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DEMOCRACY AND THE MEDIA



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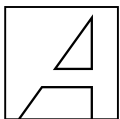
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EDITORIAL

Dear Readers,

In a democracy, the media fulfil fundamental functions. They provide information and commentary, initiate public debate, and thereby contribute to transparency and diversity of opinion. They should report independently and present an accurate and reliable image of reality to allow the country's citizens to form their own opinions about social and political issues. With this remit, the media represent an indispensable part of any liberal democracy, or said more succinctly: no democracy without free and independent media. The degree of freedom of the press and of opinion also always indicates the progress a country has made in terms of democratisation.

Lately, the political upheavals in North Africa and in Myanmar have demonstrated the close correlation between the media and democracy. When the Myanmar government announced the end of press censorship in August 2012 after 50 years of military dictatorship, this was seen as an important step towards a political opening up and the democratisation of the Southeast Asian country. The media were pervaded by a general sense of being on the brink of a new departure. In the case of the democratic movements in the countries of the "Arab Spring", social media played a crucial role in mobilising citizens and became established as the mouthpiece of the younger population. Images and information about the mass protests were disseminated via Facebook, Twitter and YouTube, partly in real time, enabling the global public to experience the upheavals virtually first hand.

The degree of independence and freedom enjoyed by the media differs greatly depending on the prevailing political and economic conditions of the particular country. There are only very few countries around the world where the state of press freedom can be described as satisfactory. The exertion of influence by governments, which restrict the

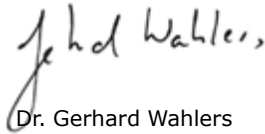
work of journalists by various means ranging up to censorship, has been joined by economic interests and dependence on advertising customers as well as an increasing concentration of media providers, all of which are endangering plurality of opinion and media independence.

Media consumers are also becoming aware of these developments. One could speak of a "crisis of confidence" when examining the results of a current representative study, which the KAS Media Program South East Europe commissioned for Bulgaria and Romania. According to this study, 60 per cent of Bulgarians deny that the media are independent. Only 14 per cent are confident that the reporting in their country is free. In Romania, citizens gave a similarly devastating assessment of their media. There, a mere 20 per cent of respondents believe in the independence of the media. Newspapers are the most important source of information for only seven per cent. Christian Spahr, Director of the KAS Media Program, concluded that to remain relevant to people and to hold their own against the competition from television and the Internet, newspapers have to make consistent efforts to pursue quality.

Although the era of digital communication brings many opportunities, it also entails new challenges for the classic media. Online news sites and social media have entered the field as additional sources of information besides the traditional information providers. To many people, particularly the young, the Internet has become the most important medium. While newspaper publishers in Europe and North America have experienced the impact of this development in the form of drastic drops in advertising revenue for some time, the Asian newspaper industry has the Internet revolution yet to come. In his article in this issue, Torben Stephan examines the consequences that this will have for the media landscape in Asia.

The Konrad-Adenauer-Stiftung believes in the following principle: anybody who wishes to support democratisation processes must also support the development of free and independent media. Encouraging freedom of the press and of opinion therefore represents a constant aspect of our work. With our three regional media programs, whose directors report in the current issue, we promote the raising

of journalists' qualifications, improvement of the political communication skills of politicians and parties, and the establishment of legal and ethical standards for journalists. With these efforts, we make a contribution to ensuring that the media can perform their important functions in democracy.

A handwritten signature in black ink that reads "Gerhard Wahlers," with a stylized flourish at the end of the word "Wahlers".

Dr. Gerhard Wahlers
Deputy Secretary General

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STRIVING FOR FREEDOM WORLDWIDE

The Konrad-Adenauer-Stiftung is a German political foundation. Through our activities in Germany and abroad we promote freedom, democracy and the rule of law.

Our key concerns include implementing social and market-oriented economic structures, advocating a united Europe and strengthening transatlantic relations, raising awareness on environmental and climate-related issues and supporting the process of democratic change worldwide.

The promotion of free and independent media as a central tool to any democratic system is an essential part of our work. We consider it our responsibility to contribute to ensuring that the media can perform their role to help develop and stabilise democracies worldwide. Our global media programme with offices in Singapore, Johannesburg and Sofia complements the work of more than 80 country offices in this field.

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Christian Spahr is Director of the Media Program South East Europe of the Konrad-Adenauer-Stiftung, based in Sofia.

FROM SECRECY TO COMMON KNOWLEDGE

THE RIGHT TO INFORMATION IN SERBIA AND BULGARIA

Christian Spahr

Press freedom is unthinkable without legal minimum standards. In modern democracies it is more than just a general guarantee in the constitution. It includes provisions to guarantee freedom of the press in everyday practice. An example of this kind of standard is that a journalist cannot be compelled to publish something under their name which is not their own opinion. Effective regulations for financial transparency of media outlets and against excessive concentration of ownership are also important, as is the explicit designation of paid content.¹ Deficiencies in these areas undermine confidence in the scrutinising role the media are supposed to exercise in the public sphere.

An equally important precondition for the work of free media is their right of access to information from the state. While journalists often have to rely on their investigative ability in the private sector, they should receive information from public authorities subject to established rules and in a transparent manner. In this respect, all media must be treated equally. A right of this kind is already included in the media legislation of many countries. Nevertheless, general provisions in media law have not always proved to be an effective lever for journalists. The scope of exemptions, for example requirements for confidentiality, can be very broadly defined.

1 | See inter alia press law of the federal state Brandenburg from 13 May 1993 (GVBl Bbg I 1993, 162), last amended on 21 Jun 2012 (GVBl Bbg I 2012, No. 27), inter alia on presserecht.de, http://presserecht.de/index.php?option=com_content&task=view&id=16&Itemid=27 (accessed 15 Feb 2014).

In addition, over the past 20 years an understanding has developed that a broad legal right to information from public bodies should not be confined to specific professional groups, such as journalists. The idea of a citizen-friendly administration and a changed conception of what constitutes a state service have resulted in the widespread adoption of right to information (RTI) laws, which apply to all citizens.

While in 1996 only 20 states had established a statutory right to information for their citizens, in 2013 this reached 95 countries² with a total of more than five billion inhabitants. Right to information laws have become an important means of strengthening the participation of civil society in public debates, involving citizens in forming political opinion and creating transparency in decision-making processes. The conditions for this are better than ever before, since in addition to legal progress the development of technology is simplifying access to information. Many documents are available electronically and numerous public bodies publish information on the Internet.³

In post-communist states where democratic standards first had to be established, the laws relating to freedom of information are of particular significance. Between 1995 and

2 | Access Info Europe, "RTI Rating Data Analysis Series: Overview of Results and Trends", 28 Sep 2013, 7, <http://www.access-info.org/documents/Report.13.09.Overview-of-RTI-Rating.pdf> (accessed 15 Feb 2014).

3 | In Germany too, official secrecy, an established privilege in public administration, had to give way to the general legal right of the Freedom of Information Act at the beginning of 2006. Cf. Federal Act Governing Access to Information held by the Federal Government (Informationsfreiheitsgesetz, IFG), <http://www.gesetze-im-internet.de/bundesrecht/ifg/gesamt.pdf> (accessed 15 Feb 2014). Members of the press in seeking information could now choose whether to rely on the press laws of the federal states or on the freedom of information laws of the Federal Republic and the states. The new freedom of information legislation often proved advantageous since the Federal IFG, unlike the press laws, contains a right of access to files. Investigative journalists also see an advantage in this, for example in researching cases of corruption, in that they can present themselves as citizens and do not have to declare themselves as journalists. Cf. Manfred Redelfs, "Sieben Gründe, warum das Informationsfreiheitsgesetz für Journalisten von Vorteil ist", Netzwerk Recherche, <http://netzwerkrecherche.de/Infofreiheitsgesetz-IFG/Was-bringt-das-IFG-Journalisten> (accessed 15 Feb 2014).

2005 many Central and Eastern European countries introduced RTI [right to information] laws. Today there are a larger number of these laws in the region than in Western developed countries. In the years following the transition they were intended to contribute to making politics more transparent and work in conjunction with the renunciation of absolute power of the state. Knowledge held by the government was formerly secret, reserved for a small elite. At an early stage, civil society consequently demanded improved access to state information, as was the practice in established democracies.⁴

An analysis as early as 2006 remarked that the new member states of the Council of Europe from the former Eastern bloc have progressive legislation.

System change, democratisation and opening of society have contributed considerably to the emergence of legal standards for access to information. At least on paper, the transition countries have set standards: An analysis as early as 2006 by the leading NGO on the subject, Access Info Europe (AIE), based in Madrid, remarked that the new member states of the Council of Europe from the former Eastern bloc have progressive legislation. Court decisions were putting additional pressure on governments to practice greater openness, for example in Bulgaria.⁵

FREEDOM OF INFORMATION BECOMES A HUMAN RIGHT

The Right to Information (RTI) has meanwhile become a recognised Human Right. It has been regarded as such by numerous national and international courts and is established in EU law, for example through Article 10 of the European Convention on Human Rights and the Lisbon Treaty. The Right to Information has its origin, among other sources, in the International Covenant on Civil and Political Rights (ICCPR), which was concluded in 1966 and came into force in 1976. Article 19 guarantees freedom of

4 | Cf. Helen Darbishire, "A Right Emerges: The history of the right of access to information and its link with freedom of expression", 11 Jan 2014, 3, e-mail communication to KAS staff member Denica Zheleva, 28 Jan 2014.

5 | Helen Darbishire, "Access to Information: A fundamental right, a universal standard", Access Info Europe, briefing paper, 17 Jan 2006, 3, <http://www.access-info.org/documents/files/access-convention-2006/06%2001%2017%20Access%20Info%20Europe%20Briefing%20Paper%201.pdf> (accessed 15 Feb 2014).

expression, and thus free flow of information.⁶ An older and more broadly defined point of reference is the General Declaration of Human Rights of 1948 (Article 19).

Freedom of information is further specified as a universal standard in the Council of Europe Convention on Access to Official Documents of 18 June 2009 (the Tromsø Convention). This sets forth how citizens should be able to access official documents and calls moreover for access to records free of charge.⁷ So far, six states have ratified the Tromsø Convention, which has been the subject of extensive discussion. Access Info Europe is critical of the fact that Germany and other Western European countries have not yet acceded to the Convention, in contrast to younger democracies like Estonia, Lithuania and Serbia.⁸

Freedom of information is specified as a universal standard in the Council of Europe Convention on Access to Official Documents of 18 June 2009.

The legislation of the new EU member states and candidates for accession is in some respects more progressive, since it is influenced by the emerging international standards. During its formulation lawmakers could learn from shortcomings in other countries. The EU candidate Serbia has received the highest marks internationally for its freedom of information law – it is placed first out of 95 states analysed in the ranking of AIE and the Canadian Centre for Law and Democracy.⁹ This Balkan country achieves 135 of 150 rating points, which in the opinion of the NGOs would represent an ideal law. The evaluation was based on the criteria established internationally up to 2013. RTI laws were investigated according to specific criteria. These include the scope of application of the law, permitted exceptions, application procedures, possible appeals against decisions, sanctions for infringements and information of the population concerning their rights.

6 | Federal Foreign Office, "Internationaler Pakt über bürgerliche und politische Rechte vom 19. Dezember 1966 (BGBl. 1973 II 1553)", <http://auswaertiges-amt.de/cae/servlet/contentblob/360794/publicationFile/3613/IntZivilpakt.pdf> (accessed 15 Feb 2014).

7 | Council of Europe, "Council of Europe Convention on Access to Official Documents", 18 Jun 2009, <http://conventions.coe.int/Treaty/EN/Treaties/Html/205.htm> (accessed 15 Feb 2014).

8 | Darbishire, n. 4, 13.

9 | Access Info Europe und Centre for Law and Democracy, "Global Right to Information Data. Country Data", http://rti-rating.org/country_data.php (accessed 21 Mar 2014).

While several Central and Eastern European countries are in the top 20, Access Info Europe relegates many West European countries to the lowest ranks. AIE expert Helen Darbishire sees positive effects for the West through these developments in the post-communist region. After the West transferred democratic standards to the East, standards are now being transferred in reverse from the East.¹⁰ The authors of the study emphasise, of course, that they are evaluating only the quality of the laws and not their application. Even strong laws cannot guarantee openness if they are not correctly applied. On the other hand, in individual cases, countries with weak laws can also be considered open to an above average extent if greater value is placed on their application in practice.

SERBIA: PUBLIC COMMISSIONER FOR ACCESS TO INFORMATION

The Public Commissioner for Access to Information receives complaints from the public, decides within 30 days on contentious cases, and is authorised to issue instructions to public authorities.

In Serbia, where the right to information also has constitutional status, the law relating to freedom of information was passed in 2004. It can be regarded as modern not only

because of its broad range of application, but above all because it provides for an Ombudsman for the general public.¹¹ The Public Commissioner for Access to Information receives complaints from the public, decides within 30 days on contentious cases, and is authorised to issue instructions to public authorities. According to an analysis from 2013, he represents the country's oldest independent regulatory authority and the public has recognised him as a partner.¹² The Public Commissioner for Access to Information thereby contributes significantly to ensuring that the statutory principle of transparency is upheld. Over a period of more than seven years citizens turned to him with more than 15,000 complaints.¹³ Accord-

10 | Cf. Darbishire, n. 4, 7.

11 | Commissioner for Information of Public Importance and Personal Data Protection.

12 | Vesna Petrović and Vladan Joksimović, *Human Rights in Serbia 2012*, Belgrade Centre for Human Rights, Belgrad, 2013, 46, <http://bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2013/12/Human-Rights-in-Serbia-2012.pdf> (accessed 15 Feb 2014).

13 | Bojana Barlovac, "Serbia's Public Information Act Tops Global Ranking", *Balkan Insight*, 22 Feb 2012, <http://balkaninsight.com/en/article/serbia-tops-global-ranking-of-public-information-act> (accessed 15 Feb 2014).

ing to his office, in 91 per cent of cases his intermediation is successful.¹⁴ The annual number of complaints has continued to increase in recent years. According to Serbian journalists associations, the activities of the Ombudsman are particularly helpful in investigative research.

The current office holder, Rodoljub Šabić, has received numerous awards for his work, for example from the Association of Serbian Journalists, the OSCE, agencies of the European Union and other institutions.¹⁵ Šabić stands for a broad application of the right to information and, among other cases, supported a youth initiative for human rights demanding information from the Serbian secret service about surveillance of communications. In many countries secret service information is obtainable only with difficulty, despite freedom of information legislation. In this particular case, only a complaint of the NGO to the European Court for Human Rights was finally successful.¹⁶

Despite the comprehensive scope of application of the Serbian RTI law and the widely praised work of the Public Commissioner for Access to Information, criticism is also expressed. Human rights specialists and journalists complain that, even after the intervention of the Commissioner, many public authorities refuse to provide the information demanded, and fail to pay the resulting fines. The Commissioner also does not have sufficient support from the government. There is a shortage of office space, money and personnel.¹⁷ In addition, only a quarter of the public authorities are making regular reports to the Commissioner, according to a study of the Belgrade Center for Security Policy (BCBP) and the Center for Investigative Reporting in Serbia (CINS).¹⁸

14 | According to the website of the Information Commissioner: Commissioner for Information of Public Importance and Personal Data Protection, "Rodoljub Šabić", <http://poverenik.org.rs/en/o-nama/organization/90-Rodoljub%20Sabic.html> (accessed 15 Feb 2014).

15 | Ibid.

16 | Dirk Voorhoof, "Article 10 of the Convention includes the right of access to data held by an intelligence agency", *Strasbourg Observers*, 8 Jul 2013, <http://strasbourgobservers.com/2013/07/08/article-10> (accessed 15 Feb 2014).

17 | N. 12, 49.

18 | Marko Milošević and Predrag Petrović, *Slobodan pristup informacijama od javnog značaja: teorija i praksa*, BCBP, Belgrad, 2013, http://bezbednost.org/upload/document/slobodan_pristup_informacijama.pdf (accessed 18 Feb 2014).



Rodoljub Šabić in April 2012: The Public Commissioner for Access to Information is the oldest independent regulatory authority in Serbia. | Source: Luka Knežević, SHARE Conference, flickr ©📷📷.

Legislation Good, Application Mediocre

In a recent survey of Serbian journalists by the KAS Media Program South East Europe, the legal provision is rated on average as good (two on a scale of one to five). But the representatives of the media are less satisfied with its application. The willingness of government and public authorities to provide information is rated only as average (three on a scale of one to five). In this respect, there are hardly any differences between national, regional and local authorities. All participants in the survey said they had at least once before experienced difficulties in obtaining information on the basis of the law. Since predominantly investigative journalists took part in the survey, the result cannot reflect the experiences of all media representatives. In another survey of editors-in-chief, only a minority said information of public significance had been denied them.¹⁹ Nevertheless, it is clear that the principles of openness and transparency are not yet being fully observed in many authorities. All the journalists asked were of this opinion; two thirds of them, however, have already noticed improvements.

19 | See Jovanka Matić et. al., *Serbian Media Scene vs. European Standards, Report based on Council of Europe's Indicators for Media in a Democracy*, Belgrad, 2012, 15, <http://civilrightsdefenders.org/files/Serbian-Media-Scene-VS-European-Standards.pdf> (accessed 16 Feb 2014).

In the experience of the journalists, the reasons the authorities give for refusing information are varied. They include recourse by authorities to the protection of personal data laws or reference to “commercial secrets”, for example where contracts with companies are concerned. Some state or quasi-governmental organisations deny that they have the status of a public authority. Others refuse with reference to procedural errors or argue that they are not responsible. In isolated cases authorities also seem to deny, contrary to the truth, that they have the required information, or they send only part of the material. Frequently the legal time limit of 15 days is apparently not being observed, which in some cases may be explained by overloading or lack of qualification of the staff. In many analyses the complaint is also made that the authorities do not always give equal treatment to all media, presumably on political grounds. Admittedly, these problems are not all typical for Serbia or South East Europe. Some of the tactics by authorities mentioned here are also criticised by journalists in Germany.²⁰

In many analyses the complaint is also made that authorities do not always give equal treatment to all media, presumably on political grounds.

The representatives of the Serbian media see room for further improvement in the legislation. Some of those questioned wanted the Freedom of Information Commissioner to have better opportunities for imposing sanctions. Many urge the application of penalties not only to the authorities concerned, which can pay a fine out of their own budget, but also addressed personally to the Director of the authority or member of staff responsible. Furthermore, investigative journalists in particular would like legal protection for whistle blowers. The European Commission identified a deficiency in this respect in its progress report for Serbia in 2012, but corresponding initiatives by the Commissioner were not successful.²¹

20 | E.g. Meedia, “Wie Behörden Journalisten austricksen”, 30 Jun 2013, <http://meedia.de/2013/06/30/wie-behoerden-journalisten-austricksen> (accessed 15 Feb 2014); Manfred Redelfs, “Mehr Transparenz wagen – der schwierige Abschied vom Amtsgeheimnis”, address to the symposium “Perspektiven der Informationsfreiheit” of the Federal Commissioner for Data Protection and Freedom of Information on 8 Jun 2011 in Berlin, Netzwerk Recherche, <http://netzwerk-recherche.de/Infofreiheitsgesetz-IFG/Transparenz-nur-fuer-Hartnaeckige/Mehr-Transparenz-wagen-der-schwierige-Abschied-vom-Amtsgeheimnis> (accessed 15 Feb 2014).

21 | Petrović and Joksimović, n. 12, 51 et seq.

BULGARIA: RESTRICTED FREEDOM OF THE MEDIA

Monopolisation in the newspaper sector, insufficient or inefficient legal rules and a self-regulation system only in theory, all give rise to criticism in Bulgaria.

Another larger Balkan country, Bulgaria, at present has apparent deficits in media freedom. Monopolisation in the newspaper sector, insufficient or inefficient legal rules and a self-regulation system only in theory, all give rise to criticism. Foreign ambassadors have repeatedly expressed their concern, and the exploitation of the print media for political purposes was the subject of Western media reports. The shortcomings in the media sector have resulted in the country slipping down to 100th place of 180 states in the latest press freedom ranking by Reporters Without Borders – the worst result in the EU. In a representative opinion survey of the KAS Media Program, only one in seven Bulgarians states they believe in the independence of the media.²²

Environmental Movement Accelerates RTI Legislation

While a press law to assist in securing independence and diversity in the media landscape is still lacking, the Bulgarian freedom of information legislation is viewed as quite successful.²³ It occupies 39th place in the RTI ranking of Access Info Europe, an above average result,²⁴ and came into force as early as 2000. The Bulgarian debate on freedom of information can be traced back to communist times. The movement in support of a right to information had its origins in the experience of the disaster at the Chernobyl nuclear power station,²⁵ when the authorities in Bulgaria and other Eastern Bloc countries for a long time ignored the need of the population for information. In Bulgaria, for example, the movement Ecoglasnost²⁶ was active in 1989, but the environmental movement later also proved to be a

22 | Christian Spahr, "Only one in seven Bulgarians thinks the media are free. Study commissioned by the KAS Media Program", KAS Country Report, <http://kas.de/medien-europa/en/publications/36759> (accessed 15 Feb 2014).

23 | Official English translation: Access to Public Information Act. 24 | N. 9.

25 | Darbishire, n. 4, 6.

26 | Andrew Puddephatt, "Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws. The Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom", *Access to Information Working Paper Series*, Washington DC, 2009, 5.

catalyst for the development of RTI legislation in Western European countries. The Aarhus Convention on Access to Information in Environmental Matters, adopted in 1998, made a significant contribution to this development.²⁷ The leading NGO in Bulgaria for information access, the Access to Information Programme (AIP), was founded in 1996 and partly has its roots in the environmental field.

According to Alexander Kashumov, Head of the Legal Team of AIP, the basic preconditions for good access to state information in Bulgaria are already fulfilled.²⁸ The freedom of information legislation has been improved frequently since it was first passed in 2000. Particularly important was an amendment in 2008, which extended the area of application to a greater number of institutions and prescribed a “balancing of interests test”. This assesses in individual cases which legal right weighs more heavily – data protection or the public interest. By applying this test, information which is not normally open to access can be released. The NGO, which also supports Bulgarian journalists in their investigations, nevertheless wishes to see further improvements. As with the representatives of the Serbian media, there is a demand for stronger sanctions. On the other hand, a regulatory body of the kind that exists in Serbia is lacking. In addition, Kashumov urges the signing of the Tromsø Convention by Bulgaria.²⁹

The freedom of information legislation has been improved frequently. Particularly important was an amendment in 2008, which prescribed a “balancing of interests test”.

Controversy over Stasi Files

The legal framework for the process of coming to terms with the communist past is also in general satisfactory, at least since 2006. Since then the files of the Bulgarian state security service are freely accessible and the data of former officers and agents are not subject to the otherwise normal protection of personal information. The leader of the Socialist Party which has been in government since May 2013 has meanwhile considered merging the authority responsible for Stasi files with the State Archive. For the

27 | The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

28 | Interview with KAS staff member Denica Zheleva, 6 Feb 2014.

29 | Ibid.

past few months the latter has been under the direction of a former Stasi agent. This plan would have put a de facto end to the reprocessing of the Stasi past, but was not carried out in the end due to public protests.

According to AIP, over the years access to information has become simpler, not only in theory but also in practice. The organisation nevertheless makes the point that there has never been a strong political will to change the culture of public administration from secrecy to openness. Although Bulgaria is a member of the international initiative Open Government Partnership (OGP)³⁰ the principles which OGP represents, according to Kashumov, are never actively promoted. He sees international dialogue as an important element in bringing about improvements. The progress reports of the European Commission, but also the comments of Western ambassadors, were supportive in bringing about changes in the direction of more democracy.³¹



Demands for higher transparency in the politics and a stronger voice of civil society: Demonstration by young Bulgarians in Sofia in 2013. | Source: © KAS Bulgaria.

30 | Open Government Partnership, <http://opengovpartnership.org> (accessed 21 Mar 2014). This body was established mainly at the initiative of the U.S. government.

31 | In July 2013 the German and French ambassadors had published a joint newspaper appeal to listen to the voice of civil society, have greater regard for citizens' interests and to guarantee media diversity. The regime-critical demonstrators in Sofia expressed their gratitude by including both embassies in the routes taken by their protest marches.

The persistence of NGOs and investigative journalists in previous years has significantly contributed to inducing Bulgarian authorities to release even sensitive information. In quite a number of cases the information requested was first refused. Even recently, reputable journalists from various kinds of media were affected by this. Numerous reporters had to fight for their rights in court, frequently with the support of the Access to Information Programme. Contested cases often concern the use of public funds. One of the most well-known legal actions concerned a state procurement contract with the software manufacturer Microsoft. The authorities had argued that commercial contracts with third parties were confidential. The court, for the most part, took a different view.³² Further enquiries decided in court concerned, for example, state financing of parties, lobbyists involved in the writing of legislation, and contracts of public bodies for services and consultancy.³³ These examples show that the freedom of information legislation is also suitable for use in research into possible corruption.

Contested cases often concern the use of public funds. One of the most well-known legal actions concerned a state procurement contract with Microsoft.

JOURNALISTS AND CIVIL SOCIETY MAKE USE OF FREEDOM OF INFORMATION LAW

Of 150 legal actions under the freedom of information law in which the AIP has been involved, 30 involved journalists. Representatives of the media are thus an important group among the beneficiaries of the law in Bulgaria. Early on they recognised the opportunities associated with the law. In a survey of the opinion research institute "Market Links" in 2008, 94 per cent of journalists said they were aware of their right to information. Among the population as a whole the figure was 38 per cent. At that time a majority of journalists (81 per cent) as well as of the general public (62 per cent) complained that the right of

32 | Good Law and Practice, "Rosen Bosev (Capital Weekly) v. Director of the Government Information Service", http://right2info.org/cases/plomino_documents/r2i-rosen-bosev-capital-weekly-v.-director-of-the-government-information-service (accessed 15 Feb 2014).

33 | Access to Information Programme Bulgaria, "Cases by Journalists", <http://ati-journalists.net/en/cases/category.php> (accessed 15 Feb 2014).

Feedback from Bulgarian journalists supports the conclusion that, at least in investigative research, readiness to cooperate on the part of the authorities is still limited.

access to information in Bulgaria was not respected.³⁴ Personal feedback from Bulgarian journalists to the KAS Media Program also supports the conclusion that, at least in

investigative research, readiness to cooperate on the part of the authorities is still limited. Bulgarian journalists tend to take a more critical view of both the legal situation and their practical experiences than their Serbian colleagues.

In 2012 a total of more than 9,000 applications were made under the freedom of information legislation, of which four per cent were rejected. In most cases full access was granted. 56 per cent of applications came from citizens, the remainder in about equal parts from journalists, companies and NGOs.³⁵ Despite individual cases justifiably giving rise to controversial discussion and well-founded criticism from journalists, it is possible on balance to conclude that the law has established itself in practice. However, the authorities seldom publish information for citizens about the opportunities for access to personal information, although they are legally obliged to do so.

In comparison with Germany, it is apparent that citizens in Bulgaria and Serbia make extensive use of freedom of information legislation. The juxtaposition with Bulgaria is particularly surprising – around 9,000 applications in the Balkan country contrast with only some 6,000 a year in the Federal Republic. The difference appears even greater when taking into account that the Bulgarian population is eleven times smaller. Meanwhile in Serbia some journalists are now afraid the large number of searches for information could overwhelm the country's public authorities. Several explanations could account for the large number of applications: in the first place, a level of mistrust against state authorities as high as ever after decades of communist rule, but also greater pent-up demand for the publication

34 | Access to Information Programme Bulgaria, "Access to Information. Results. National Public Opinion Poll September-October 2008", http://aip-bg.org/pdf/main%20results_ati_opinion%20poll.pdf (accessed 15 Feb 2014).

35 | Access to Information Programme Bulgaria, "Systematized data for the Access to Public Information Act Implementation. Based on Statistics from the Government Reports 'The State of the Administration' 2001-2012, Bulgaria", Aug 2013, http://store.aip-bg.org/laws/APIA_Implementation_Data_Eng.pdf (accessed 15 Feb 2014).

of state information in general. At least in Bulgaria the low level of trust in the independence and competence of the media may also lead citizens to ask for information from the authorities themselves.

SCOPE FOR IMPROVEMENT

Besides putting final touches to the legislation, other approaches suggest themselves for the further improvement of access to state information in countries in transition.

Frequently lack of knowledge is an impediment to proper use and implementation of the provisions for freedom of information.

Frequently lack of knowledge is an impediment to proper use and implementation of the provisions for freedom of information. The legal duties for the staff of state agencies are considerable. Professional training is therefore required for all staff that have to answer freedom of information requests. In larger authorities a good way to deal with the workload would be to concentrate applications in the hands of specially trained civil servants or in one specialised department.³⁶

Training for journalists in the optimal use of RTI laws is similarly sensible. A number of NGOs as well as international organisations such as the OSCE have offered seminars of this nature for representatives of the media in the Balkans. In this respect it makes sense when specialists from the respective country or from Western Europe are not the only contributors.³⁷

For training of journalists, handbooks with practical tips for carrying out research, which should as far as possible be freely available on the Internet, are also useful. One such aid is the 85-page *Legal Leaks Toolkit* developed by Access Info Europe together with the German journalists' network

36 | In Germany, requests for information by the press, in contrast to freedom-of-information applications, are treated in administrative courts as matters of urgency, and injunctions may be obtained at short notice. This would be an additional option for countries in South East Europe.

37 | In 2013 the KAS Media Program South East Europe supported an information trip to Sofia for Macedonian journalists interested in the experience of Bulgarian experts and media representatives.

n-ost, which is now available in seven languages.³⁸ Furthermore, in cases where applications for information are refused, journalists often require professional support in reaching their objective through the courts. It is therefore a considerable advantage if journalists' organisations and specialist NGOs like the Bulgarian "Access to Information Programme" provide legal advice or assistance in litigation.

Not least, it is necessary to promote further awareness of the right to information. For this purpose, the state must make even greater efforts to inform citizens of their rights. But civil society initiatives generating broad publicity can also help. There exists, for example, the International Right to Know Day, with which Bulgarian NGOs draw attention to freedom of information every year on 28 September.³⁹ Awarding prizes to investigative journalists who successfully apply the RTI laws can also increase awareness.

Among the most difficult tasks, however, is the change of the administrative culture, which is not yet complete, both in South East Europe and other parts of the continent. However detailed the regulations for openness and transparency, success in practice is decided by the consensus of the governors and the governed. There has already been great progress here in the past two decades, and journalists have made considerable contributions to this through their research and reporting.

This article was researched with the assistance of Denica Zheleva and Lina Rusch

38 | Of these, the standard work was translated into Bosnian, Croatian and Serbian with the support of the KAS Media Program. Cf. Access Info Europe and n-ost, *Legal Leaks Toolkit*, <http://www.legalleaks.info/toolkit/download-toolkit.html> (accessed 21 Mar 2014).

39 | 28 September – International Right To Know Day, <http://righttoknowday.net/en> (accessed 7 Mar 2014).

SOUTH AFRICA'S PROTECTION OF STATE INFORMATION BILL

WHAT ARE THE LESSONS LEARNED FOR AFRICA?

Christian Echle / Justine Limpitlaw

In the age of technology with high-speed Internet access and smart phones, it is sometimes easy to imagine that all journalists' working lives are the same: deadlines, insufficient resources, worrying about the threats of digital media (if one is in print) and the race to break news. In some ways these concerns are indeed universal. However, what journalists in North America and Europe hardly ever have to worry about is their basic right to report the news. It is true that in a post-Wikileaks and News of the World journalistic environment, all reporters have had to consider their fundamental role in providing news, information and analysis ethically. However, in Africa many journalists find themselves carefully tiptoeing through minefields of media laws which limit their ability to report accurately and truthfully on the news of the day, particularly when reporting on activities of the powerful in government.

A key characteristic of many southern African countries is a media law landscape with a relatively benign liberal constitution at the apex. All constitutions protect freedom of expression to some extent. However, very few changes have been made to media legislation to ensure that the legislation accords with the constitutional right to freedom of expression. Despite oft-expressed anger over the colonial era and its on-going repercussions for the continent, African political elites have essentially retained colonial era media laws as is. One only has to list many in-force statutes to note that African media law appears to have stultified in the early or mid-20th century. Both Lesotho's



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and Swaziland's Sedition legislation dates back to 1938.¹ Swaziland's Cinematograph Act is from 1920. Many countries' Penal Codes date back to the 1960s – prior to their independence from colonial powers. These Penal Codes criminalise many forms of expression including defamation, insult and false news, and provide for significant jail sentences.

BLOCKING THE ROAD TO DEMOCRACY: STATE POWER THREATENING THE MEDIA

In Swaziland, a journalist was charged with contempt of court for reporting the fundamental issue of whether or not the Chief Justice is fit to hold office, given that he is the subject of impeachment proceedings in Lesotho.

Looking back to the year 2013, it is obvious that those laws are used by government officials to threaten journalists in their daily professional work. In Swaziland, a journalist was charged with contempt of court for

reporting the fundamental issue of whether or not the Chief Justice is fit to hold office, given that he is the subject of impeachment proceedings back in his own country, Lesotho.² In Zambia, police detained two journalists of the *Daily Nation* and charged them with "publication of false information with intent to cause public alarm" under section 67 of the Zambian penal code. They had cited McDonald Chipenzi, leader of the non-profit organisation Foundation for Democratic Process (Fodep), voicing concerns about the recruitment process for new members of the Zambian police.³ In Tanzania, the two newspapers *Mwananchi* and *Mtanzania* were suspended by the unilateral action of the Minister of Information, citing breach of the peace concerns – *Mwananchi* was reporting on new salary structures in the government.⁴

1 | Cf. Justine Limpitlaw, *Media Law Handbook for Southern Africa*, Vol. 1, Konrad-Adenauer-Stiftung, Johannesburg, 2012, Chapter 7 (Swaziland) and 10 (Lesotho), <http://kas.de/medialawafrika> (accessed 21 Mar 2014).

2 | "Swaziland: Concerned With Sentencing of Swaziland Editor Bheki Makhubu", *AllAfrica*, press release, 18 Apr 2013, <http://allafrica.com/stories/201304180435.html> (accessed 21 Mar 2014).

3 | "FODEP boss, Daily Nation Editors in court for mention", *Lusakatimes*, 26 Dec 2013, <http://lusakatimes.com/2013/12/26/fodep-boss-daily-nation-editors-court-mention> (accessed 21 Mar 2014).

4 | "Govt shuts down Mwananchi, Mtanzania for 'provoking hostility'", *The Citizen*, 29 Sep 2013, <http://www.thecitizen.co.tz/News/Govt-bans-Mwananchi--Mtanzania/-/1840392/20111424/-/12bbww5z/-/index.html> (accessed 21 Mar 2014).

Another constant cause for conflict between the state power and media houses is the matter of source protection. In May 2013, the police in Uganda searched the newsrooms of the newspaper *Daily Monitor*, the radio stations *KFM* and *Dembe FM* as well as the tabloid *Red Pepper* for eleven days. The reason for the raid was that a high-ranking member of the army had allegedly sent a letter to the editors. It supposedly contained information about a plot to assassinate army officers and politicians who were opposed to Muhoozi Keinerugaba, the president's son. It also revealed that this plot was created to make sure that Keinerugaba can succeed his father, Yoveri Museveni. After the United Nations had condemned the raids and the letter was not found on the eleventh day of the search, the media houses were finally able to resume operations.⁵

The example shows that the media in sub-Saharan Africa neither have a lack of explosive information nor corresponding informants. On the road to democracy and economic growth, corruption and nepotism continue to be the biggest problems on the continent. Since grave struggles for power and influence are not uncommon within the ruling parties, incriminating information about members of the government are given to the media on a regular basis.

However, the protection of journalistic sources and so-called whistleblowers is no longer just a question of dealing with the media, but with the civil society in general.

Thanks to mobile devices, the Internet spreads in Africa with rapid growth. Confidential information is not only given to journalists, but shows up on blogs and Facebook pages.

Thanks to mobile devices, the Internet spreads in Africa with rapid growth rates.⁶ Confidential information is not only given to journalists any longer, but shows up on blogs, Twitter timelines and Facebook pages. The most prominent example of this development is Baba Jukwa (Father of Jukwa). This Facebook profile⁷ caused quite a bit of hustle and bustle before last year's elections

5 | Katharina Lang, "Urged to Self-censorship: Tanzania's Control over the Media", Konrad-Adenauer-Stiftung, 23 Oct 2013, <http://kas.de/medien-afrika/en/publications/35836> (accessed 21 Mar 2014).

6 | Cf. Markus Brauckmann, "A Good Connection? Mobile Phones and Democratization in Sub-Saharan Africa", *KAS International Reports* 11/2011, 14 Nov 2011, <http://kas.de/wf/en/33.29399> (accessed 21 Mar 2014).

7 | Facebook profile of Baba Jukwa, <http://fb.com/pages/Baba-Jukwa/232224626922797> (accessed 21 Mar 2014).

in Zimbabwe by publishing any kind of confidential information, with a focus on the ruling party ZANU-PF and the state of health of President Robert Mugabe.

After Baba Jukwa had released a warning that the ZANU-PF wanted to get rid of the previous Mining Minister, Edward Chindori-Chininga, and he actually died in a mysterious car accident a few days later, the profile quickly had 300,000 followers and concentrated public attention. Other postings about conspiracies and corruption cases followed, as well as the telephone numbers of those involved in these plots. In mid-July, two weeks before the elections, President Mugabe finally promised 300,000 U.S. dollars to anyone who could reveal the identity of Baba Jukwa.⁸ Seven months later, the profile is still active and is updated several times per week.



Published confidential information on the governing party ZANU-PF and the state of health of President Robert Mugabe: The anonymous Facebook profile of Baba Jukwa. | Source: N. 7.

8 | Jane Flanagan, "Mugabe hunts for internet mole 'Baba Jukwa' revealing his secrets", *The Telegraph*, 14 Jul 2013, <http://telegraph.co.uk/news/worldnews/10178570/Mugabe.html> (accessed 21 Mar 2014).

SOUTH AFRICA'S PROTECTION OF STATE INFORMATION BILL

These examples show that the handling of confidential information and its dissemination to the media is an important and highly relevant issue in southern Africa. Against this background, it is worthwhile to take a closer look at the Protection of State Information Bill (POSIB) in South Africa. This Bill represents the first attempt of a sub-Saharan African country to create security legislation which is not based on colonial law. As in many other areas, it can be assumed that this law will have a significant impact on similar legislative reform processes in neighbouring countries, as South Africa is still considered the most advanced country in the region and acts as a role model.

The planned introduction of the Bill is particularly delicate, since the country has seen numerous cases of corruption and irregularities going public in recent months. At the center of the biggest scandal is President

At the center of the biggest South African scandal is President Jacob Zuma, who needs to sign the Protection of State Information Bill in order to make it a law.

Jacob Zuma, who needs to sign the Bill in order to make it a law. After the president's private homestead in Nkandla had undergone a security update, it became public that the costs to the taxpayer are in excess of 20 million U.S. dollars. The upgrades included a swimming pool – declared as “fire pool” – as well as a number of new residential buildings. Zuma is now confronted with the accusation of misappropriation of public funds. When the media quoted from the provisional version of the investigation report by Public Protector Thuli Madonsela, it was condemned unlawful by government officials. They voiced criticism that the president's security cluster did not have a chance to give its input on the report.

South Africa has a legacy of draconian, anti-media security legislation from the Apartheid era which, obviously, prioritised state security at the expense of media freedom. The pervasive culture was one of secrecy as opposed to transparency, and by its very nature, it put the needs of the Apartheid security apparatus ahead of the basic needs of ordinary citizens.



A new security legislation which is not based on colonial law: South African President Jacob Zuma still needs to sign the Protection of State Information Bill. | Source: Ragnhild H. Simenstad, Royal Norwegian Ministry of Foreign Affairs, flickr ©©©.

The POSIB was initially introduced in March 2008⁹ and it proposed to repeal the Protection of Information Act, 1982. This Act was a severe piece of security legislation, crafted in the era of P.W. Botha, the second to last president of the apartheid regime. It granted vast discretionary powers to the President to exercise subjective discretion, preventing the reporting on or publication of an array of security-related information.

After 1994, the Protection of Information Act (which was still on the statute books) was clearly unconstitutional as it violated, among others, the constitutionally-protected rights to freedom of expression, including the right of everyone “to receive and impart information and ideas”¹⁰ and “to access any information held by the state”.¹¹ Essentially, the POSIB was an attempt to repeal Apartheid-era security legislation and replace it with Democratic-era security legislation.

9 | Government Gazette No. 30885, 18 Mar 2008.

10 | Constitution of the Republic of South Africa, section 16(1)(b), 1996.

11 | Constitution of the Republic of South Africa, section 32(1)(a), 1996.

The history of the passage of the Bill through Parliament has been extremely torturous. Interestingly, the Bill became more draconian as it wound its way through Parliament, particularly after its reintroduction in 2010. The Bill met with furious opposition from civil society which protested vigorously its more problematic aspects. It essentially took precedence over and excluded the Promotion of Access to Information Act, 2000 which is the legislation that gives effect to the Constitutional right of access to information. Also, the Bill contained draconian offences provisions including long jail sentences (of up to 25 years) for disclosing classified information, even if this was in the public interest. Maybe the biggest problem was the fact that the Bill had extremely broad and vague grounds for classifying information, giving nearly everyone the opportunity to cover criminal actions and especially corruption cases on a state level.

The Protection of State Information Bill contained draconian offences provisions including long jail sentences for disclosing classified information, even if this was in the public interest.

The Bill was debated in both the National Assembly and in the National Council of Provinces for years and in both chambers, civil society furiously derided the Bill as not moving sufficiently far away from Apartheid-era security legislation. It was finally passed by Parliament in April 2013 and went to President Jacob Zuma for his signature, which is required before a Bill can become law. Interestingly and in a move that was widely lauded, President Zuma did not sign the Bill into law and instead sent it back to Parliament for reconsideration as he is required to do in terms of section 79(1) of the Constitution if he "has reservations about the constitutionality of the Bill". The Bill was subject to further amendments and repassed by Parliament in November 2013. However, currently it is still not law and is sitting with the President awaiting his signature. If the President is of the view that his concerns regarding the constitutionality of the Bill have been addressed then he must sign the Bill into law. If not, he must refer the Bill to the Constitutional Court for a decision on its constitutionality.¹² Many commentators speculate that the Bill will not be signed into law prior to the May 7 general election due to the public opposition that the Bill has generated.

12 | Constitution of the Republic of South Africa, section 79(4), 1996.

Although the Bill is not yet law and might still go to the Constitutional Court for a ruling on its constitutionality, it is important to consider, assuming that the dust has settled, how it looks now. As it currently stands, the Bill¹³ is a vast improvement over the Protection of Information Act old (currently enforceable) law and also over previous drafts of the Bill. Five aspects are to be highlighted.

The POSIB defines “national security” as the protection of the people of the Republic and the territorial integrity of the Republic against the threat of using force or the use of force.

First, unlike the Apartheid-era Protection of Information Act, it contains objective as opposed to subjective grounds for classifying information. Section 8(2)(a) of POSIB states that classification of state information is justifiable “only when it is necessary to protect national security”. Further “national security” is defined as the protection of the people of the Republic and the territorial integrity of the Republic against the threat of use of force or the use of force as well as against a number of acts including: terrorism, espionage, sabotage, exposing state security with the intention of undermining the constitutional order of the Republic or serious violence aimed at overthrowing the constitutional order of the Republic.

Secondly, POSIB makes it an offense to classify information in order to:¹⁴

- Conceal corruption or other unlawful acts or omissions, inefficiency, incompetence or administrative errors,
- restrict access to state information in order to limit scrutiny and thereby avoid criticism,
- prevent embarrassment to a person, or organ of state,
- lessen competition,
- prevent or delay the release of state information that does not require protection under the Bill.

Third, POSIB no longer purports to take precedence over the Promotion of Access to Information Act which gives effect to the Constitutional right of access to information. This has been a significant bone of contention for many years. Earlier iterations of the Bill clearly and unambiguously gave the provisions of POSIB precedence over the provisions of the Promotion of Access to Information Act.

13 | Bill 6H, 2010.

14 | POSIB, section 8(2)(b).

Civil Society pointed out the illegality of this attempt to, in effect, ouster the right of access to information protected under the Constitution and it appears that the President, at least, recognised this illegality. The fact that classified information will still be subject to the provisions of the Promotion of Access to Information Act is a major victory for opponents of the Bill as it means that the grounds for disclosure contained in that Act will have application in respect of information classified in terms of POSIB too.

Fourth, and perhaps most controversially is the issue of a public interest exception for disclosure of classified information. Section 41 of POSIB makes the intentional disclosure (or even possession) of classified state information an offence carrying a maximum penalty of five years imprisonment. However, the Bill does now include exceptions to this and the exceptions include:

- Disclosures which are protected under legislation dealing with: whistleblowers, company law, corruption, the environment or labour.
- Disclosures which are authorised under any Act of Parliament. Significantly this would now include the Promotion of Access to Information Act which itself contains a public interest exemption¹⁵ in respect of disclosing information the disclosure of which would ordinarily be protected, if disclosure would reveal: a substantial failure to comply with the law and where there is an imminent and serious public safety and environmental risk and the public interest in disclosure outweighs public interest in non-disclosure.
- Disclosures which reveal criminal activity including wrongfully classifying the information in the first place.

Nevertheless, there is still no generally applicable broad “public interest” defence to disclosing classified information and for that reason many are concerned that the Bill does not go far enough in protecting journalists who are engaged in investigative reporting in respect of issues that do not fall within one of the protected disclosure exemptions set out above. It is likely that this issue will, at some point, be settled by the Constitutional Court.

15 | Promotion of Access to Information Act, section 70, 2000.

Fifth and perhaps most important for the continent, the Bill represents the first time an African country has repealed colonial era security laws and replaced them with security laws that are, generally speaking, in line with international standards for security laws. For this reason alone the POSIB is to be welcomed. In this regard it is important to note that the preamble to the POSIB contains a number of statements which are significant, since they accept that the right of access to information is a cornerstone of South African democracy and they recognise the harm caused by excessive secrecy. They also promote the free-flow of information within an open and democratic society without compromising the national security of the Republic.

Further, section 4 of the POSIB sets forth "General Principles of State Information" which underpin the Act and which will inform its implementation. Many of these

The general principles of POSIB require state information to be accessible to all as the basis of a transparent, open and democratic society.

are in line with international best practise statements. For example, one of the principles states that state information should be available and accessible to all persons, unless restricted by law that clearly stipulates reasonable and objectively justified public or private considerations. Furthermore, those principles require state information to be accessible to all as the basis of a transparent, open and democratic society. At the same time, the principles highlight that protection and classification of certain state information is however vital to save lives, to enhance and to protect the freedom and security of persons, to bring criminals to justice, to protect national security and to engage in effective government and diplomacy.

FREEDOM OF EXPRESSION IN AFRICAN CONSTITUTIONS

Many countries in Africa have constitutions that protect fundamental human and civil rights. Further, African countries as members of the African Union often have a number of international agreements and treaties which ought to be informing them as to the kinds of laws that need to be passed (or indeed repealed) in line with their international obligations.

The first agreement in this regard was the African Charter on Human and Peoples' Rights, 1981 (Banjul Charter) which provides that "Every individual shall have the right to receive information".¹⁶ The Declaration of Principles on Freedom of Expression in Africa, 2002, which was adopted by the African Commission on Human and People's Rights (African Commission) in 2002, goes more into detail. Article IV.2 provides that the right to information shall be guaranteed by law in accordance, among others, with the following principles:


- No one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and
- Secrecy laws shall be amended as necessary to comply with freedom of information principles.

Further, article XIII provides, among other things, that freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal connection between the risk of harm and the expression.

The African Union Convention on Preventing and Combating Corruption, 2003 (AU Corruption Convention) was adopted by the AU in 2003 and came into force in 2006. In article 9, it states that each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences. In article 12, it requires State Parties to create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs and ensure that the Media is given access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

Lastly, the African Charter on Democracy, Elections and Governance, 2007 (AU Democracy Charter) was adopted in 2007 and came into force in 2012. Article 27 provides that in order to advance political, economic and social governance, State Parties shall commit themselves to undertaking regular reforms of the legal and justice systems. They are also supposed to improve efficiency and effectiveness of public services and combating corruption and to promote freedom of expression, in particular freedom of the press and fostering professional media.



It is becoming increasingly difficult for governments to hide behind any secrecy law: People in Melbourne protesting for Wikileaks founder Julian Assange in 2010. | Source: John Englart, flickr .

SOUTH AFRICA AS A BATTLE GROUND IN THE FIGHT OVER SECURITY LAWS

Unfortunately the continent is not known for updating repressive security laws. The rhetoric of anti-colonialism that is so popular among governments that have fought for national liberation masks a deep-seated attachment to colonial-era security laws that, oddly, seldom seem to be repealed after liberation. Robert Mugabe's use of the Rhodesian regime's emergency powers is not an isolated example. There are many others, for example, the Zambian Penal Code of 1930, Lesotho's Sedition Proclamation of 1938, and Malawi's official Secrets Act of 1913. These are, obviously, entirely out of step with fundamental human rights, particularly the right to free expression.

Consequently, there are a number of real positives about the POSIB and it is clear that it does reflect a rights-based sea change in attitude when compared with Apartheid-era security laws. South Africa has been and still is a key battle ground in the fight over legitimate and illegitimate security laws. The role it plays on the continent means that the implications of this fight are likely to have international consequences.

It is worthwhile to consider that notwithstanding the inconsistent and incoherent forward and backward motion by the South African government on secrecy laws, one of the huge lessons of the "Arab Spring" and the cases of WikiLeaks and Edward Snowden is that it is becoming harder and harder for governments to hide behind any secrecy law, progressive or not. The Internet and, specifically, the rise of the smart phone give ordinary people the power to be the investigative reporters of their own realities and to record and film their lives in ways that can easily be used by the mainstream media. Time and time again information is leaked to the media, and governments are fighting a losing battle over unwarranted secrecy laws. It is clear that popular sentiment is not in favour of secrecy, particularly illegitimate secrecy.



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PERIOD OF GRACE FOR ASIAN NEWSPAPERS

THE INTERNET REVOLUTION HAS YET TO COME
TO THE CONTINENT

Torben Stephan

The newspaper market in China, India and Indonesia is booming. These three emerging economies alone ensure that newspaper circulation is increasing in Asia as a whole. In their euphoria, many media representatives, however, overlook the fact that the Internet revolution has yet to come to this part of the world. To date, only a third of the Asian population has access to the Internet, while two thirds rely on other sources. In places where people have good access to the Internet, such as Japan and Singapore, Asian newspapers are also battling falling circulation figures. Publishers should make a start now to adjust to the new era.

ASIAN BOOM IN THE NEWSPAPER MARKET

2011 was an excellent year for the newspaper sector in India. Circulation increased by five per cent, advertising revenues even by 15 per cent. It is no wonder that the president of the trade association walked up to the microphones to deliver his annual report with his head held high. Jacob Mathew, President of the World Association of Newspapers (WAN-IFRA, India), shouted defiantly to the heads of publishing houses assembled in Chennai that the newspaper industry had resilience of over 400 years in its genes. "There is no crisis in newspaper industry."¹

1 | "No crisis in newspaper industry", *The New Indian Express*, 7 Sep 2011, <http://newindianexpress.com/cities/chennai/article359224.ece> (accessed 7 Mar 2014).

Strong words in Asia, while newspaper publishers in Europe and the USA were licking their wounds, inflicted by the advance of the Internet. They were still commiserating about falling circulation figures and advertising revenues. Asia, on the other hand, appeared to have remained totally unscathed by the so-called newspaper crisis. Two years later, there was renewed rejoicing at the World Newspaper Congress 2013 in Bangkok, the annual international meeting of the World Association of Newspapers and News Publishers. Newspaper circulation figures had risen by close to ten per cent over the previous five years in Asia, reported WAN-IFRA. Advertising revenues had increased by just over six per cent over the same period.² While Asians paraded through the Bangkok Convention Centre on a wave of success, Europeans and Americans showed a rather more despondent demeanour.

The success story from Bangkok spread quickly. The economic news of the *Neue Zürcher Zeitung*, for instance, carried the following headline on 4 June 2013: "Asia's newspapers continue on growth path." And it almost sounded as if there was a hint of hope in this headline of the traditional Swiss newspaper that maybe everything would soon go back to normal in Europe as well. Maybe the Asians had found a way for print newspapers to stand up to the digital threat from the Internet.

In short: they have not. In spite of all prophecies, Asia is no land of plenty for newspapers either; even if former WAN-IFRA President Christoph Riess called Asia "the powerhouse of the world's newspaper industry". It always did sound more like wishful thinking than reality. When one looks more closely, one soon realises that newspaper publishers in the highly developed Asian countries are fighting exactly the same battle with falling circulation figures as their European and North American counterparts.

Newspaper publishers in the highly developed Asian countries are fighting exactly the same battle with falling circulation figures as their European and North American counterparts.

Most notably Japan. This high-tech country has a unique newspaper tradition. The daily paper with the biggest circulation in the world based in Tokyo, *Yomiuri Shimbun*,

2 | WAN-IFRA, "World Press Trends 2012", 3 Sep 2012, <http://wan-ifra.org/articles/2012/09/03/world-press-trends-2012> (accessed 21 Mar 2014).

currently sells just under ten million copies – every single day. *Asahi Shimbun* from Osaka follows in second place with just under eight million.³ In view of the circulation figures common in Germany and Europe, these numbers are more than impressive. However, one should not ignore the fact that circulation in Japan is also on a strong downward trend. According to WAN-IFRA, *Yomiuri* was still selling 14 million copies back in 2005, and *Asahi* twelve million. The situation is similar in Singapore, which boasts fast, stable and, above all, uncensored Internet access. Since 2008, the sales of daily newspapers in the city-state have decreased by eleven per cent – even though the Singapore Press Holding has no competitors. In South Korea, which today is Japan's equal in terms of high tech, circulation dropped by 7.5 per cent between 2010 and 2012.⁴



Just under ten million copies sold every day: *Yomiuri Shimbun* from Tokyo, here the edition of 12 March 2011 with the Fukushima nuclear disaster as lead story, is the daily paper with the largest circulation in the world. | Source: Pinboke Planet, flickr ©.

The fact that as a region Asia has experienced an increase in circulation despite this, as well as an increase in revenues from advertising is due mainly to the two large emerging economies of India and China. While sales are decreasing in highly developed countries, new Asian competitors are moving up in the world ranking. The Chinese newspaper *Sichuan Daily* apparently already sells over eight million copies. If this figure is correct, the paper

3 | International Federation of Audit Bureaux of Circulations (IFABC), "National Newspapers Total Circulation", 30 Dec 2013, http://ifabc.org/site/assets/media/National-Newspapers_total-circulation_30-12-13.xls (accessed 21 Mar 2014).

4 | Ibid.

has already caught up with the Japanese *Asahi Shimbun*. *Cankao Xiaoxi* from Beijing and *The Times of India* published in New Delhi both exceeded the three million mark some time ago.

Quoting the current figures provided by WAN-IFRA, *The Economist* reported in mid-2013 that China had overtaken India as the largest newspaper market with a total daily circulation of 114.5 million copies.⁵ According to the latest figures, newspaper sales have reached 118 million copies per day in China.⁶ Only in 2011, *The Economist* had painted precisely the opposite picture.⁷ At that time, India had overtaken China and headed the field with some 110 million copies. This duel illustrates the strong growth of the newspaper industry in these two emerging economies. Indonesia too, a country with a population close to 250 million, was able to increase its total circulation by a sensational 29 per cent between 2008 and 2012.⁸

Indonesia was able to increase its total daily press circulation by a sensational 29 per cent between 2008 and 2012.

Asia, therefore, has mainly the emerging economies of India, China and Indonesia to thank for the large increases in circulation. At the same time, the highly developed countries in Asia are battling with the same problems as the West. The fact that circulation figures overall are still on the increase is purely down to the joint population of the three best-performing countries being almost twice that of the remaining Asian countries.

ECONOMIC UPTURN AND LACK OF INTERNET CONNECTIVITY IN THE GROWTH COUNTRIES

It is precisely the above-described situation that gives rise to the assumption that there is a connection between the economic development of emerging countries and the

5 | "Fold the front page", *The Economist*, 4 Jun 2013, <http://economist.com/blogs/graphicdetail/2013/06/daily-chart-1> (accessed 7 Mar 2014).

6 | Bundesverband Deutscher Zeitungsverleger (BDZV), "Zeitungen und ihre Leser in Stichworten", No. 14, Nov 2013, <http://www.bdzv.de/markttrends-und-daten/wirtschaftliche-lage/wissenswertes> (accessed 7 Mar 2014).

7 | "Bulletins from the future", *The Economist*, 7 Jul 2011, <http://economist.com/node/18904136> (accessed 21 Mar 2014).

8 | N. 2.

A reason for the newspaper market booming in emerging economies may be that rising prosperity goes hand in hand with a rise in literacy.

good performance of print newspapers. This assumption is also supported by the fact that circulation figures are also steadily rising in Latin America.⁹ There are numerous emerging economies on the South American continent. Depending on which definition one uses,¹⁰ they number twice as many as those in Asia. But what is the reason for the newspaper market booming specifically in these emerging economies? Experts believe that this may be due to the fact that rising prosperity in the emerging economies goes hand in hand with a rise in literacy. They think that in conjunction with the desire for better education, economic prosperity and political participation this makes for a good environment for the newspaper industry.

According to the Human Development Index (HDI), prosperity has increased by an average 1.5 per cent over the last twelve years in India, by 1.42 per cent in China and by 1.28 per cent in Indonesia. The average increase in the Western countries has been between 0.3 and 0.4 per cent. At 0.32 per cent, Japan is in a comparable position, Singapore and South Korea in a slightly better position at 0.67 per cent. This index illustrates the dynamic development enjoyed by the three emerging economies.

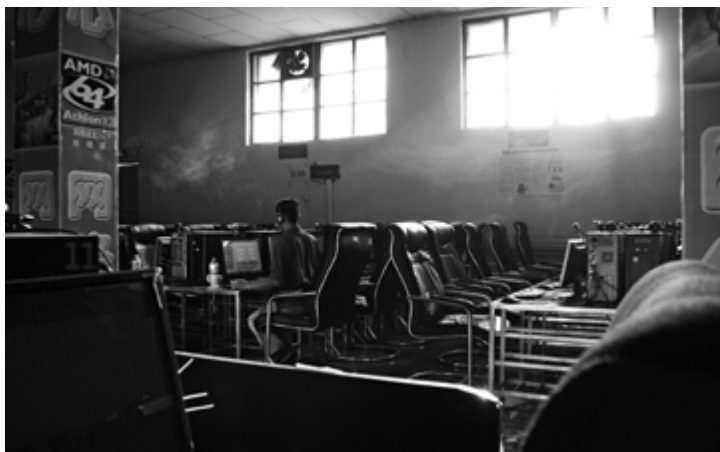
One crucial – yet mundane – determining factor is that the majority of the population in these emerging economies is not yet connected to the Internet. It is the case that user numbers in Asia are huge: Almost half of all Internet users worldwide are Asians.¹¹ However, the market is by no means fully developed. Less than a third of Asians had access to the Internet at all by the middle of 2013

9 | Ibid.

10 | There is no generally accepted list of emerging economies. The World Bank, OECD, IMF and EU use different classification criteria and have therefore published different lists, defining between ten and 30 countries as emerging economies. The World Bank lists six Asian and twelve South-American countries under the heading "Upper-middle-income economies". For this document, however, it is particularly the so-called BRIICS countries (Brazil, Russia, India, Indonesia, China and South Africa) that are of relevance.

11 | International Telecommunication Union (ITU), ICT Indicators database, "Key ICT indicators for developed and developing countries and the world (totals and penetration rates)", 2013, http://itu.int/en/ITU-D/Statistics/Documents/statistics/2013/ITU_Key_2005-2013 ICT_data.xls (accessed 27 Mar 2014).

(28.8 per cent).¹² There are still large swathes of Asia that the Internet has not yet reached. There, time flows more slowly, and newspapers are not experiencing the “digital threat” to any large degree. In Myanmar, for instance, a mere one per cent of the population uses the Internet, in Cambodia five, in Afghanistan and Bangladesh six, in Pakistan and Laos ten per cent.



Internet cafe in Turpan, China: In mid 2013 not even one third of Asians had access to the Internet. | Source: Tom Thai, flickr ©📷.

At 42 per cent, even China is still nowhere near having comprehensive Internet coverage. In India (13 per cent) and Indonesia (15 per cent), Internet accessibility is, in fact, very patchy. In the highly developed countries of Singapore (74 per cent Internet access), Japan (79) and South Korea (84), on the other hand, virtually all citizens have access to the Internet and newspaper circulation is experiencing a downturn.¹³ There is therefore a clear correlation between the availability of Internet access and losses in print newspaper circulation.

ASIA'S NEWSPAPERS FACING DIGITAL CHALLENGES

In 2012, approximately 2.4 billion people had their own Internet connection. This means that over a third of people globally were travelling through the World Wide Web via

12 | Ibid.

13 | ITU, “Individuals Internet 2000-2012”, 2012, http://itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals_Internet_2000-2012.xls (accessed 21 Mar 2014).

their computer or smartphone. In Asia, at slightly more than one billion, it was only 27 per cent.¹⁴ These figures do not include people who may have no connection of their own, but are able to go online via Internet cafés or university computers, for instance. At 1.7 billion, considerably more than half of the Internet community is active in social networks such as Twitter or Facebook, the so-called Web 2.0.

This fast and furious development has brought about major changes in the media sector in the industrialised countries. New online offerings are competing with the newspapers in areas such as job exchanges, car markets and classified advertisements. The Internet is also putting strong pressure on newspapers in the area of product advertising. As people freely divulge their entire life stories online, advertisers on Google and Facebook can select their target groups by age, gender, origin and even interests. Compared to classic newspaper advertisements, there is considerably less wastage. Added to this is the fact that some serious mistakes were made in strategic decision-making. Many newspapers and magazines are still offering their journalistic output for free online. After having suffered losses in the area of advertising, they are thereby giving away their core product: journalistic reporting.

It took quite some time for newspaper publishers in the West to begin using the possibilities offered by the Internet. Editor-in-chief of the Welt newspaper group, Jan-Eric Peters, put a positive slant on it: "We have developed our operation in line with readers' interests from 'print only' to 'online first' to 'online to print'."¹⁵ These days, many leading daily and weekly papers and magazines are engaging with the Internet with much greater ease. Both publishers and readers have not considered newspapers exclusively a print medium for some time now. The Hamburg weekly paper *Die Zeit* has even set up a team looking specifically after the paper's own online readership.

14 | Mathias Brandt, "Nur jeder 3. weltweit online", Statista, 17 Apr 2013, <http://de.statista.com/infografik/1049/weltbevoelkerung-mit-mit-internetzugang> (accessed 7 Mar 2014).

15 | Lena Bulczak and Michael Gneuss, "Herausforderung in Echtzeit", *Die Welt*, <http://welt.de/article123776792/Herausforderung-in-Echtzeit.html> (accessed 7 Mar 2014).

Large sections of Asia still have this development to come. The number of citizens excluded from Internet access is decreasing rapidly. Growth rates are huge, particularly where mobile Internet use is concerned. Between July 2012 and July 2013, the number of page views via mobile devices in Asia rose from 18.8 to 26.6 per cent. Compared with this, surfing via smartphone in Europe was still relatively insignificant at 9.7 per cent.¹⁶

While the development of Internet activities was implemented predominantly via the dilapidated telephone lines in industrialised countries, Asia jumped directly onto the bandwagon of mobile Internet use that was just taking off. Particularly in countries with poorly developed infrastructure, such as Myanmar, or island states that are difficult to develop by traditional means, such as Indonesia and the Philippines, mobile Internet definitely has the edge. Mobile transmission technology is easier and cheaper to realise in these countries. In addition, the new 4G standard (also called LTE) can in some instances offer faster transmission rates than conventional cable connections.

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With rising accessibility rates and increasing Internet usage, the digital challenge to classic media will take a similar form as it does in Europe, North America and Australia. The task then will be to find new ways of selling the journalistic product, namely high-quality, reliable and fast information, at a profit. In some countries, this will generate considerable problems. But many are already able to respond to the new times in a flexible manner. The important thing will be to avoid the mistakes that were made in the West.

PERCEIVING THE INTERNET AS AN OPPORTUNITY

While sound and video features were previously restricted to radio and television, the Internet opens up opportunities for the newspapers to offer multimedia content. Most

16 | Mathias Brandt, "17 Prozent des Web-Traffics sind mobil", Statista, 22 Aug 2013, <http://de.statista.com/infografik/1092/anteil-mobiler-geraete-am-internet-traffic> (accessed 7 Mar 2014).

newspapers did not realise this opportunity until very recently – they did not have the necessary expertise, after all. In 2010, Apple CEO Steven Jobs introduced the first iPad – a revolution for the newspaper industry. The first tablet computer enabled newspapers to offer customers their publications in familiar design, complemented by multimedia or even interactive elements. Moving pictures in a daily paper – that had previously only existed in the magic world of the Harry Potter films.

The digital versions could be “shipped” virtually for free. It only required a few seconds and took the paper simultaneously to places all around the globe. Today, readers of digital newspapers (whether viewed via the iPad or the website) can generally access the current issue shortly after the copy deadline on the evening before publication day. Subscribers to the paper version, on the other hand, still have to wait until the following morning. The latest information, such as sports results, can easily be included late in the night, which means that the newspaper contents are always up to date.

The cost saving aspect in particular should provide an incentive for advertising digital versions to readers and advertising clients.

It seems strange that most newspaper publishers do not engage more aggressively in advertising the digital versions to readers and advertising clients. The cost saving aspect in particular should provide an incentive. The digital version entails neither print nor shipping costs (labour, rent, energy, ink, paper, wear and tear, etc.). It is the customer accessing their newspaper online who bears the latter. This is an optimum business model, for India for example. Since newspapers began to expand beyond the limits of the cities where they were based in the 1980s, a fierce price war began on the subcontinent. Newspaper prices have not gone up for over ten years. Today, the cover price of many newspapers does not cover the cost of production. The resulting loss must be compensated through corresponding advertising revenues. This frequently results in newspapers even being willing to sell their journalistic output to advertisers. This has repeatedly drawn harsh criticism, particularly during election time, because newspapers had allegedly or demonstrably sold political reporting to the highest bidder as well.

Especially for the Indian newspapers caught in a price war, the option of moving to the considerably cheaper alternative of digital publication offers a great opportunity to escape from the downward spiral. However, this will need India to first surpass the critical mass of 50 per cent Internet access rate.

LEARNING HOW TO ENGAGE WITH SOCIAL MEDIA

Social media, most notably Twitter and Facebook, are also very popular in Asia. China is the undisputed leader where use of such platforms is concerned. According to statistics from the independent market research company eMarketer for April 2013, China has twice as many users of social networks as the USA. In Asia, the individual networks have different regional strongholds. Twitter is very popular in the Philippines, for instance, while Facebook dominates in Indonesia and Thailand.

As users spend a great deal of their time on Facebook, etc., that is where newspapers must go to alert their readers to their own offerings. A simple newspaper will therefore publish across the media, publishing both the print version as well as the so-called e-paper version. At the same time, the multi-media contents must be prepared for the website and the digital versions (e.g. for the iPad). In addition, the editorial office will also output information via the social media. The work involved, and particularly the expenditure for basic and further employee training, has increased greatly. Today, journalists must be able to write an article, take photographs and operate a video camera. They will frequently combine the contents digitally for the different channels themselves. Learning the skills required to operate the equipment alone represents an enormous training requirement.

Today, journalists must be able to write an article, take photographs and operate a video camera. They will frequently combine the contents digitally for the different channels themselves.

In Asia, many newspapers have found the transition to Web 2.0 quite an easy undertaking. Many view Twitter as a type of news agency, which can be supplied by the individual newspapers themselves. Suthichai Yoon for example, Chairman of the Board of the Bangkok daily The Nation, is a keen Twitter user. Each of his 140-character messages reaches over half a million people.

For many people, social media now represent some of the most important channels providing information about current affairs. In 2011, the BITKOM trade association stated with respect to Germany that “nearly every third community member” obtains news via the social media networks. Among the younger target group of 14 to 19-year-olds, it was even a little over a third.¹⁷ A 2013 study by the U.S. Pew Research Center found very similar results for the USA. 30 per cent of adult Facebook users obtain news updates from the platform.¹⁸ One can assume that Asia will at least equal these figures. That is because the social networks in many Asian countries are still the most reliable source of news, given the prevailing state regulation of the press.

The Bangkok newspaper *The Nation* imposes a commitment on its employees to send tweets to further the company's interests, thereby increasing the reach of the paper through their network.

The Bangkok newspaper *The Nation* has responded to this development in a remarkable manner. It imposes a commitment on its employees to send tweets and posts to further the company's interests – using individual accounts. Each employee thereby becomes an ambassador for the company, increasing the reach of the paper through their network. The digital network of *The Nation* has since attracted over two million followers on Twitter and Facebook. Once again, this course of action requires a great deal of training. Older employees in particular first have to learn how to engage with the new media. Younger employees, who are already familiar with the technology, must be trained in its appropriate use, because Twitter and Facebook messages must also be subjected to an editorial quality check. To this end, each employee is handed the “Code of Conduct” when they join, which has included an entire chapter on proper conduct when engaging with social media for some time now. This is important because social media specifically entail considerable risk. The speed with which messages proliferate across Twitter and Facebook is enormous. Once a message is out there, it can very rarely be erased. One wrong tweet can have devastating consequences for the person concerned – and therefore also for the company.

17 | BITKOM, “Soziale Netzwerk werden zum Informationskanal”, 28 Nov 2011, http://bitkom.org/de/markt_statistik/64018_70419.aspx (accessed 7 Mar 2014).

18 | Amy Mitchell, Jocelyn Kiley, Jeffrey Gottfried and Emily Guskin, “The Role of News on Facebook. Common yet Incidental”, Journalism.org, 24 Oct 2013, <http://journalism.org/2013/10/24/the-role-of-news-on-facebook> (accessed 7 Mar 2014).

Anton Casey is a case in point. There was an occasion when the British asset manager resident in Singapore had used public transport in the city-state, as his Porsche was in the workshop. He took a picture of his son, posted it on Facebook and added the caption: "Daddy, where is your car and who are all these poor people?" He subsequently added a further photo of his son – now sitting in the repaired Porsche – with the caption: "Normal service can resume, once I have washed the stench of public transport off me." These two posts unleashed what is commonly referred to as a so-called shitstorm of outraged messages of abuse. Even the Minister of Justice of the harmony-seeking country became involved in the end to voice his indignation.¹⁹

Casey lost friends, his job and ultimately, the country he called home, where he had lived for twelve years. According to media reports, he emigrated to Australia with his family.²⁰

No doubt Casey is an extreme example. But he is by no means the only one. Amy Cheong,

an employee at the Singapore national trades union NTUC, lost her job when she complained about cheap Malay weddings, posting discriminatory remarks on Facebook.²¹ At the end of 2013, New York PR manager Justine Sacco sent a racist tweet before taking off on a flight to South Africa – probably meant as a joke. By the time her flight landed, she no longer had a job either.²²

Amy Cheong, an employee at the Singapore national trades union, lost her job when she complained about cheap Malay weddings, posting discriminatory remarks on Facebook.

UTILISING SPEED AND INTERACTIVITY

Until recently, there had not really been any change in the daily routine of the editorial offices since the first daily newspaper was published. There was a copy deadline that all editors worked towards. Texts, pictures and graphics

19 | "‘Poor people’ comments by Anton Casey ‘deeply offensive’: Shanmugam", Channel NewsAsia, 23 Jan 2014, <http://channelnewsasia.com/news/singapore/poor-people-comments-by/964856.html> (accessed 7 Mar 2014).

20 | "Anton Casey loses job, friends", AsiaOne Singapore, 28.01.2014, <http://news.asiaone.com/news/singapore/anton-casey-loses-job-friends> (accessed 7 Mar 2014).

21 | Jeanette Tan, "NTUC fires Assistant Director for racist comments", Yahoo News, 8 Oct 2012, <http://sg.news.yahoo.com/ntuc-assistant-director-says-sorry-for-racist-post.html> (accessed 7 Mar 2014).

22 | Syd Neumann, "Dieser Afrika-Tweet kostete eine PR-Agentin den Job", *Die Welt*, 22 Dec 2013, <http://welt.de/vermischtes/article123207732.html> (accessed 7 Mar 2014).

were then combined to produce the newspaper. The final product was ready in the evening. The editorial offices were very slow to move away from this working method. That is all the more surprising as the Internet enabled journalists for the first time to compensate for their disadvantage compared to radio and television

Today, it is common to have news published promptly on the internet before printed. Even developing stories are no longer an exclusive format reserved to TV news channels.

where speed was concerned. Reporting on events on the same day or even live used to be reserved to the colleagues from broadcasting. Today, it is common all around the world to have news published promptly online before it makes it into the papers. Newspapers even offer a news ticker service for sports events online nowadays. Even so-called developing stories, which are being reported on as they evolve throughout the day, are no longer an exclusive format reserved to TV news channels.

Philippine news portal Rappler.com realised this development early on. The Social News Network (a description the news portal successfully coined for itself) was founded by former CNN journalist Maria Ressa. Rappler offers its readers live blogging. This is an advance on the news ticker service. The difference is that live blogging provides regular updates not just in text form but also through images with commentary and short videos of, for instance, sports events, beauty queen competitions or important trade fairs such as the Consumer Electronics Show in Las Vegas. It provides users with a virtual presence at these events.

Using an app, Rappler readers themselves can additionally become active by sending photos or video clips directly to Rappler. After having been checked in the editorial office, these are then also published in a live blog, the so-called #RStream. This type of citizens' journalism works very well in the Philippines, which regularly experiences typhoons and flooding. As the so-called citizen journalist volunteers of the craggy island state live where these disasters occur, Rappler is able to obtain up-to-date images and reports far faster than the reporters of major daily newspapers, let alone foreign correspondents.



Did Kim Jong-Un (r.) really have his uncle Jang Song-Thaek thrown to be devoured by a pack of hungry dogs? Media all around the world spread the story of a Chinese satirist blog. | Source: © picture alliance, Kyodo.

MORE IMPORTANT THAN EVER: CHECKING THE FACTS

Somewhat inappropriately on Christmas Eve, the Singaporean daily *The Straits Times* had a gruesome story to report. According to that information, the North Korean dictator Kim Jong-Un had his uncle Jang Song Thaek executed not by machine-gun salvos as usual, but by having him thrown to be devoured by a pack of 120 hungry dogs. The Straits Times had based its article on a report in the Chinese newspaper *Wen Wei Po*. Carried by the news agency Thompson Reuters, the gruesome message went out into the world from Singapore. The British newspaper *The Independent* adopted the story without question as did *USA TODAY* and the German *Focus* magazine. Particularly the tabloids in Europe and the USA included the message in their reporting, as it fitted so well with their preconceptions. The original piece of news has since disappeared from the website of the Straits Times. The reason: the Chinese *Wen Wie Po* had fallen prey to a nasty joke played by a satirist blog in the Chinese Tencent Weibo network, and with it the Straits Times and large parts of the Western media world.

Today, news is disseminated through news agencies and social media at breath-taking speed, making the need for journalists to verify the facts all the more important. This cornerstone of journalistic practice represents the difference between professional journalism and the ever-increasing masses of amateur bloggers.

Every day, readers are faced with the question of whether they are still willing to pay good money for professional journalism given the large amount of free information available on the Internet. They will soon answer in the negative if the supposed professionals are no longer doing their job properly. Verifying the truth behind information still represents one of the greatest challenges for journalism. And that is the competitive advantage of the classic newspaper that needs to be defended.

DEMOCRACY IN SOUTH ASIA

AN ASSESSMENT

Marcel Schepp

South Asia is democratic – according to the heads of state of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. On 29 April 2010, the final declaration published for the 16th Summit of the South Asian Association for Regional Cooperation (SAARC), held in Thimphu, Bhutan read: “The Leaders, while appreciating that all the member states had evolved into multi-party democracies, underscored the challenges faced by them in ensuring effective, efficient, transparent and accountable governments.”¹ The tenor of this statement is clear: all eight member states of the SAARC region developed into functioning democracies² in 2010. In February 2011, the eight member states of the SAARC adopted the “SAARC Charter of Democracy”. In this declaration they undertake to respect freedom, the rule of law and the Universal Declaration of Human Rights, and to actively advocate for the promotion and consolidation of democracy and the creation of pluralistic democratic structures.³ South Asia is therefore considered democratic from a normative point of view; the amendments necessary is only functional in nature.



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- 1 | South Asian Association for Regional Cooperation (SAARC), “Sixteenth SAARC Summit, 28-29 April 2010, Thimphu Silver Jubilee Declaration, ‘Towards a Green and Happy South Asia’”, §6, 2, <http://saarc-sec.org/userfiles/16thSummit-Declaration29April10.pdf> (accessed 10 Mar 2014).
- 2 | Democracy is understood here to mean “the right to vote and the right to freedom of expression” and “the ability to withstand power relations and renegotiate these”. Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective*, Cambridge University Press, 2002, 3.
- 3 | Cf. SAARC, “SAARC Charter of Democracy”, <http://saarc-sec.org/SAARC-Charter-of-Democracy/88> (accessed 10 Mar 2014).

Transformation processes in no fewer than six states in South Asia are the reason for this euphoria. Pakistan opened a new chapter after nearly eight years of military rule with the parliamentary elections in 2008. In April of the same year, Nepal's civil war, which had lasted more than ten years, ended with the Constituent Assembly elections. In Bhutan, the democratisation process started in 2005, reaching its first successful conclusions in July 2008 with the signing of the Constitution. In the Maldives, the first democratic presidential elections in October 2008 put an end to the 30-year rule of autocrat Maumoon Abdul Gayoom. In Bangladesh, the December 2008 parliamentary elections vanquished the illegitimate rule of the military supported interim government that had been in place since 2007. Barely six months later, in May 2009, the 26-year civil war in Sri Lanka finally ended with the surrender of the Liberation Tigers of Tamil Eelam (LTTE).

Continuing unrest in Bangladesh, a constitutional process in Nepal that has been stagnant for years and creeping processes of regression in Sri Lanka and the Maldives are less euphoric.

However, the most recent political developments in the region are less euphoric – from continuing unrest in Bangladesh to a constitutional process in Nepal that has been stagnant for years and creeping processes

of regression in Sri Lanka and the Maldives. Bangladesh, which has long been considered a development surprise,⁴ has found itself in a spiral of political stagnation and mass demonstrations since the end of 2011, which, by the end of 2013, had brought the country to the brink of civil war and culminated in a farcical election in January 2014.⁵ In the Maldives, the power vacuum resulting from the resignation of President Mohamed Nasheed in February 2012 was more and more usurped by the elites of the ancient regime, Islamist parties and interest groups. Five years after the end of the civil war, Nepal still does not have a

4 | Cf. "Bangladesh and development: The path through the fields", *The Economist*, 3 Nov 2012, 21-24; Wahiduddin Mahmud, Sadiq Ahmed and Sandeep Mahajan, "Economic Reforms, Growth, Land Governance: The Political Economy Aspects of Bangladesh's Development Surprise", Commission on Growth and Development, Working Paper, No. 22, Washington DC, 2008, 18-25.

5 | Cf. "Another Beating: Sheikh Hasina plans to hang on to office after another farce", *The Economist*, 9 Jan 2014, <http://economist.com/news/asia/21593476-sheikh-hasina-plans-hang-office-after-electoral-farce-another-beating> (accessed 10 Mar 2014).

constitution and is facing a political stalemate following the dissolution of the Constituent Assembly in May 2012.⁶ It was not until the elections in November 2013 that hope emerged for a revival of the democratic process. Pakistan successfully concluded its first legislative period with the May 2013 elections, yet is simultaneously facing an increase in Islamist and politically motivated terror against its own population. Finally, since the end of the civil war, Sri Lanka has been experiencing a creeping regression of democracy. The outlier in this otherwise less than optimistic image is Bhutan, which has succeeded in taking a further step towards consolidating its fledgling democracy with the successful June 2013 National Assembly elections and the subsequent change of government.

While only India is considered “free” by the American think-tank Freedom House, all the other states in the region clearly fall into the category of “partly free” or are even regarded as “not free”.⁷ In addition, the

Bertelsmann Transformation Index paints a bleak image of the rule of law and political participation in South Asia (Fig. 1).⁸ Moreover, the fact that democracy and political

development in South Asian countries is hardly a cause for euphoria because of their inconsistency is evidenced by the media’s assessments: “Balkanization of Afghanistan Beckons”, “Bewildered by Bangladesh”, “Indian Politics, An Illiberal Turn”, “Master or Puppet?”, “Death by a Thousand Cuts” or, most recently, “Democracy Kidnapped”.⁹ Although

The fact that political development in South Asian countries is hardly a cause for euphoria is evidenced by the headlines: “Democracy Kidnapped”.

6 | Cf. Tomislav Delinic, Nishchal Nath Pandey and Marcel Schepp, “Nepal nach Auflösung der Verfassungsgebenden Versammlung”, KAS Country Report, 10 Jul 2012, <http://kas.de/saarc/de/publications/31619> (accessed 10 Mar 2014).

7 | Cf. Freedom House, *Freedom in the World 2013. Democratic Breakthroughs in the Balance*, 14-18, http://freedomhouse.org/sites/default/files/FIW%202013%20Booklet_0.pdf (accessed 21 Mar 2014).

8 | Cf. Bertelsmann Stiftung, Transformationsindex BTI 2014, Status-Index, <http://bti-project.de/index/status-index> (accessed 10 Mar 2014).

9 | Cf. Derek Henry Floyd, “Balkanization of Afghanistan beckons”, *Asia Times*, 20 Feb 2013, http://atimes.com/atimes/South_Asia/SOU-02-200213.html (accessed 10 Mar 2014); Arnold Zeitlin, “Bewildered by Bangladesh”, *South Asia Journal*, Issue 8/Spring 2013, 29 Apr 2013, <http://southasiajournal.net/2013/04/bewildered-by-bangladesh> (accessed 10 Mar 2014); “Indian politics: An illiberal turn”, *The Economist*, 16 Feb 2013; Azra Nasreem, “Comment: Master or Puppet?”, ▶

polemically exaggerated, this cross-section of the regional and international press demonstrates a significant increase in the perception of non-democratic, anti-oppositional, illiberal, reactionary and potentially violent political forces in the countries of the SAARC region.

Fig. 1

Civil Liberties and Democratic Development in Asia

Country	Status	Freedom House Index 2013		Bertelsmann Transformation Index 2013	
		Civil Liberties	Political Rights	Rule of Law	Political Participation
Afghanistan	not free	6	6	2.8	3.3
Bangladesh	partly free	3	4	4.3	6.8
Bhutan	partly free	4	5	7.0	7.0
India	free	2	3	7.5	9.3
Maldives	partly free	5	4	–	–
Nepal	partly free	4	4	4.5	5.5
Pakistan	partly free	4	5	3.0	4.3
Sri Lanka	partly free	5	4	3.0	4.3

Methodology 1.0 – 2.5 = free, 3.0 – 5.0 = partly free, 5.5 – 7.0 = not free

1 = lowest value
10 = highest value

Source: Own representation based on Freedom House, n.7, and Bertelsmann Stiftung, n.8.

However, criticism of democracy does not only come from abroad. Even within South Asia, opinions on democracy and political development are being forged, ranging from criticism of a minimalist definition of democracy from academia¹⁰ to the official, openly held belief that “democ-

Minivan News, 25 Nov 2012, <http://minivannews.com/politics/comment-master-or-puppet-47853/print> (accessed 10 Mar 2014); “Death by a thousand cuts”, *Colombo Gazette*, 8 Aug 2013, <http://colombogazette.com/2013/08/08/death-by-a-thousand-cuts> (accessed 10 Mar 2014); Azra Naseem, “Maldives: Democracy kidnapped”, *Himal Southasian*, 25 Oct 2013, <http://himalmag.com/maldives-democracy-kidnapped> (accessed 10 Mar 2014).

10 | Cf. Tridivesh Singh Maini, “Beyond a minimalist definition of democracy in South Asia”, *Friday Times*, 13 Jul 2012, <http://thefridaytimes.com/beta3/tft/article.php?issue=20121207&page=9> (accessed 10 Mar 2014).

racy has failed South Asia".¹¹ What is concerning in this development is that the discontent over political systems perceived to be dysfunctional and their representatives displays increasingly anti-democratic features, and in some there is even a nascent desire for a "benevolent dictator".¹² A certain frustration with politics seems to prevail with both the population and the political elites – a situation that manifests itself not least through increasing protests on the one hand and more repression on the other. The population and government occasionally seem so weary of their own political system that they increasingly seek ways to express and enforce their will outside the democratic process.

A certain frustration with politics seems to prevail with both the population and the political elites. This manifests itself through increasing protests on the one hand and more repression on the other.

The danger to the existence of democracy in South Asia is obvious. In a region of increasing geo-strategic importance, which is facing immense socio-economic challenges, sensitive both domestically and in terms of foreign policy, yet with barely any regional policy integration, a crisis of democracy would have serious consequences, not only for the territorial integrity of individual countries, but also for the political development of the entire region. A detailed assessment therefore seems appropriate in light of the tendency towards simplistic representation of democratisation processes through indexes and media coverage.

AFGHANISTAN – 2014, A FATEFUL YEAR

Since the Taliban's reign came to an end in 2001, Afghanistan has been transitioning to democracy. The adoption of the constitution by the Constitution Commission (*loya jirga*) in 2003, the 2004 and 2009 presidential elections and the 2005 and 2010 parliamentary elections are important milestones in this process. With the withdrawal of international combat troops at the end of 2014 (a protection force of up to 15,000 troops should continue to remain

11 | Sachin Prashar, "Democracy has failed South Asia: Nepal PM", *The Times of India*, 23 Oct 2011, http://articles.timesofindia.indiatimes.com/2011-10-23/india/30313119_1_nepal-prime-minister-baburam-bhattarai-unified-communist-party (accessed 10 Mar 2014).

12 | Manu Joseph, "Der Diktator, der Prinz und der kleine Mann", *Die Tageszeitung*, 4 Jan 2014, <http://taz.de/1/archiv/digitaz/artikel/?ressort=sw&dig=2014/01/04/a0142> (accessed 10 Mar 2014).

in the country), Afghanistan has gained de jure full state sovereignty and, with the presidential elections taking place in the same year, it is taking a further important step towards establishing democracy. At the same time, the country can boast significant economic and social success more than ten years after the end of the Taliban regime. While the economy grew by an average of 9.2 per cent between 2003 and 2012, school enrolment has increased by more than seven times compared to 2001 and the proportion of female students is as much as fourteen times greater.¹³



President Hamid Karzai in 2011: There are many indications that he massively intervened in the electoral process 2009 and significantly influenced the outcome of the election. | Source: NATO Training Mission-Afghanistan (NTM-A), flickr ©©©.

Nevertheless, these developments cannot mask the fact that the democratisation process in Afghanistan is still far from consolidation. Two key areas covered here are particularly striking: domestic security and the organisation of the Afghan security forces, and good governance and accountability.¹⁴ Despite economic and development policy

13 | Cf. Weltbank, "Afghanistan Overview", 2013, <http://worldbank.org/en/country/afghanistan/overview> (accessed 10 Mar 2014).

14 | Cf. Nils Wörmer, "Afghanistan am Scheitelpunkt der Transitionsphase: Defizite im Übergangsprozess und verbleibende Optionen westlicher Politik", *SWP Aktuell* 14, Stiftung Wissenschaft und Politik (SWP), Berlin, Feb 2013; International ▶

progress, the security situation in Afghanistan remains precarious. In 2013 alone, 2,959 civilians were killed by bombings and fighting between security forces and government opposition forces and 5,656 were seriously injured. Compared to the previous year, this marks an increase of 14 per cent.¹⁵ At the same time, the establishment of the Afghan security forces – which is vital for the transition process – is still faltering in many areas.

Shortcomings in training and armament are amplified by a low degree of identification and an increasing number of cases of desertion, thereby hindering the effective suppression of insurgency and terrorism. While a large proportion of the security forces is barely

While a large proportion of the security forces is barely able to identify with what they are meant to be defending, the confidence of the populace is waning with regard to a state that, in their eyes, is incapable of protecting them.

able to identify with what they are meant to be defending, the confidence of the populace is waning with regard to a state that, in their eyes, is incapable of protecting them. In a survey conducted by the Asia Foundation in 2013, only six per cent of respondents said that democracy in Afghanistan was on the right track.¹⁶ This loss of legitimacy is intensified by the openly non-democratic actions of political elites. The manipulation of the presidential elections in 2009 was particularly damaging to the public's trust in the democratic process. There are many indications that President Hamid Karzai, the Election Commission and the National Security Council massively intervened in the electoral process and significantly influenced the outcome of the election using voter registration fraud, bribery, buying votes, intimidation and outright violence on election day.¹⁷ In addition, the extent of how deep the political elites are mired in corruption and nepotism has become clear, not

Crisis Group (ICG), "Afghanistan's Parties in Transition, Policy Briefing", *Asia Briefing*, No. 141, Brussels and Kabul, 26 Jun 2013.

15 | Cf. Unterstützungsmission der Vereinten Nationen in Afghanistan (UNAMA), *Afghanistan: Annual Report 2013 – Protection of Civilians in Armed Conflict*, Kabul, Feb 2014, 1, http://unama.unmissions.org/Portals/UNAMA/human%20rights/Feb_8_2014_PoC-report_2013-Full-report-ENG.pdf (accessed 10 Mar 2014).

16 | Cf. The Asia Foundation, *Afghanistan in 2013: A Survey of the Afghan People*, Kabul, 2013, 19.

17 | European Union Election Observation Mission, *Islamic Republic of Afghanistan, Final Report – Presidential and Provincial Council Elections 2009*, European External Action Service (EEAS), 20 Sep 2014, 4, http://eeas.europa.eu/afghanistan/docs/2010_election_observation_afghanistan_final_report_0809_en.pdf (accessed 12 Mar 2014).

least through the years of misappropriation of Kabul Bank funds amounting to approximately 935 million U.S. dollars, a fact that was discovered in 2012. Over 92 per cent of these funds, or 861 million U.S. dollars has been misappropriated and shipped abroad by a circle of only 19 people.¹⁸ It is obvious that these case studies hardly strengthen the prestige and purpose of democracy in the eyes of the populace. Quite a few young Afghans see democracy solely as a tool of the West at best and focus instead increasingly on traditional value systems.¹⁹

Ultimately, this interplay of a lack of confidence and lack of acceptance jeopardises the peace and democratisation process. If democracy can provide neither security nor accountability, there is a danger that it may be seen as obsolete by those who benefit from it – the people. As to the question of why Afghanistan is developing in the wrong direction, the respondents of the Asia Foundation survey specified these two aspects most often: uncertainty and corruption.²⁰ With regard to the lack of enforcement of the monopoly of force, this ultimately does not question the quality of the democratic political system for Afghanistan, but rather its basic services. Ultimately, the following applies: “Postconflict state building in the fractured polity of Afghanistan might remain slow unless those engaged in a struggle for power, and the outsiders wishing to defuse it, seek new relationships among all the constituent groups – ethnic, regional and religious.”²¹ A key benchmark for this will be the outcome of the third presidential election to be held in 2014.

18 | Cf. Adam B. Ellick and Dexter Filkins, “Political Ties Shielded Bank in Afghanistan”, *The New York Times*, 7 Sep 2010, <http://nytimes.com/2010/09/08/world/asia/08kabul.html> (accessed 25 Feb 2014); Joshua Partlow, “Elaborate ruse behind vast Kabul Bank fraud”, *The Washington Post*, 1 Jul 2011, http://washingtonpost.com/world/asia-pacific/elaborate-ruse-behind-vast-kabul-bank-fraud/2011/06/30/AGL3bmsH_story.html (accessed 10 Mar 2014); Independent Joint Anti-Corruption Monitoring and Evaluation Committee, *Report of the Public Enquiry into the Kabul Bank Crisis*, Kabul, 15 Nov 2012, 9.

19 | Cf. Azam Ahmed and Habib Zahori, “Afghanistan’s not-so-modernizing youth”, *International Herald Tribune*, Kabul, 2 Aug 2013, 1 and 3.

20 | Cf. n. 16.

21 | Rasul Bakhsh Rais, “Afghanistan: A weak State in the Path of Power Rivalries”, in: T.V. Paul (ed.), *South Asia’s Weak States: Understanding the Regional Insecurity Predicament*, Stanford University Press, 2010, 215.

BANGLADESH – CAUGHT BETWEEN AGITATION AND REPRESSION

There is hardly a country in South Asia that has experienced as turbulent a political development over the past five years as Bangladesh. Since 2007, the country has undergone the euphoria of a surge of democratisation, the stagnation of extreme polarisation, the escalation of political conflicts to the verge of civil war and ultimately the regression of an open electoral fraud. Born out of a bloody war of independence, Bangladesh was given to developmental policy hardship with military coups, famine, overpopulation and environmental disasters for a long time. However, the country has experienced significant socio-economic development in the last 20 years. While life expectancy increased between 1990 and 2010 from 59 to 69 years, the infant mortality rate dropped by almost 60 per cent from 97 to 37 deaths per 100,000, and child and maternal mortality rates have fallen by two-thirds and three-quarters, respectively. Per capita income has nearly quadrupled in the same period, from 540 to 1,909 U.S. dollars.²²

Since 2007, Bangladesh has undergone the euphoria of a surge of democratisation, the stagnation of extreme polarisation, the escalation of political conflicts to the verge of civil war and ultimately the regression of an open electoral fraud.

Political development, however, corresponds little with this “developmental surprise”.²³ The two largest parties in the country – the ruling Awami League (AL) and the opposition, the Bangladesh Nationalist Party (BNP) – and their associated political camps have unforgivingly stood in opposition to each other in an ideologically and emotionally charged struggle for political sovereignty for over two decades. This bitter dispute, aggravated by the personal animosity between the Chairwomen of both parties, Sheikh Hasina (AL) and Khaleda Zia (BNP), has gradually grown into a polarisation of the political system and has drained the country politically. Since the end of 2011, further escalation of this conflict has been observed; throughout 2013, there was increased brutalisation of the political debate which ultimately culminated in excesses of violence by both sides ahead of the January 2014 parliamentary elections. The opposition’s main instrument for enforcing

22 | Cf. “Bangladesh and development: The path through the fields”, n. 4.

23 | Mahmud, Ahmed and Mahajan, n. 4.

their interests is nationwide general strikes (*hartal*); these paralyse public life and are associated with large-scale demonstrations and violent riots. In 2013, more than 500 people were killed and more than 20,000 were injured in *hartal*.²⁴ Civilians were burned alive in ignited cars and buses, and property was damaged, all the way up to the wanton derailment of entire trains. The economic loss to the country has been immense. It is estimated that each of the more than 100 days of strike in 2013 cost the country 200 million U.S. dollars.²⁵

The most recent protests were sparked by the unilateral dismantling of the “caretaker system” by the AL in 2012. Bangladesh’s own independent system for ensuring peaceful parliamentary elections for appointed interim governments had been introduced in 1990 to facilitate the transition from a military dictatorship to democracy and has been enshrined in the constitution since 1996. While caretaker governments had significantly contributed to ensuring a peaceful governmental transition in 1996 and 2001, from 2007 to 2008 it entered an authoritarian phase where the interim government at the time, with the military’s approval, attempted to push forward a fundamental reform of the political system, including by restricting political rights and arresting high-ranking politicians, including Hasina and Zia. However, facing increasing public pressure, it was forced to hold new elections in 2008.²⁶ Stemming from their anger over the caretaker government’s repression, the later victorious AL, under the

Stemming from their anger over the caretaker government’s repression, the later victorious AL, under the leadership of Hasina, made the abolition of the caretaker system one of its priorities.

leadership of Hasina, made the abolition of the caretaker system one of its priorities. On 30 June 2012, they not only abolished the caretaker system, but also implemented further constitutional changes by making amendments or even suspension of the constitution an act of sedition. The BNP, which had already been boycotting Parliament

24 | Cf. Ain o Saleh Kendra (ed.), “Political Violence: January – 31st December 2013”, 11 Jan 2014, <http://askbd.org/ask/2014/01/11/political-violence-january-31st-december-2013> (accessed 10 Mar 2014).

25 | Cf. Sohel Parvez and Dwaipayan Barua, “Economy reels from hartals”, *The Daily Star*, 8 Mar 2013, <http://archive.thedailystar.net/beta2/news/economy-reels-from-hartals> (accessed 10 Mar 2014).

26 | Cf. ICG, “Back to the Future”, *Crisis Group Asia Report*, No. 226, 13 Jun 2012, 2-3.

since 2009 because of procedural errors, immediately announced they would also boycott the next parliamentary elections under these conditions. What is paradoxical about this situation is that it was the AL itself that forced the BNP-led government, who were just as unwilling, to introduce the caretaker system through agitation.²⁷

Against the backdrop of these developments, there has been a democratic regression from 2011 to 2013, which is due both to the BNP's violent agitation and the AL's targeted repression. From 2009 to mid-2012 alone, an estimated 333 people were executed without trial, while at the same time between 60 and 100 people disappeared without a trace and 246 cases of torture by the security forces were registered.²⁸ In addition, the events surrounding the International War Crimes Tribunal established in 2010 have proved paradigmatic for the disruption of Bangladeshi society; the Tribunal was established to investigate war crimes committed during the war of independence against Pakistan in 1971. Once the first convictions

had been handed down against members of the Islamist party Jamaat-e-Islami (JeI), one of the BNP's coalition partners, in February

In February 2013, serious clashes broke out between JeI supporters, supporters of the war crimes trials and security forces.

2013, serious clashes broke out between JeI supporters, supporters of the war crimes trials and security forces; the harshness of these clashes only increased with each judgement handed down over the course of the year. While the Shahbag Movement – named by supporters of the war crimes trials after the place of their protest – was comprised of former freedom fighters, supporters of the ruling party and students, young people and families from the middle class, the JeI gathered its forces with the support of other Islamist groups and a group of the 18 Party Alliance headed by the BNP.²⁹ Nationwide general strikes took place for a week; in May 2013, tens of thousands of

27 | Cf. Ali Riaz, "Democracy in Bangladesh: A Report Card", *South Asia Journal*, No. 7, Jan 2013; The Observatory for the Protection of Human Rights Defenders, *Bangladesh: Human rights defenders trapped in a polarized political environment*, Nov 2013, http://fidh.org/IMG/pdf/obs_rapportbangladeshukld.pdf (accessed 10 Mar 2014).

28 | Cf. *ibid.*

29 | Cf. "Unrest in Bangladesh: A nation divided", *The Economist*, 9 Mar 2013, <http://economist.com/news/asia/21573150-flawed-tribunal-opens-old-wounds-and-threatens-bangladeshs-future-nation-divided> (accessed 10 Mar 2014).

supporters of the Islamist group Hefajat-e-Islam sealed off the capital to hold demonstrations for more rigorous laws for the protection of Islam, including the introduction of the death penalty for blasphemers.³⁰ In August 2013, the High Court annulled the JeI party's registration due to their anti-democratic and discriminatory agenda. The appeal was rejected by the Supreme Court. The JeI was thereby excluded from participation in the elections.³¹ This pattern

In late December 2013, the government sent armed forces to Dhaka as well as to all the other provinces in order to keep the situation under control until after the elections.

of three-day or four-day nationwide general strikes and bloody street fighting continued until the elections with increasing intensity. The violence finally culminated in the run-up to the elections. In late December, the government sent armed forces to Dhaka as well as to all the other provinces in order to keep the situation under control until after the elections. Military and paramilitary units sealed off the roads to the capital to prevent opposition supporters from gathering. Zia was placed under de facto house arrest and more than 1,000 opposition activists were taken into custody.

In the general elections on 5 January 2014, AL emerged as the winner with a total of 232 seats, of which 127 were uncontested because of the boycott of the 18 Party Alliance. On the election Day itself, there were serious clashes, which ended with 25 people dead. According to the Election Commission, 540 of the 18,000 polling stations had to be closed because of violent protests by the opposition; 150 polling stations were set on fire, and ballot boxes and ballots were destroyed. The official turnout was below 40 per cent. The media described the election as a farce, and the United States, Britain and the European Union have classified the elections as flawed. American and European observers had already had their participation restricted in advance because of strong reservations.³²

30 | Cf. "Political violence in Bangladesh: In hot blood", *The Economist*, 11 May 2013, <http://economist.com/news/asia/21577418-killings-islamist-hardliners-promise-further-instability-hot-blood> (accessed 10 Mar 2014).

31 | Cf. "Jamaat's stay plea on HC verdict rejected", *bdnews24*, 5 Aug 2013, <http://bdnews24.com/politics/2013/08/05/jamaat-s-stay-plea-on-hc-verdict-rejected> (accessed 10 Mar 2014).

32 | Cf. Ellen Barry, "Low Turnout in Bangladesh Elections Amid Boycott and Violence", *The New York Times*, 5 Jan 2014, <http://nytimes.com/2014/01/06/world/asia/boycott-and-violence-mar-elections-in-bangladesh.html> (accessed 10 Mar ▶



Protest of Jamaat-e-Islami supporters in January 2013: Due to the anti-democratic agenda of the party the High Court annulled its party registration. | Source: © Abdul Aziz Faruki, picture alliance, AA.

The political situation in Bangladesh at the start of 2014 is highly concerning. In the space of five years, the political elites have led the country from a politically and economically promising starting position to a standstill, to confrontation, disintegration and ultimately regression. The AL and the BNP – Sheikh Hasina and Khaleda Zia – have taken Bangladesh hostage in order to extort compliance from the other. As in 1996, 2001 and 2008, the country is facing the beginning of the democratisation process with an unknown outcome.

BHUTAN – A MODEL FOR SUCCESS IN SOUTH ASIA

The Kingdom of Bhutan is an exception in South Asia in several ways. Virtually isolated from the outside world until the 1970s, the country, located in the mountains of the Himalayas, has since gradually opened up and has become

2014); Haroon Habib, "Sheikh Hasina set to form govt. again", *The Hindu*, 6 Jan 2014, <http://thehindu.com/news/international/south-asia/sheikh-hasina-set-to-form-govt-again/article5544135.ece> (accessed 20 Feb 2014); "Bangladesh's election: Another beating", *The Economist*, 11 Jan 2014, <http://economist.com/news/asia/21593476-sheikh-hasina-plans-hang-office-after-electoral-farce-another-beating> (accessed 10 Mar 2014).

globally synonymous with the concept of Gross National Happiness (GNH). Borne of a statement by the fourth Dragon King in 1972, the concept of GNH has progressively expanded to encompass a comprehensive philosophy of development in the decades that followed and which now permeates virtually all aspects of public life.³³ This concept of society, which is enshrined as a state objective in the constitution, understands happiness – interpreted as collective and sustainable well-being – as the real purpose of development and thus provides a supplement to the classical, purely economically designed development models, which has now been taken up by both the United Nations and the Organisation for Economic Co-operation and Development (OECD).³⁴

In 2001, the fourth Dragon King, Jigme Singye Wangchuk, instructed the country's most senior dignitaries to compile a democratic constitution for the country, which at the time was ruled by a monarchy.

Less well known, though equally important for the Bhutan's development, is the unique process of transformation the country has recently experienced. In 2001, the fourth Dragon King, Jigme Singye Wangchuk, instructed the country's most senior dignitaries to compile a democratic constitution for the country, which at the time was a monarchy. After four years of intensive consultation and in-depth study of traditional legal concepts, as well as a variety of global constitutions, the population was presented with the first draft constitution in 2005 and, after receiving comments, was presented to the King three months later in its revised form.³⁵ Then, two mock elections were held to prepare both the populace and the administration for democratic elections in 2007. On 24 March 2008, the first free and fair elections in the country's history were held. The elections were won by the Druk Phuensum Tshogpa (DPT), with 44 seats, ahead of the People's Democratic Party (PDP), which won three seats; according to an EU observation mission, the elections largely conformed

33 | Cf. "Bhutan: The pursuit of happiness", *The Economist*, 16 Dec 2004, <http://economist.com/node/3445119> (accessed 10 Mar 2014).

34 | Cf. David Matthew, "Bhutan as a model", *Asia Times*, 14 Jul 2012, <http://atimes.com/atimes/China/NG14Ad02.html> (accessed 11 Feb 2014).

35 | Cf. Royal Court of Justice, *A Guide to the Constitution of the Kingdom of Bhutan*, 1-5, <http://www.judiciary.gov.bt/html/education/high%20court%20book.pdf> (accessed 10 Mar 2014).

to international standards³⁶ and were seen as a success within the country, although no small number – including the chairmen of both parties – made no secret of the fact that they still harboured strong sympathies for the King and the monarchy.³⁷ After some final discussions in the first democratically elected parliament of Bhutan, the new constitution was ratified on 18 July 2008 by the fifth Dragon King, Jigme Khesar Namgyel Wangchuk.



Jigme Singye Wangchuk (r.) on a state visit in India 2005: The fourth Dragonking launched the philosophy of development Gross National Happiness in 1972. | Source: © Ajit Kumar, picture alliance, AP Photo.

The first legislative session was primarily marked by the establishment of a *modus operandi* between democratic institutions and the administration, as well as the first steps of the fledgling pluralistic society, though without any indication that would have pointed towards a major interruption of the transformation process.³⁸ Soon, attention

36 | Cf. European Union Election Observer Mission (EUEOM), *Bhutan, Final Report, National Assembly Elections, 24 March 2008*, 21 May 2008, 3, 14, 28, http://eeas.europa.eu/human_rights/election_observation/bhutan/final_report_en.pdf (accessed 10 Mar 2014).

37 | Cf. "An unwanted election in Bhutan", *The Economist*, 24 Mar 2008, <http://economist.com/node/10907641> (accessed 10 Mar 2014).

38 | Cf. Marian Gallenkamp, "Consolidating Democracy in Bhutan: A Retrospect and a Rebuttal of Democracy Measures", *Spotlight South Asia*, No. 5/2012, APSA Heidelberg, http://issuu.com/apsa-foundation/docs/ssa_no_5 (accessed 10 Mar 2014).

shifted to the second parliamentary elections, as well as the question of whether Bhutan would be able to continue to tread this unprecedented path of hitherto successful democratisation from above. The National Council elections in April 2013 marked the prelude to this, with the first and second rounds of voting for the Grand National Assembly following in May and June 2013. In a run-off between the DPT and the PDP (the other two approved parties failed to move past the first round), the PDP won in a landslide victory against the DPT, thus securing a two-thirds majority in the Grand National Assembly. With the transition of government responsibility from the DPT to the PDP, Bhutan completed the first phase of its democratisation.

Nevertheless, "Bhutan's democratisation by small steps"³⁹ also has its downsides. Looking at a lack of transparency in the election process, the main point of criticism is that the selection criteria for parties and candidates were selective and tend to be elitist and therefore hardly reflect the whole spectrum of political opinion. Of primary concern is that candidates must have at least a bachelor's degree, and with a total of 15,000 university graduates in the country, the majority of citizens, especially many elderly Bhutanese,

With 80 to 90 per cent dependent on public contracts, all private newspapers in Bhutan have recorded sharp declines in publicly funded advertisements over the past two years.

are in fact excluded from the active electoral process. Together with the requirement that parties will only be registered by the Election Commission if they can provide candidates in all 47 constituencies, this complicates the registration of newly established parties.⁴⁰ In addition, there are indirect restrictions on freedom of the press that put private print media under economic pressure. With 80 to 90 per cent dependent on public contracts, all private newspapers in Bhutan have recorded sharp declines in publicly funded advertisements over the past two years. Several newspapers have had to stop printing, have had to reduce personnel and suspend wages. In this context, a confidential Ministry of Information and Communication newsletter caused quite a stir, instructing to no longer publicly advertise in the private newspaper *The Bhutanese*. Although the newsletter was immediately withdrawn,

39 | Mark Turner, Sonam Chuki and Jit Tshering, "Democratization by decree: the case of Bhutan", *Democratization*, 18:1, 24 Jan 2011, 202.

40 | Cf. n. 36; I. P. Adhikari, "Dictated Democracy?", *Himal South-Asian*, 17 Dec 2013.

doubts remained as to the freedom of the press.⁴¹ Criticism of the sacrosanct GNH policy is growing increasingly louder. While the population is somewhat weary regarding whether the sometimes seemingly ideological propagation of the concept prevails, government representatives secretly concede that it has barely managed to reconcile the GNH standards with the challenges of the real economy.⁴²

Regardless of this, however, one can hardly deny that Bhutan has undergone a process of democratisation that is not only unique in South Asia, but globally as well. Not only has the consistently peaceful transition from monarchy to democracy been a model of intensive preparation and inclusion, but even five years after the start of this process, there are hardly any traces of stagnation or regression to be seen. On the contrary, the Bhutanese model of democracy seems to be firmly established, thanks to the exceptional combination of a strong state and a determined elite.⁴³ Nevertheless, the following applies: The restrictions on political freedoms mentioned above can even be accepted as institutional learning for now, but in the future they must be an incentive for both the population and the government to further consolidate Bhutan's democracy.

INDIA – GREAT EVENTS FORESHADOWED

After two decades of recovery in a period when recession and political stagnation occurred, India is facing major challenges. Mass demonstrations for women's rights and against corruption, ethnic and religious conflicts, terrorism and separatist violence are placing the Indian government under increasing pressure. All this is happening against the backdrop of ongoing parliamentary elections in April and May 2014 which is not only witnessing the confrontation of the ruling Indian National Congress (INC) and the opposition, the Bharatiya Janata Party (BJP), but also the debut

41 | Cf. Vishal Arora, "Bhutan's fourth estate in bad shape", *Asia Times*, 24 Aug 2012, <http://atimes.com/atimes/China/NH24Ad01.html> (accessed 10 Mar 2014); "Fate of private media?", *The Bhutanese Expression*, 16 Aug 2013, <http://www.bbs.bt/news/?p=30557&print=1> (accessed 10 Mar 2014).

42 | Cf. "Bhutan at the polls: Happy and you know it?", *The Economist*, 6 Jul 2013, <http://economist.com/news/asia/21580514-debt-and-discontent-are-growing-happy-and-you-know-it> (accessed 10 Mar 2014).

43 | Cf. Turner, Chuki and Tshering, n. 39, 184.

of the Aam Aadmi Party (AAP) on the national level, a party that has arisen from the anti-corruption movement. While the BJP and INC election campaigns oscillate between cults of personality and reciprocal accusations, in its unexpectedly successful showing at the regional elections in Delhi in December 2013, the AAP has secured not only governmental responsibility in the capital, but has also become a factor to be taken seriously in the parliamentary elections. Here almost anything seems possible: a BJP-led government, a coalition of AAP and INC or a hung parliament situation.



Protest in Delhi in 2013 against the abuse of women: Mass demonstrations for women's rights place the Indian government under increasing pressure. | Source: Ramesh Lalwani, flickr ©📷.

It is one of the great paradoxes of Indian democracy that it has had to face violent domestic conflicts for its entire existence.⁴⁴ The storming of the Golden Temple in Amritsar in 1984, the destruction of the Babri Masjid in Ayodhya in 1992 and communal killings in Gujarat in 2002 are just a few examples. In addition, the Indian government is repeatedly challenged through separatist and terrorist acts, and the decades-long conflict with the Naxalites, as well as the Mumbai attacks in November 2008 provide painful testimony for this. Therefore, there is a question of how Indian democracy can survive in the face of its internal conflicts, which – depending on the perspective – either

44 | Cf. Christian Wagner, *Das politische System Indiens: Eine Einführung*, Wiesbaden, VS Verlag für Sozialwissenschaften, 2006, 37.

damage social cohesion or expose latent social lines of conflict in the first place. This phenomenon is explained by their numbers and objectives.⁴⁵ Partly, conflicts are so small in numbers (i.e. magnitude and participation), relative to the whole (i.e. political process and population), that they do not pose an immediate threat to the integrity of the state. This approach applies to the various separatist organisations in northeast India, but there is a limit to this explanation in the Naxalite movement with their now 20,000-strong fighting force in an area of the state where 20 per cent of the population⁴⁶ lives. Other conflicts represent a challenge for the state, but do not call its integrity into question. This includes “communal violence” – clashes due to ethnicity, religion and/or caste – and, to a lesser extent, terrorism, whose objectives indeed explicitly question the integrity of the state, however fail to do so in reality. It can therefore be stated that there certainly are areas in India where the enforcement of the state’s monopoly of force has been weakened. However, this does not constitute a threat to Indian democracy a such.

It can be stated that there certainly are areas in India where the enforcement of the state’s monopoly of force has been weakened. However, this does not constitute a threat to Indian democracy a such.

The lack of accountability of political elites in India is reflected in the interplay of corruption, patronage and bureaucracy. According to an estimate by the Comptroller and Auditor General of India, fraud has cost the Indian taxpayer 3,800 billion rupees from 2004 to 2012 (approximately 45 billion euros),⁴⁷ while in 2011, a study by Transparency International, states that one of every two respondents indicated that they had paid at least one bribe in the past twelve months.⁴⁸ Up to 100 million rupees (approximately 1.2 million euros) – with the legally permissible limit set at 2.5 million rupees – has allegedly been

45 | Cf. Subrata K. Mitra, *The Puzzle of India’s Governance, Culture, context and comparative theory*, London, Routledge, 2005, 256 et seq.

46 | Cf. Philipp Bowring, “Maoists who menace India”, *The New York Times*, 17 Apr 2006, <http://nytimes.com/2006/04/17/opinion/17iht-edbowring.html> (accessed 10 Mar 2014).

47 | Cf. “CAG estimates: Our likely loss Rs. 38,00,00,00,00,000”, *Hindustan Times*, 17 Aug 2012, <http://hindustantimes.com/india-news/newdelhi/article1-914959.aspx> (accessed 14 Feb 2014).

48 | Cf. Deborah Hardoon and Finn Heinrich, *Daily Lives and Corruption: Public Opinion in South Asia*, Transparency International, 22 Dec 2011, 10.

paid for a seat in the lower house of the Indian parliament. Corruption in contests for votes and offices is well documented, ranging from illegal election campaigning and party financing to non-transparent donations and large-scale embezzlement of public funds.⁴⁹ Coupled with the lack of democracy within parties, clientelism and patronage, as well as a pronounced personalisation of politics, this leads to the consequence that the democratic process is largely accessible to those who already have power and influence.⁵⁰ Bribes are ultimately paid to reach a certain desirable outcome at the right time. Moreover, democracy in India is characterised by a high degree of bureaucratization. Prone to politicisation, the administration, as a result, is both source and target of political influence that permeates all levels.⁵¹ The citizens who initially paid for their concerns to be raised on the political agenda then must pay again to see this agenda implemented if at all. Ultimately, those who suffer are the marginalised sections of the population, as aptly stated by Indian political scientist Pratap Banu Mehta: "For decades after Independence, India's poor and marginalised were confined to a politics of sheer survival – often because they were so vulnerable that no resistance to the existing order seemed possible. Democratic politics and the state exploited this vulnerability by enlisting them in clientelistic relations, where their first objective was survival. The pitilessness of this arrangement was that it often made them complicit in their own oppression. Rather than resist corruption, they had to use corruption to find slivers of breathing space in an otherwise suffocating system."⁵²

Time and again, this results in acts of state despotism in India, above all with limitations to freedom of expression and freedom of the press, which are often justified by reasons such as domestic security or maintaining social peace. In fact, Article 19 of the Indian constitution, which

49 | Cf. Wagner, n. 44, 143-148.

50 | Cf. Kanchan Chandra, "Patronage, Democracy and Ethnic Politics in India", in: Diego Abente Brun and Larry Diamond (eds.), *Clientelism, Social Policy, and the Quality of Democracy*, Baltimore, John Hopkins University Press, 2014, 155 et seq.

51 | Cf. Wagner, n. 44, 80.

52 | Pratap Banu Mehta, "Breaking the Silence: Why we don't talk about inequality – and how to start again", *The Caravan*, 1 Oct 2012, <http://caravanmagazine.in/essay/breaking-silence> (accessed 10 Mar 2014).

regulates civil liberties, indicates that the state is entitled to undertake “reasonable restrictions” on freedom of expression and freedom of the press at any time if their exercise affects “the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence”.⁵³ It is often less about the actual threat because it is the presumed effects that are crucial for the – often preventive – decision to censor. The restrictions range from self-censorship to film, book and appearance bans to the imprisonment of authors, because they allegedly injure the feelings of religious, ethnic or social groups or handle content inappropriately.⁵⁴ Nevertheless, these restrictions are not evidence of a decidedly non-democratically motivated action, but are often the result of unclear and contradictory definitions and responsibilities, as well as increased state sensitivity. The trend towards more restrictive legislation is also associated with the immense security and socio-political challenges the country faces.

In the recent past, the legal framework has been established in order to meet the challenges of democracy. To this end, the Supreme Court ruled in July 2013 that MPs at the federal and provincial levels who have been convicted of a criminal offence will lose their seat – a landmark decision in a country in which proceedings are pending against more than 30 per cent of representatives.⁵⁵ In September 2013, the Supreme Court ordered the Election Commission to add the option “none of the above” to the ballots, thus enabling voters to reject all candidates mentioned therein. The Election Commission agreed to implement this immediately.⁵⁶ In the face of the weariness

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53 | The Constitution of India, Article 19 (2), 1 Dec 2007.

54 | Cf. Bhavna Vij-Aurora and Rahul Jayaram, “The Paranoid State”, *India Today*, 17 Dec 2012.

55 | Cf. J. Venkatesan, “MPs, MLAs to be disqualified on date of criminal conviction”, *The Hindu*, 11 Jul 2013, <http://thehindu.com/news/national/article4901596.ece> (accessed 10 Mar 2014); Mohammad Ali, “Over 30% of MPs, MLAs face criminal charges”, *The Hindu*, 22 Jul 2013, <http://thehindu.com/news/national/article4938403.ece> (accessed 10 Mar 2014).

56 | Cf. Bharti Jain, “Will implement voters’ right to reject candidates straight away: Election Commission”, *The Times of India*, 27 Sep 2013, http://articles.timesofindia.indiatimes.com/2013-09-27/india/42458384_1_evms-ballot-paper-election-commission (accessed 10 Mar 2014).

many Indians feel regarding the established political elites, this represents a landmark decision. The effects of recently introduced measures like the Adhaar Card implemented in 2009 are not yet completely clear. The former gives every citizen the right to obtain information from public authorities, while the latter is meant to ensure that government services reach those for whom they are intended without being hijacked by middlemen.

Given the immense political, economic and demographic challenges the country faces, Indian democracy is remarkably stable and resilient. Though shortcomings, such as a partially weak enforcement of the state's monopoly of force, the lack of accountability of political elites and arbitrary action by state authorities cannot be denied, they have not yet reached such a proportion that justifies calling Indian democracy as a whole into question. Ultimately, the following applies: "The long-term sustainability of democratic governance is conditional on a method of effective incorporation of new impulses from socially marginal groups on to the political agenda of the state through regular, effective participation."⁵⁷

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MALDIVES – BACK TO THE FUTURE

The image of the Maldives abroad is usually dominated by the impression of a quiet and carefree island paradise for wealthy tourists. The tourism sector comprises two-thirds of the economic activity of the smallest SAARC member, with a population of just under 400,000. In addition, the tourism sector strongly influences the service, transport and telecommunications sectors.⁵⁸ Tourism thus can be considered one indicator for the country's political stability. In the past two years, however, tourism has significantly plummeted compared to 2010 and 2011. What happened?

57 | Mitra, n. 45, 1, 260.

58 | Cf. Camilo Gomez Osorio and Daminda Eymard Fonseca, *Maldives Development Update*, World Bank, Washington DC, Oct 2013, 3, <http://documents.worldbank.org/curated/en/2013/10/18612521/maldives-development-update> (accessed 21 Mar 2014).

After sections of the police and the military joined the ongoing opposition protests on 7 February 2012, President Mohamed Nasheed announced his resignation.⁵⁹ Immediately afterwards, the country's vice president, Mohamed Waheed Hassan, was sworn in as the new president. He promised to restore law and order and assured the population, as well as Nasheed and his family, that they would be protected by the law.⁶⁰ He denied accusations of involvement in overthrowing Nasheed.⁶¹ These highly unexpected events marked the starting point of the subsequent policy development and are essential for understanding them.

Mohamed Nasheed, who was arrested 13 times during the authoritarian rule of Maumoon Abdul Gayoom from 1978 to 2008, was elected as the first democratic president of the Maldives in a run-off election against Gayoom in 2008.⁶² Faced with the consequences of the global economic crisis and high indebtedness at the start of his tenure, he focused on the development of infrastructure and social security systems through the participation of private investors, while simultaneously trying to reduce the costs of the inflated public sector. This – fuelled by inflation and rising energy and food prices – aroused the displeasure of interest groups and led to a governmental crisis in mid-2010, which resulted in the entire cabinet resigning.⁶³ Increasingly unable to act, Nasheed tried to break this deadlock by having two opposition politicians arrested in 2010 as well as the presiding judge of the Criminal Court in late 2011

59 | Cf. Mohamed Visham, "Mohamed Nasheed resigns as President", *Haveeru Daily*, 7 Feb 2012, <http://haveeru.com.mv/news/40126> (accessed 10 Mar 2014).

60 | Cf. JJ. Robinson, "Maldives government changes in dramatic scenes after police elements join opposition protest", *Minivan News*, 7 Feb 2012, <http://minivannews.com/politics/s-31592> (accessed 10 Mar 2014).

61 | Cf. R. K. Radhakrishnan, "National unity government is priority, says Waheed", *The Hindu*, 8 Feb 2012, <http://thehindu.com/news/international/article2871880.ece> (accessed 10 Mar 2014).

62 | Cf. Nick Milton, "'Prisoner' beats 'Jailer' in Maldives elections", *The Island*, 29 Oct 2008, <http://island.lk/2008/10/30/news5.html> (accessed 21 Mar 2014).

63 | Cf. Gabriele Koehler, "Arab Spring undone in the Indian Ocean? Political economy and the coup in the Maldives", *Institute of Development Studies*, 29 Feb 2012, <http://ids.ac.uk/news/arab-spring-undone-in-the-indian-ocean-political-economy-and-the-coup-in-the-maldives> (accessed 10 Mar 2014).

for his alleged partisanship towards corrupt politicians. This is where the events of February 2012 began.⁶⁴

Charges were brought against Nasheed while the new President Waheed moved ahead to forming a government and promised to hold early elections. However, his decision to appoint family members and confidantes of the former dictator Gayoom at the ministerial level soon acquired him the reputation of being a puppet of the ancien regime,⁶⁵ and fed doubts about the back-story of the regime change. While Nasheed and his followers described the circumstances of the resignation as a coup, a report supported by the Commonwealth and released in August 2012 deemed the events constitutional.⁶⁶ Nasheed was subsequently

Parallel to political developments, there was a rise of radical Islamic movements, which holds that the Islamic faith is endangered by secular domestic policy as well as influences from abroad.

issued with a summons twice but eluded each arrest, including by seeking refuge with the Indian High Commission in February 2013. Parallel to these developments, there was a rise of radical Islamic movements, which holds that the Islamic faith is endangered by secular domestic policy as well as influences from abroad. While this tendency still appeared to be the opinion of a radical minority with the destruction of Buddhist relics during the SAARC Summit in 2011, statements such as that of the Minister of Islamic Affairs that "Christians and Freemasons [were] secretly working to eradicate Islam in the country",⁶⁷ and incidents such as the conviction of a 15-year-old rape victim to 100 lashes for fornication⁶⁸ attest to just how strongly these views are represented even in state institutions. Promoted under Gayoom as a part of national identity, yet still suppressed in its radical form, Islam has become increasingly politicised in the Maldives

64 | Cf. Tom Ginsburg, "Democratic Transition in the Maldives: An Assessment", Raajje Foundation, UNDP, Department of State, Oct 2012, 11.

65 | Cf. Nasreem, n. 9.

66 | Cf. *Report of the Commission of National Inquiry, Maldives*, 30 Aug 2012, 2, 60, http://maldivesculture.com/pdf_files/CONI-Report-2012.pdf (accessed 10 Mar 2014).

67 | Luke Powell, "Islamic Ministry claims Christians, Freemasons secretly working to 'eradicate' Islam in the Maldives", *Minivan News*, 12 Feb 2013, <http://minivannews.com/politics/s-52751> (accessed 10 Mar 2014).

68 | Cf. Ahmed Naish, "Under-age rape victim convicted of fornication, sentenced to 100 lashes", *Minivan News*, 26 Feb 2013, <http://minivannews.com/society/s-53712> (accessed 10 Mar 2014).

since 2008. It is one of the paradoxes of the democratic process that the new-found freedom of expression under Nasheed has led to a rise of radical and anti-democratic Islamist forces. Evidence suggests that the opposition forces responsible for the resignation of Nasheed's secular agenda knowingly sought the support of radical Islamic forces or acquiesced to their propaganda to force a change of government.⁶⁹

The new-found freedom of expression under Nasheed has led to a rise of radical and anti-democratic Islamist forces.

In September 2013, the first round of presidential elections finally took place. Nasheed won, with Gayoom's half-brother, Abdulla Yameen, taking second place. However, because a legal dispute regarding irregularities, the Supreme Court suspended the run-off election and annulled the result in early October amidst protest of both the Election Commission and Nasheed supporters. Their subsequent elections were stopped at the last moment, when security forces prevented the delivery of election materials due to a decision by the National Security Council at the last moment. Abdulla Yameen emerged as the winner once the elections were finally held in November 2013. Nasheed accepted the election result with respect to the democratic process. Yameen took the oath of office as the new president of the Maldives on 17 November 2013. The impression that voting continued until the desired candidate became president has persisted in light of this highly unorthodox electoral process. The concerns expressed by the Supreme Court regarding the annulment of the first election and the suspension of subsequent elections are hardly legally durable and represent an obvious distortion of the democratic process. By the fact that conflict surrounding democracy has long existed even between the country's own institutions is made clear in that both the Election Commission and the Human Rights Commission sharply criticised the proceedings.⁷⁰

69 | Cf. Yameen Rasheed, "A tool for the atolls", *Himal South-asian*, 20 Jun 2012, <http://old.himalmag.com/component/content/article/5070-a-tool-for-the-atolls.html> (accessed 10 Mar 2014); "Jagged islands", *The Economist*, 10 Oct 2012, <http://economist.com/blogs/banyan/2012/10/maldives> (accessed 10 Mar 2014).

70 | Cf. "Off their rockers", *The Economist*, 8 Oct 2013, <http://economist.com/blogs/banyan/2013/10/maldives> (accessed 10 Mar 2014); Nasreem, n. 9.

Given the events mentioned above, to characterise the Maldives as undemocratic will seem rushed, although a cursory glance inevitably reveals a clear regression of democracy. It appears that the elites of the old regime have allied with the alienated economic elites of Nasheed's reform agenda to shape the country's political system – supported by pro-regime representatives in the judiciary and the administration – according to their own ideals. They were successful, at least initially, through to the presidential elections. However, this government now needs to show its supporters how they plan to get a grip on the nation's challenges: dwindling growth, Islamisation, youth unemployment. Tourism is sure to be one strict standard for this.

NEPAL – RESTARTING DEMOCRACY

After ten years of bloody civil war, the abolition of the monarchy, a Constituent Assembly election, countless governments and prime ministers, as well as exemplary integration of former rebels, Nepal is still without a constitution. The second successfully completed elections held in November 2013 for the Constituent Assembly nevertheless provide hope for a new start. This is sorely needed; more than a decade of civil war and political deadlock has left a structural imbalance to the detriment of the agricultural and industrial sectors, as well as a trade imbalance and high inflation.⁷¹

Along with another failed truce in 2003, the king appointed and dismissed several prime ministers before ultimately taking power himself and ruling the country under a state of emergency.

After Maoist groups proclaimed an ideologically justified people's war in 1996, the country entered into a civil war that lasted until 2006 and cost more than 13,000 lives. After a failed cease-fire in 2001, King Gyanendra declared a state of emergency and, as a result, Parliament was dissolved in 2002. Along with another failed truce in 2003, the king appointed and dismissed several prime ministers before ultimately taking power himself and ruling the country under a state of emergency. A peace accord

71 | Cf. World Bank, *Nepal Development Update*, Kathmandu, Oct 2013, 4-7, http://www-wds.worldbank.org/external/default/WDSCContentServer/WDSP/IB/2013/11/06/000442464_20131106144320/Rendered/PDF/823830WPNepalIOBox0379860B00PUBLIC0.pdf (accessed 21 Mar 2014).

between the Nepalese government and the Maoist rebels in 2006 eventually paved the way for the end of the monarchy and marked the beginning of the peace process. The Maoists declared that they were willing to lay down their arms, and, together with the established political parties, forced the king to once again allow Parliament and political parties. On 15 January 2007, a transitional parliament was established, which adopted an interim constitution and elected a Constituent Assembly. The first Constituent Assembly of Nepal was elected on 10 April 2008, abolishing the constitutional monarchy. The winner of the first election was the Communist Party of Nepal (Maoist) composed of the former Maoist rebels, ahead of the Nepali Congress (NC) and the Communist Party of Nepal (Unified Marxist-Leninist).⁷²

Though the civil war was finally over, the violence between the various wings and youth groups of the Maoist party and among the security forces continued through 2009 and 2010. Estimates place the number of people killed during this time at over 1,800.⁷³ Meanwhile, the constitutional process was progressing at a very slow rate due to differences between and within the parties. Five prime ministers in three years evoked memories of the period of political instability before the civil war. Disputes focused primarily on federalism tied to ethnic and regional identity, as well as the reintegration of former Maoist rebels. While the subsequent question of identity should have proved to be the deciding moment for the temporary failure of the constitutional process, the integration of the Maoists is one of the successes of Nepal's democratisation. In the 2006 peace treaty, the Maoist combatants committed to surrendering their weapons and submitting to UN oversight, while the government in turn assured that the fighters would be integrated and rehabilitated.⁷⁴

72 | Cf. Christian Wagner, "Nepal im Umbruch", *SWP-Aktuell* 1, SWP, Berlin, Jan 2007, 1; Delinic, Pandey and Schepp, n. 6.

73 | Cf. ICG, "Nepal's Political Rites of Passage", *Asia Report*, No. 194, 29 Sep 2010, 2.

74 | Cf. Comprehensive Peace Agreement, 22 Nov 2006, inter alia accessible under: UN, "Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist)", 4.2 and 4.4, <http://peacemaker.un.org/nepal-comprehensiveagreement2006> (accessed 21 Mar 2014).

According to the Maoist leadership, this made it clear that the People's Liberation Army (PLA) would be integrated into the Nepalese armed forces as if they had never been defeated during the civil war. The Nepalese army held the contrasting view that every Nepalese citizen could join the army if they met the minimum requirements. A decision regarding the rank of new recruits could only be made upon completion of basic training. Ultimately, both parties agreed that the Nepalese army would retrain members of the PLA and then fully integrate them into their structures under their own department. On 10 April 2012, the Nepalese army took control of all the PLA's barracks, along with their weapons and fighters.⁷⁵ Of the 19,602 fighters originally identified by the United Nations Mission in Nepal (UNMIN) as willing to integrate, 7,000 chose to step down with a single payment, while 9,000 opted for integration. After several selection rounds, ultimately 1,600 soldiers and 116 officers of the former PLA were integrated into the Nepalese armed forces.⁷⁶

Although almost all the parties and groups support a federal structure in the broadest sense, both the views on the number, size, composition and competence of the states vary, as do actual political motivations.

The constitutional process, however, was less successful. Nepal's more than 100 ethnic groups as well as its complex caste system are reflected in both the economy and the politics of the country. Although almost all the parties and groups support a federal structure in the broadest sense, both the views on the number, size, composition and competence of the states vary, as do actual political motivations. For some, it is a question of social inequality; for the others it is a matter of national, regional or social identity. In any case, the idea of a federal state still evokes distrust with officials in the established parties, because it implicitly threatens to uproot the privileged status of the higher castes in politics.⁷⁷ The differences regarding this point proved so insurmountable that the deadline for the adoption of a new con-

75 | Cf. Nishchal Nath Pandey, "Conflicts in South Asia, 2011-2012: The Case of Nepal", in: D. Suba Chandran, P. R. Chari, *Armed Conflicts in South Asia 2012: Uneasy Stasis and Fragile Peace*, Neu-Delhi, Routledge, 2013, 192 et seq.

76 | Cf. Prashant Jha, "One country two armies' situation ends in Nepal", *The Hindu*, 2 Oct 2012, <http://thehindu.com/news/international/article3958061.ece> (accessed 10 Mar 2014).

77 | Cf. ICG, "Nepal: Identity Politics and Federalism", *Crisis Group Asia Report*, No. 199, 13 Jan 2011, 1-3.

stitution has had to be postponed several times until the Supreme Court finally decided to dissolve the Constituent Assembly on 27 May 2012 after weeks of general strikes and demonstrations.⁷⁸ Five years after the adoption of the interim constitution, Nepal remains without both a Constituent Assembly and an elected government. It is clear “that deeply divergent views on what the country should look like are not the only factors that make the present moment so fraught. The other is the state of the political parties themselves. They are a badly run and ideologically impoverished organisation with few policy goals, unclear agendas and chronic leadership crises”.⁷⁹

In March 2013, a cross-party interim government was formed, which held office up to the elections on 19 November 2013. Despite fears right up to the end that the elections could be disrupted, suspended or postponed – among others, a faction of the CPN (Maoist) announced a violent boycott – they eventually took place without any major incidents. The NC won with 33 per cent of the vote, ahead of the CPN (UML) with 29 per cent and the CPN (Maoist) with 13 per cent.⁸⁰ On 10 February 2014, Prime Minister Sushil Koirala was elected president of the newly established Constituent Assembly. The elections, assessed by the European Union as a sound basis for democratic nation building⁸¹ bring hope for a new start, once again.

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PAKISTAN – HOPE FOR A NEW BEGINNING

Pakistan, with the devastation of serious terrorist attacks on an almost weekly basis, its political divisions and regional fragmentation placing it at the mercy of the interests of intelligence forces and the military, has long been considered a fragile if not “failed” state.⁸² The *Economist* even

78 | Cf. Delinic, Pandey and Schepp, n. 6.

79 | ICG, “Nepal’s Constitution (II): The Expanding Political Matrix”, *Crisis Group Asia Report*, No. 234, 27 Aug 2012, 30.

80 | Cf. Christian Wagner and Nishchal Nath Pandey, “Politischer Neuanfang in Nepal”, *SWP Aktuell* 74, SWP, Berlin, Dec 2013, 1-3.

81 | Cf. EUEOM, “European Union Election Observer Mission – Nepal 2013”, press release, 21 Nov 2013, <http://eueom.eu/nepal2013/home> (accessed 12 Mar 2014).

82 | Cf. Lawrence Ziring, “Weak State, Failed State, Garrison State, The Pakistan Saga”, in: Paul, n. 21, 170-194.

labelled the country “the world’s most dangerous place”.⁸³ The latest political developments, however, attempt to refute these swan songs; next to Bhutan, Pakistan remains one of two countries in South Asia that, after 2007, has taken a major hurdle in establishing a democratic system following the successful completion of its first legislative period in 2013 and the subsequent parliamentary elections and democratic regime change.⁸⁴

In recent years, deliberate attacks on civilians in the densely populated neighbourhoods of urban centres have increased, in particular with religious and ethnic minorities being placed in the cross-hairs of terrorists.

The biggest challenge for Pakistan’s democracy is the country’s deteriorating security situation. After Afghanistan, Pakistan is the country most affected by terrorism worldwide, the number of fatalities the number of fatalities having increased 15-fold between 2002 and 2009.⁸⁵ In recent years, deliberate attacks on civilians in the densely populated neighbourhoods of urban centres have increased, in particular with religious and ethnic minorities being placed in the cross-hairs of terrorists. In 2013, 2,451 people were killed and more than 5,000 were injured in 1,717 terrorist attacks, marking an increase of nine per cent compared to the previous year.⁸⁶ This development harms not only the co-existence of different religious and ethnic groups in the country, but is increasingly calling into question the state monopoly of force as well.

Corruption and abuse of office also have debilitating effects, as does unauthorised action by democratic institutions. According to Transparency International, from 2008 to 2012 alone, up to 8,500 billion rupees were misappropriated (approximately 60 billion euros) through corruption,

83 | “The world’s most dangerous place”, *The Economist*, 3 Jan 2008, <http://economist.com/node/10430237> (accessed 10 Mar 2014).

84 | Cf. Ronny Heine, “Pakistan hat gewählt – und für einen politischen Wechsel gestimmt”, KAS Country Report, 13 May 2013, http://kas.de/wf/doc/kas_34357-1522-1-30.pdf (accessed 10 Mar 2014).

85 | Cf. Institute for Economics and Peace, “Global Terrorism Index 2012”, Dec 2012, Sydney, 5 and 16, http://visionofhumanity.org/sites/default/files/2012_Global_Terrorism_Index_Report.pdf (accessed 21 Mar 2014).

86 | Cf. Meena Menon, “A spurt in suicide attacks across the border”, *The Hindu*, 19 Jan 2014, <http://thehindu.com/news/international/south-asia/article5594181.ece> (accessed 10 Mar 2014).

tax evasion and poor governance in Pakistan.⁸⁷ One example is the case of Prime Minister Yousuf Raza Gilani, elected in 2008. Based on a pending investigation in Switzerland into money laundering against President Asif Ali Zardari, which, previously impeded through an amnesty law by former military dictator Pervez Musharraf from 2007, was once again brought forward in the wake of the abolition of this law by the Supreme Court in 2009, the Supreme Court demanded Gilani to ask the Swiss authorities to reopen the case against Zardari. Gilani refused, citing presidential immunity, and, in 2012 was the first Prime Minister in the country's history to be found in contempt of

court by the Supreme Court and was consequently expelled from the National Assembly, thus effectively removing him from office without the involvement of Parliament and

A parliamentary majority had adopted a constitutional amendment in 2010, providing for its own greater involvement in appointing judiciary posts.

the Electoral Commission.⁸⁸ Interestingly, a parliamentary majority had adopted a constitutional amendment in 2010, providing, among other things, for its own greater involvement in appointing judiciary posts.⁸⁹

The events of 2013 unfolded against the backdrop of these challenges, culminating with the first democratic regime change in Pakistan's history. This surprising event began with a "long march" to Islamabad led by Islamic scholar Tahir-ul-Qadri in January 2013 to protest – accompanied by 60,000 people – the country's political situation. The result of the ongoing protests was a signed declaration by Prime Minister Raja Pervez Ashraf in which the government provided assurance that it planned to dissolve the National Assembly and hold new elections within 90 days, and to appoint an independent interim government ahead of the elections.⁹⁰ Though it garnered much attention, this episode actually had little impact on the elections. The same

87 | Cf. Ansar Abbasi, "Rs 8,500 bn corruption mars Gilani tenure: Transparency", *The News*, 5 Feb 2012, <http://thenews.com.pk/Todays-News-13-12258-Rs> (accessed 10 Mar 2014).

88 | Cf. Karamatullah K. Ghorri, "Swift justice for Pakistan's premier", *Asia Times*, 1 May 2012, http://atimes.com/atimes/South_Asia/NE01Df06.html (accessed 10 Mar 2014).

89 | Cf. ICG, "Parliament's Role in Pakistan's Democratic Transition", *Crisis Group Asia Report*, No. 249, 18 Sep 2013, 6 et seq.

90 | Cf. Anita Joshua, "Qadri's picketing ends with 'Long March Declaration'", *The Hindu*, 17 Jan 2013, <http://thehindu.com/news/international/article4316278.ece> (accessed 10 Mar 2014).

In the 14th parliamentary elections on 11 May 2013, the opposition party, the Pakistan Muslim League, won out against the former ruling party, the Pakistan People's Party.

applies to the much heralded return of former military dictator Pervez Musharraf in March of this year. After returning after four years, intending to run for a parliamentary seat for four years, his requests ended with the rejection of all four applications for candidacy by the Electoral Commission. Because he was charged with offences during his tenure, Musharraf was placed under house arrest during the election.⁹¹ On 16 March 2013, the Pakistani Parliament resolved to clear the way for new elections. In the 14th parliamentary elections on 11 May 2013, the opposition party, the Pakistan Muslim League, won out against the former ruling party, the Pakistan People's Party.⁹² The European Union's observer mission deemed the elections a success in view of the security challenges and the high level of participation and competition.⁹³

The successful elections have created the necessary leeway to tackle the challenges facing the country. To come to grips with the terror in the big cities in particular, the professionalisation of the security forces is not all that is required, departing from the previous exclusive use of military and paramilitary units,⁹⁴ but also a sincere consideration of the chances of success for a dialogue with the country's non-democratic forces. Effective anti-corruption must prevent institutions whose job it is to prevent corruption using their mandate to settle accounts with each other. The creation of an independent supervisory body may remedy this.⁹⁵ The establishment of a democracy in Pakistan can ultimately only succeed if the political elites realise that freedom exists in a democratic system only if it is also granted to the other side.

91 | Cf. Jakob Rösel and Pierre Gottschlich, "The Historical Context of the 2013 Parliamentary Elections in Pakistan", KAS International Reports 08/2013, 12 Aug 2013, 97 et sqq., <http://kas.de/wf/en/33.35171> (accessed 10 Mar 2014).

92 | Cf. Heine, n. 84.

93 | Cf. EUEOM, *Final Report Pakistan 2013*, 10 Jul 2013, 3-5, http://eueom.eu/files/dmfile/eu-eom-pakistan-2013-final-report_en.pdf (accessed 21 Mar 2014).

94 | Cf. ICG, "Policing Urban Violence in Pakistan", *Crisis Group Asia Report*, No. 255, 23 Jan 2014, ii.

95 | Cf. Pakistan Institute of Legislative Development and Transparency, *Assessment of the Quality of Democracy in Pakistan January – December 2011*, Islamabad, Jan 2012, 80.

SRI LANKA – DEMOCRACY AT A CROSSROADS

On 16 May 2009, the fighting between the rebels of the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan armed forces ended. After 26 years of civil war and nearly 40 years of bloody terror by the LTTE, the country finally found peace – but at a high price. In the last few months of the war, the army cornered the LTTE and 330,000 civilians along with it together on a narrow strip of land on the north of the island and bombed the whole area while the LTTE held the civilians hostage. Tens of thousands of people died as a result of the bombing and subsequent human rights violations on both sides.⁹⁶ This chapter marked the starting point of the recent political developments in Sri Lanka; though they led the country to peace and economic recovery, they have also increasingly steered it away from democracy.

After 26 years of civil war and nearly 40 years of bloody terror by the Liberation Tigers of Tamil Eelam, the country finally found peace – but at a high price.

In 2010, presidential and parliamentary elections were held. Earlier, General Fonseka, Commander of the Sri Lankan armed forces, had made the surprising announcement that he was retiring from the army and running for president. The elections were accompanied by a number of irregularities, particularly the abuse of state resources for the President Rajapaksa's election campaign⁹⁷ and a variety of violent clashes between supporters of both candidates. Just shy of winning the election, General Fonseka formulated a formal complaint and subsequently was arrested on charges of plotting a coup in February 2010, accused of abuse of office and embezzlement and finally sentenced to 30 months' imprisonment.⁹⁸ In September 2010, a constitutional amendment was adopted by Parliament placing the appointment of the judiciary as well as key government

96 | Cf. UN, *Report of the Secretary-General's Panel of Expertise on Accountability in Sri Lanka*, New York, 31 Mar 2011, iif, http://un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf (accessed 10 Mar 2014).

97 | Cf. Transparency International Sri Lanka, *Electoral Integrity. A Review of the Abuse of State Resources and Selected Integrity Issues During 2010 Elections in Sri Lanka*, Colombo, 2010, 17-26, <http://tisrilanka.org/pub/reports/PPPR2013.pdf> (accessed 21 Mar 2014).

98 | Cf. N. Manoharan, "Conflict is Dead, Long Live the Conflict", in: D. Suba Chandran and P. R. Chari, *Armed Conflicts in South Asia 2010*, Neu-Delhi, 2011, 195 et seq.

commissions directly in the hands of the president, de facto abolishing the two-term presidential term limit.⁹⁹ Furthermore, power was not only concentrated in the office of the president, but also in the hands of the family of President Rajapaksa. His brother Gotabaya is Defence Minister; another brother is Minister for Economic Development and a third brother is Parliamentary Speaker. Furthermore, his son is a Member of Parliament and is already regarded as his successor. It is estimated that the Rajapaksa family now has access to approximately 70 per cent of the state budget.¹⁰⁰

Opposition activists, political activists, journalists and members of civil society have received death threats, been assaulted, kidnapped or murdered.

Dissent against these nepotistic and authoritarian tendencies is suppressed. The tone towards critics of the Rajapaksa system has visibly worsened. Members of the opposition,

political activists, journalists and members of civil society have received death threats, been assaulted, kidnapped or murdered. While the offenders usually go undetected, the political elites make no secret of the fact that they dislike criticism of their governance, and focus on anti-terrorism legislation, internet censorship or defamation suits as well as defamation campaigns by state media or the buying of private media through middlemen.¹⁰¹ Civil society organisations are referred to as agents of Western subversion and are vilified through politically motivated posturing in state media.¹⁰²

These restrictions have faced increasing criticism from the legal community, including, among others, by the Judicial Service Commission, whose representatives themselves

99 | Cf. ICG, "Reconciliation in Sri Lanka: Harder than Ever", *Crisis Group Asia Report*, No. 209, 18 Jul 2011, 18-21.

100 | Cf. Freedom House, "Sri Lanka. Freedom in the World 2013", <http://freedomhouse.org/report/freedom-world/2013/sri-lanka> (accessed 10 Mar 2014).

101 | Cf. Amnesty International, *Sri Lanka's Assault on Dissent*, London, 2013, 33-35, <http://amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> (accessed 10 Mar 2014); ICG, "Sri Lanka's Authoritarian Turn: The Need for International Action", *Crisis Group Asia Report*, No. 243, 20 Feb 2013, 15-18; n. 100.

102 | Cf. Shenali D. Waduge, "Are NGOs foreign funded philanthropists or actors of regime change?", LankaWeb, 6 Jun 2013, <http://lankaweb.com/news/items/2013/06/06/are-ngos> (accessed 10 Mar 2014).

were then made victims of intimidation and physical attacks. In late 2012, the simmering conflict between the executive and the judiciary culminated in a request for impeachment filed by the UPFA for alleged abuse of office, embezzlement and fraud against the country's Chief Justice, Shirani Bandaranayake, appointed by Rajapaksa himself in 2010. Barely two months prior to this, the Supreme Court, under her chairmanship, had blocked an urgent bill to centralise regional and local development funds with the Ministry of Economic Development with regard to the necessary participation of the provinces in Parliament, drawing the ire of the president in the process. In early 2013, Parliament voted to impeach Bandaranayake. Rajapaksa ratified the decision and appointed former Attorney General and former Legal Officer to the Cabinet, Mohan Peiris, the new Chief Justice.¹⁰³

In August 2013, a group of approximately 500 people gathered in Weliveriya, a village in the outskirts of Colombo, to demonstrate in favour of clean drinking water after complaining for several weeks about the pollution from a nearby factory. As the crowd grew throughout the day, about 400 soldiers were dispatched to break up the gathering. They used batons and live ammunition. Three people died and between 80 and 200 were injured. While the president promised compensation and the Defence Minister stressed the need for an investigation,¹⁰⁴ the state press reported that the protests had been an attempted civilian coup.¹⁰⁵ In January, the factory in question was closed. The investigation found that the soldiers involved

As the crowd grew throughout the day, about 400 standby army officers were dispatched to break up the gathering. Three people died and between 80 and 200 were injured.

103 | Cf. Amnesty International, n. 101, 29-33; "Sri Lankan politics: Fighting in Court", *The Economist*, 12 Jan 2013, <http://economist.com/news/asia/21569443-government-poised-kick-out-chief-justice-instability-beckons-fighting-court> (accessed 10 Mar 2014).

104 | Cf. Aanya Wipulasena, "Woes of Weliveriya water war", *The Sunday Times*, 4 Aug 2013, <http://sundaytimes.lk/130804/news/woes-of-weliveriya-water-war-55854.html> (accessed 10 Mar 2014); Dharisha Bastains, "Death by a thousand cuts", *Colombo Gazette*, 8 Aug 2013, <http://colombogazette.com/2013/08/08/death-by-a-thousand-cuts> (accessed 10 Mar 2014).

105 | Shenali D. Waduge, "Weliveriya: Attempting a 'Sri Lankan Spring' through a Civil Coup D'etat", *Daily News*, 7 Aug 2013, <http://dailynews.lk/features/weliveriya-attempting-sri-lankan-spring-through-civil-coup-d-etat> (accessed 10 Mar 2014).

exceeded the scope of their duty, but made no statement regarding possible consequences.¹⁰⁶

Of all the eight states of the SAARC region, Sri Lanka is the only one where a regression of the political system is clearly visible. The above-mentioned restrictions were obviously

If Sri Lanka has long represented a role model for democracy in South Asia, the past five years have made many of those achievements moot.

accepted by the Rajapaksa government to stabilise their own rule. If Sri Lanka has long represented a role model for democracy in South Asia, the past five years have made many of those achievements moot. However, change is not irreversible. Both the engagement of the judiciary and the successful elections held in the northern province in September 2013 have strengthened confidence in the country's democratic institutions.¹⁰⁷

CONCLUSIONS AND OUTLOOK

South Asia is democratic – by tendency. Notwithstanding the developments outlined above, all eight states of the SAARC region meet a minimal definition of democracy. Although democracy cannot be considered fully consolidated in any of the eight states, with the exception of India, the successful regime changes in Bhutan and Pakistan, in particular, have demonstrated that its establishment is possible, even given entirely different basic conditions. While Bhutan is a unique example of successful democratisation from above, Pakistan proves that the establishment of democracy is possible in spite of security challenges. Finally, India demonstrates that, 65 years after its independence, it is able to successfully combine the political, economic, social, cultural, ethnic and religious diversity of the subcontinent under one democratic political system.

Nevertheless, it cannot be denied that democracy in South Asia is under pressure. Afghanistan faces the task of coping with parliamentary and presidential elections against the backdrop of the immense security challenge brought on by

106 | Cf. "What has happened to the Weliweriya inquiry?", *The Sunday Times*, 16 Feb 2014, <http://sundaytimes.lk/140216/columns/what-has-happened-to-the-weliweriya-inquiry-85765.html> (accessed 10 Mar 2014).

107 | Cf. "Elections in Sri Lanka, Northern comfort", *The Economist*, 22 Sep 2013, <http://economist.com/blogs/banyan/2013/09/elections-sri-lanka> (accessed 10 Mar 2014).

the withdrawal of international combat troops. Bangladesh is politically drained and must now seek to return to a status quo that allows all social forces to participate in the political process. In the Maldives and Sri Lanka, it is important to strengthen the democratic process before the negative developments solidify. Nepal has finally managed to restart its previously failed transformation process, but must now be careful not to repeat past mistakes.

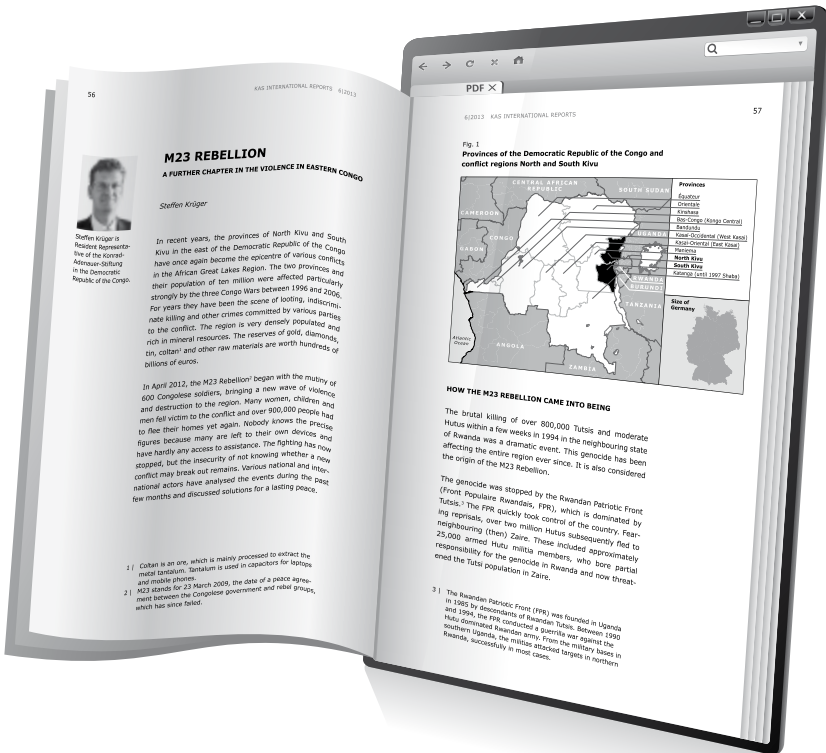
However, one thing is obvious for all eight countries. Whether political development tends to be constructive or regressive, the road to the stabilisation of the political systems leads almost exclusively through democracy. In the broadest sense, authoritarian politics tend to remain within the democratic political system, essentially without intending its abolition. An emergence of authoritarian regimes in the classical sense currently seems unlikely. Rather, it can be assumed that those states in which a regression of democracy is felt will continue to evolve in the direction of hybrid regimes, while those in which an establishment of democracy is evident have the task of establishing their fledgling democracies and consolidating.

The countries of South Asia are facing a period of transition in which less the concept of democracy itself than rather its actual performance is doubted. The spirit of this is ultimately one that favours democracy. The concept itself is not rejected, but its effects on the population are cast into doubt – mainly those brought about by the political elites. More than half a century after the end of colonial rule, the question in South Asia is no longer whether democracy is desirable, but rather how it can be shaped to meet the specific political, economic, social and cultural environment of South Asia and its people. In this respect, the region does have some models of success. Take the *loya jirga* as an example of a grass-roots democratic decision-making body, or the caretaker system as a model for ensuring peaceful elections; these are just as important as a draft constitution made by a citizens' forum and test elections or the rehabilitation of former rebels through their proactive integration into society. Democracy in South Asia faces challenges, but these can be overcome by the countries themselves.

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SOCIALIST VENEZUELA IN 2014

HOW DID HUGO CHÁVEZ CHANGE THE STATE, THE ECONOMY AND SOCIETY?

Claudia Curiel

When President Hugo Chávez became Venezuela's head of state in 1999, the country had come through a serious crisis of its political system, which had called into question the existence and survival of traditional parties and undermined social stability. Society was characterised by a strong dependence on oil exports and persistent poverty affecting large swathes of the population. Following the concept of so-called "21st Century Socialism", Chávez sought to provide the country with a new socio-political framework during his time in office. The poor among the population in particular connected his election with hope for improvement.

Hugo Chávez remained in office until his officially announced death from cancer in March 2013. His demise required new elections to be held, from which Chávez's loyal follower Nicolás Maduro emerged as successor, albeit with the smallest of leads over the presidential candidate of the opposition, Henrique Capriles Radonski. Maduro has made a point of stressing his close affiliation with Chávez and his ideology, not only during the election campaign but also throughout his term in office, which has lasted just over a year to date. The continuation of efforts to restructure the state according to the Chávez model is therefore a declared aim of Maduro's government policy. Since the governing party won the local elections in December 2013 yet again, an argument has arisen within the opposition camp as to the direction to take in responding to the government under Maduro. While a radical wing of the opposition feels that the scope for political action and people's freedoms are being restricted ever more severely and therefore thinks that action is required, the moderate



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wing advocates a defensive strategy. This is based on the assumption that the disastrous economic conditions and dramatic social situation will accelerate change. Weeks of street protests and hardened lines of conflict between government and opposition finally led to a dialogue, whose outcome is unclear at this point in time. According to Maduro, one thing is certain: the primacy of the socialist revolution will continue to apply.

When the present-day Venezuelan society is compared with that before he took office, two aspects are of particular importance. Firstly, there is a proliferating state apparatus, which sees its role not merely in exercising government power, but also in social support and oversight.

Parallel local structures were strengthened, and these are increasingly taking on functions that should, in principle, be reserved to the mayors or to representatives of the executive.

Particularly during the second half of his term, Chávez promoted the reorganisation of the socio-political structures at a local level, which ultimately resulted in the elected representatives of the people losing some of their power. Parallel local structures in the form of so-called Communal Councils were strengthened, and these are increasingly taking on functions that should, in principle, be reserved to the mayors or to representatives of the executive. The second aspect comprises the revenues from oil exports, which not only dominate parts of the economy, but also have an impact in other respects. There has been no decrease in Venezuela's dependence on oil since Chávez took office, and it represents a political factor more than ever before. It is likely that funds from oil production are also used for the expansion of the parallel local structures.

Reforming the socio-political structures in line with the socialist model also manifests in increasing state control over the media landscape. Simultaneously, the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela, PSUV) is being developed into a state party, with the interests of the party and of the state becoming ever more entwined. The PSUV already performs social tasks that go beyond the functions of a party. Its influence over social life is therefore increasing, and the pressure on those with dissenting views is rising even with regard to mundane matters.



“21st Century Socialism”? After his election, Hugo Chávez expanded his power and reduced parliamentary control. | Source: Valter Campanato, Agência Brasil ©¹.

STATE AND GOVERNANCE

During his first year in office, President Chávez began to introduce his political reform program. A constitutional assembly was convened as early as 1999. This initiated a process that was to culminate in the country's citizens endorsing the text drawn up by this body. The text envisaged far-reaching changes to be made to the function and organisation of the state. This included the dissolution of the two-chamber parliament, to be replaced by the National Assembly, the introduction of a form of democracy characterised by citizen participation and strong leadership personalities as well as a number of features of social regulation, all of which together were intended to lead to the definition of a social, democratic, constitutional state. Added to this was, firstly, the definition of a new security and defence doctrine based on the idea of joint responsibility of the military and society for national security and defence. This formed the basis for what would subsequently manifest in the political debate as “civil-military fusion”. Secondly, the text of the constitution envisaged a revision of the rules and regulations for the macro-economic system, for the role of the monetary authorities and for the growth targets. These are, however, mainly provisions to do with means and methods as the constitution did not include the definition of a development model.

Three enabling acts that were passed at Chávez's instigation demonstrate the extent to which the state was monopolised and instrumentalised by the central power.¹ The range of areas covered by the laws allowed the President to exercise power with greater authoritative scope and less oversight, because when the regulatory instruments were originally devised, the role envisaged for the office of President within the constitutional framework allowed him control over the activities of state offices and over the relationships between the political actors.

At the beginning of his first term in office, Chávez talked of slimming down the state and of reducing it in size. However, this approach is in clear contrast to the size, role and economic significance of the public sector in Venezuela. One telling example of this discrepancy is Chávez' declared intention to govern Venezuela efficiently with a limited number of ministries. In 1999, when he took office, he took over 21 ministries, which he restructured to govern the country then with the aid of 13 government departments. The executive currently operates with 32 ministries. The increase is also reflected in the number of employees. According to Venezuela's National Institute of Statistics, there were just 1,345,674 persons employed in the public sector at the end of 2002. By the end of 2012, this figure had risen to over 2,463,759.

The state has also expanded in various ways in other areas, for instance with respect to the companies that it owns and runs. There have also been increases in social benefits and in the associated infrastructure, resources and personnel. Some experts put the contribution to the economy made by the private sector at 65 per cent for 2012; others think it may have gone down to some 50 per cent. The national plan for economic and social development for the period from 2007 to 2013 envisaged that the economy would be based in equal parts on the three pillars of private enterprise, social enterprise and the state. There is some dispute over how the statistics are derived, because there are

The national plan for economic and social development for the period from 2007 to 2013 envisaged that the economy would be based in equal parts on the three pillars of private enterprise, social enterprise and the state.

1 | The Enabling Act of 2001 resulted in 49 legislative decrees; the one announced for the period 2007/2008 produced 66; the third one passed for 2010 to 2012 produced 54. In total, the executive introduced 167 laws.

clearly increasing numbers of companies in many areas of the economy that have been expropriated, are run by supervisory authorities and about to be swallowed up by state enterprises.² According to the Venezuelan industry association Conindustria, the Chávez government had expropriated as many as 1,440 businesses, properties and land holdings by 2012. By the end of 2012, 46 per cent of all imports were handled by the state. Added to these are 40 per cent of food distribution and the fact that the central government is responsible for the country's basic infrastructure (ports and airports, fuel depots, refrigerated chains, roads, power stations, etc.). The state bank has control over 34.5 per cent of all funds deposited within the banking system. In 2012, the net loan portfolio in the banking sector increased by 52.88 per cent, that of the state bank by 67.76 per cent.

The number of state businesses has also been on the increase. On the one hand, a number of so-called socialist enterprises were created, which are assigned to ministries and government offices. These include numerous mixed companies for contractually agreed joint ventures with other countries. Added to this are an increasing number of companies affiliated with the Venezuelan state-owned oil company PDVSA. The PDVSA management has announced strategic measures aimed at “strengthening the mechanisms for creating and developing companies in social ownership (Empresas de Propiedad Social, EPS) and socio-economic networks”. This is to be achieved by encouraging alternative forms of business, including EPS and communal production units and cooperatives. These are to be considered when awarding procurement contracts for goods, construction and other services for which there is a requirement in PDVSA's business plan. By mid-2011, this collective comprised a total of 402 public sector companies, subordinated to various ministries.³ According to information published by PDVSA, 7,649 commercial enterprises and 5,822 cooperatives were listed in the PDVSA's EPS register by the end of 2010.

2 | There is uncertainty about the method for determining the contribution to GDP made by many companies that are under state control, either through a majority stake or de facto.

3 | Claudia Curiel Leidenz, “Estado, propiedad y organizaciones socioproductivas”, in: *Encuentro de Organizaciones Sociales 2012, 2013*, Caracas, Universidad Católica Andrés Bello (UCAB).

The role of the state as a major actor in the non-monetary economy goes hand in hand with a lack of financial discipline, and that this is the case in an environment where public expenditure are not subject to any restrictions.

Because of its close links with the oil company PDVSA and the central bank, the state has total control over the country's currency inflows as well as the monopoly on generating them through oil exports (97 per cent of the country's foreign exchange revenues). Access to foreign currencies is controlled by central government. Added to this is the fact that the role the state plays as a major actor in the non-monetary economy goes hand in hand with a lack of financial discipline, and that this is the case in an environment where public expenditure, debt and the growth of the money supply to finance state expenditure are not subject to any restrictions.⁴ In addition, there is great uncertainty regarding the implementation of accountability.

THE PARALLEL STATE

There is an enormous difference between a supportive state, which secures civil liberties within a clear, transparent and modern institutional framework, and a state focused on exercising control. In Venezuela, there has been a transition from the former to the latter type of state over the last few years. In the course of this transition, the scope for private activities is being reduced, and private initiative is being replaced by the concrete manifestations of what is being referred to as "21st Century Socialism". Under the pretext of furthering a participatory democracy to benefit the individual, an entire universe of communal and social institutions has been created, whose most important representatives are the Communal Councils (Consejos Comunales). These organisations, set up in the form of assemblies and managed through direct democracy, have come into being since 2005. Later on, a plan was devised to set up communes as territorial and political structures of the communities organised around a Communal Council.

4 | According to figures from the Venezuelan Ministry of Finance, domestic public sector debt, for instance, rose by 70 per cent in 2011, by 65 per cent in 2012, and by 49 per cent over the first six months of 2013. Between 2008 and June 2013, this increase amounted to 1,146 per cent.

In parallel with this development, a variety of organisations were being established, which were meant to represent group interests and which called themselves “front”, “movement”, “council”, “collective”, etc. Specially created institutions were intended to support and coordinate the emergence of such organisations throughout the country. A decision-making body was created for this purpose, which is currently referred to as the “Ministry for Communes and Social Movements”. This also served as a seedbed for further supportive organisations called *salas de batalla social* (roughly translated: “Offices for Social Struggle”). Each of these is headed by a representative from the Ministry for Communes and a spokesperson from the Communal Council. Their day-to-day work consists of the collection of data on the population and on essential social programs. They cooperate with the regional bodies of the executive, to whom the social institutions are responsible, and manage communal projects as well as allocating funds for initiatives that have been submitted to them. In addition, they coordinate various social assistance measures (*misiones sociales*), which are funded from different executive bodies.

According to surveys conducted in local communities in September 2013, there are 40,035 Communal Councils operating throughout the country as well as 1,294 Offices for Social Struggle and 28,791 social movements. These figures show that the bodies forming this network are represented in even the smallest communities in the land. These organisations are developing into interfaces between the state and the population, which is becoming ever more dependent on their presence.

The coordination bodies, particularly the Offices for Social Struggle, and in some cases producer or farmer councils, are gaining in visibility, authority and the capability of managing resources. In some instances, they are becoming interfaces between local communities and the bodies of the central power. This means that bodies that were not elected by the people are becoming political actors. They are increasingly taking on functions that should, in principle, be reserved to mayors or representatives of the executive. Added to this is the fact that the network created from these institutions is

In some instances, governmental coordination bodies are becoming interfaces between local communities and the bodies of the central power. This means that bodies that were not elected are becoming political actors.

becoming part of the so-called civil-military fusion. In the past, this development was always seen as a manifestation of the capability of the organised population to be mobilised and to respond in order to perform security and defence activities side by side with the military and the militia. On various occasions in the recent past, much was made of the strategic concept of a prolonged people's war, which entails civilians and soldiers joining in defence of the country.

In December 2010, a series of laws was passed to serve as a comprehensive set of rules and regulations to create a state based on communes and, in addition, to smooth the path towards an economic model based on new forms of production. These include the fundamental law on popular power, the fundamental law on the planning of public life and social development, the fundamental law on communes as well as the law on the communal economic system.

Although these laws describe the organisational forms of the so-called popular power as one of the main foundations

The actors of a state organised on the basis of communes can become involved in various roles and play a part in the implementation of various public policy measures.

of the new socio-political structure, it has to be emphasised that the groundwork had already been laid by a considerable number of the laws passed during the previous years.

The actors of a state organised on the basis of communes can become involved in various roles and play a part in the implementation of various public policy measures. At least 70 laws were drawn up that deal with the organisational structures of popular power or that are intended to serve as models for cooperation, for instance through descriptions of planning processes or of supervisory and monitoring bodies by these actors. What this represents is unequivocally a parallel state, which performs functions that were previously reserved exclusively to the traditional political entities. The areas to which this parallel state extends range from the organisation and regulation of fishing to the structuring of sports associations to the procedures for applying for financial assistance for small businesses.

After a process of transition, there are now two states co-existing in Venezuela, which are in some contention with one another and where the bodies of the executive are under the control of the same forces that hold the political power in the country. This transition process uses up resources. It involves one side taking away the other side's scope for action, and it requires an enormous amount of human resources for distributing the benefits bestowed by a paternalistic state system among the majority of the population. The latter takes the form of social programs or formally assigned tasks, through the direct provision of goods or services by a state institution or through initiatives regarding working time regulations.

Of course, these parallel structures need to be financed. The funding sources include transfer payments from the state budget through channels created by the government's Federal Council. One can further assume that the above-mentioned structures receive some funding from programs and initiatives of central government bodies and the PDVSA, as well as relying on sources that lie outside the regular budget.⁵

ECONOMY UNDER PRESSURE

One phenomenon that has been characteristic for Chávez' time in office comprises the institutional structures that form the foundation and frame of reference for the reorganisation of society. The number of laws, standards and directives relating to this social restructuring has become too vast to maintain a clear overview. In the area of the economy alone there are over 300 statutory or quasi-statutory standards, which affect production activities. These include tools that go beyond the macroeconomic sphere and interfere with the rules and conditions under which private enterprise is conducted.

5 | According to one regulation, foreign currency revenues that the PDVSA receives within the current national budget above the crude oil price per barrel are not routed to the central bank and can be invested in one of the savings funds set up under the Chávez government. These funds are not subject to auditing, which means there are no official figures on their assets and expenditures. To provide some idea of the size of these assets: the price for a barrel of crude oil was assumed to be 55 U.S. dollars in the 2013 budget, although it had been over 100 U.S. dollars for a long time.

At the same time, the production capacity controlled by the state is growing, with ever stronger monitoring and interference. This is effected using data records, online monitoring systems and official oversight of certain business decisions. In parallel, there is also an increase in the number of institutions being created for the oversight and monitoring of private businesses, and their powers are increased continuously.

In 2003, measures were introduced to outlaw making employees redundant, and these are being enforced ever more stringently. Because of these measures and their interpretation by the government, it has become impossible to make changes to pay based on the business environment. In 2012, the legal framework in this area was also reformed, which meant greater obligations on companies and stricter monitoring. This has had a negative impact on labour costs and the institutional risk for employers. Harsh sanctions were introduced in connection with the state monitoring of business activities. State intervention up to and including the expropriation of companies is widespread.⁶

COMMUNICATION AS A KEY FACTOR

The government owns among others five national television channels, some 400 local radio stations, 36 local TV stations and some 100 newspapers.

Since 2005, the Venezuelan government has been seeking control over the communication networks. It now owns five television channels (*VTV, Vive TV, Asamblea Nacional*

TV, TVES and Ávila TV), *Telesur, Radio Nacional de Venezuela*, as well as four channels that form the YVKE Mundial network; in addition, the Ven-Global News network, the daily newspapers *Vea, El Correo del Orinoco* and *Ciudad Caracas*. Added to these are some 400 local radio stations, 36 local TV stations and some 100 newspapers.⁷ Apart from the media that are directly controlled by the state, there

6 | The latest example is the takeover of the pulp and paper manufacturer Manpa. President Maduro justified this measure with extraordinary delays in production and sales. Cf. Nicolás Maduro, "Intervenida empresa Manpa involucrada en sabotaje económico", 25 Sep 2013, <http://nicolasmaduro.org.ve/presidente/intervenida-empresa> (accessed 10 Feb 2014).

7 | Marcelino Bispal, "Hegemonía para cambiar la identidad", in: Michelle Roche Rodríguez (ed.), *Álbum de Familia. Conversaciones sobre nuestra identidad cultural*. Editorial Alfa, Colección Hogueras, Caracas, 2013.

are also many others that are owned by private individuals who are close to the government. Using a number of mechanisms, but above all the Law on Social Responsibility in Radio and Television, the government has been exerting increasing pressure with respect to program topics and contents. The state-run Venezuelan media conglomerate Sistema Bolivariano de Comunicación e Información (SIBCI) plays a key role with respect to the organisation of the flow of news or propaganda, as the case may be.

This makes it difficult to disseminate critical questions and hinders the efforts of alternative political actors to be heard. Particularly at election time, the propaganda machine is in full swing. From a social perspective, a situation has emerged in which public's scope for obtaining information and enjoying entertainment is restricted.



Demands for freedom of expression on 31 March 2004 in Caracas: The Venezuelan government disseminates critical questions and hinders the efforts of alternative political actors. | Source: © Leslie Mazoch, picture alliance, AP Photo.

RISE OF THE STATE PARTY

The ongoing rise of a state party in Venezuela has manifested in an increasing overlap between the leading figures of the executive and those of the United Socialist Party of Venezuela. Consequently, strategic and operational decisions as well as decisions on mobilisation and propaganda are increasingly made within a single continuum that is becoming ever more monolithic.

During the presidential elections of 7 October 2012, in which the seriously ill Chávez was re-elected once again, it was obvious that public institutions and local government bodies were used to mobilise voters. This was realised through units of a grassroots organisation, which calls itself the *Unidades de Batalla Carabobo*⁸ (Carabobo Battle Units) Here the range of resources and the open collaboration were clearly visible. The utilisation of the Communal Councils and other bodies for political purposes is illustrated most clearly by their integration into the Gran Polo Patriótico (GPP), the Great Patriotic Pole. This is the name for an alliance of political parties and social movements that supports the official political line. Initially, these organisations were the products of initiatives by local communities and received very little support from the United Socialist Party of Venezuela (PSUV) or the political bodies. The first wave of registrations with the GPP by social movements took place between 14 October and 6 November 2011. According to figures published by the PSUV, 32,080 organisations and social movements joined it in that period.⁹



The successor of Hugo Chávez: President Nicolás Maduro wants to strengthen the position of the PSUV. | Source: Joka Madruga, TerraLivrePress.com ©.

- 8 | These Battle Groups change their names for every election campaign, depending on which function the officials wish to emphasise. During the local elections of 8 December 2013, they adopted the name of Hugo Chávez, for instance.
- 9 | "32.080 organizaciones se registraron en el Gran Polo Patriótico", PSUV, 11 Nov 2011, <http://psuv.org.ve/temas/noticias/32080-organizaciones-se-registraron-gran-polo-patriotico> (accessed 10 Feb 2014).

After Nicolás Maduro had taken over the official duties as Chávez' successor in March 2013, he announced the objective of transforming the PSUV into an organisation that has a remit beyond the mandate from the voters, namely to take care of the needs of the local communities. One of the plans he announced in this context was a change to the party's organisational structure. This plan was implemented in a program entitled Gobierno de Calle (Government of the Street). This is an experiment involving PSUV activists making home visits accompanied by members from the social movements in order to establish the families' needs and to determine where and to what extent state assistance is required. These visits also serve to establish whether those visited cast their vote during elections, and which measures are required in terms of mobilisation as well as logistics on election day.

At the same time, the name and remit of the Ministry of Communes were changed to cover the social movements as well. The creation of a National Inspectorate for Social Security was announced, in which the activities of all social activist groups were combined (currently over 25 initiatives operating throughout the country and various small groups, which were created in 2013 and are responsible to different ministries). Subsequently, the creation of a national system of activist groups was announced, to which all (actual and potential) beneficiaries of these support programs are to belong. The intention is to reduce bureaucratic obstacles and prevent any form of corruption of those who will manage access to the social programs for Venezuelans.

It is as yet unclear whether all these measures form part of a more comprehensive concept or unrelated initiatives. The declared intention to make the PSUV into a party with communal and social functions indicates that

The declared intention to make the PSUV into a party with communal and social functions indicates that these initiatives are aiming on creating a new way of people living together in society.

these initiatives are a tool aimed at creating a new way of people living together in society. They assume the role of small organisational units within local communities. The end result may be a type of civil-military government, as Maduro has called the highest government body, coordinated with a defence and mobilisation apparatus based on

centralised communication channels and subject to politically motivated restrictions.

OUTLOOK: CONTINUATION OF THE TRANSFORMATION UNDER PRESIDENT MADURO

The Maduro government, which took up its work on 18 April 2013, is maintaining the centralistic orientation of the state and its efforts to extend its influence over further areas under its control. The means it employs to this end include an increasing military presence and the PSUV playing a key role. The party keeps the wheels of social organisations turning and controls them to suit the purposes of the central power.

In a little over four months, a new ministry was created, and new political-administrative structures were introduced for the purpose of coordinating investment incentives and activities affecting various levels of government: the Strategic Regions for Integral Development (REDIs). In addition, five high-level bodies were created within public administration for handling short-term requirements or programs (Health Task Force, Agriculture Task Force, Civil-Military Border Taskforce, Taskforce of the Workers of Guayana, and Economy Taskforce). In October 2013, Maduro had to submit the plan for the country's economic and social development for the period 2014 to 2021 as well as the draft budget. These documents are of great importance for the determination of the long-term course. Recent developments point to a strengthening of centralisation and control. Programmatic and ideological arguments may become nothing more than a cover for shoring up and maintaining centralised power structures.

The introduced instruments are likely to result in various types of restrictions. For one thing, they will affect citizens' lives and rights. But they will also affect critical elements such as the socio-political structure, produce a bloating of the state apparatus, increase dependence on revenues from oil exports and subordination of society to decisions and central government institutions. Under the prevailing conditions, these substantive changes in politics, the economy and society seem hardly reversible, even in the highly unlikely event of a democratic change in power. This

is because it is not very likely that the mechanisms of the social support programs can be dismantled without affecting the daily lives of the majority of the population. Only if agreements can be made that will produce a restructuring of the institutional framework will there be any hope of a return to a democratic course and the possibility of potentially creating long-term scenarios for economic activity not dominated by the state.

No doubt there will be no simple way out of the current situation. President Maduro is faced with the challenge of overcoming not only the political but also a serious economic and social crisis. Shortages of goods and food, inflation, violence and criminality, corruption as well as failure of law and order are seriously affecting most of the country's citizens. If the government does not succeed in getting the problems under control, it is likely to continue losing support. The crisis therefore has the potential to jeopardise the government's political survival. The opposition, for its part, faces the problem of an internal dispute about its general approach. Unless the sides can come together to present a joint front, the opposition will find it difficult to reach the critical mass required to resolve the conflict. In the meantime, Venezuela faces an uncertain future as a country between socialism and perpetual political crisis.

This article has been translated from Spanish.

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