Ukraine" comprises main definitions, referring to the mass media sphere, considers the issues of legal setup of their activity, the order of registration of newspapers and magazines, journalists' rights and duties, the order of filing refutations, international cooperation in the sphere of printed media, responsibility for breach of the given law (including journalist benefits).

Articles 11-20 of the Law of Ukraine "On Printed Mass Media (Press) in Ukraine" are devoted to registration issues. Printed organs need to obtain registration of the State Committee for TV and Radio Broadcasting before starting their activity. Paying a special registration fee is required for obtaining a certificate. After getting a certificate a founder is obliged to start issuing a newspaper or any other printed medium according to the certificate within one year. Registration may be denied if the media with the same name is already registered, if less than a year has passed since the court ruling on suppression of such a printing organ, if the name or the program concept contradict the laws of Ukraine. Certain printed mass media may be distributed without registration. This is possible if they are issued in form of bulletins, by legislative, executive or judicial bodies, if they are informational digests with documents of companies, enterprises, educational or scientific institutions, if their printing production is not destined for public distribution.

According to Article 37 "On Printed Mass Media (Press) in Ukraine" and provisions of the Civil Procedure Code, the time limitation for legal actions on honor and dignity protection is set for one year. As far as criminal procedure is concerned, the new Criminal Code has no article on libel.

Activity of television and radio organizations in Ukraine is regulated by the Laws of Ukraine "On the National Council of Ukraine on Television and Radio Broadcasting" (September 23, 1997) and "On the System of Public Television and Radio Broadcasting of Ukraine" (July 18, 1997).

Within the past years it has been modified and supplemented repeatedly (10 times), though even now it is far from being perfect. The law includes general definitions, general principles of the activity of television and radio organizations, articles on licensing and protection of the interests of the national producer. Separate sections are devoted to the organization of the functioning of television and radio organizations, rights and duties of journalists and companies, rights of TV viewers and radio listeners, facilities and equipment of television and radio organizations, responsibility for the breach of law and international cooperation in the sphere of television and radio broadcasting.

“On the Television and Radio Broadcasting” considers the licensing procedure in Articles 13-19. According to the law Ukrainian citizens and judicial persons of Ukraine have a right to set up TV and radio organizations in Ukraine. The activity of TV and radio organizations with more than 30% of foreign investments is forbidden. In practice, however, this provision is easily evaded. The constitutional organ engaged in licensing is the National Council on Television and Radio Broadcasting of Ukraine. The decision on issuing a license is made based on competitive selection within one month.

Generally licenses for radio or TV stations as well as newspapers are only rarely taken away and this procedure is only possible on court ruling or on founder's decision.

After the presidential elections of 2004 the Ukrainian media entered a new stage of development. The tendencies are generally positive. Temniki (secret instructional memoranda prepared and distributed by the Presidential Administration to top managers and editors of national television stations and some newspapers - from the Russian *temy nedeli* or weekly themes) disappeared; there is less evident pressure on the editorial boards.

The legal implementation, however, for this positive development was already issued in December 2002, when parliamentary hearings on "Society, Mass Media, and Authority: Freedom of Speech and Censorship in Ukraine" were held on journalists'



request. Based on results of the hearings, the Law of Ukraine “On Amendment of Some Legislative Acts of the Ukraine on Issues of Ensuring an Unimpeded Realization of a Human Right to Freedom of Speech” was passed. According to it, Article 212-3 “On Breach of a Right for Information” is introduced into the Code of Ukraine. Based on this Article, unlawful refusal to grant information, untimely or incomplete provision or provision of corrupt information by officials inflicts penalty making up 15 to 25 minimal tax-free allowances. By repeated delinquency a fine of 25 to 50 minimal tax-free allowances is imposed. Amendments were also introduced to the Law of Ukraine "On Information". Article 30 of this law now allows distribution of information with restricted access without owner’s consent, if this information is considered socially significant for the public if the public interest exceeds the owner’s right for its protection. A further amendment was made to Article 45-1 “On Censorship Prohibition and Prohibition of Intrusion into Journalists’ And Mass-Media Professional Activity by Public Authorities or Local Authorities and Their Officials." In this article censorship is defined as “a requirement, directed at a mass medium, a journalist, an editor-in-chief, an organization, which realizes mass media publication, its founder (co-founder), publisher, distributor to coordinate the information distributed beforehand (except for cases, when such a requirement is set by the author of this information or any other copyright proprietor or proprietor of related rights for it) or/and as prohibition (except for cases, when such prohibition is imposed by the law) or prevention from distribution of information by public authorities, local authorities and their officials”. Intrusion into professional journalists’ activity, except for forms, accepted by legislation or agreement, is prohibited. It is prohibited to found organs for controlling information content in the media. Article 47-1 "Exemption from Liability" is also new. It supports the practice of the European Court of Human Rights and exempts from liability for expressing estimating judgments. However, definition of an "estimating judgment” may hardly be treated as successful, for insult or libel are not considered here. As there are no more corresponding articles in the Ukrainian legislation punishing for these phenomena, recurrence to these terms puzzles. Amendments are also introduced to Article 49 “Compensation for Material and Moral Damage". According to it, public authorities and local authorities may only demand disclaimers for corrupt information about them and have no right for demanding indemnification for moral damage. Amended is also Article 17 of the Law of Ukraine “On State Support for Mass Media and Social Protection of Journalists.” The

statement is confirmed that an official may only lay claim to compensation of moral damage, if intention is proved, that is "such attitude to information distribution, whereby a journalist and/or an official were aware of the information being corrupt and predicted its socially adverse consequences". Amendments were also introduced to Article 3 of the Decree of the Cabinet of Ministers of Ukraine from January 21, 1993 "On the State Duties". When now filing a suit to defend one's honor and dignity one needs to pay a differentiated duty: for a non-property claim – one minimal tax-free allowance, for the amount of the claim of up to 100 minimal tax-free allowances – 1% of the claim sum, for the amount of the claim of up from 100 to 10000 minimal tax-free allowances – 5% of the claim sum, for the claim, exceeding 10000 minimal tax-free allowances – 10% of the sum. These progressive changes will undoubtedly moderate the appetite of the Ukrainian officials.

No anti-terrorist legislation affecting the freedom of mass media was adopted in Ukraine.

Although the legal situation has improved strongly, there are still negative indicators considering the practical applications of the new laws. Those include discharging editors of newspapers and television companies, which is illustrated by the following examples:

In May 2006, by the ruling of the district court dismissed was an editor of the paper "Visnyk Krasnogradschyny" (Kharkiv oblast).

In June 2006, on protest of the public prosecutor's office editor of the paper "Nash Trotsianets", previously illegally dismissed by local authorities, was reinstated in his job.

In July 2005 Rivne journalist V. Gerus was convicted for the publication of the article "Political goals of Yushchenko" in the newspaper "Sem dnei".

More significant was the limitation of the freedom of speech and access to information in the decision of Kharkiv City Council to deprive the correspondent of the newspaper "Kommersant-Ukraina" M. Spalek of accreditation stating that the

journalist had misinformed the citizens regarding the reformation of housing and communal services. Mayor's office officials in fact assumed the court rights and punished the journalist for the information, which they depicted as incorrect. This is a very dangerous precedent, which undoubtedly leads to journalists' self-censorship. Unfortunately has not remained a singular case. In January 2007, city mayor of Ladyzhin ordered not to let the journalists of "Ladyzhins'ka gazeta" attend the meetings of the town council. The reason was the allegedly biased attitude of the newspaper to city authorities.

In several cases the worst traditions of Kuchma times were restored. In December 2006, in Dnipropetrovsk the central post office terminated the distribution agreement of the newspaper "Litsa" due to its accusations of budget squandering addressed to the city mayor. Following the protest wave of the journalists in December 2006 the president signed amendments to a series of laws of Ukraine, facilitating the participation of the mass media in covering the election process. However, the court retained the right for termination of the mass media organ activity for the election campaign period, if breach of election law was to be proved.

Nevertheless modification of free media coverage has had very favorable effects for the freedom of media: The situation has strongly improved over the last 5 years.

A problem that remains is formation of monopolies and cartels, especially on a regional level. In theory, there are provisions in the legislation, aimed against media monopolization. Article 10 "Guarantees against Monopolization of Printed Mass Media" of the Law "On Printed Mass Media (Press) in Ukraine" declares the prohibition of printed media monopolization. A person or a judicial person is not qualified to control more than 5% of printed media. Article 7 of the Law of Ukraine "On Television and Radio Broadcasting" regulates "Antimonopoly limitations". According to this article, TV and radio organizations, including its subsidiaries, have no right to broadcast on more than two TV channels and three radio channels. Communication enterprises, operating these broadcasting networks, are not qualified to become founders or owners of TV and radio organizations.

Legislative provisions are quite direct and rigid. In practice, they are successfully evaded.

An important TV holding is associated with the name of V. Horoshkovsyi. The holding comprises such TV channels as "Inter" (1 – hereinafter in brackets the rating according to GFK Ukraine will be indicated), "Enter" (29), "Enter-Film" (17), recently joined by D. Firtash channels, such as "K1" (23), "K2" (31), "Megaspport" (16) as well as NTN (10).

70% of the channel 1+1 is said to be controlled by A. Rodnyanskyi with 30% being in possession of R. Lauder, heir to the founder of the make-up empire E. Lauder. In fact, according to experts, R. Lauder is in control of over 60% of the shares, whereby A. Rodnyanskyi and B. Fuchsman control 20% each.

"Novyj kanal" (3), ICTV (4), STB (5), M1 (12), "11 kanal" (24) (Dniepropetrovsk) are parts of the media-empire of V. Pinchuk (Data according to: S. Leshchenko 2006)

Major publications in the newspaper business were owned by Ukrainian tycoons, who thus wanted to influence the public opinion. E.g. the paper "Fakty" is owned by V. Pinchuk, whose main business is connected with metallurgy. The newspaper "Segodnya" (170.000) and the regional paper "Salon Dona i Bassa" play a key role in the empire of R. Akhmetov. I. Kolomoyskiy is a shareholder of "Gazeta po-kievski" (around 60.000) and "Komsomolskaya pravda v Ukraine" (144.000).

Perhaps the largest is the newspaper holding "Ukrainskiy media-holding" owned by B. Lozhkin. He prints around 80 newspapers and magazines of various trends, including "Komsomolskaya pravda v Ukraine" (co-owned by I. Kolomoyskiy), "Argumenty I fakty v Ukraine" (185.000) (together with A.Chaban) and the magazine "Fokus"

One more media-holding is owned by the American J. Sunden. The holding prints, in part, the magazine "Korrespondent" (50,000), the newspaper "Kyiv Post" (25.000) and a free newspaper "15 minut" (120.000).

### **3. Political conditions**

As already mentioned the political situation has significantly improved for mass media since the “Orange Revolution” in 2004. Since then all layers of society and social groups are represented in the media. NGOs conduct social campaigns drawing the attention to certain population groups, such as Roma, or people, suffering from certain illnesses etc. There are no sections of population that are deliberately excluded by state actions from their right to freedom of information. The state does not hinder access to the internet in any way.

Journalists and media companies or organizations do not have to fear state repression. Since 2004 the actual threat of state repression has strongly improved. State repression is now almost never used against the media, the new president and the government destroyed the system of state censorship (which was realized through special instructions - “temniki”). Later, the system of political diarchy was formed, when different branches of power attentively and captiously controlled each other’s actions. This leads to the improvement of freedom of speech in Ukraine and termination of the intrusion into mass media proceedings on state level.

A problem that remains is the occurrence of self-censorship in Ukraine. It refers equally to the journalists of all mass-media groups: TV, radio and the press. The phenomenon of self-censorship is conditioned not by potential repressions of authorities (as it used to be before 2005) but by economic dependence of journalists on the owners of newspapers and magazines. It is an “unwritten law”, that journalists do not publish material, which could damage any (primarily, economic) interests of the owner. On the contrary, encouraged are materials, directed against the interests of the owner’s rivals (not necessarily media rivals. For a considerable part of media-owners media activity is not prevailing for their business).

Furthermore distribution of newspapers remains a serious problem for Ukraine. This sphere is monopolized in Ukraine (around 95% of circulation by subscription) and the only distributor – Ukrpochta – takes around 40% of printing cost price for its distribution. The system of non-governmental newspaper delivery is now formed in Ukraine. However, the tariffs are set in a non-transparent way, which leads to

considerable problems for newspaper existence. It was only in November 2007 that a distributor organization in Odessa increased the tariffs for newspaper delivery twice, the representatives of "Soyuzpechat" in Luhansk demand multiple payments for newspapers to be included into the sales system (Artazey A., 2007). Thus, delivery system is clearly unfavorable for the newspapers. However, there are no attempts anymore to complicate the distribution of opposition publications or to influence the paper contents. State authorities almost never take advantage of these control mechanisms in order to influence contents.

#### **4. Economic Pressures**

In fact, private media are not subsidized by the state, be it directly or through advertisement. Though there are types of indirect state support. In particular, the state remitted the value added tax for paper and for printing equipment, imported from abroad. The state conducts no advertising campaigns (except for elections). Starting from 2006 (according to the media-expert O. Khomenko) a series of local authorities concluded agreements on coverage of their activity with private media (such agreements were previously concluded exclusively by state media and they were most often covering the activity of corresponding state structures free of charge). In any case, state advertising plays no considerable role on the media market. In the period of election campaigns state media assumes all state advertising.

Indirect state subsidies do not influence the content of the publications.

Still important are the problems of monopolization, confused taxation, absence of quality paper, costly credits.

The issues of reduction of the Ukrainian press in price, the growth of its popularity, circulation, competitiveness, intellectual level are still topical.

In order to achieve the mentioned aims it is necessary to decrease the tariffs for newspaper and magazine distribution, set profitability limits and introduce the

privatization mechanism for printing enterprises where creative staff of the editorial board of periodicals and publishing houses could participate.

## **5. Non State Repression**

Unfortunately, the problems of physical safety for the journalists themselves and for the members of their families still prevail.

In April 2006, attempted crime was committed on the editor-in-chief of the publishing house «CN-stolichnye novosti» V. Katzman. He was beaten with wooden bats at the entrance of the residential building. The assailants took nothing of the belongings he had. The publication management thus believes the assault was connected with the newspaper struggle against anti-Semitism occurrences. A month later a law-enforcement officer seized the property of the journalist, who was convicted by Pecherskyi Court for his publications against anti-Semitic policy of the management of the Inter-regional Academy of Personnel Management.

This June at the session of the regional council deputy of the Party of Regions D. Shantsev beat up press photographer of "Associated Press", "ITAR-TASS", "Photolenta" agencies A Avdoshin, who filmed the fight of the deputies. Police and public prosecutor's office refused initiation of proceedings to the complainant.

In June 2006, an unknown person set the apartment of "Kievskie vedomosti"s staff correspondent S. Yanovskyi on fire. Petrol was poured from upper floors into the apartment, where at that time there was the journalist, his wife and his son, and set it on fire. It was only by sheer luck that the journalist and his family stayed alive.

The problem of physical threats is complicated by the fact that the organizers of crimes against journalists are usually not convicted and stay out of prison. Impunity leads to further crimes. Especially manifest was the murder of the journalist G. Gongadze, which partly remains unsolved. This undisputedly intensifies potential threat of attacks on journalists. Still non-state repressions against journalists, media companies and organizations remain a rare occurrence and the situation has strongly improved over the past five years.

Two reasons for this positive development should be mentioned. Firstly, international interest in and pressure on the investigation of the murder of G. Gongadze and A. Aleksandrov, displayed the danger of such actions for potential organizers; secondly, potential criminals changed the tactics in their relation towards journalists from physical threats to corruption and payment of bribes.

## **6. Conclusions**

It can be concluded that freedom of the media is secured in the Ukraine but with major restrictions and that a strong improvement has taken place over the last five years.

On the whole, the main achievement of the new (succeeding L. Kuchma) authorities was destroying the state censorship. However, today there are no guarantees that censorship will not be imposed again. A major guarantee could be the introduction of public broadcasting and denationalization of newspapers. State censorship was replaced by owner's censorship and, apart from this; the state still secures influence through state and communal press.

Media property did not eventually get transparent, and antimonopoly legislation did not start working properly. The new power is to blame for that, too.

In principle, activity of the mass media system in Ukraine is legally regulated and should also be functioning normally. In practice, however, the implementation of these laws leaves much to be desired. There is not a single law in the media sphere, which would be implemented in full scope.

The main factor threatening the freedom of speech is, in our opinion, poor economic state of the mass media organs. For most media owners they are not a matter of gaining profit, but a means of forming a favorable public opinion. Thus, investing money into the media-business, most investors treat this activity as auxiliary to their main business. It is therefore not amazing any longer, that popular publications are sold at dumping prices (it is especially often so during election campaigns), which initially cannot lead to self-repayment. Moreover, non-profitability of the media is



paradoxically beneficial for their owners. The journalists are easier manipulated, when the latter know that their wages depend not on the audience or advertisement, but on contribution of the media owner. In the end, it is critical state of the publications that leads to spreading of such notion as hidden advertising. Under these conditions many critical materials published in the media are not an indicator of the freedom of the press, but of founders' or sponsors' orders on destroying business or political rivals. Many of the mass media organs are no means for informing the audience, but an influence tool for financial and political clans. Thus, the interests of the society are moved to the background.

In May 2007, the UNO stated it considered the problems of editorial independence limited by owners as well as administrative leverage for limiting the freedom of speech critical for Ukraine.

All things considered, Ukraine is going through hard times of consolidation of democracy. Ukrainian journalists do not enjoy the rights and freedoms as their colleagues in civilized countries do. The period of formation of the democratic press is on its way. Pluralism of opinions in the Ukrainian media is not backed and provided for by the independence of newspapers and TV and radio broadcasting companies.

Activities of Konrad-Adenauer-Stiftung are an important constituent of consolidating the process of democratization in Ukraine, including the freedom of speech. Especially vital are the efforts directed at the development of the public dialogue between politicians and journalists. This helps to find points of interest intersection and meet balanced decisions.

The efforts of the foundation, directed at increasing journalists' professional skills, primarily by means of holding trainings and workshops, translating German textbooks on journalism are valuable under new conditions, too.

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## Bibliography

Артазей А. (2007): «Это ползучее удушение свободы слова в Украине» // Факты, 27 ноября, с.4.

(Artazey A. (2007): "This creeping suppression of the freedom of speech in Ukraine" // Fakty, November, 27, p.4.)

Головаха Є., Горбачик А., Паніна Н. (2006): Україна та Європа: результати міжнародного порівняльного соціологічного дослідження. Київ: Інститут соціології НАН України, 142 с.

(Golovaha E., Gorbachyk A., Panina N. (2006) "Ukraine and Europe: results of the international comparative sociological survey." Kyiv: Institute of Sociology of the Academy of Sciences of Ukraine, 142 pages).

Довідник каталог (2006): Міжнародний медіа форум «Україна на інформаційній карті світу». – Київ, С. 20-24.

(Reference catalogue (2006): International media forum «Ukraine on the information world map». – Kyiv, p. 20-24.)

Ежедневные общественно-политические газеты наращивают аудиторию (2007): МедиаБизнес / <http://www.mediabusiness.com.ua/news/6977.html>

(The audience of daily informational political papers is on the increase (2007): Mediabiznes / <http://www.mediabusiness.com.ua/news/6977.html>)

Звіт Національної ради України з питань телебачення і радіомовлення за 2006 рік (2007): Київ.

(Report of the National Council on Television and Radio Broadcasting of Ukraine for 2006 (2007): Kyiv.)

Лещенко С. (2006): Орбіти політичних медіа: сфера впливу Пінчука, Ахметова, Порошенка, Ющенка... // [http://pravda.com.ua/news\\_print/2006/12/6/52006.htm](http://pravda.com.ua/news_print/2006/12/6/52006.htm)

(Lechshenko S. (2006): Orbit of political media: spheres of interest of Pinchuk, Akhmetov, Poroshenko, Yushchenko... // [http://pravda.com.ua/news\\_print/2006/12/6/52006.htm](http://pravda.com.ua/news_print/2006/12/6/52006.htm))

## Further readings

Все про медіа регіонів України. — К., 2000.

(All about media in the regions of Ukraine. — Kyiv, 2000).

Законодательство Украины о средствах массовой информации. — Харьков, 1998.

(Ukrainian legislation on mass-media. — Kharkiv, 1998).

Іванов В.Ф. Законодавство про засоби масової інформації: український та зарубіжний досвід. — К.: Видавничий центр "Київський університет", 1999.

(Ivanov V.F. Legislation on mass media: Ukrainian and foreign experience. — Kyiv: Publishing house "Kyivskyi Universytet", 1999).

Іванов В.Ф. Медіа та політреклама у дзеркалі закону: Монографія. — К.: ЦВП, 2001.

(Ivanov V.F. Media and Political Advertising in the Law Mirror: Monograph. — Kyiv: 2001).

Преса і влада. — К., 2001.

(Press and authority. — Kyiv, 2001).

СМИ в СНГ: Бюллетень Европейского института средств массовой информации. — 2000-2002.

(Mass Media in the CIS: Bulletin of the European Institute for the Media. — 2000-2002).

Україна: Інформація і свобода слова. — К., 1997.

(Ukraine: Information and the Freedom of Speech. — Kyiv, 1997).

Українське законодавство: Засоби масової інформації. — К., 2000.

(Ukrainian legislation: Mass Media. — Kyiv, 2000).

Український часопис прав людини. — К., 1994-1999.

(Ukrainian Journal on Human Rights. — Kyiv, 1994-1999).

Marta Dyczok: *Was Kuchma's censorship effective? Mass media in Ukraine before 2004*, *Europe-Asia Studies*, Vol. 58, No. 2, pp. 215 – 238, [March 2006]

Andrés Schipani-Adúriz: *Through an Orange-Colored Lens: Western Media, Constructed Imagery, and Color Revolutions*, *Demokratizatsiya: The Journal of Post-Soviet Democratization*, Vol. 15, No.1, pp. 87-115 [Winter 2007]

Freedom House: *Under Assault: Ukraine's News Media and the 2004 Presidential Elections*,  
*update* 07/2004  
[www.freedomhouse.org/research/specreports/ukmedia604.pdf](http://www.freedomhouse.org/research/specreports/ukmedia604.pdf)

Myroslaw J. Kyj: *Internet use in Ukraine's Orange Revolution* , *Business Horizons*, Volume 49, Issue 1 January-February 2006, Pages 71-80

Mihai Coman *Developments in Journalism Theory About Media "Transition" in Central and Eastern Europe 1990-99*  
*Journalism Studies*, Volume 1, Issue 1 February 2000 , pages 35 - 56

Olga Baysha; Kirk Hallahan *Media framing of the Ukrainian political crisis, 2000-2001*  
*Journalism Studies*, Volume 5, Issue 2, 2004, Pages 233 – 246

Inna Cábeková; Jan Hanousek *The power of negative thinking: corruption, perception and willingness to bribe in Ukraine*, *Applied Economics*, Volume 36, Issue 4, 2004, Pages 383 – 397

Coyne, Christopher J.; Leeson, Peter T. *Read, All About It! Understanding the Role of Media in Economic Development*, *Kyklos*, Volume 57, Number 1, February 2004 , pp. 21-44(24)

Gorodnichenko, Y. / Sabirianova Peter, K., *Public sector pay and corruption: Measuring bribery from micro data*, *Journal of Public Economics*, 91 (5), p.963-991, Jun 2007