



THE KAS DEMOCRACY REPORT 2008

# MEDIA AND DEMOCRACY

VOLUME II



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## PREFACE

The KAS Democracy Report describes the state of key democracy sectors in partner countries of the Konrad-Adenauer-Stiftung. With the publication of the first three volumes, *Media and Democracy* (2005), *Rule of Law* (2006), and *Parties and Democracy* (2007) the first cycle of the series was completed. This year, the cycle starts again with a study on the media, although the selection of countries differs to some extent from that of 2005.

Free media form a core element in any democratic system. Crucial in assisting citizens to form their political opinions, they also cover and criticise the actions of political decision-makers, always provided they can work without fear of government reprisals. In the developed and consolidated democracies of the West, the 'power' of the information and images conveyed by the media is so great that one speaks occasionally of the media as a 'fourth power' or even a 'media democracy'.

However, the KAS Democracy Report does not focus primarily on the influence of the media in Western democracies. For almost 50 years now, the Konrad-Adenauer-Stiftung has been committed worldwide to promoting the development of democracy, the rule of law, and human rights in developing and emerging countries. For those countries as well as elsewhere, independent media play a key role in the communication of information, the formation of political opinions, and the control of government. It is equally true, however, that there are numerous countries where the media cannot fulfil these duties because they are used, controlled and censored by political rulers, or forced into self-censorship through intimidation. Unfortunately, cases are anything but rare in which we are forced to witness critical media representatives being subjected to physical violence or even murdered.

Yet, neither governmental nor non-governmental organisations in political development cooperation are in a position to guarantee the physical integrity of critical journalists or other democratic forces. Concerning their mission in international development policy and democracy promotion, German political foundations in general, and therefore also the KAS in particular, try to contribute, together with their partners abroad, to the development and stabilisation of democracy.

To this end, the KAS has launched a variety of sectoral programmes that are based on our fundamental political values, namely freedom, justice, and solidarity. While our international rule-of-law programmes as well as our programmes to promote the social market economy mainly aim to create a regulating framework that encourages democratic development, our worldwide media programmes focus on promoting legal framework conditions that ensure the independence, freedom, and diversity of the media. Moreover, the media programmes focus on training and educating critical and independent journalists, and on establishing international networks for the media and their representatives.

Independent media do not only play an important role in the development and stabilisation of democracy, they also bear unusual political responsibility. For this reason, media coverage must be governed by ethical standards, and the media must not be allowed to abuse their very freedom, for which national and international organizations are fighting. Whenever the freedom of the media is politically restricted, or whenever the media abuse their freedom by, for instance, according greater value to the maximisation of profit than to sound journalistic work, their service to democracy may fall by the wayside. This is why communicating the ethical foundations of journalistic activity is one of the focal points of the KAS media programmes worldwide.

To achieve these objectives sustainably, the Konrad-Adenauer-Stiftung has launched four regional media programmes: first in Latin America (1994), followed by East and Southeast Asia (1996), Africa south of the Sahara (2002), and finally Southeast Europe (2005). Some of these programmes tied in with previous programmes, as for instance in Latin America, where the KAS began supporting pro-democratic media and media representatives in the 1970s. In part, they complement the national programmes under which KAS representatives abroad promote the media on a bilateral

basis through workshops, seminars, scholarships, and media awards. The concluding chapter of this year's Democracy Report presents an overview of the contents and methods of the global media programme of the KAS.

The Democracy Report 2008 focuses on the importance of independent media for democracy in general, and, in more detail, on structural characteristics of the media landscape and the status of media freedom in selected project countries of the KAS from Africa, Asia, Europe, Latin America, and the Middle East. Even though the report follows the principles of good scientific practice throughout, it is not intended to be a purely scientific study. Because it identifies both, shortcomings and progress in the cases under study, the Democracy Report constitutes also an important project management tool for the worldwide development-policy activities of the Konrad-Adenauer-Stiftung.

As in preceding years, in the spring of 2008 the KAS held an international conference on the Petersberg, place of several important political negotiations and great historic significance for Germany, near Bonn at which the Democracy Report was presented. Some of the results of that conference have been included in this book. At this point, I should like to thank once again all participants for their committed contributions. I also want to thank the representatives of the Konrad-Adenauer-Stiftung abroad and the external experts who contributed directly to the country studies. Furthermore, I express my gratitude to Professor Karl-Rudolf Korte and the members of his research group at Duisburg-Essen University for their scientific guidance and, finally, to the editorial team of the Democracy Report at the KAS head office.

Professor Dr Bernhard Vogel  
*Chairman of the Konrad-Adenauer-Stiftung*

# INTRODUCTION

## OBJECTIVES, METHOD AND STUDY DESIGN<sup>1</sup>

### STUDY OBJECTIVES

At present, the Konrad-Adenauer-Stiftung (KAS) maintains more than 70 field offices from which local representatives conduct projects to promote democracy in more than 100 countries all over the world. This being so, the KAS possesses a global network of political development cooperation as well as a large body of knowledge about opportunities and problems connected with developing and embedding democracy.

The KAS has been publishing Democracy Reports since 2005. One of the objectives is to inform the public about the state of democracy in general and certain sub-sectors in particular, such as media freedom, the rule of law, or parties and party systems. Another objective pursued by the KAS with its Democracy Reports is to pool the knowledge of the experts in its field offices about the development of democracy in general and media freedom in particular. To this end, general trends in the development of media systems and the freedom of the media will have to be identified and placed in the political, economic, and historical context of the states investigated. A profound analysis of the findings also helps to discover points of departure for future political development cooperation activities as well as for promoting democracy and – as far as this year's Democracy Report is concerned – the media and media systems.

Supported by the Research Group on Governance<sup>2</sup> at Duisburg-Essen University, this study marks the start of the second round of KAS Democracy Reports. Following an examination of the situation of the media and their freedom (KAS 2005), an analysis of the rule of law (KAS 2006), and a study of political parties and their significance for the process of democratisation and consolidation (KAS 2007), this volume once again addresses the status of media freedom and the significance of independent media for the development and stabilisation of democracy in 16 countries in which the KAS is running projects of international political development cooperation. The qualitative results obtained about the influence of the media on the process of democratisation and the level of media freedom were analysed and evaluated by the Research Group on Governance. Some of the questions which guided this year's Democracy Report are: What does the level of media freedom depend on? What is the specific contribution made by the media to the process of democratisation in each country? What part is being played by new media-based forms of communication and opinion-forming, such as internet forums, blogs, and other communication methods on the so-called 'web 2.0'? What is the legal context in which the media and their reports are embedded? To what extent is media coverage independent, or is it controlled by government authorities? Are the media exposed to governmental and non-governmental coercion? To what extent do governments and/or individual media entrepreneurs try to influence media coverage and/or the media landscape? If so, what means are used? Moreover, the national reports as well as the analysis chapter (Korte and Weissenbach, in this volume) present a survey of the degree of media freedom as well as developments and trends in the media systems of the countries investigated. Lastly, the concluding chapter includes a summary of the work of the KAS in the field of media promotion.

Alongside the scientific objective of the 2008 report, which is to draw a comprehensive picture of the development of democracy and/or the media landscape and the freedom of the media which reflects the political, cultural, and economic framework conditions that are specific to each country, the Konrad-Adenauer-Stiftung pursues another objective, namely to identify points of departure for its future work in the field of promoting democracy in general and – in this case – the media. Like its predecessors, the Democracy Report of 2008 represents an important tool of global project control for the KAS.

### **NORMATIVE STANDARDS FOR ANALYSING THE FREEDOM OF THE MEDIA**

In the course of the global waves of democratisation (Huntington 1991), which has led to the transformation of numerous formerly autocratic regimes since the mid-1970s, the media have frequently acted as crucial catalysts of the transition process. Operating either from exile or underground, they have helped to give a voice to oppositional forces in many states. However, there are countries where the process of consolidating democratic media systems and codifying the freedom of the media has slowed down or even gone into reverse compared to the consolidation of other institutions (Votmer 2008) once the phase of establishing and consolidating democracy (Merkel 1996) had begun.

To facilitate comparing media systems, Hallin and Mancini (2004) presented 'three models of media and politics'. Although these models were developed further by Blum (2005) and others, there still is no comprehensive theory by which media freedom might be assessed and categorised. Yet a scientific standard is indispensable for analysing and measuring media freedom. In point of fact, normative standards for the freedom of the media that can be translated into empirically measurable variables can be derived from democracy theories.

Modern democracy theories, which are mainly normative, regard media freedom as a sub-category that in most cases can only be derived indirectly. The various schools of democracy theory and empirical democracy assessment primarily focus on the following premises for decisions that are binding on a society: the appointment of an executive and legislative branch by equal, free, and secret ballot, the separation of powers, and a rule of law that is bound by individual fundamental rights (Weissenbach/Korte 2006; Lauth 2004; Schmidt 2000: 389–423). Based on institutional guarantees of democracy (or 'polyarchy') as understood by Robert Dahl (1971, 1989, 1998), the following standards may be named from which criteria for the freedom of the media may be derived:

- The fundamental right to freedom of expression
- The right of political elites to compete for votes and support
- The existence of alternative pluralist sources of information.

Primarily, the right to free speech is an individual fundamental right which, however, can be of immediate political effect only in face-to-face communication within a small democratic polis where all individuals can directly interact with each other. To be politically effective in a democracy with a large territory, opinions need to be communicated by mass media. Thus, the freedom of the media becomes a functional derivative of the freedom of opinion in democratic politics (Dahl 1971: 5). If there are no free mass media to judge (and thus control) and communicate political actions and decisions, even the rule of law and the separation of powers will lose their rational and legitimising content (Habermas 1992).

Developed by the Research Group on Governance, the categories used in the first KAS Democracy Report (KAS 2005) to assess and analyse the freedom of the media connect up with the pluralist theory of democracy propounded by Neumann (1986), Fraenkel (1990), and Dahl (1971, 1989, 1998) as well as with participatory theories of democracy proposed by Bachrach (1970), Fishkin (1991), Habermas (1992, 1999) and Giddens (1997). What all these theories have in common is the demand that everyone concerned should be represented in, and have free access to, discourses of



societal relevance that are facilitated by the media. Consequently, an analysis of the freedom of the media must consider the balance of power not only between the media and the government authorities but also among citizens and population groups. A democracy cannot only be identified by the way in which its institutions are appointed and how they relate to each other. Invariably, a free process of communication among the citizens of the state is also required to prove the existence of a democracy (Korte/Diermann 2008).

## THE MEDIA IN DEMOCRACY RESEARCH

Compared to scientific analyses of civil societies and governmental institutions, the media and their freedom have so far formed a marginal object of democracy and transformation research (Jarolimek 2004). Irrespective of their importance for the development of democracy (Tenscher 2008), media systems and media freedom have so far played a subordinate role in the assessments of leading democracy indexes like the Polity IV Project (Polity IV Project 2007)<sup>3</sup>, the World Bank's Worldwide Governance Indicators (World Bank 2008)<sup>4</sup>, or the Bertelsmann Transformation Index (Bertelsmann 2008)<sup>5</sup>. This is quite logical, given the fact that these indexes claim to observe all aspects of democracy, so that media freedom necessarily must be treated as one variable among many.

Conversely, the Freedom of the Press report<sup>6</sup> that is published annually by the American non-governmental organisation Freedom House concentrates on auditing freedom of the media and the press. Based on three categories, namely the legal environment, political environment, and economic environment, Freedom House (2008) examines the freedom of the media in 195 countries, subdividing them into a free press group, a partly free press group, and a not free press group.<sup>7</sup> Although the Freedom of the Press report devotes its attention entirely to the object of media and media freedom, it is restricted in its effort to identify specific interactions between indicators and results in each country by the large number of cases involved. Reporters without Borders (2008)<sup>8</sup>, another non-governmental organisation, employs a methodological approach similar to that of Freedom House to analyse media freedom in a large population of more than 150 countries with a focus on two indicators, independence and freedom of the media. Although the organisation annually publishes a documentary survey on 'Freedom of the Press Worldwide'<sup>9</sup> that contains brief reports on each country, it cannot pretend to have empirical depth (Becker/Vlad/Nusser 2007).

As a general rule, the democracy indexes that are most frequently used and quoted neglect intervening variables such as the political, cultural, and economic background because of the large number of cases involved, or else they focus on the development of the economy and the stability of institutions, paying little heed either to the part played by the media in the process of democratisation or the assessment of media freedom.

In contrast to these democracy indexes and documentations of media freedom in developing and transforming states, the KAS Democracy Report 2008 is designed to concentrate on empirical depth instead of scope and a large number of cases. In this respect it resembles methodologically the approach of the International Research and Exchange Board (IREX)<sup>10</sup>, a non-governmental organisation founded in 1968 to analyse the global development of media freedom in 20 states located in four regions of the world. The Media Sustainability Index (MSI) developed by IREX in 2001 uses the following key indicators to evaluate media freedom: '(a) legal and social norms protect and promote free speech and access to public information; (b) journalism meets professional standards of quality; (c) multiple news sources provide citizens with reliable and objective news; (d) independent media are well-managed businesses, allowing editorial independence; (e) supporting institutions function in the professional interests of independent media'.<sup>11</sup>

Like the preceding Democracy Reports, this year's study attempts to integrate the specific political, cultural, and economic framework conditions in each country into a comprehensive picture of the development of democracy in five regions of the world where the Konrad-Adenauer-Stiftung is active. Its methodological approach (see next section) distinguishes the KAS Democracy Report from pure rankings and audits of media freedom or democracy in general.

## STUDY DESIGN AND METHOD

This year's study is not a mere repetition of the Democracy Report of 2005. In some of the countries that were examined three years ago, such as Argentina or Mexico, the situation of the media has not changed to any considerable extent, while in others it has. That is why this year's report covers some countries that were studied in 2005, namely Bolivia, Nigeria, Egypt, and Russia. Other countries, such as Venezuela, Senegal, Turkey, the Asian countries, Bulgaria, Poland, and Ukraine, appear for the first time in a Democracy Report that focuses on the media. Because the Democracy Report of 2008 uses different case studies to address the same subjects as the report of 2005 it is more than a mere update.

As mentioned above, in empirical research there is no universal approach to auditing media freedom. Applying quantitative methods and defining indicators is especially difficult. The drawback of opinion polls (quantitative as well as qualitative) is that citizens measure their satisfaction by their expectations. If a population expects great things of the media (which then fail to materialise), the media system may be rated badly although its freedom is comparatively greater than that of another country with a less demanding population. This being so, comparability is predicated on certain conditions whenever opinion polls are included in the study of a country: any comparative study must cope with the conflicting objectives of producing generalisable results (scope) and empirical depth. A wider scope is always associated with reduced complexity, meaning that only limited consideration may be given to the historical, economic, or political framework conditions of the cases under investigation. Yet the practical relevance of the results of a study often crucially depends upon precisely these framework conditions. Conversely, while case studies may well do justice to the complexities found in a country, a price has to be paid for this in terms of comparability with developments in other states. The scope of case studies is too limited to permit drawing general conclusions for effective political development cooperation.

The path chosen for this study runs between these approaches: based on 16 selected case studies, the development of media freedom and the contribution of the media to the process of democratisation were examined. In all the countries selected, the Konrad-Adenauer-Stiftung operates projects to promote democracy and the media, including some in which, in the judgement of the KAS experts, there have been significant changes in the media's situation compared to the Democracy Report of 2005 (see above). The study is based on a sample survey whose case studies cover a wide range of states with different levels of transformation, different cultures, and highly diverse political and economic backgrounds. Among the states investigated, there are both emerging and democratically weak countries from Latin America, young EU member countries and accession candidates from southeast Europe, states from the MENA region<sup>12</sup>, and developing and transforming countries in sub-Saharan Africa and Asia.

For analysis, the countries were clustered into groups with a comparable geographical or historical background. Thus, the features that unite and divide these countries were registered on a smaller geographical scale, so that the specific peculiarities and problems of each region could be highlighted. The empirical evidence furnished by the generalised results is therefore weighty, and although it cannot claim to be representative on a global scale, it does form a solid grounding for a deductive analysis involving a large number of cases and a wide scope. Thus, the advantage of the study design of this survey lies precisely in its qualitative approach: compared to other well known democracy indexes, the precision with which it registers the degree of media freedom in all its diversity is much greater than that of purely quantitative surveys.

There are two peculiarities in the design of this study which deserve to be emphasised: first, the data gathered concern changes within the last five years. This permits the significance and scope of each indicator to be weighted and transnational trends to be identified. The second unusual feature is the identification of potential options for KAS support that will sustain the establishment of democratic media systems and promote the freedom of the media and their contribution to the

process of democratisation. The study's practical benefit – the development of cooperation activities by the KAS – results from the fact that it combines the detection of deficits in the democracy promotion functions of the media with the identification of options for the KAS to support media freedom.

The survey method chosen by the KAS and the Research Group on Governance is a qualitative expert opinion poll using a standardised questionnaire. The authors were either local representatives of the Konrad-Adenauer-Stiftung or local experts authorised by them. The advantages of this approach are these: first, the experts are extremely familiar with their countries and the local political situation. Second, their scientific qualifications and fundamental normative convictions guarantee a measure of reliability that can rarely be attained in expert surveys.

## **STUDY INDICATORS**

To take stock of the media landscape and the degree of media freedom in the countries under examination, five key indicators were used that will be described more closely in the following:

1. general information on media and media use; 2. legal environment; 3. political conditions;
4. economic pressures; and 5. non-state repression.

### **1. General information on media and media use**

This part of the study contains information about those specific national framework conditions on which the subsequent analysis of the freedom of the media and their contribution to the process of democratisation must be based. Because of differences in the literacy rate, the use of the media by the population in general, the infrastructure, and the ease of access to electronic media, the potential influence of the media on the democratisation process varies from country to country. Further items examined include the spread of print media and the structure of media ownership.

### **2. Legal environment**

The first item measured by this indicator is the liberality – or restrictiveness – of the formally codified framework for the media in each country. What constitutional or legal provisions guarantee free reporting? What legal means are available to prohibit media cartels and to issue licences for operating a media enterprise? Five sub-indicators were used to investigate the dimensions that influence the freedom of the media and media reporting:

- Freedom of expression
- Regulation of media coverage
- Censorship under the law
- Media licences
- Journalists' status
- Monopolies and cartels

If this study were confined to assessing the freedom of the media in formal legal terms, its conclusions regarding freedom of expression, the press and the media would be positive for many countries. However, giving consideration to the way in which the legal framework is applied in practice as well as to economic and political conditions will often lead to more differentiated results. For this reason, the 'legal environment' indicator examines not only the formal legal background of media freedom but also takes a look at its application in practice through these five sub-indicators. Thus, the degree to which individual journalists may report freely does not depend exclusively on legal framework conditions but mainly on the ability of the courts to protect them from governmental reprisals.

### **3. Political conditions**

The 'political conditions' key indicator comprises the following five sub-indicators:

- Coverage of marginal groups
- Self-censorship
- Illegal state repression
- Obstacles to internet access
- Government control over print media

These sub-indicators reveal the potential of politics to influence media freedom: what is the attitude of political decision-makers towards religious or ethnic minorities? Is there a political minority that is barred from media coverage or denied free access to the media? How widespread is self-censorship in the media? Is it occasioned by religious or economic reasons or by fear of government reprisals? What is the role played by the internet and new formats that permit free speech, such as blogs or chat rooms? Does the state tolerate these new forms of free speech on the so-called web 2.0? Are they freely accessible in the first place, given the technological infrastructure in the country in question?

### **4. Economic pressures**

This indicator addresses the economic constraints that apply to the media and any restrictions of media freedom that might arise from them. Questions relate to government funding for the media and/or the distribution of government financial support. In addition to direct funding, the indicator also considers support through government advertising, which frequently accounts for a large part of a publisher's budget. Do these financial dependencies influence media freedom in a way that is specific to each country? What are the realistic chances of establishing a private media enterprise?

### **5. Non-state repression**

This complex of questions targets the threat to media freedom posed by non-governmental actors, such as political or religious groups or organised crime. What trends and developments have emerged under this heading in the course of the last five years? How does the weakness of government institutions affect the potential influence of non-governmental players on the freedom of the media? Caught between government repression on the one hand and restrictions by non-governmental actors on the other, how free are the media to fulfil their democratic mission of forming public opinion? And what options are available to the judiciary to prosecute abuses by non-governmental players?

As mentioned above, the Democracy Report of 2008 pursues several objectives. In the scientific context, it aims at describing the condition of media freedom in the countries examined as well as at identifying general trends so as to close the gap caused by the lack of an empirical in-depth study of the freedom of the media and their role in the democratisation process. In combination with the first three volumes of the KAS Democracy Report, the findings of this study permit drawing a differentiated picture of the process of democratisation in the countries examined. At the same time, this year's Democracy Report proposes options and recommendations for the foundation's media promotion activities. Thus one of the objectives pursued by the KAS with this study is to gather actual information on media systems and media freedom globally in order to optimise its current endeavours to promote media freedom in developing and transforming countries and to improve the chances for still more long lasting democratic policy-making and freedom of the media.

*Karsten Grabow/Karl-Rudolf Korte/Kristina Weissenbach*

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- 3| <http://www.systemicpeace.org/polity/polity4.htm>, 28-06-2008.
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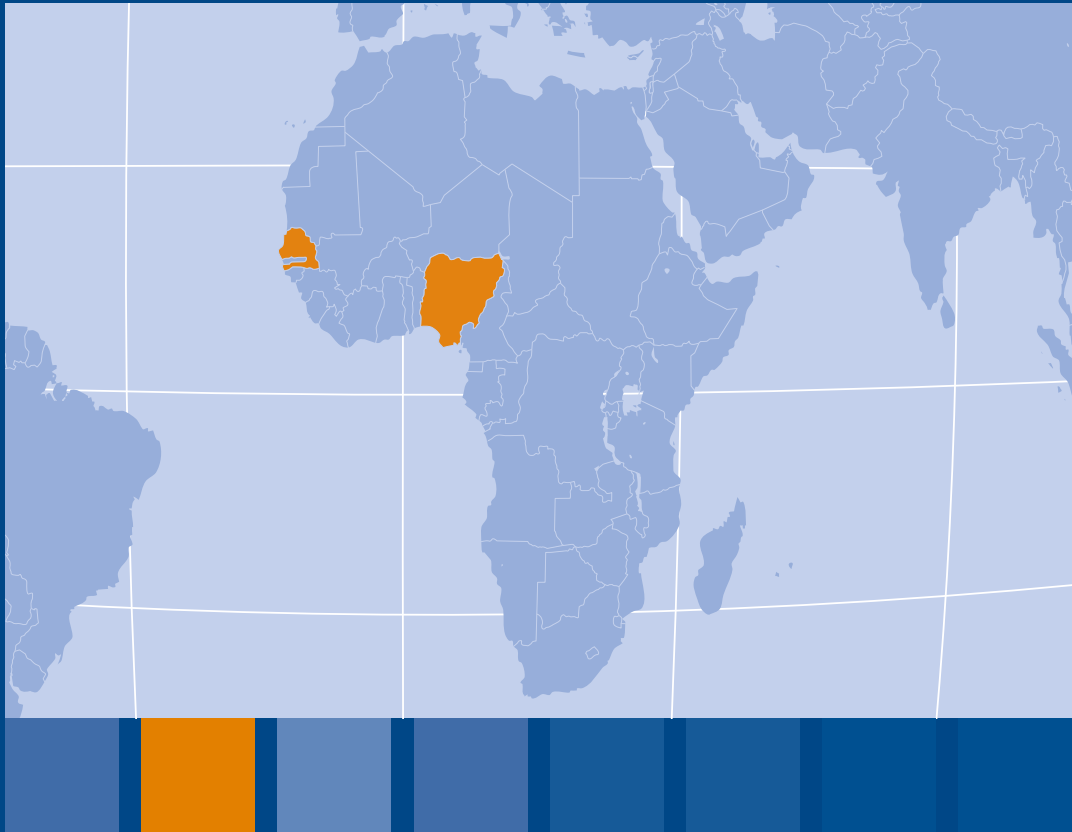
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**COUNTRY REPORTS  
BY REGION**







# AFRICA

- Nigeria
- Senegal



# NIGERIA

The Nigerian mass media has a long and proud history of freedom, deriving in large part from an activist tradition since colonial times. This freedom is today beset by a wide range of problems ranging from a legal environment designed to cripple and hamper it to low literacy rates and adverse economic conditions. The return to civilian rule in 1999 has not significantly improved media freedom. As the economic and political gap widens between the ruling groups and the mass of Nigerians, the state and the media (the one acting for the former and the other predominantly for the latter) are locked in an increasingly violent struggle over the freedom of the media to report and comment on social events and issues.

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

Given the definition of literacy as the ability of a person of age 15 and above to read and write and to understand simple statements in a specified language, the literacy rate in English (the official language) in Nigeria is placed at 68 per cent. The literacy rate in local languages is 25 per cent, differing between men and women at 30 per cent and 20 per cent respectively. Literacy in English similarly varies along gender lines: 75.7 per cent amongst men and 60.6 per cent amongst women. In the absence of research-based statistics, it is difficult to make categorical statements about the distribution of literacy in English along lines of ethnic-nationality, religion, geo-political region, and social class. It is obvious, however, that significant differences occur in this respect, with generally higher rates of literacy amongst the ethnic groups of the southern and middle-belt regions, which are predominantly Christian and animist, and amongst the upper and middle social classes.

*Literacy and education*

Behind this distribution of literacy in Nigeria are historical and socio-economic factors. The English language gained entrance into the country through English-speaking missionaries and traders, who first made contact with ethnic groups and state entities in the Atlantic coast of southern Nigeria in the 17th century. Following them inland by the principal waterways of the rivers Niger and Benue, the language appeared among the ethnic groups and state entities of the southern inland and the middle-belt. For various socio-historical reasons internal to these groups and entities, these missionaries and traders made greater headway amongst them than amongst those in the Fulani Caliphate that ruled in the northern regions. This laid the foundation for the unequal penetration and development of literacy in the English language between the south and the north of the country. Colonisation by Britain in the early 20th century and the introduction of colonial education institutionalised the English language in Nigeria. Although the colonising power amalgamated the southern and northern protectorates of Nigeria in 1914, the Dual Mandate and system of indirect rule it adopted in governing the colony resulted in significant differences in the development of colonial education in the south and the north of the country. Whereas English-based education – and, thus, literacy in English – developed rapidly and extensively in the south, its progress was more restricted in the north where Islamic education was predominant. This difference persists to date, in spite of postcolonial efforts to encourage universal English-based education across the country. Accounting for this in part is the uneven pattern of the class formation demanded by the development of industrial capitalism in the country. With the greater development of industry in the south, a greater proportion of the labour force in the south is involved in economic activities requiring prior training in the English-based education system.

The skewed pattern of wealth distribution in the country also accounts for differences in literacy rates amongst its social classes, ethnic nationalities, and genders. Although governments since the country gained independence have provided free or subsidised education at various levels, the investment in education (as in the social sector as a whole) has become increasingly inadequate over the decades. This has become particularly so since the structural economic crisis of the country that commenced in the early 1980s. Measures adopted to address the crisis included drastic cuts in expenditure on social services and infrastructure, including education and literacy programmes. This resulted in the decay of the education system and the drastic fall in the quality of education and of literacy. It also transferred a greater share of the burden of education to the individual and the family. Thus, the quantity and quality of education acquired is today principally a function of the wealth and social resources an individual or their family commands. Nigeria exhibits a skewed distribution of social resources, however, in which abject poverty and destitution coexist with fantastic wealth and affluence. Thus, the less than 20 per cent of the population that comprises the upper and middle social classes appropriates more than 60 per cent of the social wealth while the more than 80 per cent that comprises the lower classes appropriates less than 40 per cent. This results in a higher capacity amongst the former to acquire a greater quantity and better quality of education, accounting for the higher literacy rates amongst them. This difference in the literacy rates between rich and poor translates almost directly into a similar difference between town and country, since the wealthy (and education services and facilities) are concentrated in the urban areas and the rural poor constitute the majority of the lower classes.

A similarly skewed distribution of wealth along gender lines in favour of the male sex explains the difference in literacy rates between the genders. While this manifests in the lower ability of women to afford education for themselves, its dominant manifestation is in the widespread practice in families of discriminating against girl-children in the provision of education. This practice springs only in part from traditional modes of thought and values that consider men (and therefore boy-children) to be superior to women (and therefore girl-children). The experiential evidence of its greater prevalence amongst the poor suggests strongly that it is also a method amongst them of allocating scarce resources, on the pragmatic calculation that educating a boy-child is likely to yield a higher return on investment in a male-dominated and competitive world.

In the final analysis, the rates and distribution of literacy amongst social groups in Nigeria have a constraining effect on the development pattern of the mass media and on media use in the country. First, all mass media organisations and channels are located in the urban areas and have them as their primary audience; second, radio has remained since independence the most important mass medium for the majority of Nigerians; third, the owners and operators of the mass media have been predominantly men; fourth, the contents, concerns, and ideology of the mass media have been predominantly patriarchal; and fifth, the consumers of mass media products and services are predominantly men.

*Media landscape* There are 100 radio stations in Nigeria distributed as follows: 13 AM stations, 72 FM, and 15 short-wave. About 80 of these stations are owned by the federal or the state governments while 20 are private enterprises. There is only one community-based radio station (UNILAG FM, operated by the Mass Communication Department of the University of Lagos); the government has been tardy in approving licences for such stations. There are also about 76 television stations, of which various governments own about 62 and private investors 14. The print media are estimated to consist of about 40 newspapers (of which eight are privately owned) and 15 magazines, all privately owned. The state therefore has an overwhelming dominance in the ownership and control of mass media channels.

*Party media* The enabling law of the National Broadcasting Commission, the body charged with registering and regulating the broadcast industry, excludes political parties (as well as religious organisations) from being granted licences to own or operate electronic broadcast media (see Section 10 of the National Broadcasting Commission Decree No. 38 of 1992). In contrast, there is no law against print media ownership and operation by political parties; however, none at present publishes a newspaper or magazine.

This situation is to the advantage of the ruling party at the federal level or in a state. Instruments establishing government-owned media typically require their management by a board of directors. The president or the governor, as the case may be, appoints these to the exclusion of opposition parties, civil society, or other sectors of the society. The president or a governor is therefore able to appoint his or her party members and other loyalists to these boards, making the mass media agency they govern into an instrument of the government and the ruling party. Thus, while the law prevents political parties from owning and operating media organisations, the monopoly of powers in the hand of the chief executive to appoint the governing members of state-owned media effectively allows ruling parties to do so.

Further, both the federal and the state governments until recently ignored provisions requiring these media to be governed by Boards and generally chose to run them through sole administrators appointed by the president or the governor. These appointees owe their loyalty often not to the government or the party but to the appointing authority – i.e., the president or the governor – and determine the operation and content of the media organisation in their keep to serve his or her political and personal interests.

About 22 independent internet newspapers exist; these are however mostly online editions of print newspapers. They include *Al Mizan*, *Business Day*, *Daily Champion*, *Daily Trust*, *Financial Standard*, *Guardian*, *Independent*, *New Age*, *Newsday*, *Nigerian Tribune*, *Pointer*, *Port Harcourt Telegraph*, *Punch*, *Sun*, *This Day*, *Tide*, *Triumph*, and *Vanguard*.

*Internet media*

State authorities have generally refrained from censoring these online editions of print newspapers. Being internet editions of print publications, however, censorship pressure applied to their print editions is transmitted to them. Thus, for instance, the prevention of a journalist working for a print newspaper from covering a state activity translates directly into lack of information about that activity in both the print and online editions of the newspaper.

The principal advance represented by the use of internet technology by newspapers in Nigeria has been the expansion of their audience. Where previously most of their primary audience was located in the country, their contents now potentially reach millions of people across the world through their online editions. It must be noted, though, that even the publication of online editions has done little to enlarge their readership within the country. According to 2007 statistics by the International Telecommunications Union (ITU), only eight million Nigerians (or 5.9 per cent of the population) have access to the internet. Most of these – probably up to 90 per cent – gain access only through cybercafés that charge per hour and are therefore do not spend time on the net unless it is absolutely necessary for their purposes. The option of downloading online web pages for offline viewing does not exist for most internet users because they do not own personal computers.

Nigeria has a population of 135,031,164 (ITU estimate for September 2007) and has an estimated 8,000,000 people with access to the internet, accounting for 5.9 per cent of the population. The ITU estimates for 2002 were that there were 15,249,000 households with radios. At an average of two people per household, that would give 30,498,000 people with access to radio in 2002. The equivalent figures for television were 6,286,400 households and 12,572,800 people. Those figures have risen substantially since then in all probability, and access to radio and TV should be in the range of 60 per cent and 30 per cent respectively of the population.

*General media access*

Assessing access to the print media is more problematic. These media have neither the mechanisms nor the inclination to collect and analyse their circulation data, and there exists no independent monitoring data. Although an Audit Bureau of Circulation (ABC) exists, membership is optional and the bureau only works with figures it receives from member organisations. As these media organisation typically inflate these figures to make their publications more attractive to advertisers, ABC figures are of doubtful reliability. Nonetheless, access to the print media (magazines and newspapers) is probably in the neighbourhood of 35 per cent, taking into consideration the fact that each copy of a newspaper edition is read by up to two people.

*Media consumption* Radio and television are the most frequently used sources of information in Nigeria, with radio being by far the most important and television the next most important. Newspapers and magazines are also frequently the source of in-depth information for the literate who can afford them. Most internet users employ that medium for communication by email and for research rather than for news. Verbal exchange of information is also an increasingly important source of information, especially with the advent of GSM telephony.

*Media influence on political opinion* The mass media play a key and highly significant role in the formation of political opinion in Nigeria. The Nigerian media has a long history of independent political and social activism by which it has earned the confidence of the populace since colonial times. Although the state acquired dominance in media ownership in the early years following independence in 1960, a private media has always existed, first in the print sector and (since the late 1990) in the electronic sector. This private media have largely continued in the traditions of the pre-independence media in their independent-minded and activist journalism. Thus, they have largely retained the credibility and political influence gained by their colonial predecessors. They have therefore been able to mould the political opinion of the populace. This was particularly obvious in the years of struggle (1983–1999) to end military rule in the country. The private media, especially the print sector, was able to draw on its activist tradition in the anti-colonial struggle to serve as the voice and instrument of the struggle against military rule, consolidating its already enormous influence amongst Nigerians. This influence has been reinforced by the strong tradition of journalistic professionalism in the Nigerian media, despite its activist partisanship on the side of democracy and human rights. The private Nigerian media are widely perceived as reliable and credible in their reporting, enabling most media consumers to rely on them in forming their political opinion.

*State-owned media* State-owned media exist and indeed constitute the majority of media channels in the country. Eighty of the 100 radio stations in existence are owned by the federal or various state governments; they also own 62 of the existing 76 television stations and 32 of the 40 newspapers. Only in the magazine sector do the governments own no publications, all 15 existing magazines being private enterprises. Recently, however, the federal government has privatised the Daily Times and the New Nigerian newspapers, its flagship publications. This may be in recognition of two facts: first, leadership in the print media is solidly in the hands of the privately owned press; and second, most Nigerians turn to radio and television as their principal sources of information. Letting go of these publications is therefore probably an attempt to cut losses and to focus investment in areas of greater returns. Thus, the federal government has held on to its television and radio media, the Nigerian Television Authority (NTA) and the Federal Radio Corporation of Nigeria (FRCN, better known as Radio Nigeria).

These state media are editorially subject to the preferences of the state, in the absence of any law specifically protecting them from editorial pressure from government authorities. This is made worse by the fact that the president or the governor, as the case may be, appoints the governing boards of these media without participation by civil society or any other social sector. Even worse, most government authorities until 2000 failed to even appoint such boards, but preferred to run state media through single administrators. Under challenge by civil society organisations that went to court on the matter in 2000, the federal government and various state governments reverted to the law and appointed governing boards for such state media as the Nigerian Television Authority and the Federal Radio Corporation of Nigeria.

The state-owned media are generally perceived as merely propaganda instruments of the federal and state governments. The state has sought to employ these media as instruments of national unity and ideological mobilisation for national development. State media have therefore tended to stress the positive and to ignore or even deny the most egregious of problems in society, aiming to defuse social tension and conflict. This is apparent in every instance of massive confrontation between the state (or its ruling groups) and any oppressed social group, as it was in the long struggle against military rule. State media typically denied such confrontations or played down their severity, in part to douse passions and in part to enable the state and the ruling groups to continue blissfully believing that all was social amity and peace. At the root of this character of

state media has been the fact that they lack independence from the state authorities. For these reasons, they are seen as mere instruments of the state to paper over and disguise the existing and rapidly worsening contradictions between the mass of Nigerians and the ruling groups. They therefore have little influence in the formation of political opinion in the country. The conclusion then is that the private media play the leading and dominant role in the formation of political opinion in Nigeria. This cuts across social class, ethnic nationality, religion, and gender.

Although the private media have greater credibility amongst Nigerian, the state media are the source of the overwhelming bulk of published information. The latter have a clear hegemony in this respect. This has been due primarily to restrictions on the private media, especially in the electronic sector. Thus, only electronic media owned by the federal government are licensed for nationwide broadcast; attempts by private media to broadcast their programmes nationally have been forbidden by the National Broadcasting Commission, the broadcasting regulatory body. Thus, only the federal government has the ability to reach all Nigerians in the country simultaneously, placing in its hand enormous media power. While no similar restriction exists on private print media, such factors as the low level and quality of literacy and the gigantic problems of distribution severely constrain the reach of the private media. This is in addition to the fact that state print media outnumber the private print media by a ratio of about 2:1, since most state governments publish their own newspaper.

*State-owned  
media and  
published opinion*

In respect of editorial inclination, state media are primarily propaganda instruments of government. There is little significant difference in this respect amongst the various state media, be they print, radio, or television media.

The federal government and various state governments hold regular press conferences to inform the public about their programmes. Journalists do not have equal access to these conferences, due to the practice of media accreditation. Accreditation to attend these conferences is entirely at the discretion of the government and, while in principle every media organisation may be accredited, it is usually those in its good books that in fact are. Accreditation has been withdrawn from certain journalists for displeasing the government.

*Government press  
conferences*

The broadcast rights for these conferences belong to the state media; but private electronic media are allowed to hook up to these media to air them and to re-broadcast them.

## **2. LEGAL ENVIRONMENT**

The right to freedom of opinion is recognised and established in the 1999 constitution as a fundamental human right. Section 39.1 states that, 'Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.' Section 38(1) reinforces this: 'Every person shall be entitled to freedom of thought, conscience, and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.'

*Freedom  
of expression*

This right to freedom of opinion is construed as including the right of individuals or groups to free expression, which is in turn concretised in the right to own and operate media of mass communication. Section 39.2 states that, 'Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish, and operate any medium for the dissemination of information, ideas, and opinions.' However, that section makes private ownership and operation of electronic media subject to authorisation 'by the President on the fulfilment of conditions laid down by an Act of the National Assembly.' This power is exercised through the National Broadcasting Commission under the National Broadcasting Commission Decree No. 38 of 1992 as amended by the National Broadcasting Commission (Amendment Decree No. 55 of 1999. Section 10 of the 1992 decree forbids the granting of broadcast licences to political parties and religious organisations, effectively restricting their right to freedom of expression.

Moreover, the right to freedom of opinion is of little practical significance if it does not include the ability to express one's opinion in the public domain not only by word but also by peaceful action. The Public Order Act was for long an effective instrument for preventing the free and peaceful expression of opinion through public meetings and demonstrations. The act subjects the right to hold such public meetings to prior approval by the police authorities. The police have used this power to deny civil society and government opponents the right to express their opinion freely concerning government policies and practices.

*Free media coverage* Although the Nigerian mass media has won the de facto right to operate more or less freely, there is no explicit, justiciable, and specific recognition of press freedom in the 1999 constitution. Section 39.2 recognises the right of citizens to 'own, establish, and operate any medium for the dissemination of information, ideas, and opinions' but this only amounts to the right to own and operate not the right to operate with freedom.

The only section that recognises the right of the mass media to operate freely is Section 22. Two points are noteworthy in this section, however. First, it only recognises the freedom of the mass media 'to uphold the fundamental objectives contained in [Chapter 2 of the constitution] and uphold the responsibility and accountability of the Government to the people.' Thus, it ties the freedom of the press to the objectives of the state and would limit it to matters of governmental responsibility and accountability. As the objectives – outlined in Chapter 2 of the constitution – are the essential articulation of the official state ideology of national development, this section aims to make the freedom of the mass media an instrument of that ideology. From this perspective, the freedom of the press recognised in Section 22 easily transmutes into a duty to serve the state ideology; indeed, it is significant that Section 22 is entitled *Obligation of the Mass Media*. Second, this statement of media freedom in Section 22 is in Chapter 2 of the constitution, entitled *Fundamental Objectives and Directive Principles*. This chapter contains numerous statements that could be construed as granting or recognising certain rights including, in addition to press freedom, the right to education, housing, employment, and the equitable distribution of social wealth. None of these is justiciable, however; i.e., they cannot be enforced in any court of law. This applies to the right to press freedom stated in Section 22: the statement has no force of law. The press has been operating in freedom therefore on the basis of Section 39, which grants every person the right to 'receive and impart ideas and information without interference.'

*Regulation of media coverage* The problem of access to official information is perhaps the most important confronting the Nigerian media in the performance of its function. Although Section 22 of the 1999 constitution charges the media with the responsibility 'to uphold the fundamental objectives contained in [Chapter 2 of the constitution] and uphold the responsibility and accountability of the Government to the people,' numerous pieces of legislation operate to defeat that purpose. In the constitution itself, Subsection (3)(a) of Section 39 – the very section that ostensibly recognises the right of free expression and of press freedom – permits the government to make laws 'for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films...' The Official Secrets Act, first enacted in 1962, is an example of such a law to prevent the 'disclosure of information received in confidence'. This law denies the mass media and other unauthorised persons access to information in the possession of the government or its agencies, and provides for imprisonment for 11 years for the public official who releases such information without authorisation and for the person who receives it. Other legislation that restricts access to official information includes the Public Complaints Commission Act of 1975, the Statistics Act of 1987, the Criminal Code Act of 1990, and the Evidence Act of 1990.

Led initially by the Civil Liberties Organisation and then Media Rights Agenda, civil society organisations have since 1993 campaigned for greater access to official information. The Freedom of Information Bill that they initiated in 2000 passed in the House of Representatives on 2 September 2004 and in the Senate in November 2006, and only required presidential assent to become law. President Olusegun Obasanjo refused, in March 2007, to sign it into law, however, on the grounds of rejecting a provision for the judicial review of a refusal by any government agency to grant



access to information in its keep. Having run the six-year gauntlet of legislative passage from 2000 to 2006, the bill has to recommence the process with the new National Assembly that began sitting in May 2006.

The media are not barred from covering or reporting the activities or words of any social group or individual. Yet there is an unspoken understanding that the media should exercise 'caution and due consideration' in its reporting. This amounts to a demand for media self-censorship, and the practice of self-censorship is indeed widespread.

Section 39 grants every Nigerian the right of free expression and there exists no known law that specifically denies any person or category of person that right. The law, however, does regulate who may practise as a journalist. The Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 creates the Nigerian Press Council (NPC) to, among other things, register people who may practise as journalists. This law defines a journalist as any person who is 'paid for gathering, processing, publication, or dissemination of information' and requires such a person to be licensed to practise on pain of imprisonment. Civil society and media organisations have stoutly opposed the law and its purpose of registering journalism practitioners; but the law in fact goes way beyond merely compiling a register of journalists, dangerous to media freedom as that is. The law also provides powers to suspend a journalist from practising and actually lays down conditions under which a person may be registered as a journalist. These relate mainly to acquiring the necessary journalist training in accredited institutions, and this has allowed the government and the NPC to insist that the purpose of the law is only to raise the standard of professional practice and to weed out quacks from the profession. Civil society and media organisations have argued (correctly, in my opinion) that journalism differs from other professions in that it arises from the fundamental right of free expression and plays a systemic role unlike other professions. Moreover, the effect of allowing the state to determine who practises as a journalist are in the final analysis damaging to an order founded on democracy and human rights in a way that state determination of who practises as a lawyer or doctor is not.

All of these laws and policies establish a legal environment hardly conducive to media freedom. However, there is no legal requirement for media organisations to have their reports approved by state authorities before publication. This is not necessary in light of the vast array of laws that prescribe punitive sanction for various media infringements.

Nevertheless, the law establishes regulatory bodies for the mass media. The National Broadcasting Commission is empowered by the National Broadcasting Commission Decree 38 of 1992 to, amongst other things, grant broadcast licences, regulate the broadcast industry, investigate and punish broadcast media misconduct, and establish and enforce a national broadcasting code. The Nigerian Press Council is established by the Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 to regulate the print media, register journalists, accredit journalism courses in tertiary institutions of learning, and investigate and punish actions by journalists that violate the press code.

There has been no change in the legal environment of the media industry in the past five years, despite spirited efforts by civil society and media organisations to change the legal framework to enhance media freedom. The most significant of such efforts was the campaign for the Freedom of Information Act: the bill was passed by the National Assembly but did not receive the assent of President Obasanjo and did not become law. A second campaign was for a Nigerian Media Law to harmonise and consolidate all media laws into one and to amend those with adverse implications for press freedom. That law remained stuck in the National Assembly until the end of the tenure of the last legislature.

*Changes in the past five years*

In the absence of these changes, the legal framework of the media in Nigeria has remained essentially the same for the past five years. The evaluation of the state of media freedom in the period would be, therefore, that there was no change (0). Although the government and its security agencies showed much concern about the terrorist attack of 9/11 and the security implications for

Nigeria, there was little movement for the enactment of anti-terror laws in the country. The 9/11 attack and its security ramifications therefore had little effect on media freedom in Nigeria.

There has been no significant change in media operation and coverage in the past five years. The evaluation of the state of media operation and coverage in the period would be, therefore, that there was no change.

*Legal censorship* There exists no single and specific law that may be described as a censorship law in Nigeria; however, there exists a battery of provisions in various laws that individually amount to censorship in their effect and collectively create a censorious environment for the Nigerian mass media. For example, Chapter 7 of the Criminal Code of 1990 outlaws what it describes as sedition and seditious or undesirable publications, these being the products of a 'seditious intention'. It defines a seditious intention in Section 502 as one to create, among other things, hatred, contempt, or disaffection against the government, the president, or the governor of a state, to create discontent in the populace, or to promote hostility between social classes. Chapter 21A of the same code forbids 'obscene publications' (these being specifically print publication). Section 233(1) of the code defines an obscene publication as one that in its effect tends 'to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it'. Section 88(a) of the law also forbids any publication 'likely to provoke or bring into disaffection any section of the community' and bans songs 'the words of which are likely to provoke any section of the community'. Finally, Section 58 empowers the relevant minister to ban the importation of any publication considered seditious or undesirable. Other laws with similar censorious provisions are the Obscene Publications Act of 1990, the Printing Press Regulation Act of the same year, and Offensive Publications Decree of 1993.

In respect of broadcast media, they have to obtain pre-broadcast approval from the NBC for their programmes. A list of these programmes along with a brief description of each has to be sent to the regulatory body for approval each quarter before they are put on air, on the pain of severe sanctions, including withdrawal or suspension of the broadcast licence. Further, television stations are required under the Press Law of 1993 to limit foreign programming to 40 per cent of their daily broadcast content. The same law also places a bar of 20 per cent foreign content for satellite broadcasting. All of these create a censorious environment for the mass media.

Furthermore, the Nigerian Press Council Decree No. 85 of 1992, as amended by Decree No. 60 of 1999, requires publications to register with the Nigerian Press Council, as part of which they have to submit their mission statement and the objectives of the publication. As the council has power to deny a publication registration if its mission and objectives do not meet its approval, this amounts to a means of systemic censorship. Similarly, the conditions for the grant of broadcast licences amount to systemic censorship. Section 9 of the Nigeria Broadcasting Commission Decree of 1992 requires a licence applicant to give 'an undertaking that the licensed station shall be used to promote national interest, unity, and cohesion and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred, and disaffection among the peoples of Nigeria'. According to the NBC law, the commission can revoke a station's licence where 'in the opinion of the Commission the station has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission and whose decision is upheld by a majority of members of the Commission'. It lies entirely with the commission to decide what the 'national interest' is and what offends 'religious sensibilities' or promotes 'ethnicity, sectionalism, hatred, and disaffection'. This effectively empowers it to take censorship action, including the revoking of broadcast licences, against media organizations of whose broadcast content it disapproves. Thus, the National Broadcasting Commission has been able to employ its regulatory powers in a manner that in many instances amounts to censorship. An example of this is the standing ban it has placed on the live broadcast of news and features programmes from foreign media organisations.

In the absence of a consolidated censorship law, it may not be appropriate to speak of the consequences of acting in breach of such a law. There are various laws with censorious provisions,

though, and these include punitive provisions for breaches. Chapter 7 of the Criminal Code Act of 1990 forbids sedition and the importation of seditious or undesirable publications. A first offender who produces a seditious publication under this law is subject to a two-year prison sentence, a fine, or both, while a subsequent offender is liable to imprisonment for three years. Possession of a seditious publication is punishable under the law by imprisonment for one year, a fine, or both. Various acts (including the importation, possession, publication, sale, offering for sale, distribution, or reproduction of a publication banned under this law) attract a term of imprisonment, a fine, or both. Production, distribution, or reproduction of a publication categorised as obscene under Chapter 21A of the Criminal Code of 1990 is punishable by imprisonment, a fine, or both.

As stated above, some of the licensing conditions under NBC law amount to systemic censorship. The law empowers the commission to revoke the licence of a station that violates its licence conditions or the NBC code. The commission has employed this power in numerous instances. For example, it applied a range of sanctions against privately owned Freedom Radio on 28 March 2006, allegedly for violating the broadcasting code. These included bans on broadcast operations between 5 pm and 10 pm daily, on broadcast of political programmes, and on certain specific programmes (Special Programme, and the Hausa-language programmes Kowa Ya Tuna Bara, Kowane Gauta, and Kowane Tsuntsu). The station was fined N200,000 and ordered to pay up within 48 hours. Explaining the action, the NBC alleged that it found the station's political and talk show programmes lacking in 'the maturity required of such programmes' and that programme guests and callers made 'unguarded comments that violate provisions of the NBC Code, always tending to overheat the polity'. This is a clear instance of censorship.

Media establishments have to be registered by state authorities. Quite apart from registration as legal business entities, media organisations have to be registered with either the Nigerian Press Council (for print publications) or the National Broadcasting Commission (for broadcast media).

*Media licences*

The Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 provides for the 'Documentation of Newspapers', under which publications must register with the Nigerian Press Council. Registration requires submission of the mission statement and objectives of the publication. Publishing without registration attracts a punishment of three years imprisonment, a fine of N250,000, or both. Every additional day of the offence attracts a fine of N5,000. The National Broadcasting Commission Decree No 38 of 1992 similarly forbids a radio or television station from broadcasting unless it is granted a licence by the National Broadcasting Commission. The conditions that applicants for licences must satisfy include majority ownership of the business entity by Nigerians and the payment of various fees. Meeting all the conditions does not guarantee a successful application, however; the NBC law leaves the decision to grant broadcast licences completely at the discretion of the president.

These regulatory bodies are not independent of the state authorities, and are in fact administrative extensions of the federal government. The executive secretary of the Nigerian Press Council is a presidential appointee on the recommendation of the minister of information and culture. Although other members of the council are supposedly drawn from the media industry, the NPC law transforms them into government functionaries: Section 5A(2) of the law says they are to enjoy the same conditions of service as those of people serving in equivalent positions in the federal civil service. Similarly, the chairperson and director-general of the National Broadcasting Commission are appointees of the president on the recommendation of the minister of information. The members of the committee are appointed by the president. Although the NBC law requires that they be drawn from various interest groups including civil society, the mass media, the Ministry of Information, and the state security agencies, it makes no provision for consultation with these sectors in respect of the selection of their representatives. Further, the law empowers the minister of information to issue directives to the commission and puts the latter under obligation to implement such directives.

The NBC may revoke broadcast licences where it believes that a broadcast station 'has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Commission and whose decision is upheld by a majority of

members of the Commission'. This is most vague and subjective, leaving room for the NBC to employ its powers arbitrarily. The commission has defined three categories of sanctions for erring stations but has not been specific on what particular offence would earn them. Thus, for instance, it says a broadcast licence may be revoked for 'a serious breach' of the NBC code but does not explain what is considered 'a serious breach'. Apart from this, Section 8 of the NBC law provides that: 'A licence may be revoked by the Commission in the following cases, that is –

- Where the prescribed fee has not been paid on the due date,
- Where the licence has not been put to use within a period of one year after issuance,
- where it is found that the licence was obtained in breach of the provisions of section 13 of this where it is found that the provisions of the said section are not being complied with, and
- where in the opinion of the Commission the station has been used in a manner detrimental interest or where a complaint from the public has been upheld after a public hearing instituted by the commission and whose decision is upheld by a majority of members of the Commission'

There have been very few actual cases of licence revocation and these have been in connection with non-use of the licence or the non-payment of the required fees. The commission has more frequently imposed lesser sanctions such as a warning or the suspension of a licence.

*Journalists' legal status* Section 17 of the Nigerian Press Council Decree No. 85 of 1992 as amended by Decree No. 60 of 1999 requires that every practising journalist be registered with the Nigerian Press Council. A person is qualified for registration under Subsection 1 of this section if:

- He has attended a course of training recognised by the Nigeria Union of Journalists so acquired with the cognate experience recognised by the Nigeria Union of Journalists; or
- The course was conducted at an institution so approved, or partly at one such institution and partly at another or others; or
- He holds a qualification as approved; or
- He holds a certificate of experience issued in pursuance of article 22 of this Decree.

He or she may also qualify if, according to Subsection 2, 'if he satisfies the Council that immediately before the commencement of the Decree he had not less than five years experience as a journalist'. In addition, Subsection 3 requires him or her to satisfy the council that:

- He is of good character;
- He has attained the age of 18 years;
- He has not been convicted in Nigeria or elsewhere of an offence involving fraud or dishonesty;
- He has been trained at an approved mass media institution;
- He has a general professional orientation which covers the basic requirement of information leading to a qualification not less than a diploma; and
- He has good knowledge of the politics and socio-economic affairs of his society acquired from an approved institution.

A person may be denied registration unless they meet these and other conditions, and a registration may be withdrawn from a practising journalist if they infringe the Journalists Code of Conduct drawn up by the council. The media and civil society have put up stiff resistance to this law requiring the registration of journalists and the MRA and NPAN have filed different suits in court to stop its implementation. There has been no instance, therefore, of the actual denial or withdrawal of registration.

Only journalists accredited by the government agency concerned are allowed to observe its meetings; that includes the legislature at both the national and state levels. As this accreditation is discretionary, journalists cannot be said to have a right to be present at such meetings. Thus, for example, on 22 August 2005 a presidential committee investigating jailbreaks at two prisons shut the door against journalists and prevented them from observing and reporting on its proceedings. Committee chair Senator Stella Omu explained that the proceedings were not yet for media reporting and that the presence of the media could prevent witnesses from testifying.

Journalists or media organisations that fall out of favour with a government agency may be denied accreditation to cover its activities. For example, the National Assembly on July 26, 2006 revoked the accreditation of all journalists covering the activities of the national legislature and set new conditions for re-accreditation. These included presentation of current tax clearance certificates and evidence of legal registration of their media houses.

As a result, such agencies mostly grant accreditation to state media and to journalists from private media seen to be cooperative with the government. There is therefore no equal access in practice for all journalists to government meetings.

Some meetings are broadcast, however, with various legislatures and government agencies allowing even live broadcast of some of their activities. However, as in the case of accreditation, certain 'unfriendly' stations may not be allowed the right to broadcast them.

Journalists enjoy the same constitutional right as other citizens to challenge violations of their rights, including repressive actions or policies by state authorities. According to Section 36(1) of the 1999 constitution: 'In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.'

Acting under this right, media organisations and practitioners have challenged state actions they consider repressive. For example, both the Media Rights Agenda (MRA) and the Newspapers Proprietors Association of Nigeria (NPAN) went to court in 2001 to stop the implementation of the Nigerian Press Council Decree No. 85 of 1992. The MRA also filed suit in 2000 to challenge the government's long practice of not appointing government boards for state media as required by law.

Section 9(5) of the National Broadcasting Commission Decree No 38 of 1992 provides against the development of media monopolies and cartels. It states that, 'It shall be illegal for any person to have controlling shares in more than two television stations'.

*Monopolies and cartels*

The existing media monopoly is held by the government, which controls more than 70 per cent of media channels in the country. However, some media organisations – notably DAAR Communications, owners of RayPower Radio and Africa Independent Television, the leading broadcast media stations in the country – have been attempting to build a network for simultaneous national broadcast. While this is not in itself an attempt to build a monopoly, it does evince a tendency to enlargement that could in future lay the foundation for media monopolies. The NBC has opposed such attempts and threatened to withdraw the licences of media organisations involved. This phenomenon is at present limited only to the electronic media. Hampered by the problems of low national literacy, the inadequate communication infrastructure for distribution, and the harsh economic environment, print media organisations have not shown any tendency to develop monopolies.

### **3. POLITICAL CONDITIONS**

There is no legal provision forbidding media reporting of political issues concerning any particular section of the population or any social strata. However, certain factors (including the social distribution of wealth, the rate and distribution of literacy, and the structure and distribution of the media itself) predispose the media to focusing its attention on certain social sectors and issues. Thus, the media in general tend to give more attention to urban matters than to rural ones. One reason is that the communication system is generally better in the cities and towns, enabling easier collection and dissemination of information. Second, the private media depend principally on advertising and sale revenues: since the distribution of social wealth concentrates most resources in the urban areas, that is where the greatest advert and sales revenues come from. Third, the literacy rates are far better in the urban areas, making the cities and towns the most promising markets for the print media and a large portion of the electronic media.

*Coverage of marginal groups*

For these reasons, issues of concern for rural dwellers (including political ones) tend to receive little attention in the mass media. Such issues include land dispossession by state officials and business interests, disenfranchisement by politicians, and the embezzlement or misuse of public resources by political office holders.

With the exception of people in prison or in police custody, there are no sections of the general population deliberately prevented by state action from exercising their right to freedom to receive or disseminate information. As regards prisoners and people in detention, both the Prisons Act and penal practice deny prisoners access to published information.

*Self-censorship* Self-censorship is an unspoken but widespread practice in the Nigerian mass media. The panoply of laws inhibiting free expression and the regulatory laws enforced by the NBC and the NPC have created a culture of 'caution and due consideration' in media reporting. This amounts in practice to self-censorship. Beyond determining the veracity and newsworthiness of stories, media channels also have to weigh their implications in terms of the displeasure of the government and its regulatory agencies. Publishing without such due consideration could lead to punitive reprisals by such agencies. The experiences of RayPower Radio, AIT, and Freedom Radio provide a good example of this. The NBC shut down Freedom Radio in March 2005 for two weeks, allegedly for violating the NBC broadcasting code. Civil society activists and journalists insisted, however, that the closure was for airing a song critical of President Obasanjo's unconstitutional bid for a third term in office. The regulatory body also shut down RayPower Radio and AIT, the country's leading private radio and television stations, on 23 October of that same year, allegedly for 'unprofessional coverage' of a plane crash that claimed the lives of all 117 passengers and crewmembers. Gbenga Aruleba, deputy general manager (news) of DAAR Communications (owners and operators of the broadcast media), denied this allegation, however, and said the shutdown was for countering the official line on the crash broadcast by the state-owned NTA and for criticising aviation authorities for negligence of duty. Such punitive measures encourage media self-censorship.

This pressure towards self-censorship applies not only to the private media but also to the state media. Operating as media arms of the government, the state media are under the more or less direct control of government officials and take care not to report matters that might embarrass the government or otherwise displease state officials. They therefore operate principally as propaganda instruments of the government and cannot report events and issues freely.

This culture of self-censorship embraces all sectors of the mass media but is most evident in respect of political issues and those concerning ethno-religious and similar social conflicts.

*State repression* Unlawful attacks on journalists and media organisations are very common in Nigeria despite the advent of civilian rule in 1999. Such incidents include physical assaults on journalists, seizure or destruction of journalistic equipment, raids on or sealing up of media offices, and confiscation of publications. The following cases are a selection from hundreds reported in the media and collated in Media Rights Monitor, organ of Media Rights Agenda:

- **14 October 2003:** A team of police officers beat up Suleiman Osasuji, a sports journalist with All Sports newspapers, using their hands, whips, and gun butts. The incident occurred at the Abuja Stadium, venue of the All Africa Games where he was on assignment as media officer with the organisers of the games
- **17 May 2004:** Soldiers from the 81st Division Garrison, Dodan Barracks in Ikoyi, Lagos, assaulted, arrested, and detained Savannah Peters, a reporter with Island News, and seized her camera. Miss Peters was on assignment to investigate a report of a luxury bus filled with valuables
- **22 June 2005:** Police in Lokoja, the Kogi state capital, arrested Segun Omolehin, state chair of the Nigeria Union of Journalists (NUJ), at a meeting initiated by the police to improve police-media relations in the state. Relations had soured and the police had launched a campaign of harassment against the media following media stories on 20 June of an encounter between Kogi State Commissioner of Police Thomas Bamidele and armed robbers

- **14 May 2006:** State security agents raided the office of DAAR Communications Limited in Abuja and confiscated the master tape of a documentary on failed efforts by past Nigerian leaders to perpetuate themselves in office. The company owns and operates RayPower radio and the Africa Independent Television (AIT). The documentary was on-air at the time of the raid and the security agents terminated its further broadcast
- **16 August 2007:** Yomi Onashile, Ekiti state commissioner of police in south-west Nigeria, threatened journalists with arrest, detention, and prosecution for what he described as 'sensational reporting', accusing some print media journalists of bias in their crime reporting since his assumption of office
- **10 January 2008:** Security agents in Ibadan, the Oyo state capital in south-west Nigeria, arrested and detained Fidelis Mbah of the BBC and Tade Oludayo of Silverbird Television and Rhythm FM radio for photographing a statue of the 'Unknown Soldier' recently unveiled in front of Government House in the city.

Hundreds of such incidents are on record on the website of MRA ([www.mediarightsagenda.org](http://www.mediarightsagenda.org)) and occur very often.

Internet access is not hindered by state measures.

*Obstacles to internet access*

The threat of formal or informal state repression of the media and the frequency of actual instances have not changed significantly in the past five years. The reason for this lack of change is that the structural functions of the media and the state (and, therefore, their structural relation to each other) have not changed in any significant respect in the past five years of civilian rule. The essential function of the existing state machinery is the protection of the existing social order founded on relations of inequality and exploitation between ethnic nationalities, genders, and social classes. The growing atmosphere of conflict in the country since the late 1970s and especially in the late 1980s indicates the growing crisis of the social order, and the role of the Nigerian state has been to manage this conflict. The basic strategy in this respect has been the repression of the forces striving for the transformation of the present social order on a radically democratic basis. While the ruling groups have come to accept the inevitability of such change, they fear that it may proceed at a pace and in directions that threaten their strategic interests. They use the state, therefore, to manage the process of social change in a manner that accords with those interests.

*Changes in the past five years*

In contrast, the media (especially the private media) have predominantly – if not consistently – represented the forces of change. As was glaringly obvious in the struggle against military rule, its choice of issues and events to report could and often did have political implications that could be wielded against the state and the ruling groups. Thus, when the press gave abundant media space and time to the Civil Liberties Organisation in its campaign on prison conditions in the early 1990s, it was an unspoken yet trenchant criticism of the military regime of General Ibrahim Babangida at the time. Similarly, media reports of the state of affairs in various aspects of life today could translate into a criticism of the present ruling groups, which they see as acts undermining their legitimacy.

For these reasons, the state and the media find themselves more or less on opposite sides of the social divide. This is despite (in fact, it explains) efforts by the state to co-opt the media and build friendlier relations with them. The stringent regulatory regime described in previous sections of this report indicate, however, that control and repression are the state's strategic approach to relations with the media. The repressive practices of state agencies such as the police, the army, and the state security organs derive from and feed into this strategy, creating a general atmosphere of media repression.

There exists no legal provision for state monitoring of the production and distribution of print media products. The print media do not have to submit their contents for state vetting; they obtain newsprint on the general market, and the security agents have no legal powers to monitor the distribution of newspapers or magazines. However, the law makes the production, importation, or distribution of seditious or obscene materials a criminal offence. State security agencies and the

*Government control over print media*

police often take advantage of these and other laws to attack vendors and seize newspapers and magazines they consider offending. The following is a selection of cases:

- **8 May 2004:** Officers of Kick Against Indiscipline (KAI), a paramilitary organisation of the Lagos state government confiscated from vendors and destroyed newspapers and magazines, accusing the vendors of street hawking. Some vendors were beaten up.
- **10 February 2005:** State security agents raided vendors on Old Market Road, Onitsha in Anambra state and confiscated large numbers of copies of a number of publications including TheNews, The Source, and The Week (all news magazines), and Hallmark newspaper. The State Security Service (SSS) explained that the publications had stories on the Movement for the Actualisation of Sovereign State of Biafra (MASSOB), an organisation banned by the government. A vendor was arrested and detained at an unknown place.
- **28 January 2008:** A magistrate's court in Uyo, in the Akwa Ibom state, remanded Samuel Asowata, editorial board chairman of Fresh Facts newspaper, to prison custody after his arrest by police on 21 January for alleged sedition. The police had also arrested Bright Essien Ewoh, a newspaper distributor, on 24 January and arraigned him before a similar court the next day. Mr Asowata's arrest was in connection with a 21 January story in the newspaper captioned 'Akpabio in N5.5bn Housing Scam?' Mr Ewoh was arrested for alleged sedition and conspiracy in connection with the distribution and sale of the Fresh Facts edition containing the story. Godswill Akpabio is the governor of Akwa Ibom state.

Such incidents occur very often. Although state authorities do not directly employ such methods to exert editorial control on the private media, the practice does encourage self-censorship amongst private newspapers and magazines.

#### 4. ECONOMIC PRESSURES

*State subsidies* There is no formal or regular system of subsidisation of the private media by state authorities. Some private media do pursue and get adverts from the state, albeit on a very irregular basis. Such media cut across all sectors: television, radio, newspapers, and magazines. In the absence of financial figures from the media or the government in this respect, it is not possible to determine the amounts of money involved in such political adverts or how it compares with commercial adverts by business organisations. It is clear that private businesses are a greater source of advertising revenues for the private media. Advertising revenue from the state is too infrequent and irregular to constitute a major source of income for the private media.

State adverts, therefore, do not constitute a serious means of editorial control of the private media. While this does act as a not-insignificant source of pressure towards editorial friendliness towards the state for media establishments that do receive such adverts, it does not significantly change the general attitude of the private media sector towards the state. The media audience expects the media to be neutral if not critical of the government. For this reason, a private media organisation seen as friendly towards the state runs a very serious risk of losing a significant portion of its audience. Most media establishments therefore balance between neutral objectivity and critical objectivity, with the electronic media tending towards the former and the print media towards the latter.

This difference between the electronic and the print media is explained in part by the fact that radio and television are subject to greater and stricter monitoring by the NBC than the newspapers and magazines are by the NPC. In addition, though, it is due to the character of the audience of each media sector. Consumption of print media products (newspapers and magazines) tends to require a higher level of literacy and general education than consumption of radio and television programmes. Print media consumers tend on the average, therefore, to be more politically sophisticated and active than electronic media consumers. This feeds into the fact that the print media audience live predominantly in towns and cities, where the major and most intense social conflicts tend to occur, and consist of a relatively higher ratio of radicalised critics of the government and the ruling groups. All of these factors predispose the print media to a more critical attitude toward the state.



The dependence on advertising revenues is the principal economic factor undermining the editorial independence of the mass media. Relatively low literacy rates and adverse economic conditions in Nigeria have resulted in low and economically unprofitable rates of subscription and newsstand sales for media organisations. They are compelled, therefore, to rely on advertising revenue to sustain their operation and to make a profit sufficient to justify their investment.

This gives business organisations that provide these adverts a degree of influence that is unspoken yet significant enough to influence the editorial decisions of media organisations. Further, it also provides room for clandestine government influence over such decisions. This is because most business operations in Nigeria depend in one degree or another on government goodwill. While it is impossible to ascertain this in the absence of admission by such businesses, it is a common-place perception that in periods of acute conflict between the state and other sectors of society the government applies pressure on big business to channel their adverts to government-friendly media houses. This would pressure or encourage more media establishment to adopt a neutral or friendly attitude toward the state.

## 5. NON-STATE REPRESSION

Nigeria has experienced a proliferation of militias and militant non-state groups since 1993. However, these groups have generally refrained from attacking journalists or media organisations. One of the relatively few incidents in which they attacked the media took place on 11 August 2007 in Port Harcourt, the capital of Rivers state in the Niger-Delta region. On that day, members of a militia in that city bombed the offices of the state-owned Radio Rivers, destroying a section of the administrative block and a number of lives. This was apparently in response to state security and military operations against the rival militias in the state, who had been engaged in a violent confrontation that had claimed scores of innocent lives. Another case that may or may not be one of an attack by a militia group occurred on 5 June 2007 when two gunmen attempted to kidnap Christian Madueke, a staff member of privately owned newspaper Punch, when they could not find another staff member whom they sought. They threatened the staff with their weapons and Madueke escaped only by jumping out of a second-floor window.

*Repression by non-state groups*

Generally, however, thugs allied to politicians and political parties have been the greater source of attacks on the media in the past five years. The following is a selection of such attacks.

- **30 January 2008:** Thugs in Lagos beat up Bayo Onanuga, managing director of TheNews magazine, after he gave evidence in a libel suit brought against the magazine by Bode George, the south-west chairman of the ruling party, the Peoples Democratic Party.
- **23 May 2007:** Suspected political thugs armed with axes, machetes, and guns disrupted transmission, and vandalised and looted broadcast equipment after invading the premises of the Broadcasting Corporation of Oyo State (BCOS) in Ibadan, the Oyo state capital in south-west Nigeria. They also injured workers of the media establishment

Politicians and political parties are usually behind such attacks; they are usually politically motivated, therefore, and occur when a politician or a party perceive a media establishment or a particular journalist to be undermining their political interests. Such attacks are less frequent than those by various state agencies but they occur very often enough to be a real threat to media freedom. This is especially as the state has not shown any capacity to protect journalists and the media from them. This is in part because these thugs are faceless and are not easy to identify for prosecution; it is also due in part to the fact that their sponsors are powerful political figures able to manipulate the police and the judiciary.

There have been no significant changes in this situation in the past five years. Although non-state attacks on the media are not as serious or frequent as attacks by state agencies they are a significant enough to threaten the free operation of the media, especially in their coverage of political matters. In terms of frequency of such attacks, the impression is that there has been little change.

*Changes in the past five years*

## 6. CONCLUSIONS

*Freedom of the media: general situation* The general state of media freedom in Nigeria today is ambiguous. Without doubt, the press operates with a great degree of freedom; yet, both the legal framework and the worsening social conflict portend and allow much room for state restriction on that freedom. The media operate relatively freely, but it is freedom within what we might think of as a very large but shrinking cage framed by existing media laws, with state agencies and adverse economic conditions striving to cripple the media even within the cage. We may best categorise the state of the media as freedom with major restrictions.

*Changes in the past five years* The degree of media freedom has not changed significantly in the past five years. The former government of President Obasanjo was very antagonistic to the media and to media freedom, as may be seen in the great frequency of attacks and restrictions on the media, as well as in the president's refusal to sign the Freedom of Information Bill into law. That antagonism lasted all eight years of his government (1999–2007). The new government of President Umar Musa Yar'Adua has expressed its intention to uphold the rule of law and the constitution, and to respect human rights. In the ten months since May 2007 in which it has been in office, it has taken certain actions that many consider encouraging in that respect. These have included respect of rulings by judicial bodies and measures to effect electoral reform. However, the actual state of media freedom has not improved in any significant manner. We may only speak of a promise of greater media freedom, if the government talk of respect for the rule of law, human rights, and the principles of democracy is more than just a posture. A convincing indicator of this would be the fast-track passage into law of the Freedom of Information Bill and a radical review of all media laws to remove undue restrictions on media freedom and free expression.

*Major obstacles to free media coverage* Among the major obstacles to media freedom in Nigeria are obstacles preventing access to information in the possession of state and governmental agencies; adverse conditions of service, often including the non-payment of wages for up to six or seven months; attacks by state agencies on journalists and media organisations; an increasingly restrictive legal framework in which the government exercises undue control over the mass media through the regulatory agencies, the National Broadcasting Commission and the Nigerian Press Council; excessive interference and even control of editorial policy by media owners, including the state and private owners.

The generally low rate of literacy in the country and the decline in the quality of education across all levels of the educational system is another obstacle. A poorly educated populace results, in the final analysis, in a weak mass media. The state and powerful social groups easily subjugate and co-opt such a body of mass media, rendering it unfit to play its structural role in the defence and development of democracy.

*Osaze Lanre Nosaze*

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# SENEGAL

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

The literacy rate in Senegal is 39.3 per cent. This relatively low rate is due to the insufficient funding devoted by the state to widening access to education. Besides, there is still strong resistance to the establishment of modern schools, particularly in the rural areas. The number of girls attending school is extremely low compared to the number of girls among children of school-going age. However, there is an important group of people who can read and write in indigenous languages and in Arabic and who are not taken into account by official statistics.

*Literacy and education*

In January 2008, there were 75 radio stations, four television stations and 21 daily newspapers published on a regular basis. Private radio stations have been in existence since 1994, the year which marked the end of the state monopoly of the electronic media. The first television station began operating in 2005.

*Media landscape*

Three private radio stations are owned by influential members of the ruling party, the Senegalese Democratic Party. At the opening of these stations, their owners held the positions of president of the National Assembly, prime minister and minister. The latter was also in charge of propaganda for the ruling party. In addition to these radio stations, which started broadcasting two years before the 2007 presidential and parliamentary elections, more than five daily newspapers are directly owned by leading members of the ruling party or are closely controlled by them. The opposition owns no media of any kind.

*Party media*

There are three main independent newspapers that can be accessed on the internet; they generally repeat information already provided by the private or public media. They sometimes publish exclusive information. So far the government has not attempted to gag these newspapers and they are very independent. There have not been any particular improvements in operating conditions on the internet to ensure the freedom of content of these media, but the operators who put their newspapers on line are not complaining about the existing operating conditions. In Senegal, an estimated 540,000 people have access to the internet according to statistics published by the Observatory on Information Systems, Networks and Information Highways (OSIRIS). There are approximately 800 internet access points in the country.

*Internet media*

There are no statistics on the number of Senegalese citizens who have access to all the traditional media, the internet and satellite broadcast programmes.

*General media access*

It should be emphasised, however, that radio is by far the most popular medium. It is widely used as a source of information. Television and newspapers lag far behind. The use of the internet as a source of information is not very common. Verbal communication remains a powerful means of sharing information.

*Media consumption*

In any case, the media have a strong impact on shaping political opinion in Senegal. It is partly because of the public's generally low level of education. People take for granted what the media say, most of the time without a critical analysis.

*Media influence on political opinion*

*State-owned media* The state-run media make up an important group with regard to their number. In the broadcast media, they are all part of Radio Television of Senegal (RTS), with one TV channel and 12 radio stations located in Dakar and inside the country. The state controls the government daily *Le Soleil*, which is the most powerful newspaper in terms of financial capacity, technical infrastructure and human resources. There is a single national news agency, the Senegalese Press Agency (APS), which is also state-owned.

There are no laws protecting state media newsrooms from government pressure. Their officials are directly appointed by the government without consultation with any other organisation. They are selected from among journalists who are close to the political regime and who systematically defend its options.

*State-owned media and published opinion* The influence of the state media on public opinion has significantly declined with the development of the private media, which began in the mid 1970s. It has become clear that the private media have a greater influence on the political opinion of the Senegalese people.

The state media's editorial lines totally conform with the government's policy. They are systematically favourable to the government and are often used as political propaganda instruments. This has created suspicion among the public. The state-run television and the government daily newspaper play this role very well. Television is the window of the government and is the medium closest and most loyal to the regime. The state radio and the government daily remain favourable to the government with a slight opening towards the opposition and groups that are not allied to the government.

*Government press conferences* Ministers, the head of state and his spokesperson frequently give press conferences to inform the public about the government's policy. These meetings can be broadcast without any restrictions by public or private radio and television stations. As a general rule, all channels are admitted but in practice the state-controlled electronic media coordinates these meetings.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* Free opinion and free speech are established as fundamental rights of the individual by the constitution of the Republic of Senegal, in its Article 8. However, some provisions of the penal code and the code of penal procedure contain restrictions to this fundamental right.

The restrictions apply to matters such as disrupting public order, attempts against the state's security or offences against the president of the republic. They are frequently cited as reasons to accuse political opponents or journalists and put them on trial before a tribunal. They also serve as a justification for preventive detentions, sometimes followed by a release without trial.

*Free media coverage* The constitution also establishes, in Articles 10 and 11, the right to a free press and free content of the media. But the enforcement of these provisions is, in turn, limited by the laws relating to threats against public order and state security and offences against the president.

Harming the morale of the army and/or citizens is another charge used against press reports of events in the southern Senegalese province of Casamance. This province has been the scene of an independence rebellion for 25 years. The government does not tolerate press coverage of this conflict unless supervised by a military or political authority. This sentiment has led the authorities to introduce the notion of 'violation of sensitive information' to characterise any disclosure by journalists of information within the competence ambit of national defence that can be used against Senegal by a hostile country. 'Sensitive information' is a broad concept that can include the most unexpected topics.

*Regulation of media coverage* The Senegalese legal system has a law on defamation, which can be invoked by anyone, including ordinary citizens and the authorities. It is a key factor in accessing information because its very strict enforcement by tribunals very often leads to the sentencing of journalists in controversial

cases. The severity of this law lies in the fact that the evidence given by the journalist, even if it is irrefutable, is not admissible beyond a period of ten days after the trial starts. Moreover, if the evidence has not been obtained from official sources, the journalist may be faced with a new accusation of possessing administrative documents. In fact, it is very difficult for journalists to carry out investigations because holding the evidence they need to support their assertions can be seen as a new offence and the investigation, therefore, backfires on them. The publication by a local newspaper of official correspondence between the finance minister and the president about corruption in the customs services led to the imprisonment of the paper's editor for several weeks. However, the authorities never confirmed nor denied whether the information contained in the letter was true.

The 1996 Law on the Press partially reflects the spirit of the provision on defamation. Its Article 34 stipulates that the journalist 'has a duty to respect people's privacy'. However, it adds that this injunction is only valid if this so-called privacy 'does not interfere with the public duties these persons are invested with or pretend to be invested with'. This section of the law sets the limits of the protection of the public authorities' privacy against press investigations. The same Law on the Press states (Article 26) that the journalist has free access 'to all sources of non confidential information and the right to investigate freely facts relating to public life'. But the authority may interpret the law according to circumstances and according to the information the journalist is seeking. The sources authorised for the journalist's use are not very likely to disclose interesting information. This creates a certain ambiguity in practice.

The Law on the Press defines the principles guiding the journalist's professional behaviour, therefore dictating the content of the media. Almost all the articles relate to the definition of principles such as freedom of information, of comment and criticism, information verification, respect of other people's convictions, etc. The law makes no provision for censorship before publication. Nevertheless, severe measures can be enforced if the authority finds flaws in the content of a newspaper in circulation. The withdrawal of copies from sale is then ordered on the grounds that its content is against the law.

In 2001, a photomontage of the prime minister of the time led to the withdrawal from sale of a newspaper's entire edition. It was followed by legal proceedings. The content of the media is subject to restrictions regarding certain questions which are designed and sanctioned by the authorities. This mainly refers to information about the independence rebellion that has been going on for 25 years in Senegal's southern province of Casamance. The infringement of this restriction led to a 24-hour suspension in 2006 of the private radio station Sud FM and the arrest of the staff found on the premises. The station had broadcast an interview with the leader of the separatist movement's military wing. In 2007 a newspaper editor spent several weeks in jail because of his paper's comments on the army's attitude in the face of rocketing prices that occurred throughout the year in Senegal. Also in 2007, two other journalists were arrested and held in detention for two months following the publication of an article on the president's late-night outings. The article was described as an offence against the head of state and a false report.

Between 2000 and 2002 at least five journalists from the daily newspapers *Le Matin* and *Le Populaire* were arrested and summoned for questioning by the criminal investigation department for reporting information on the Casamance conflict. A correspondent of *Radio France International* was also asked to leave Senegal following her interview with a military leader of the independence rebellion.

Reports about the army, judges, high-level administration and government officials also expose journalists to being summoned by the criminal investigation department, arrest and trial. These officials, protected by law, are bound by the duty of secrecy. Their statements are very formalised and are subject to hierarchical approval. They are not free to make comments in the press on matters relating to their duties. There is system of prior authorisation by the government or any other authority before the publication of newspaper articles or the broadcast of radio or television programmes. The same conditions apply to the launching of a newspaper. Article 11 of the constitution stipulates: 'the creation of a newspaper for political, cultural, sports, social, recreational or

scientific information is free and is not subject to any prior authorisation. The law requires only a simple declaration and submission of legal documents.' The content of public and private radio and television programmes is also broadcast without prior authorisation. It may, however, be subject to remarks and criticism from the National Council for the Control of Broadcasting (CNRA). The council's members are exclusively appointed by the government, without consultation with any association or union. The CNRA took office on the eve of the 2007 presidential and parliamentary elections.

There is also a press council named the Council for the Respect of the Professional Code of Ethics (Cred), which groups representatives of the journalists, editors and consumer associations. There is no government authority over this council which can be called upon by the public, the authorities or individuals in matters regarding professional ethics in the treatment of information. The Cred can also initiate proceedings on its own. In 2004, a minister reported in a newspaper as holding properties abroad had seized the Cred. Unfortunately, this case, like many other cases, the Cred would be powerless to take action. That is why the public almost never appeals to this institution.

*Changes in the past five years* The implementation of the laws on the media has not changed over the last five years. The existing law on the press has not been modified since it was voted on by the National Assembly in February 1996. The government has not kept its promise to abolish prison sentences against journalists sentenced for press offences. The Union of Information and Communication Professionals (Synpics) is trying to obtain this decriminalisation. The 11th of September 2001 attacks in New York have not inspired any exceptional laws in the press sector. Neither has a law against terrorism been introduced which could impact on the free content of the media.

In fact, the content of the media has been modified to some extent as a result of frequent conflicts between the independent press and the political powers. Journalists have become more cautious in the way they report events about the independence rebellion in Casamance. Likewise, statements, facts and actions by the president are treated with more circumspection. All these developments have to some extent modified the content of the media.

*Legal censorship* Legal censorship does not exist because no publication or broadcast is subject to the government's prior approval. On the other hand, as mentioned earlier, certain groups, namely the military and civil servants, are subject to the duty to preserve secrecy in their jobs. This restriction is seen as a matter of regulation, not of censorship. Journalists complain about this provision, which they consider to be an attempt to withhold information and a refusal by the authorities to give an account of their governance of public affairs to citizens.

If the authorities do not want the information broadcast by press organisations, the sanctions applied so far include withdrawing newspapers from sale, closing radio and television stations and arresting journalists. These measures occur after publication or broadcast. If the case goes to trial, the fines are variable. However, the amounts claimed may go far beyond what the accused press organisations can afford. As a consequence, they risk bankruptcy, all the more as news organisations are financially extremely fragile in Senegal. After a while, the press organisation and its editorial staff grows disorganised and ineffective and the organisation is very likely to go bankrupt. News organisations may also be suspended and prohibited from publication. Two daily newspapers were banned in 2007 for releasing articles seen as pornographic by a tribunal under the instructions of the authorities. The journalists who wrote these articles were held in detention for six months, the longest prison sentence ever for journalists.

*Media licenses* In the printed press no prior authorisation is required to start a newspaper. A simple declaration of publication is required. The managers of the newspapers must, however, submit legal records before the paper goes into circulation. Things are more complicated for electronic media because radio and television need a frequency to broadcast their programmes. The first radio stations came into existence between 1996 and 2000. During this launch period, economic operators were able to obtain licences under relatively easy conditions. However, the decision is made by the political powers in the person of the minister of communication. Since 2000, the date of the political power

shift known as 'alternance', the licence has been issued by the (Artp), the state entity charged with issuing licences for the operation of radioelectric (radio and TV) frequencies, which is directly controlled by the president. It is therefore not politically independent. Many requests for frequencies have been turned down. The official justification is that there are very few frequencies. However, it is mostly because the authorities are reluctant to let groups or individuals they do not control enjoy the right to broadcast their programmes freely. With television the authorities are even more parsimonious. Only four licences have been granted since 2005, after a long wait by the applicants.

However, none of the licences granted to radio or television organisations has been withdrawn by the authorities. The closing down of private radio stations happens as a result of the organisations going bankrupt. Temporary closure happened in cases such as Sud FM, following the broadcast of the interview with a leader of the independence rebellion in 2006 or when the radio or TV organisation fails to pay copyright taxes. However, these situations are extremely rare.

In Senegal, the journalist profession is in practice free and accessible to anyone. No official authorisation is needed. No degree is compulsory. As a matter of fact, the majority of Senegalese journalists have not attended professional schools. They have been trained on the job. The Law on the Press and the collective Convention for Journalists define as a journalist any graduate of a school of journalism or any person whose main and regular activity is the exercise of their profession in a newsroom, this activity being the main source of their income. The second part of this definition explains the rush towards newsrooms of many people, mostly students or university dropouts or other individuals, who see the press as a means to escape unemployment.

*Journalists' legal status*

Journalists have the right to attend all public meetings of the government and parliament. Access to these meetings is allowed to all press organisations, even if the authorities always make sure that the state media is present to ensure favourable coverage. These meetings can also be broadcast by all media organisations without restriction, whether they are National Assembly sessions or press conferences by members of the government.

Journalists can use legal appeals to confront state repression. The constitution and the Law on the Press define the principles and conditions for exercising freedom of opinion and the *raison d'état* which the authorities want to put above the public's right to be informed. On these occasions, the press, on the whole, enjoys the support of civil society and many lawyers who volunteer to defend the journalists.

The attitude of the tribunals is fairly variable. It is within their powers to halt the state's repression or, in contrast, to uphold it. During the Sud FM trial mentioned earlier, the judge rejected the accusations made against the journalists. However, in other cases, the tribunals conform with the wishes of the authorities, as happened with the six-month imprisonment without remission verdict inflicted on the journalists accused of writing articles of a pornographic nature and the suspension of their newspaper.

The Senegalese Law on the Press does not allow monopolies and limits the number of trusts. The state held a monopoly over radio and television until 1994. This year has seen the appearance of private radio stations and the disappearance of the state monopoly on the electronic media. Such a monopoly never existed, neither in law nor in practice, in the printed press. Trusts are limited by the Law on the Press, which says in its Article 4 that no one 'can own or hold the majority of more than three mass media enterprises'. This provision is rather vague because it allows certain promoters to own several radio stations, several newspapers and one TV channel.

*Monopolies and cartels*

There is no private monopoly in any media sector. Despite other types of media concentration, the situation of the Senegalese press is not truly characterised by trusts or media conglomerates. We cannot attribute to owners of several media organisation well-defined political projects, even though some of them give their opinions with much determination and regularity in their own newspapers and/or on the waves of their own radio or television stations.

Political authorities enforce the law on the establishment of trusts in a fairly flexible manner. It should be noted that with regard to media control, no promoter has so far reached a number which has concerned the authorities. Besides, the independent press organisations are widely shared out among different owners.

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* Generally, the interests and concerns of the Senegalese people are taken into account in media programmes. However, it is worth underlining that some social categories or some sectors of activity are privileged. The media take a keen interest in politicians to the detriment of matters relating to the economy, poverty, education, health, rural areas, unemployment, income generation, access to healthcare and education, for example. Good governance and local governance are also among the preoccupations of citizens, who need to know and enjoy their rights. So is the state of women in a predominantly male society or of children, who are so often ignored by the media.

The press is attracted by very active and organised groups, such as political parties, trade unions and civil society organisations, who all have programmes of activity about which they regularly keep journalists informed. Besides, these associations are often engaged in activities that fuel controversy, which attracts the media.

Generally, every category of people is given news coverage. However, it is necessary to balance this statement and emphasise the fact that the state media, television in particular, almost never give members of the opposition the opportunity to give their views on the situation in the country or comment on any aspect of national or international news. This attitude is deplored and described as ostracism by opponents of the government. Civil society and the journalists' union also deplore it but they are unable to change it because it is deeply rooted in the habits of the media, which are instruments at the service of political power. Yet the government daily newspaper and the state radio are less hermetically closed to the opposition than state television, even if editorial lines are invariably benevolent towards the authorities and their political parties.

Another key characteristic of the Senegalese press, taking all media into account, is its clear preference for politics and other subjects such as sports or social issues. It does very little field reporting and investigation, and usually limits its coverage to reporting events. Investigations could throw some light on life in rural areas, on the state of women and children, on health or access to electricity and safe water in areas outside the urban centres. The Senegalese press remains an urban phenomenon. Almost all the newsrooms have their offices in the capital, Dakar.

*Self-censorship* Self-censorship is a reality in the Senegalese media, public as well as private. It is the rule in the state-controlled media, which follow the positions outlined by the government. These media avoid making any comments likely to embarrass the political powers with which they are identified.

The press as a whole is very careful in its treatment of information relating to religion, especially Muslim brotherhoods, to which 95 per cent of the country's population are affiliated. Journalists avoid antagonising brotherhoods and their spiritual guides. This behaviour is either the result of sincere sentiment or caution. Religious sentiment and affiliation is real among many journalists. They treat religious matters as though they were sacred, without objectivity or critical appreciation. This attitude may also be inspired by a certain caution. In 2007 a journalist was severely beaten up with bicycle chains by followers of a religious leader on the grounds that the journalist made disrespectful reports about their spiritual guide. A few years before, followers of another religious leader set fire to a journalist's room on similar grounds.

Among other factors that promote self-censorship, it is worth mentioning the fussy attitude of the government regarding the army and the treatment of the situation in Casamance, the propensity of the public prosecutor to summon before the criminal investigation department and a tribunal



those journalists accused of being irreverent towards the president, as well as a tribunal that accuses journalists of being disrespectful of the president and blurry definition of notions like the 'disruption of public order', 'violation of national security', 'false report' or 'offence against public morality'.

Self-censorship occurs in all sectors of the media (newspapers, radio and television). Matters relating to sexuality are also treated with a modesty influenced by a cultural heritage which is largely shared by the public. A newspaper specialising in scandals was definitely banned from publication. With regard to self-censorship on topics of sexuality, it is a little less obvious in newspapers because of the use of French, which tones down certain words, more than if national languages were used. Electronic media organisations have many difficulties dealing with these subjects and avoid such topics.

Journalists, press companies and news organisations may fear legal state. It is fairly frequent for journalists to be put on trial by the authorities and summoned before the criminal investigation department. Four types of sanctions are used: prison sentences, fines that are sometimes very heavy, the temporary suspension or indefinite prohibition of the press organisation and, finally, expulsions, which are reserved for foreign journalists, such as the correspondent of Radio France International who was asked to leave Senegalese territory after her interview with the head of the military wing of the independence rebel movement in Casamance.

*State repression*

Senegalese tribunals have taken all these actions against journalists and press organisations, but even if trials have become more frequent, they rarely lead to these sanctions. Very often the political authorities drop pending charges or the verdict is not effectively enforced.

The state does not place any obstacles in the way of internet use. There are presently about a dozen daily and weekly newspapers that are online on the web, sometimes even before they are on sale on the street. At least six private radio stations broadcast their programmes on the internet, where it is also possible to access sites with content generated by journalists, politicians or other people. Different organisations also have websites where they can freely express themselves. Many Senegalese citizens participate in discussions on the internet.

*Obstacles to internet access*

The fear of state repression has seriously worsened in recent years. It has not reached the stage of panic, but undoubtedly and unquestionably there has been an escalation compared to the situation which prevailed until 2000. Relations between the regime and the press were not free of conflict, but at no time developed into the kind of confrontation that now occasionally occurs with the new political regime. The regime in place since 2000 often engages in a trial of strength with the independent press, which it wants to subject to its dictate, to the extent where the president announced in 2007 that he could not see why he should continue to give financial support to a press which continuously challenged him. Yet this financial support comes from a law voted on by the National Assembly.

*Changes in the past five years*

The state media have no control over the production and the distribution of the printed press. Certes, the government newspaper, owns the most powerful colour rotary press in Senegal and prints some independent newspapers, but there is tough competition on the market. There is a tendency for independent newspapers to acquire sophisticated printing companies. Four of them have their own rotary presses, including two colour ones. These printing companies broaden the competition and provide printing services to other newspapers. As a result, therefore, the situation gives the authorities no control mechanism for exerting pressure on independent newspapers.

*Government control over print media*

Printing paper is directly imported by some independent newspapers for their own use or purchased from economic operators in this sector. There was an attempt to group all newspapers into a purchasing unit to reduce the costs of the imported printing paper but the initiative failed.

#### 4. ECONOMIC PRESSURE

*State subsidies* The state grants the privately owned media (printing and audiovisual) annual financial aid, the terms of which are outlined by the Law on the Press (Articles 58 to 61). The amount has gone up, from 40 million CFA francs in the 1990/2000 decade to 300 million CFA francs since 2006 and 2007. In spite of this significant increase, the amount of aid to the press remains low compared with the needs of the media who are its beneficiaries.

*Further aspects* In addition to this annual aid, the state regularly allows ministries, public agencies and enterprises to broadcast free of charge advertisements that normally would have to be paid for. Ministries frequently make announcements on children's vaccination campaigns, the fight against diseases such as malaria or HIV/AIDS, the registration of young girls for school or of young voters on the electoral lists. State enterprises such as the Port of Dakar, the national lottery and the electricity company broadcast commercials or announcements on the private radio and TV stations. The profits generated by these commercials are very much appreciated by the privately owned media. However, they do not have any real impact on the editorial line of the press. The privately owned media are generally very critical of the state.

This freedom has a price because the authorities may decide to punish certain media they regard as being hostile to the government by deliberately withdrawing commercials. The privately owned group Sud Communication, which manages about ten radio stations in Dakar and the interior of Senegal, is sometimes 'forgotten' in advertising campaigns during periods of tension with the government. Other media enterprises may or may not receive the same treatment, depending on the nature of their relationship with the authorities at the time these advertising campaigns are taking place.

The content of the privately owned media benefiting from the aid to the press or from government promoted commercials is very similar in the three media sectors (newspapers, radio and television). The critical approach of these media organisations is reinforced by their desire to give the opposition the chance to express itself on their airwaves or in their newspapers. This is not always to the authorities' liking.

The fragile financial state of the privately owned media is worsened by the weakness of and lack of equilibrium in the advertising market. Three factors contribute to this aggravation:

State television continues to take huge shares of this advertising market by taking advantage of the poorer equipment of its private competitors, who each cover only a tiny part of the national territory around the capital Dakar. The government daily newspaper also takes advantage of the power resulting from its proximity to the state when compared to its competitors. The attitude of some state companies who exclusively reserve their advertisements for the government-controlled media for fear of being suspected of complicity with a press often on bad terms with the authorities. The privately owned media face heavy costs (rents, telephone and electricity bills, vehicles for field reporting, paper and wages).

#### 5. NON-STATE REPRESSION

*Repression by non-state groups* Journalists must regularly deal with threats from non-state organisations. Physical abuse (as in the attack with a bicycle chain and the setting on fire of a news correspondent's room mentioned above), threats and insults on the phone are no exceptions. These attacks are carried out by political militants or members of religious groups or sometimes by militant supporters of sports clubs. In attacks by political groups, journalists friendly to the state are exposed to irreverent remarks from opposition militants, who regard the journalists as government mouthpieces.

Yet, non state-controlled repression is fairly rare. Self-censorship acts like a fire door that subdues or cancels potential conflicts. In theory, the state pursues the perpetrators of attacks against journalists, but in fact, its response is very selective. No action was taken against those respon-

sible for the bicycle chain attack on a journalist, although the victim had made a complain and disclosed the names of his assailants. The silence of the authorities can be explained by the position of the spiritual leader to whom the assailants are affiliated. He is a powerful religious leader and an important electoral intermediary whose voting instructions can direct the choice of thousands of voters. During the February 2007 electoral campaign followers of this leader violently attacked the vehicle of a group of journalists who were covering the activities of a candidate who was not his ally. There was no legal follow-up of this case.

State protection of journalists is extremely rare. A journalist and author of a book which annoyed the president has benefited from state protection for some time. This is a unique example.

Non-state controlled repression has significantly intensified in the last past five years because of the arrival of religious leaders in the political environment. Their followers transfer to the political ground their devotion to their spiritual guide. They do not tolerate any criticism made against him by his adversaries or journalists. These politician religious leaders themselves cannot accept having their words and actions treated by the media as coming from any politician. This increasing tension is also due to rivalries within the ruling party. Each group has a tendency to classify the media and journalists according to the way they treat the different protagonists.

*Changes in the past five years*

## 6. CONCLUSIONS

Freedom of the press exists in Senegal. However, restrictions have increased in number and in diversity. The strong worsening of the situation results from the repressive attitude of the government towards journalists and press organisations.

*Freedom of the media: general situation*

The free functioning of the media has changed because of the multiplication of trials and threats against journalists and also because of the conflicting relationship between the independent media and the authorities. Self-censorship and cautious attitudes are observed.

*Changes in the past five years*

To many journalists, obstacles to the existence of a free media are essentially financial. They call for increased support from the state. Press publishers received by the president of Senegal in December 2007 renewed this request. Others put the emphasis on the confusion affecting the status of journalist. Current trends within the journalists' union are in favour of the creation of an association of journalists in order to regulate entry into the profession and raise the level and the status of information professionals.

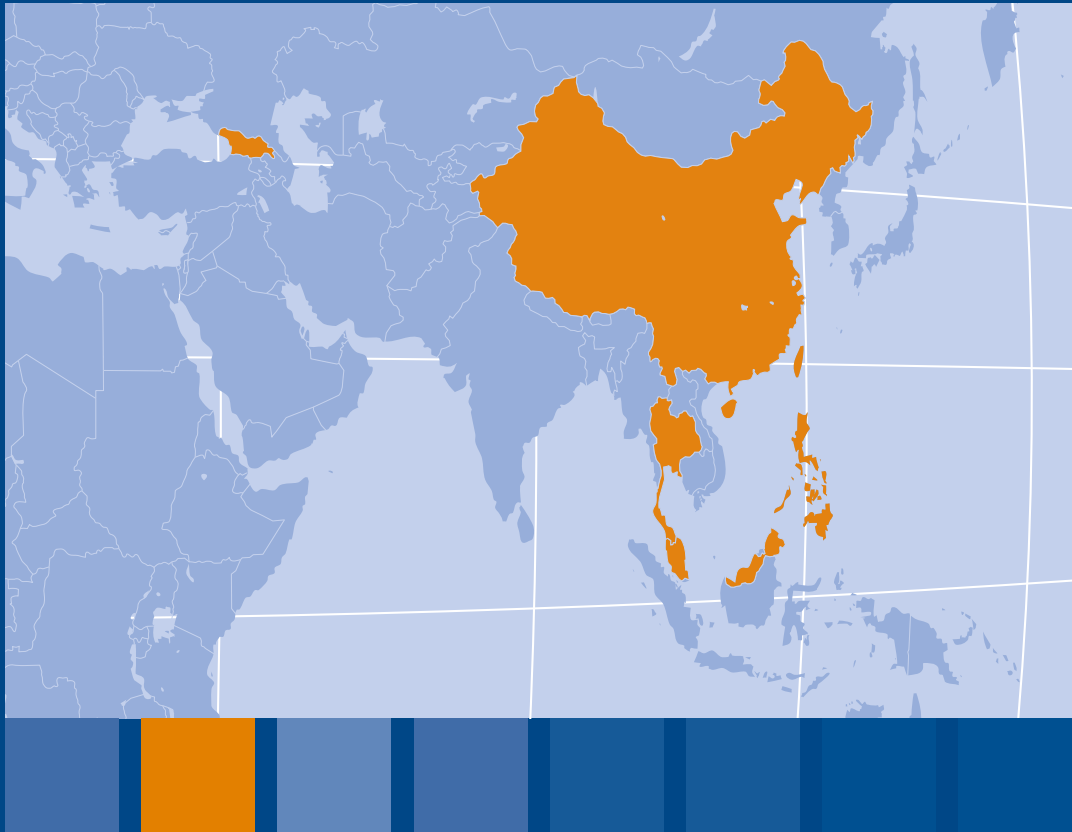
*Major obstacles to free media coverage*

Above all there is a problem of training. People start in the profession without serious preparation, without sufficient knowledge of writing techniques and genres and completely ignorant of journalists' professional code of ethics. The training also applies to new information and communication technologies (IT). The legal environment should remove the threat of the law being used against the media and journalists. This reform of the legal framework is not in any way designed to place the journalist above the law, as some authorities would argue.

*Mame Less Camara*

#### **FURTHER READINGS**

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# ASIA

- China
- Georgia
- Malaysia
- Philippines
- Thailand



# CHINA

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

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

*Literacy and education*

China's media landscape has undergone rapid growth over the last 20 years. By 2007, approximately 2,548 radio and TV stations existed across China, according to market research firm China Media Monitor Intelligence (CMM Intelligence 2008). More than 2,000 newspapers are published in the country and about 10,000 periodicals and magazines are competing in the market.

*Media landscape*

Compared to the pre-reform era, when the central television station and a few Communist Party newspapers were the only media available, Chinese readers and viewers can now choose from various media outlets. In addition to the media's Leninist mandate to transmit policies and to educate and mobilise the masses, newspapers, magazines and television stations are now routinely expected to entertain and excite. But that does not mean that they have been stripped completely off their traditional role to steer the masses. The country's propaganda officials still wield extensive influence over published content.

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

As China is a one-party state, there is no clear separation between the party and the state. Despite the rapid growth of the media sector, virtually all major print, television, and radio outlets formally continue to be linked to the party-state and are required to obey party directives. Independent media are not allowed. The strict licensing system makes it mandatory for Chinese print publications, TV stations and radio stations to be associated with at least one government-related institution. Many party organisations, from state to local levels, publish their own newspapers and/or magazines. For example, the Chinese Communist Party Central Committee publishes the nationwide newspaper *People's Daily*, which is considered the mouthpiece of the central leadership. The

*Party media*

Shanghai-based Liberation Daily is supervised by the Communist Party Committee of Shanghai Municipality. A wide range of government ministries and institutions also have their own publications. The Supreme People's Court, for example, publishes People's Court News.

All television and radio stations are subject to direct regulation by the State Administration of Radio, Film and Television (SARFT). SARFT acts as the primary enforcement agency tasked with maintaining government control over the sector. The regulator for the print media is the General Administration of Press and Publications (GAPP). In addition, all media are subject to supervision by the Central Propaganda Department (CPD). Propaganda authorities issue directives dictating either that certain news items should not be reported, or how certain items should be covered.

A report from Freedom House explains the organisational grip of the party over the media (Esarey 2006, p. 3): 'The Central Organisation Department and the Central Propaganda Department directly appoint managers of national media, such as the television station CCTV, People's Daily, or Xinhua News Agency. For local media appointments (provincial level and below), the Central Organisation Department of the CCP appoints provincial party secretaries and deputy provincial heads (or mayors and vice mayors of directly administered municipalities). These party appointees cooperate with the CCP Central Propaganda Department to select the managers of media organisations. Thus while the central party leadership does not appoint the heads of local media organisations directly, it exercises power over personnel through appointments of leaders of administrative districts, who determine and supervise subordinates.'

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

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

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

Popular internet portals like Sohu.com, Sina.com or Netease.com are not linked to the government. Some are listed on foreign stock exchanges. Sohu.com for example is listed on New York's NASDAQ. These commercially driven portals are not allowed to generate their own news content and are not technically permitted to employ reporters. Only government-owned internet sites such as Xinhua Wang (run by the national news agency Xinhua) or Renmin Wang (People's Daily's online site) are permitted to produce their own news.

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



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

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

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

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

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

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

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

*Media  
consumption*

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

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

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

This holds particularly true for sensitive topics like Taiwan or Tibet. China considers the democratically ruled island of Taiwan to be an integral part of the People's Republic. Opinions that might differ from that official standpoint cannot be published in mainland media. Objective reporting about democratic development in Taiwan is suppressed. Taiwanese politicians who strive for more autonomy or even independence are frequently branded as 'traitors'. On the other hand, Taiwanese representatives who argue for a closer relationship with the mainland are prominently featured in the Chinese media and are described as holding up the will of the Taiwanese people as a whole. The one-sided reporting contributes to the fact that the vast majority of mainland Chinese share the view of their government that the island belongs to them, and it strengthens their belief that the Taiwanese people share this view – although in reality opinions on the island are rather diverse.

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

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

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

*State-owned media and published opinion* Newspapers, magazines, television and radio stations all remain subject to CPD oversight and instructions. Some print editors do have slightly more freedom in pursuing critical stories. In general, television and radio remain subject to a higher degree of CPD regulation than the print media, although this can vary between publications and channels as well as between regions in China. Still, published opinion is heavily influenced if not completely formed by the state-owned media.

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

*Government  
press conferences*

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

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

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

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

## **2. LEGAL ENVIRONMENT**

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

Basically, freedom of opinion and freedom of the press have been recognised in the constitution as fundamental individual rights, and no amendment to the constitution sets clear restriction to such rights. In the second chapter of the constitution, 'The Fundamental Rights and Duties of Citizens', Article 35 states: 'Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.'

*Freedom  
of expression*

Yet, there are limits. Articles 22 and 24 show that guidance of the media is equally important – and equally enshrined in the constitution. Article 22 defines the role of the state as promoter of, among others, the media. It says (full text): 'The state promotes the development of literature and art, the press, broadcasting and television undertakings, publishing and distribution services, libraries, museums, cultural centres and other cultural undertakings, that serve the people and socialism, and sponsors mass cultural activities... .' Article 24 goes further in dealing with content, even though it does not refer directly to the media. It says: 'The state strengthens the building of socialist spiritual civilisation through spreading education in high ideals and morality, general education and education in discipline and the legal system, and through promoting the formulation and observance of rules of conduct and common pledges by different sections of the people in urban and rural areas. The state advocates the civic virtues of love for the motherland, for the people, for labour, for science and for socialism; it educates the people in patriotism, collectivism, internationalism and communism and in dialectical and historical materialism; it combats the decadent ideas of capitalism and feudalism and other decadent ideas.'

*Free media  
coverage*

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

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

The government has been using a vaguely worded 'national secrets' law with greater frequency against journalists in recent years. To a certain degree it is up to the party to interpret what a 'national secret' is. 'China has been very discreet about media opening up, because it is regarded as affecting state security,' Xinhua news agency quoted Yu Guoming, vice dean of Renmin University's School of Journalism and Communication, in November 2007.

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

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

*Regulation of media coverage* There is no particular defamation law determining access to information and the protection of the privacy of office bearers, but these kinds of provisions can be found in PRC civil laws and penal code.

There are no independent commissions regulating the media. Wide-ranging censorship after publication, however, is executed by the government under law. The General Administration of Press and Publications (GAPP) oversees the print sector, including online publications. Television and radio stations are subject to direct regulation by the State Administration of Radio, Film and Television (SARFT). SARFT's oversight of television, radio and film is all encompassing. It represents the state in setting and executing policy for the production, exhibition and distribution of domestic, co-produced, and imported television programmes. In addition, all media are subject to supervision by the Central Propaganda Department (CPD). Publishers and broadcasters receive regular instructions from censors on how to report certain issues and what they should not report.

While the supervision system for the traditional media is well established, the development of digital media represents a challenge to the regulators. China attempts to maintain tight control over the media and at the same time wants to nurture the development of digital technologies. As not all

areas of responsibility for digital content are clear yet, the modern media landscape has created loopholes. Two examples are internet television (IPTV) and videos distributed over mobile phones. While SARFT continues to claim that video content rights must remain in the hands of Chinese broadcasters, thousands of small operators, many unlicensed, are producing video products or buy content from abroad and distribute directly throughout the market without passing through any kind of government clearance, therefore undermining the censorship system. According to media research firm CMM Intelligence 'there is a growing sense of urgency in the central government over the virtually uncontrolled explosion of video content distributed over new media platforms.' 2007 was therefore characterised by increased efforts on the part of SARFT to extend its control into the digital realm with new regulations intended to cover content distributed over telecom networks. Already in late December 2006, SARFT issued a directive to deal with what it described as the wide range of 'internet TV stations' that acquire content from Chinese and foreign content distributors. A couple of stations were declared illegal, including cntv.net.cn and ccentv.cn. According to the Notifications on Inspecting and Punishing Illegal Net TV Stations, a number of net TV stations have been established with the express intent of 'forging government approvals in order to attract investment'. The notice prohibited legal broadcasters from cooperating with illegal net TV stations. But industry experts stress that grey areas and contradictions remain. Efforts at supervision are also challenged by commercial interests. Mobile phone companies and operators have strong financial incentives to ignore SARFT's directives, because for them, more and diversified content is a selling point.

No specific restriction on content exists, but media coverage of state policy, nationality and religion, diplomacy, military affairs and state confidentiality has to be strictly in compliance with relevant restrictions. No people, groups or organisations are excluded by law from working as journalists.

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

The legal environment for media coverage has not been modified over the past five years. Still, the working environment is always changing. The propaganda departments constantly give out orders to the media; in many cases this 'guidance' is case-specific, at both national and local levels. Given the grip of the government over the media through censorship and propaganda orders, many local Chinese journalists speak of a slight worsening in press freedom over the last five years. 9/11, however, did not have any particular effect on the media laws in China.

*Changes in the past five years*

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

Work on the law began in 2003, after journalists from the southern province of Guangzhou had reported, against the will of local officials, the spread of the deadly SARS-virus. While the need for reform in this area is widely accepted, following the disastrous management of emergency information during the SARS crisis and the Songhua River pollution incident in 2005, critics saw the media's subservience to local government as being directly responsible for causing the most confusion. Earlier draft versions of the law included provisions to fine news organisations between RMB 50,000 and RMB 100,000 if they reported disasters and accidents without official authorisation and if the reports led to 'serious consequences'. The provisions spurred intense criticism from Chinese journalists and media experts, who feared that such regulations could be used by officials to cover up disasters and accidents. The government responded that the provisions were not meant to deter independent reporting, but to prevent media from spreading false information or fabricating events that might cause public panic. Still, the media's outcry had some effect: the provision for fines was dropped from the law. Yet, the law does still contain elements that put pressure on the media. It states that 'units and individuals are prohibited from fabricating or spreading false information regarding emergencies and government efforts to cope with emergencies'. Offenders will

be warned, it says. Media organisations or web companies could lose their business licences if their offences lead to serious consequences. For journalists these provisions are problematic, as the definition of 'false information' lies more or less exclusively in the hands of the Communist Party. Instead of encouraging investigative journalism, the provisions are meant to deter the media from reporting natural disasters, social protest or major accidents before the authorities have officially commented on them.

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

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

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

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

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

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

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

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

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

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

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

In the run-up to the Party Congress in October 2007 some well-connected intellectuals wrote articles that discussed democracy. About one year ahead of the meeting, the Beijing Daily News published an essay titled 'Democracy Is A Good Thing' by Yu Keping. The author is deputy director of the Central Translation Bureau and head of the Centre for Chinese Government Innovations at Beijing University. Yu's reputation as an important advisor to the administration attracted much attention to the essay. Yu wrote that 'for some officials, who care more about their self-interest, democracy is not a good thing.' And he declared that 'among all political systems that have been invented and practised by humankind so far, democracy is the one having the fewest defects.' He went on writing that, 'even if people have the best food, clothing, housing, and transportation, but they have no democratic rights, then people still do not have complete human dignity.' But he was not advocating an outright switch towards western-style democracy. On the contrary, Yu believes in 'incremental democracy'. He lobbies for reforms that, step-by-step, increase the democratic quotient. Yu stated that 'practising democracy without regard to the necessary conditions may cause disastrous consequences for the state and the people.'

In February 2007, Xie Tao, former vice-president of the People's University in Beijing, wrote an article for the liberal magazine Yanhuang Chunqiu, in which he praised social-democratic achievements in Europe. Xie went on to criticise China's Communist Party for sticking to a 'utopian' ideal of communism. In March 2007, Wang Changjiang, head of the Party Building Section at the Central Party School, published an article on his understanding of democracy. Wang criticised the oft-heard argument that the 'quality' of the Chinese people is insufficient to support democratic

politics. He believes that democratic politics can also be exercised under a one-party-system. In this context he pointed out that peasants are already allowed to vote for village heads in China. For Wang, elections are 'the only way' to reduce tensions between citizens and cadres.

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

It can certainly be risky to stretch the limits, as has been demonstrated by a couple of incidents over recent years. The most progressive media outlets are based in the southern city of Guangzhou (Canton), namely Southern Metropolitan Daily and the weekly paper Southern Weekend. The publications have long set a model for the media around China, tackling rip-offs in the Three Gorges Dam project on the Yangtse or official cover-ups of the SARS pneumonia outbreak. An investigative story by the Southern Metropolitan Daily about a young college graduate who was beaten to death in police custody sparked national outrage and brought changes to the laws on detention. The newspaper's top editors and managers were later charged with corruption and removed from their jobs, a move by the authorities that was widely considered as an act of official retaliation for the paper's aggressive reporting. Journalists, legal scholars and academics accused the government of fabricating the charges to punish and silence China's new journalism. Another publication, 21st Century World Herald, was shut down after it published an interview with a former secretary of Mao Zedong, who called for liberal political reforms.

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

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

*Journalists' legal status* Permission is required for journalists to practise their profession. Licences have rarely been revoked (it happens often, but considering the huge number of media outlets, it is probably fair to say that it happens rarely in proportion to the number of people who work in the media).

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

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

*Monopolies and cartels* The law of the People's Republic of China is silent about private media company monopolies and cartels. No private monopolies and cartels exist in the media sector.



### 3. POLITICAL CONDITIONS

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

*Coverage of marginal groups*

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

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

*Self-censorship*

Self-censorship is exercised for any news material that opposes the party's leadership and for reports that might be rated by propaganda officials as undermining social stability.

State repression against journalists, media companies or organisations is often used in China. As concluded earlier, Chinese courts are in effect not independent. The interpretation, application and enforcement of law does vary and is influenced by political considerations. It will depend on the party, the government and its propaganda authorities as to how strictly the laws are enforced in particular cases. What is tolerated today might be sanctioned tomorrow, or vice versa.

*State repression*

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

The GAPP has officially admitted that some organisations and individuals have meddled in journalists' legal news reporting and, in some cases, journalists have been beaten and their equipment destroyed. During one incident in August 2007 five Chinese journalists, covering a bridge collapse in central Hunan province that killed more than 40 people, were roughed up by local officials. According to Zhan Jiang, director of the School of Journalism and Communication of the China Youth University for Political Sciences, 'few local officials view the media as tools for positive and helpful publicity, and refuse investigative reports and media oversight.'

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

*Obstacles to internet access*

The actual threat of state repression has increased over the last five years. There has been a slight worsening in press freedoms. When President Hu Jintao took power in 2002, some Chinese intellectuals and journalists hoped that he would allow the Chinese media to begin covering major stories such as corruption and rural unrest more freely. These hopes were raised when Hu fired China's health minister as well as the mayor of Beijing for covering up the severe acute respiratory

*Changes in the past five years*

syndrome (SARS) epidemic in the spring of 2003. Hu's action led to a more general belief by some that transparency about major events or crises could be expected in future, but that has not been the case. The media faces the same and sometimes even stricter controls under Hu than it did under his predecessor Jiang Zemin. It should be noted, though, that coverage of major health threats such as HIV/AIDS and, more recently, bird flu has at least slightly improved. Yet, there are other areas in which things have worsened rather than improved.

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

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

#### **4. ECONOMIC PRESSURES**

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

*State subsidies* Many media outlets today are financially self-sufficient or are at least planning to be so. In 2003, the government announced a reorganisation of the print media industry and the gradual withdrawal of financial support by the government. Under the reform, newspapers and magazines are no longer allowed to rely on mandatory subscriptions, which for many have been an important source of funding. The system had forced party and government bodies to subscribe to particular publications. The abolition of mandatory subscriptions meant that hundreds of newspapers and magazines ceased publication in the following years.

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

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

Commercialisation has permitted advertising and more varied and colourful editorial content. In order to attract readers – and thereby advertisers – papers are increasingly willing to engage in investigative journalism. But commercialisation has not led to a loosening of controls, as we have seen. The authorities even use commercial incentives to make journalists toe the party line. Some publications use bonus systems that give higher incomes to journalists whose reporting pleases the propaganda authorities.

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

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

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

## 5. NON-STATE REPRESSION

Non-state repression against journalists, media companies or organisations is often used in China. To silence critical reports about their companies, businessmen sometimes hire thugs to physically attack journalists. The ones most at risk are reporters writing for tabloid newspapers, whose zeal to report crime stories and pursue scoops sometimes leads them into danger. Reporters Without Borders concluded that journalism has become the third most dangerous job in China, after mining and police work. *Repression by non-state groups*

Defamation cases are also becoming more frequent. A Taiwanese supplier for Apple claimed damages equivalent to three million euros from two journalists who had investigated working conditions in factories producing iPods. The complaint was later withdrawn in response to international pressure. The progressive and hard-hitting business and finance magazine *Caijing* has also faced defamation suits after publishing stories about irregularities in companies. Chinese journalists complain that courts and judges are often on the side of local companies, who use their connections to local officials to influence cases.

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

It is clear from this that actual intimidation through non-state repression has indeed increased. Assaults and defamation suits against journalists have been on the rise in recent years. The situation has therefore worsened slightly over the past five years. *Changes in the past five years*

## 6. CONCLUSIONS

- Freedom of the media: general situation* Freedom of the media does not exist in China. In Reporters Without Borders' 'Annual Worldwide Press Freedom Index', China stagnates near the bottom. The People's Republic ranked 164th out of 168 countries in 2007, after ranking 163rd in 2006 and 159th in 2005.
- Changes in the past five years* There has been no change in the quality of free coverage in China. There have been efforts by the government to increase openness and make it easier for journalists to obtain information, for example through an increased number of press conferences. However, that does not mean that Chinese journalists have more freedom to write what they want. The censorship system is still in place and repression is regular.
- Major obstacles to free media coverage* The Communist Party effectively controls the country under a system of one-party rule (even though other – minor – political parties do exist). The party is not prepared to give up its status and is ready to act against anything that might undermine its grip on power. The propaganda departments consider that controlling the media is essential, in order to influence public opinion in favour of the party, to suppress criticism of the Communists' leadership and to prevent the formation of opposition groups. Without broad political reform, full press freedom is therefore unlikely.

*Martin Kühl*

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# GEORGIA<sup>1</sup>

On 22–23 November 2003, a coup d'état better known as the 'Rose Revolution' took place in Georgia. The post-revolutionary society did not forgive the ruling party for the mistakes it made during the parliamentary elections (inaccurate voters' lists, fraud, manipulation, etc.) and did not let the newly elected parliament start its work. Citizens and the opposition leaders, Mikheil Saakashvili among them, burst into the session hall holding roses and wrecked the legislative body's first meeting, preventing it from legitimisation itself. President Edward Shevardnadze resigned, putting an end to his 11-year long presidency (1992–2003). Prior to that, during the Communist period, he had headed the Soviet Socialist Republic of Georgia for 13 years (1972–85).

Mikheil Saakashvili's first presidency lasted for four years instead of five. Events unfolded in October–November 2007 (when police using heavy-handed tactics, including tear gas and water cannons, broke up the opposition demonstration) and the political crisis forced him to announce snap presidential elections. As a result of the 5 January 2008 presidential elections, Mikheil Saakashvili received 53.47 per cent of votes, while his opponent from the opposition coalition, Levan Gachechiladze followed with 25.69 per cent.

These have been two politically crucial dates which have significantly changed the landscape of democratic development in Georgia during the last five years. On the surface, the Saakashvili government accepts the major democratic values: the rule of law, a free media, and the sanctity of private property. The laws bear this out. In fact, the government's actions bear the marks of authoritarian rule, which it justifies by pointing to the peculiar circumstances of the transitional period. Meanwhile, the democratic institutions in the country, the including media, are in stagnation.

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

Georgia is located south of the Caucasus mountain ridge. It borders Russia, Turkey, Armenia and Azerbaijan. Officially the country covers 69,700 square kilometres. The Abkhaz and Ossetian autonomous territories are also formally part of this area, though as of today, they are not under the jurisdiction of the Georgian government. According to the last, 2002 census, the Georgian population is 4.4 million (SDS 2008). Social and economic problems and military conflicts which occurred as a result of the collapse of the Soviet Union caused 15 per cent of the Georgian population to leave the country: some emigrated, some returned to their ethnic home lands.

These processes also influenced the quality of education. For several years, the work of schools, especially in the regions, was disrupted; the free dissemination of information and knowledge transfer was impeded because of the ruined communications. Eighty-eight per cent of the population over 15 years old can effectively write, read and exchange information in the Georgian state language (SDS 2002). This is because the people in the regions populated by the minorities (Kvemo Kartli, Samtskhe-Javakheti) do not in practice speak the Georgian language. During the Soviet times, they studied in Russian, which remained a tool of communication only in these regions and stopped being a language used by the state.

*Literacy and  
education*

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

The Public Broadcasting Service (GPB) of Georgia was established pursuant to the Law on Broadcasting adopted by Parliament on 23 December 2004 and enacted on 18 January 2005. It was launched on the basis of the former state television, which included two television channels and three radio frequencies. On 10 June 2005, the Georgian parliament elected the first Governing Board of the GPB. On 19 August the same year, the board nominated a director general through an open competition. Formally, the Public Broadcasting Service had been protected from political, commercial and private interests, but the first governing board could not ensure this. The GPB went into crisis, which led to the board's resignation before the end of its term.

Three television companies, Rustavi 2, Imedi and Mze, broadcast nationally. All three companies are private, though with clear political stands. During the Rose Revolution in November 2003, Rustavi 2 was the station closest to the opposition. It refused to stand between the two conflicting parties and preferred to become the opposition's partner. This decision damaged the station's reputation as well as the role of the media in general. After this, Rustavi 2 changed ownership several times. Currently, TV Mze, entertainment television Stereo 1 and Rustavi 2 comprise one media holding owned by the offshore company Geo Media Group, registered on the Marshall Islands and the Industry Group, which, in turn, is owned by MP David Bejuashvili (his brother, Gela Bejuashvili was the minister of foreign affairs in 2005–08 and is currently the head of the Intelligence Department).

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

National television companies as a rule are owned by entrepreneurs for whom the media is not their major business. They run other, more significant businesses, the success of which depends on the government's favour. All television companies are subsidised except for the GPB, which is funded by all taxpayers liable to income tax. 1.5 per cent of income tax goes to the GPB's budget. In 2006, the amount comprised 18.45 million GEL (approximately EUR 8.2 million) (GPB 2008).

The majority of radio stations are situated in the capital. Twenty out of 30 licensed radio stations broadcast from Tbilisi (Media 2008). They easily retransmit their programmes to the regions via relay lines as well as through partnerships with the regional radio stations. Radio Imedi, GPB, Radio Green Wave and Radio Sakartvelo have the best networks. Radio Sakartvelo is the only radio holding in Georgia; it unites four radio stations: Fortuna, Fortuna +, Ar Daidardo (Don't Worry) and Autoradio.

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

If broadcasting needs to be formally licensed, only registration at the Tax Service is needed to publish a newspaper. The registration procedure is quite simple. Altogether 88 newspapers are published in Georgia; out of these, 31 are produced in Tbilisi. Only four newspapers are published daily: Rezonansi (the 'oldest' Georgian paper, moderate publication), Akhali Taoba (New Generation), 24 Saati (24 Hours) (the most loyal to the government) and Sakartvelos Respublika (Republic of Georgia) (former government publication). Their cumulative circulation reaches 10–12,000. Newspapers Versia and Alia come out three times a week (cumulative circulation 12–13,000). Additionally, four sports newspapers are published on a daily basis.

Weekly publications have higher circulation figures. They range from 40,000 to 80,000. Weekly newspapers include Kviris Palitra, Kronika, Asaval-Dasavali, The Georgian Times, and magazines include Sarke, Tbiliselebi, Rating, Gza. Weekly publications are notably more "yellow press". The publishers justify this by saying it is what the market and public demands.

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

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

In Georgia, the law prohibits the state and political parties from owning media outlets. Currently there are no government shares in any of the 7 Tbilisi-based and 31 regional television companies (Media 2008). The only exception is Ajara TV. Despite some envisaged reforms the status of Adjara TV has not been decided upon until today, most probably because the management does not want to give up the state subsidies that are paid to Adjara TV.

*Party media*

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

*Internet media*

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

*General media access* By the end of 2006, the number of ADSL-internet users had grown by almost 81 per cent compared to 2005, reaching 27,700 (GNCC 2006). The internet is the second fastest growing segment of the communications market after mobile communication services. 2007 estimates show that the number of ADSL-internet users reached 75,000. ADSL technologies are mostly shared by several users, so the number of users, in fact, is four times bigger and is 300,000 (approximately 8.3 per cent of the population over 15 years old). Interest in the internet by the younger generation, under 15 years old, is growing particularly fast.

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

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

About 70.7 per cent of total broadcasting revenue belongs to air television broadcasting, 19 per cent to cable, and 10.23 per cent to radio broadcasting (GNCC 2006). 96 per cent of the population can listen to radio. This audience is served by national as well as local radio stations.

Newspapers' cumulative daily circulation figures reach 100–120,000. Various organisations and institutions are major subscribers. Most of the circulation is sold through stands and kiosks. On average, four people read each copy, which means that approximately 400–480,000 individuals a day refer to the print media (11–13 per cent of the population over 15 years old). A decrease in the size of the reading audience is obvious if compared to the 1970–80s. However, over the past few years, newspapers' circulation has gradually grown and a reading audience has again developed (SDS 2002).

*Media influence on political opinion* People in Georgia use all sectors of the media as sources of information. The frequency with which particular sources are referred to differs. Television is used as an information source very often, newspapers and radio are used often. The level of trust in online information sources is high among internet users, though the number of users itself is not high. An absolute majority of internet users are members of numerous forums and mostly use them as information sources. During the period 7–17 November 2007, when a state of emergency was in force in Georgia, all television broadcasters, except for the GPB, were prohibited from broadcasting news programmes, online forums became the major source of information in Georgia.

Information disseminated through television channels (to the least extent when disseminated through radio or news agencies) reflects the author's subjective position, comments and views. Such practices indicates low levels of professionalism and impedes the formation of independent public opinion, turning the media into a propaganda tool. As a result, political life takes on an extremely polarised character. Society is forced to accept or reject a declared evaluation rather than forming its own opinion based on the facts. This way, the media, especially broadcasters, do not influence the formation of public opinion but is busy with disseminating and propagating already established views. If assessed on the basis of television broadcasting, it can be said that the media have little influence on the formation of public political opinion. However, if the print media are included, the media can be assessed as having a significant influence.

*State-owned media* Radio stations, newspapers and online publications in Georgia are all private except for two public radios, which are part of the GPB. Otherwise, the law prohibits the state from owning media outlets. However, owners of almost all more or less influential electronic media are business partners of the government. The success of their businesses is directly related to the government's favour. In



the last four years, the government has gradually managed to spread its control over the activities of these businessmen. Formally, the government is kind and liberal; it freed businesses from 14 taxes, keeping only seven in force. Businessmen are grateful and regularly pay taxes without hiding their real figures. Whoever does not or cannot pay taxes is punished according to the law. In fact, the government toughened the administration of taxes so that payment of the remaining seven taxes became a very serious issue, weakening the businesses and significantly decreasing the number of solvent taxpayers. Amounts generated through the collection of taxes turned out to be low and not enough for the government to implement social projects. Therefore, the government publicly asks businesses to allocate funds in support of state projects. This angers businessmen but they still pay those unofficial taxes because they are aware that otherwise official tax collection procedures would be more strictly enforced. Over the last four years, the number of businessmen meeting with the president for 'candid conversations' has significantly decreased.

Owners of television companies are less worried by the profitability of their media businesses since their major concern is the profitability of their primary businesses. They do not focus on running their television companies for profit. Subsidised media are a good tool for government to manipulate: *State-owned media and published opinion*

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

Out of businessmen who own media, currently only Badri Patarkatsishvili opposes the government. Nevertheless, he is not interested in making his Imedi TV profitable. Two years ago, when he still had good relations with the government, at his request, footage on a corruption case was not aired during one of Imedi's most influential programmes, Droeba. Owners of such television companies actively interfere in management and human resources.

The only television where transparency of editorial policy is ensured by the law is the GPB. The GPB's governing board only nominates the director general, who announces open competition for all other managerial positions.

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

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

Because of such healthy criticism and scepticism, newspaper reporters are not allowed or invited to the president's press conferences, which take place only a couple of times a year. These press conferences are officially called 'meetings with the media'. After the government sessions, ministers regularly come out to journalists and conduct briefings. When needed, they organise separate press conferences in the ministries. Attendance is not limited and broadcasting rights are not exclusive. However, there are some public servants who have not conducted a single press conference over the last two or three years (for example, the former Defence Minister Irakli Okruashvili, Interior Minister Ivane Merabishvili, former Prosecutor General Zurab Adeishvili). *Government press conferences*

The major goal of the press conferences is to promote achievements rather than provide the public with information. That is why public servants consider journalists as part of their PR campaigns rather than independent information providers.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* On 24 August 1995, the Georgian parliament endorsed the constitution of Georgia which, with various amendments and additions, is in force to this today. This chapter of the constitution guarantees the major democratic rights for every citizen of Georgia. Any other law which would limit these rights has not been enforced. Chapter 24 of the constitution remains unchanged since that first day: Everyone has a right to freely receive and disseminate information, express and disseminate their opinion orally, in writing or otherwise. Mass media are free. Censorship is not allowed. State or individuals do not have a right to monopolise means of mass information and distribution. Rights envisioned by the first two points of this Chapter may be limited by the law to ensure conditions necessary for state security in a democratic society, territorial integrity or social security, crime prevention, protection of other rights and values, preserving information confidentiality or protection of the courts independence and objectivity.

On 24 June 2004, the parliament enacted the Law on Freedom of Speech and Expression. The law decriminalised defamation, which means that the criminal code no longer contains the chapter on the punishment for libel. Though the government never imprisoned anybody for libel, it does not mean that it did not use this chapter to intimidate the free media.

The new law provides a broader definition of the meaning of freedom of expression. Facts and opinions are separated. Opinion is defined as an evaluative statement, viewpoint, or comment, also any form expression of views which represents attitude towards any person or object and does not contain fact. Opinion is secured as an absolute privilege. Statements made during political debates, by members of the parliament or sakrebulo while fulfilling their duties, during pretrial and court sessions and in front of a public defender cannot be subjected to a libel case. Another novelty is that the new law obliges a plaintiff and not a defendant, when applying to court, to prove that the defendant's statement is arguable, damaging to dignity or false.

The Law on Freedom of Speech and Expression envisages that a person cannot be required to disclose secret information if its protection is a responsibility of his or her job and if its disclosure represents an obvious, direct and significant threat to the merits protected by the law. Journalists are not allowed to disclose information containing state secrets.

The right to freely receive and disseminate information is guaranteed by Chapter 24 of the constitution. Public discussion about the freedom of information lasted for four years and ended with the parliament enacting the General Administrative Code in June 1999. Chapter 3 of the administrative code is devoted to freedom of information. The freedom of information requirement applies to all state and self-governing bodies as well as to all bodies which are fully or partially funded from the state budget and carry particular authority imposed on them by the state. The code united all such individuals, bodies and organisations under one category: public institutions. Public institutions are obliged to immediately disclose public information. The maximum period for delivery of public information is ten days.

*Media coverage* The Georgian legislation is quite liberal. In addition, according to Chapter 24 of the constitution, the media are free and censorship is prohibited. None of the legal acts or decrees allows for any legal censorship by state bodies. No discriminatory laws exist which would prevent any person or group of people, organisation or union from entering journalism. No legal body exists which, on behalf of the state, would review published materials or footage in advance. These laws work, but the situation is far from ideal.

*Regulation of media coverage* However, the government which came in force as a result of the November 2003 revolution tries to impose limitations on freedom of information. No common system exists to regulate the proce-

dures for smoothly obtaining information from the ministries and other public bodies. It is especially difficult is to obtain information from the Interior Ministry, Ministry of Defence, city municipalities and energy distribution organisations. Information (or commentary) of any form or capacity from these and other bodies can only be provided upon the approval of the press service chief. It is almost impossible to contact press services especially for regional journalists. It is difficult to obtain official information but as soon as a journalist relies on undercover sources, reproaches are cast about violating professional standards. In the current circumstances, issues concerning the army, police and energy resources are off the journalists' agenda, which creates an information deficiency.

Another important factor impeding the full enforcement of the legislation is the lack of editorial independence. This is determined by the relations between the state and media owners on one side and between media owners and journalists on the other. The majority of media owners appeared to be on the government's side because of their business interests. As a result, media owners and journalists (editors) occupied opposing camps: media owners – side by side with the government; journalists – on the opposite side to the media owners and the government. Such a division complicates the conscientious activities of journalists (which should involve obtaining and publishing topical and challenging information) since it does not coincide with the media owners' interests. International organisations identified this as media self-censorship. In fact this is censorship exercised by the government via media owners.

What makes the situation even more difficult for journalists is the absence of a major defence tool: a fully fledged contractual system. The majority of journalists do not have working agreements or are on monthly contracts which do not indicate their real salaries and other information required by the labour code. Enforcement of the contractual system is related to the legalisation on the media environment, which can endanger many media outlets and lead to their closure.

An analysis of the media legislation as opposed to the real state of media activities is inadequate. During the last four years, media legislation has been liberalised and improved to the maximum. However, the media have not become freer. On the contrary, freedom of the media has experienced a slight decline. The operation of television companies and of newspapers and radios should once more be separated. The latter enjoy more liberty.

*Changes  
in the past  
five years*

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

In summer 2004, government arrested Revaz Okruashvili, the editor of the Gori-based regional newspaper Khalkhis Gazeti for drug usage and sale. In fact, he had not been forgiven for publishing reports critical of the local government. Okruashvili's arrest caused protests as a result of which he was freed through judicial procedures. Despite this outcome, a virus of fear infected the regional media. Local journalists who stand up to the government, risk paying a high price since local authorities, police and prosecutors have often sanctioned journalists working in Kakheti, Shida Kartli, Guria-based regional newspapers. Local television companies, for reasons already explained, are reluctant to air challenging footage and so avoid similar problems.

Legal censorship does not exist in Georgia. This is confirmed by Georgian legislation. However, illegal, covert censorship does take place, which is seen in the occurrences mentioned above. Information and proposals to toughen media legislation appear periodically but the only restriction imposed by the government in summer 2007 was a ban on video-audio recording during court sessions. Even if they want to take down court hearings in shorthand, journalists have to ask for

*Censorship  
under the law*

the judge's approval; otherwise they will be asked to leave the courtroom and might be subject to administrative reprimand. The biggest threat for journalists under such covert censorship is of losing their jobs. This is a common practice as a result of which a system without working agreements (or short-term, one-month contracts) was established on the media labour market.

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

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

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

So far, the commission has temporarily suspended the licences of only two television companies: Imedi and Kavkasia. Subsequently, however, the commission itself cancelled these decisions.

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

The Law of Broadcasting of Georgia also obliges the commission to draw up and pass as law a code of conduct for licence holders. For more than two years various versions of the draft code have been reviewed by the commission with the participation of the broadcasters' representatives but the code still remains a draft.

In Georgian broadcasting it is an accepted norm that a broadcaster yields its licence under violence, blackmail or any other form of pressure. This is how a propagandistic TV Alania (targeted at the audience in South Ossetia) goes on air through the frequency of the TV Company Obiektivi, while military Channel Sakartvelo broadcasts through the TV 202 frequency. Evidence exists that

Sakartvelo belongs to the Ministry of Defence. In any case, in 2007, according to the Law on State Procurements, an agreement was signed between the Ministry of Defence and television company Sakartvelo. TV 202 director, Shalva Ramishvili, was arrested in August 2005 for extorting money from MP Koba Bekauri and still remains in custody.

Journalists do not have to receive any official approval from the state to enter the profession. It is enough for them to represent any registered media organisation. Since the state does not grant any approval, it cannot take it away. The status of independent journalist cannot be regulated. As to the government and parliamentary sessions, these are public and attendance at them is regulated by relevant acts. Accredited journalists are allowed to attend the parliamentary sessions but are placed on the balconies. Anybody other than members of parliament is prohibited from entering the session hall. The plenary sessions of the parliament are broadcast live by Channel 2 of the GPB. The government sessions are broadcast live only if they are attended by the president and he wishes these sessions to be broadcast live on all the channels. Accredited journalists are not allowed in the government session hall. They watch the live broadcasts of the sessions in the specially allocated rooms. After the sessions are over, they meet with the ministers in the briefing room.

*Journalists' legal status*

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

The murder of the journalist Giorgi Sanaia in July 2001 has not been solved until today. Neither have the cases of physical pressure on journalists in Kakheti, Shida Kartli and Samegrelo been solved. The governor of Imereti, Akaki Bobokhidze, who together with his security staff after a live coverage had severely beaten up journalist Irakli Imnaishvili, temporarily stepped down, but later returned to the governor's position and occupies it to this day.

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

*Monopolies and cartels*

### **3. POLITICAL CONDITIONS**

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

*Coverage of marginal groups*

Xenophobic attitude in general and anti-Armenian and anti-Chinese hysteria in particular are visible in the Georgian media of the 21st century. If the first one is based on the historically established false stereotypes, the latter is developing in front of our eyes and is caused by the latest increase in migration from China to Georgia. The media give structural coherence to fears blindly occurring in societies, stirred up by various political and social groups. For example, Imedi's popular weekly programme Droebe aired footage stating that in Georgia, Azeri or Armenian families mostly have three or four children. Rustavi 2, in turn, expelled one of the participants on the reality show Geobar just because during the first live show he openly announced that he was a homosexual. The same can be said about the coverage of various religious groups, where negative views prevail. Professional standards are almost absent diversity coverage.

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

*Self-censorship* As a result, self-censorship is much more obvious with television companies, rarer in the case of newspapers and practically absent in radio companies. An example of censorship is when journalists and producers negotiate their materials with the various officials. Often they do not even need approval since they know the officials' position and even share it. Investigation of information sources in different state and public institutions was replaced by selections of advisers and consultants who provide journalists with messages and point to the major directions.

*Illegal state repression* The government often turns to illegal acts of repression. There is no legislative basis for repression against the media. The government can, after all, still put pressure on media owners to fire journalists, cancel any programmes, even popular ones, and close down a television station. Otherwise, it can violently raid the premises of any broadcaster and take it off air, as happened to the television company Iberia in 2004 and television company Imedi in 2007.

On 7 November 2007, after having twice dispersed protest rallies in the city centre, the government showed that it could take even more radical measures. It considered that Imedi TV's broadcasting posed a threat and sent the special task force to the television company. Special task forces broke into the Imedi premises, physically and verbally harassed the journalists and other staff members and finally entered the operating room and the studio, taking the channel off the air. Such a violent closure of Imedi TV indicated two things: that the government is capable of conducting an illegal act (it did not have the legislative authority to halt the broadcasting of any television channel and suspend its licence); and that the government has a selective approach towards democracy (I will act as I want). At the time of writing, the property of the company's owner is still being held and the licence issue has been passed for resolution to the Georgian National Communications Commission.

*Obstacles to internet access* None of the regulating laws or legislative acts affect the internet. Sufficient funds and desire is enough to become a provider. The government cannot block internet users.

*Changes in the past five years* We can conclude that there is a real threat of government repression and the situation has strongly worsened, especially in the light of the events of 7 November 2007.

*Government control over print media* The government almost never uses such measures against the print media. This can partly be explained by the government not yet regarding newspapers as a serious power able to facilitate independent public opinion, and also by newspapers' low circulation, which makes them less profitable businesses. The salaries of journalists working in the print media are also much lower than for those working for television companies. However, President Saakashvili often says that he does not read newspapers. The State Chancellery, the ministries and local administrative institutions are strictly prohibited from subscribing to newspapers. This also is an indirect form of repression against the print media.

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

#### 4. ECONOMIC PRESSURES

Despite several exceptions, the Georgian media have not been able to sustain themselves as free businesses. This is impossible in a country where the market turnover for advertising in 2007 was 0.2 per cent of GDP. This equals EUR 25 million and is based on the price lists. The real amount is slightly smaller than that. According to the Georgian National Communications Commission, the cumulative revenue of the broadcasting companies (including VAT) is 52.2 million GEL (approximately EUR 23 million) (GNCC 2006). The share of advertising placed in the newspapers and weekly magazines is quite low.

*State subsidies*

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

The media business in Georgia is mostly subsidised. Such subsidies are not always transparent and a lot of so-called 'black' money is involved in the media business. Often media outlets and particular journalists are funded only to prevent them from producing and airing critical reports.

As mentioned above, the funding of the television companies running at a loss by businessmen close to the government is a kind of indirect subsidy from the government. Apart from this, certain ministries and institutions produce advertisements and place them on different channels to promote their activities.

Subsidies indirectly influence the print media as well. This is the model of exempting print media from certain taxes. At the start, this only involved exemption from value added tax; later on, during the parliamentary hearing, the print media were also exempted from income tax. The funds generated by these taxes are so small that the government can afford to liberate the print media from them. According to the Georgian tax code, these privileges will be in force until 2009.

This is as much a corruption issue as is the government's decision to sell the rights for publishing tender announcements and public information, which are required under the Law on State Procurements. The government sold the whole package as one lot. The winner was newspaper 24 Saati, which also kept this right in 2006 in 2007 and continues to publish these announcements in 2008. It seems that the government was so satisfied with the first tender, that it automatically extended the contract. Naturally, other newspapers are deprived of such benefits but they enjoy a higher level of editorial independence. The subsidised media are very friendly towards the government.

*Further aspects*

A similar situation prevails in the regions. Local authorities pass the funds allocated to support publicity and information to their favoured papers and television companies without announcing any tenders.

The biggest problem for the media companies is the unhealthy business environment when an advertiser places advertisements in a media outlet according to its political views. What's more, advertisers do not place advertisements in an outlet not favoured by the government. Using administrative resources in this way creates an uncompetitive environment in the media market.

## 5. NON-STATE REPRESSION

*Repression by non-state groups* The government so actively applies illegal repression that non-state repression is almost invisible. Such repression mostly becomes apparent when a channel or a newspaper publishes a story devoted to a religious issue. Immediately a priest will appear or a member of the Orthodox Parents' Union. Such actions are not planned by the Patriarchy though some representatives openly or semi-covertly support and manage such protests. The Orthodox religion and the church to certain extent are a taboo topic. Such protests are often directed against media outlets and particular journalists.

The other form of non-state repressions is the attitude of political parties' representatives towards journalists and media outlets. Representatives of the ruling party as well as opposition members selectively boycott different media and refuse to participate in their programmes. Several opposition parties in 2006 boycotted Rustavi 2 TV, while the ruling party representatives in 2006–07 boycotted Imedi TV.

*Changes in the past five years* No violent attitudes are noted towards journalists from the non-state bodies. As a result, there have been no cases of government institutions having to protect journalists from repressive actions. Therefore, to summarise the analysis of the last five years, it can be said that no qualitative changes have occurred.

## 6. CONCLUSIONS

*Freedom of the media: general situation* During the last four years, the government has shown that it not only can but is also willing to co-exist with clan groups. It manages to do so through establishing autocratic control and monopolising corruption. The government is well aware that the major interfering power in this case is a well informed society and that society is only well informed if the country has free media. This is why the government uses all available resources to establish control over the media: starting with covert censorship and brute interference in editorial policies and ending with encouraging the establishment of corrupt systems in the media. In this way, it is very easy for the media to lose society's trust. The quality of media freedom has significantly deteriorated during the last five years.

*Major obstacles to free media coverage* Taking into account all that has been said above, it can be said that media in Georgia are free but with significant limitations. Media legislation and the conscientious work of some journalists point to media freedom. The major limitations are illegally posed by the state.

*Zviad Koridze*

- 1] *Given the political, historical, cultural, and religious legacies and the way Georgians see themselves, the assignment of Georgia to Asia can be questioned. However, the 'boundary' between Asia and Europe is conventionally considered to run through the Dardanelles, the Sea of Marmara, the Bosphorus, the Black Sea, the Caucasus Mountains, the Caspian Sea, the Ural River to its source, and the Ural Mountains to the Kara Sea near Kara, Russia. Therefore, in a strict geographical sense Georgia belongs to Asia, whose most western point is defined at 26° 4' eastern longitude. The assignment of Georgia to Asia in this publication, however, for a yet further reason. The regional programme Political Dialogue South Caucasus that covers Armenia, Azerbaijan and Georgia is assigned both in terms of content and administration to the Asia division of the KAS.*
- 2] *While this document was in the process of submission, it was announced that on 12 February 2008, businessman Badri Patarkatsishvili had died of a heart attack at his home in London.*



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# MALAYSIA

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

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

In 1993, the World Education Report (UNESCO 1993) stated that Malaysia then had one of the lowest literacy rates (78.4 per cent) compared to her other Southeast Asian neighbours, such as Singapore (100 per cent), Indonesia (81.6 per cent), Thailand (93 per cent), and the Philippines (89.7 per cent) (Zaman 2002). Today, the country's population is 27.17 million (Department of Statistics 2008) and the Malaysian literacy rate is 85 per cent.

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

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

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

Media Prima wholly owns TV3, NTV7 and TV9 and holds a 99.5 per cent interest in 8TV. TV3, Media Prima's flagship television station and the number one free-to-air television station in the country, finished the 2007 season dominating the year's top 20 programmes (The New Straits Times, 4 January 2008). The station has the number one news segment, Buletin Utama (Main Bulletin), and is the top choice for prime-time viewing (The New Straits Times, 17 January 2008). TV3 recorded a 33 per cent share of viewers in 2007 among over a hundred channels available on satellite and FTA TV (The New Straits Times, 4 January 2008). The group also controls radio stations Fly FM and Hot FM, with a combined listenership of 3.5 million. Media Prima has a 43 per cent stake in the equity of The New Straits Times Press, which has four newspapers in its stable, namely the English dailies The New Straits Times and Malay Mail, and Malay dailies Berita Harian and Harian Metro. Media Prima is Malaysia's biggest listed media group. This group is said to reach 22 million Malaysians daily: about 11 million television viewers, seven million newspaper readers and four million radio listeners. Malaysia's population is a little over 25 million. As of 2005, Media Prima is the biggest media group in Malaysia, attracting approximately 48 per cent of Malaysia

television viewers, with its closest rival the pay-television satellite operator, Astro, which has a market share of roughly 20 to 30 per cent.

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

There are six English dailies, six Chinese language dailies, five Malay dailies, and three Tamil (a South Indian language) dailies in Peninsular Malaysia. According to Nielsen Media Research, in the past five years, overall readership of these newspapers has continued to increase from 51 per cent in 2003 to 55 per cent in 2007 and this was primarily due to the growth of Malay dailies' readership. The top Malay dailies are Berita Harian (holding 9 per cent of the total newspaper readership) and Utusan Malaysia (8 per cent). The top English dailies are The Star (8 per cent) and The New Straits Times (2 per cent), top Chinese language dailies are Sin Chew Daily (8 per cent) and China Press (5 per cent), and the Tamil dailies are Malaysia Nanban (2 per cent) (The New Straits Times, 10 October 2007).

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

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

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

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

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

It was not until 1984 that a privately owned television station, TV3, was allowed to operate, which essentially broke more than 20 years of government monopoly over broadcasting. The Privatisation Policy that was introduced in 1984 brought about the establishment of TV3 (Abdul Wahab 2006).

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

*Party media* The ruling coalition has kept control over the media. Mainstream newspapers as well as television channels are owned or controlled by the governing coalition parties. Given this scenario new political forces released by the internet, which made its debut in Malaysia in 1996, have created a dilemma for the political establishment (Abdul Samad 2001). All disgruntled elements within the political spectrum have been channelled and sent through the internet.

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

In the early days of the internet in Malaysia, *Malaysiakini.com*, *Laman Reformasi*, *Freeanwar.com*, *Harakahdaily.com* and *FreeMalaysia.com* are five out of the over 50 websites which give alternative news coverage. 'They were visited by more than 250,000 visitors daily. In addition to such web pages are "e-groups" discussion platforms. Because of the vacuum for a platform for intellectual discussion in Malaysia the internet has become a haven for those Malaysians who longed to voice their long, long repressed opinions and ideas. *Sangkancil@malaysia.net* is one of the many electronic discussion groups which has earned a great reputation for intellectual discussion ranging from politics, religion, race, culture and nationalism,' said Abdul Samad.

The owner of *Malaysia Today*, Raja Petra Kamarudin, was probably one of the first to initiate the move to offer alternative news to the public and he did so in the form of the website *Freeanwar.com* in the mid 1990s. Although the website initially started as a campaign and an online response to the sacking of Anwar Ibrahim as the deputy prime minister and subsequently his imprisonment for sodomy, the website grew as people craved to hear about the political backroom dealings, and at the same time financial and sex scandals were unearthed. Some of the information is uploaded without confirmation from credible sources but the website and others like it became a much-awaited alternative to the mainstream news, especially during the dark days when political turbulence in the otherwise quiet and stable Malaysia left many Malaysians wondering what was happening.

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

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

The intimidation and harassment continues under the present Badawi administration, although the prime minister promised to be less restrictive with the media. Several incidents have affected the press freedom in the recent past.

According to AC Nielsen (2007), in the past five years, overall readership of any dailies has continued to increase steadily from 51 per cent in 2003 to 55 per cent in 2007. Nielsen Radio Audience Measurement (RAM) shows that total numbers for radio listeners remains high – reaching 92 per cent or 14.4 million individuals aged 10 years and above in Peninsular Malaysia. Malaysia has a relatively low household internet penetration of 12.8 per cent (The Edge 2007) but there are 13,528,200 internet users as of September 2006, which is 47.8 per cent of the population, according to the Malaysian Communications and Multimedia Commission.

*General media access*

The increase in newspaper readership is due to the growth in Bahasa Malaysia dailies' readership. English, Chinese and Tamil dailies' readership remains stable. On average, a radio listener tunes in for 23 hours a week. In the last two years, the total TV viewing trend has been stable at 93 per cent. Internet users increased from 15 per cent (July'05–June'06) to 18 per cent this year, with a two percentage point growth in home users. Internet users are still skewed towards PMEBS, other white collar workers and students.

*Media consumption*

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

*Media influence on political opinion*

Media as source of information in Malaysia are used often. A sizeable number of people use the media for information, and this information comes in various languages (newspapers, TV and radio broadcasts); for the urbanites and educated Malaysians, there is also the internet.

More and more urbanites are said to be turning to the internet as signs of frustrations with the mainstream and traditional media peaked with the launch of various initiatives to boycott the media, according to the Centre for Independent Journalism (CIJ). CIJ picked a few online sources to get an idea of the number of visitors to their blogs and sites during two major rallies organised by BERSIH, a non-governmental organisation that is calling for free and clean elections, and HINDRAF, a non-governmental organisation fighting abuse against the Indians, in November 2007.

State-owned media exist. The coverage of their editorial departments is not protected by law from influence by government authorities. The staff members of the state-owned television and radio stations are considered civil servants, and so the appointments of people to key positions have to be vetted and endorsed by the minister of information under which these television and radio stations come. The national news agency, Bernama, used to be under the Ministry of Information but now it has been corporatised. However, appointments to key positions are still determined by the government.

*State-owned media*

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

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

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

*Government press conferences* All journalists have equal access to press conferences held by government officials with the purpose of informing the public of government programmes and policies, and to give the government's version of an issue or incident and stress that this is the official version, and therefore the truth. However, there have been times when journalists from the independent online newspapers have been asked to leave press conferences by government officials. For example, on occasion either the prime minister or the deputy prime minister has called for a closed-door meeting with editors of media organisations to inform them about how a particular issue should be highlighted or blacked out. However, only the mainstream media editors are invited. At the time of writing this report, a meeting was called by the deputy prime minister to brief editors on what sort of media coverage the government expects for the upcoming general elections. (I am privy to this information because I have been in the media for 14 years, and more importantly my deputy editor husband attended the meeting.) It is mandatory for editors to comply with the instructions of the prime minister and deputy prime minister. Yet, in general, press conferences can be broadcast.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* The laws, regulations and unwritten instructions on the way the media was to operate caused some to say that Malaysia had a constitution 'guaranteeing freedom of speech, but not freedom after speech' (Wong 2000). Article 10 (subsection 1) of the federal constitution promises every citizen the right to freedom of speech and expression, to assemble peacefully without arms, and to form associations. Its subsection 2, however, allows Parliament to impose restrictions on the grounds of national security, public order and morality.

*Free media coverage* The laws and regulations that affect the press deal primarily with secrecy. The government's obsession with secrecy dates back to colonial times (Padman 2001). For 12 years from 1948, the British (and later Malaysian) government instituted measures against a violent campaign by communist insurgents and in the process, shackles were put on the media.

*Regulation of media coverage* In 1948, the Printing Presses Ordinance was introduced to control ownership of printing presses and publications. This was repealed and in its place came the Printing Presses and Publications Act in 1984, during the Mahathir (former prime minister Dr Mahathir Mohamad) administration from 1982 to 2003. This ruled that the annual publishing and printing permit could be revoked or not renewed without judicial review. In 1987, during Operation Lalang, the licences of four newspapers were revoked on the grounds that these publications were printing information that was seditious, therefore contravening the Sedition Act 1948.

Section 4 of the Sedition Act specifies that anyone who 'does or attempts to do, or makes any preparation to do, or conspires with any person to do' an act with seditious tendency, such as

uttering seditious words, or printing, publishing or importing seditious literature, is guilty of sedition. It is also a crime to possess a seditious publication without a 'lawful excuse'. The act defines sedition itself as anything which 'when applied or used in respect of any act, speech, words, publication or other thing qualifies the act, speech, words, publication or other thing as having a seditious tendency'.

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

In 1960, the Internal Security Act came into force, allowing preventive detention without trial. In 1972, the Official Secrets Act took effect. There were three cases where OSA was used against the media in 1985 and in all three cases hefty fines were imposed – The New Straits Times' Sabry Sharif's story on irregularities in military aircraft purchases, two Asian Wall Street Journal foreign reporters' investigative story and a Far Eastern Economic Review foreign correspondent's story citing an alleged official government document. Amendments were made to the act in 1986, adding provisions for mandatory prison terms. In 1988, the Broadcasting Act brought the electronic media under government control (Padman 2001; Wong 2000; and Syed Arabi 1998). The number of laws adversely affecting press freedom has increased since Mahathir became prime minister. Academic and former Malaysian Human Rights Commissioner Hamdan Adnan says there are presently 47 pieces of such legislation and ordinances (Syed Arabi 1998).

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

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

*Changes in the past five years*

There is a slight difference in the way the media have been treated during the Mahathir (1981 to 2003) and the Badawi (2003 to present) administrations. Mahathir would periodically call meetings with the editors of the mainstream media organisations and tell them what was to be covered and which stories should be downplayed. When editors were faced with a situation like the Kampong

Medan racial riots in 2001, they waited for instructions from the prime minister, his department, the Home Ministry, etc before proceeding. This is the standard reaction for editors in that they are required to seek clarification before going ahead with stories – and the instructions are usually very clear and precise. During the present administration, instructions come from the usual sources, and also from the prime minister's son-in-law Khairy Jamaluddin, and from a fellow editor, Kalimullah Masheerul Hassan – and almost on a daily basis, according to two senior editors in two English dailies. This is despite assurances from the prime minister when he took up office that the media was to be freer than before. Media freedom, therefore, has gone from bad to worse.

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

Also, editors are periodically given a briefing by the prime minister and the deputy prime minister as to what sort of reporting is expected and what sort of news to black out. Usually, news about the opposition parties is either blacked out or played down, unless the news item reflects negatively on the opposition parties or their leaders. Media organisations are also reprimanded should they report about corruption within the ruling government or personalities linked to the government or about failed or weak policies and projects. The press is expected not to project a bad or weak picture of the government and its leadership unless certain personalities have fallen out of favour with the main leadership and the media chiefs have been given the nod to report on them. Within each media organisation as well, the political masters have their set of orders and their agenda. The task of the media organisation is to ensure their political masters look good and their opponents either within the party or otherwise are made to look bad.

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

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

About a week before Christmas in 2007, The Herald, the 13-year-old weekly published by the Kuala Lumpur-based Archdiocesan Pastoral Centre for the Catholic community in Malaysia, was having difficulty renewing its printing and publication permit. The Internal Security Ministry had demanded that its Malay section must be scrapped and the use of the word 'Allah' when referring to God must be stopped. A public and global outcry forced the government to retract this order on 31 December 2007, and The Herald has been promised a renewal of its publishing permit for 2008, with no conditions attached. This is the latest incident involving printing and publication permits. Prior to this, numerous newspapers have been given warnings over articles they have published, some newspapers have been shut down or their publications suspended. There are numerous cases of editors being removed from their posts. The government officials have also asked media organisations to take action against editors or journalists who have allowed certain articles, which have shown the government is a bad light, to be published.

*Journalists' legal status* Journalists do not need official state permission to practise their profession, but they do need to get themselves registered with the Information Ministry through the media organisation that they work in. Foreign journalists or correspondents also need to register with the Information Ministry for accreditation. Nobody is excluded by law from working as a journalist. Media organisations, however, are usually not keen on employing people closely linked to opposition party leaders and people who are trade unionists.



Journalists have the legal right to participate in all public meetings of the government and Parliament, however, there have been cases when only journalists with the mainstream media have been allowed to participate in public government meetings, and the online newspaper journalists have been asked to leave. The decision over whom is allowed to attend is up to the official handling the meeting. Only the mainstream media journalists are allowed to attend Parliamentary proceedings. However, Hansard is available for public consumption from the Parliamentary website (<http://www.parlimen.gov.my/op.php>).

Once the doors of public government meetings are opened to journalists, it can be assumed that the meeting can be broadcast. For Parliamentary proceedings, there are no legal restrictions on coverage but because there is surprisingly no immunity for parliamentarians during the proceedings, all that is discussed is subject to the Sedition Act. Discussions on the sovereignty of the king and sultans, the special privileges for the Malays, and similar topics are not allowed. However, Parliamentary proceedings are not telecast live but only certain clips or video grabs, deemed to be non-detrimental to the government and its leaders, can be broadcast or published. Journalists, however, do not have the right to legally challenge state repression.

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

*Monopolies and cartels*

### **3. POLITICAL CONDITIONS**

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

*Coverage of marginal groups*

Self-censorship exists at all levels – from the reporters to the editors, a habit which started during the Mahathir administration. Reporters have been told to report on matters that neither antagonise the government nor the advertisers. During elections, the self-censorship is even more severe. No Malaysian journalist can claim he or she is freely able to investigate government or corporate scandals (Padman 2001). Partly this is because they have limited access to information and partly because of the controls in place; a journalist has to resort to self-censorship. Self-censorship especially occurs in areas such as politics, corporate scandals, corruption involving high-ranking officials and corporate figures, political instability, religious and racial discontent, failure of government projects, and suchlike.

*Self-censorship*

The government has used force and threats to make the media comply and one such incident was in 1987 during Operation Lalang. In a bid to thwart what would have become a major race riot, probably bigger than the one in 1969, Mahathir declared an operation where over 100 people were arrested under the Internal Security Act, four newspapers were closed down for instigating racial unrest but no journalist was arrested. One of the four newspapers, The Star, was allowed to reopen if it complied with certain conditions, two of which were that the daily had to replace certain senior editors with those from the government-owned Bernama news agency, and the paper had to promise to toe the line in its reporting, according to editors of The Star. Since then, the media organisations have come to understand the vulnerability of their existence and have learned to conduct self-censorship when dealing with controversial stories and to wait for instructions from

*State repression*

the government before running a story. When race riots broke out at a lower-income settlement called Kampung Medan on the outskirts of Kuala Lumpur in 2001 between Indians and Malays, the editors of *The Star* waited for a response from the government before deciding how they should treat the story. They and the editors in other media organisations were told to downplay the racial sentiments.

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

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

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

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

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

#### **4. ECONOMIC PRESSURES**

*State subsidies* The private media are not subsidised by the state. Advertising revenue in the private market is substantial enough for the main media organisations to operate with clear profits.

#### **5. NON-STATE REPRESSION**

*Repression by non-state groups* The religious departments in the government have on numerous occasions come out with stinging statements about news reports and coverage that can make Muslims react heatedly. In the eastern state of Sabah, the Bugis people occasionally send death threats to the journalists should there be news reports that do not put them in a good light. These threats have remained just that. Non-state repression happens only occasionally. I cannot recall an incident, however, when the Malaysian government has prosecuted these acts.

*Changes in the past five years* State authorities can effectively protect journalists because of the amount of control the authorities wield over media organisations, but this has never happened. The state has never functioned as the guardian of the journalists when it came to issues of rights and protection.

## 6. CONCLUSIONS

The media in Malaysia reflect the culture of 'soft authoritarianism' (Wong 2000) where the institutions of a democratic state and the division of its powers exist in principle but have been made ineffective or absent in practice. Several practitioners and academics in Malaysia feel that the 1969 race riots gave the government a good excuse to continue with media controls in the name of nation building, economic development and, more crucially, racial harmony. Edmund Terence Gomez and K.S. Jomo in "Malaysia – Political Economy" say that the authoritarian style of Mahathir's government has on the one hand enhanced economic growth and material well-being while on the other it has led to abuses of power and a shrinking of democratic space (Wong 2000). It has to be stated, then, that there is no freedom of the media. Also, the changes in the past five years have been for the worse.

*Freedom  
of the media:  
general situation*

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

*Changes in the  
past five years*

Vanitha Nadaraj

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# PHILIPPINES

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

*Literacy and education* The Philippines' National Statistics Office (NSO) reports that 88.6 per cent of Filipinos aged 10 to 64 are functionally literate. Breaking down the data by gender, there are more women than men who are functionally literate: 90.4 per cent of females and 86.8 per cent of males. The figures come from the 2003 Functional Literacy, Education and Mass Media Survey (FLEMMS), the national survey that determines literacy among Filipinos, conducted by the National Statistics Office (NSO 2008). The NSO defines a functionally literate or basically literate person as one who can read and write, also classified as Level 1 literacy. Others levels are Level 2 referring to those who can read, write and compute; Level 3 referring to those who can read, write, compute and comprehend; and Level 4 referring to high school graduates and higher. The National Statistics Office estimates that of 5.1 per cent of functionally literate Filipinos lack numerical skills or cannot compute. The survey also found that 1 in 10 are illiterate, which means they can neither read, nor write. Literacy levels are at their highest in the National Capital Region and lowest in the Autonomous Region for Muslim Mindanao.

The quality of education in the Philippines has been deteriorating over the years, with the public educational system particularly problematic. A recent study by the Asian South Pacific Bureau of Adult Education found that 81 per cent of children aged 8 to 11 were attending primary school, but only 55 per cent in the 12–15 age range were attending high school. This indicates high drop out rates by the time Filipino children reach high school level (ASPBAE 2007).

*Media landscape* As of June 2007, there were 382 AM radio stations and 628 FM radio stations all over the country, according to the National Telecommunications Commissions, the government agency that regulates the broadcast industry. There are seven daily national newspapers: the Manila Bulletin, Philippine Star, Philippine Daily Inquirer, Manila Times, Malaya, and the Daily Tribune. There are two business papers that publish only on weekdays: BusinessWorld and Business Mirror. There are also at least 18 tabloids publishing daily. There are also hundreds of local newspapers in the various cities and towns all over the country.

*Party media* Political parties in the Philippines are not driven by ideology or principles. Rather, they are temporary alliances of individuals with similar interests or personal loyalties. It is not unusual for Filipino politicians to flit from one party to another to pursue their political ambitions. Hence there are no real party lines or platforms to promote or popularise. However, politicians and their families do own media entities (small community newspaper or radio stations) in towns and cities outside the capital although there is no count or study on this issue.

*Internet media* According to the website Internet World Stats, the number of internet users in the Philippines has almost doubled in two years, from 7.8 million in 2005 to 14 million as of December 2007. The same website notes that there has been a 600 per cent increase in internet users in the Philippines since 2000, when the number of users was pegged at only 2 million. There were 123,000 broadband subscribers in the Philippines as of September 2007.

The arrival of internet publications provided journalists with a venue for reporting the news immediately and independently. Newspaper organisations have come up with websites like the inquirer.net of the Philippine Daily Inquirer and the sunstar.com.ph of the Cebu-based Sun.Star Publishing Inc. Through new media, newspaper organisations offer news in various platforms – on websites, blogs, e-newsletters and text message alerts.

On independent internet publications, the Newsbreak at newsbreak.com.ph runs news features and in-depth reports, the Philippine Center for Investigative Journalism is known for investigative journalism, and blogs are becoming popular and are not limited to Manila journalists. Among the journalism blogs outside of Metro Manila are the 'Leon Kilat: The Cybercafe Experiments' of Cebu journalist Max Limpag, 'Peryodistang Pinay' of Isolde Amante of Cebu, and the 'Mindanao Alerts' of Carol Arguillas. The internet makes publishing faster and cheaper than putting out a newspaper. There are no government rules to limit these internet newspapers but the same laws on libel apply.

As of 1994, 81.22 per cent households in the Philippines owned a radio, 44.93 per cent owned a television set, and only 1.15 per cent of the total number of households owned a personal computer (NSO 1994).

*General media access*

Almost all of the population have access to and watch TV, by far the biggest source of news and information among Filipinos – 98.8 in Metro Manila, 97.5 in Luzon Island, 98.2 in the Visayas and 92.6 in Mindanao. In Metro Manila, media consumption from highest to lowest are: 1) television; 2) newspapers; 3) radio; 4) cable TV ; and 5) magazines. Outside the capital, however, radio is the second most used medium after television, with newspapers in third place (4As 2007: 25–27). A 2006 AC Nielsen survey found that 20.1 per cent of the population in Metro Manila had used the internet in the past 12 months, while the figure was 17.7 nationwide (4As 2007: 107).

*Media consumption*

In 2004, a radio listenership survey was commissioned by the Kapisanan ng mga Brodkaster ng Pilipinas (KBP) or the Association of Broadcasters in the Philippines, a private organisation of broadcast network executives. The study covered two of the biggest cities in the country: Manila and Cebu. Among its findings was that the majority of listeners in the two cities listened to radio for at least 10 hours a week, and on average spent some 20 hours a week listening to the radio. However, radio is mainly a source of music and entertainment rather than news. The survey noted that 'everybody watches TV'. It also found that 5 a.m. to 10 a.m. and from 3 p.m to 5 p.m. are the hours when there are more radio listeners than there are TV viewers. 'From 6 p.m. to 10 p.m. television is the medium of choice,' the study said.

The media in general are a very powerful sector in Philippine society, exerting highly significant influence on Filipinos. A number of political and social upheavals throughout Philippine history were triggered by writers and journalists exposing injustice or corruption, arousing public opinion that has shaped mass actions.

*Media influence on political opinion*

Each medium designs its content to suit its target audience. Television, for instance, which targets from the middle to lowest economic classes, would have a different content from cable TV and newspapers. Despite these differences, major political news and information are carried, printed or broadcast across all media, influencing public opinion across social classes.

There are many examples of the influence of mass media on the formation of political opinion over the past decade. In 2000, investigative reports into the lifestyle and business interests of then President Joseph Estrada turned public opinion against the once popular movie actor, who eventually faced an impeachment trial. A captive Filipino audience watched as television station aired the live coverage of the impeachment trial of Estrada, who later resigned.

In 2005, Estrada's successor Gloria Macapagal Arroyo nearly suffered the same fate and was forced to apologise to the public when media organisations aired wiretapped phone conversations between her and an election official, Virgilio Garcillano. Those conversations, known as the 'Hello, Garci'

tapes, took place in 2004 shortly after she ran for president, while the Commission on Elections was still counting the votes. In one of those taped conversations, the president was heard discussing with the election official the number of votes she would get.

In late 2007 and early 2008, an exposé by a newspaper columnist triggered Senate investigations into a \$329 million peso broadband network deal supposedly overpriced to accommodate kickbacks for Arroyo's husband and close political associates. In February 2008, media coverage forced the authorities to present a key witness who had been taken forcibly into police custody. A cross section of Filipinos again started holding rallies and calling for Arroyo's resignation after what has since been viewed as a botched abduction. Filipinos again watched as the Senate held whole day hearings, which were covered and aired live on television and radio.

*State-owned media* State-owned radio and television stations do exist in the Philippines but they do not function as public broadcasting corporations. Instead, they are mouthpieces of the government and form part of the official communication network designed to serve the president and her officials.

In August 2004, President Gloria Macapagal Arroyo issued Executive Order No. 348 creating an Office of the Communications Director, who was given the rank of cabinet member and was tasked with directing the operations of 'the public sector mass media and the public information system of the government.' The communication director's main task is to 'coordinate the dissemination, through the mass media, of policies, programmes, achievements, reports and activities of the President and the administration.' The Office of the Communications Director is under the Office of the President.

Among the entities that are listed under the Office of the Communications Director are the newspapers and tabloids under the Journal Group, and three government-owned and controlled TV stations: RPN Channel 9, NBN-Channel 4, and IBC-Channel 13. For radio, the government has the Bureau of Broadcasts, which runs a nationwide network of radio stations called Radyo ng Bayan (People's Radio).

The communications director is now called the secretary for government mass media, a position held by a former broadcast commentator who has served the Arroyo government since 2001 and also helped her campaign for the presidency in 2004. News and programmes that are broadcast or published on government media focus on the president, her family, her government and their activities.

*State-owned media and published opinion* State-owned media are practically propaganda vehicles of the government. Ratings-wise, however, government television stations attract only a negligible fraction of the viewing public. On the official government station, NBN Channel 4, the ratings mostly go up during the Lotto draw, which is aired on that channel. Most of the television audience is shared by the two biggest broadcast network, ABS-CBN Channel 2 and GMA Channel 7, both private commercial networks.

*Government press conferences* Government officials are aware of the power and reach of the media, and so it is common for government agencies to call press conferences to announce major events, or hold regular press conferences for beat reporters assigned to those offices. These press conferences are open to all and are a means of making public government programmes.

One official who does not hold regular press conferences is President Gloria Macapagal Arroyo, who is accessible to the media only during presidential activities and speeches. It is her executive secretary and spokesperson who speak on her behalf during regular palace press conferences. The absence of regular presidential press conferences is a glaring departure from the practice of previous presidents, especially Corazon Aquino and Fidel Ramos, who faced the media regularly and granted regular interviews to journalists.

## 2. LEGAL ENVIRONMENT

Freedom of opinion is implied in the Bill of Rights of the 1987 constitution and is a right ingrained among Filipinos. Freedom of opinion was recognised as far back as 1898 when the Filipino revolutionary movement, after overthrowing Spanish colonisation, drafted a charter considered the first democratic constitution in Asia. Known as the Malolos Constitution, it recognised every Filipino's 'right to freely express his ideas or opinions, orally or in writing, through the use of the press and other similar means.' The Philippine revolutionary government, however, was short-lived. American colonisers soon took over and moulded a Philippine educational, government and legal system after their own. Hence the rights to free speech and expression in the Philippine constitution are echoes of similar provisions in the American charter, and are interpreted using English and American jurisprudence (Teodoro / Kabatay 2007).

*Freedom  
of expression*

Freedom of the press and free media coverage are guaranteed under the 1987 constitution of the Philippines. Section 4 of the Bill of Rights says, 'No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.' Section 7 provides people with the right to information 'on matters of public concern,' ensuring access 'to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development... subject to such limitations as may be provided by law.'

*Free media  
coverage*

Framers of the 1987 constitution viewed the right to information provision as a safeguard against a repeat of the repressive, dictatorial rule of former President Ferdinand Marcos. Members of the constitutional commission envisioned the right to information as a weapon to ensure an open and honest government. They pointed out, however, that the right to information refers not only to a government's duty to make available information involving public interest. It also refers to citizens being vigilant and exercising their right to demand information (Teodoro / Kabatay 2007).

Presidents Corason Aquino and Fidel Ramos both passed executive orders granting the public access to government information and documents. Aside from this there is also Republic Act 6713, the Code of Conduct for government officials and employees, which requires them to make available information sought by the public. The law cites exceptions that government functionaries can invoke when denying access. These exceptions include cases when the information, document or record involves national security, when disclosure would jeopardise a person's life and safety and cause unwarranted invasion of privacy, and when the subject matter is still being discussed and finalised.

*Regulation of  
media coverage*

Although the right to information is considered a self-executing right, which means no supplemental law needs to be passed for it to be exercised, media groups and non-government organisations have been lobbying for the passage of a Right to Information law that will ensure speedy and systematic access to government data and documents by the general public. In most government agencies, the instinct is to withhold, rather than to release, data to the public. Journalists have no problem accessing such information: they do manage to obtain requested documents from official government functionaries, if not from sources they cultivate in the course of their work. The media and NGO alliance Access to Information Network (ATIN), however, sees the need for a law that will make the release of information an obligation and not just a favour given to journalists. ATIN also believes that while some government officials and agencies do release information to journalists, they do not do the same to the general public.

The Philippines' Revised Penal Code classifies defamation into two types: libel and slander. Libel is defamation done through writing, including the mass media, while slander is oral defamation. Persons suing for libel have the option of seeking criminal as well as civil action, which means they can seek damages that may range from P200 to P6,000, as well as the imprisonment of offenders with terms ranging from one day to six years.

There have been several cases of libel filed against journalists, some of them demanding outrageously enormous amounts in damages and seeking the imprisonment of reporters and editors. This has led media practitioners to believe that libel is used as a tool to get back at the media, and not necessarily to defend a person's honour and reputation. Philippine presidents Corazon Aquino and Joseph Estrada have used it against journalists who have written articles critical of their performance while in office. Recently, President Gloria Macapagal Arroyo's husband Jose Miguel Arroyo filed 11 counts of libel against 46 journalists for writing various stories about him at the time his wife was facing a severe political crisis in 2005.

Because libel is a criminal offence, libel suits have resulted in journalists getting jailed, especially in far-flung provinces where journalists do not have ready access to legal counsel and support from their peers. On 22 January 2008, a radio commentator from northern Mindanao was arrested and thrown in jail for failing to attend hearings arising from a libel suit against him. The judge recommended no bail.

In March 2007, the publisher and seven editors of the leading newspaper Philippine Daily Inquirer were jailed for one hour after they posted bail in connected with the libel suit filed by the president's husband, Jose Miguel Arroyo. The publisher and editors were told to voluntarily surrender to a Manila police station, where they were detained while awaiting the court's release order. A similar thing happened to the editor of a community newspaper from Palawan province in Southern Philippines who was sued for libel by a congressman. Although the two parties had amicably settled, the judge chose to ignore the settlement, and ordered the arrest of the editor when she showed up for a court hearing in June 2007. She spent the whole day in detention while awaiting a release order from the court.

In the Bill of Rights, the right to privacy refers to citizens enjoying freedom from government intrusion rather than government enjoying freedom from media criticism. Again, this is a principle put in place in the 1987 constitution after the Marcos dictatorship, which was marked by arbitrary arrests, searches and seizures.

The relevant provisions are Section 2 of the Bill of Rights, which provides for people's 'right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature...' Likewise, Section 3.1 guarantees the privacy of communication and correspondence, except when a court of law orders otherwise.

As far as the privacy of individuals is concerned, the Revised Penal Code penalises certain acts that are seen to constitute invasions of privacy. These cover public officials revealing secrets or causing the wrongful delivery and publication of documents, and trespassing by private individuals on a person's home.

Philippine jurisprudence says that the right to privacy of public officials is narrower than that of ordinary citizens. The courts have ruled that public officials are public figures like movie stars, sports personalities, and similarly famous individuals who are known to and have appeared in public. As such, the public has a legitimate interest in their work and their character, and media reportage about them is justified. However, the courts draw the line on matters involving aspects of a public official's life that have nothing to do with or do not affect his public duties.

In general, government regulation of media coverage is seen as constituting prior restraint, defined as government restrictions on the media before actual publication and seen as a curtailment to the freedom of the press and free expression.

Coverage of court proceedings, however, is another matter. In October 1991, the Philippine Supreme Court banned the live coverage of court hearings 'to protect the parties' right to due process, to prevent the distraction of the participants in the proceedings and in the last analysis, to avoid miscarriage of justice.' The High Court issued the order after broadcast stations aired live the testimony of former President Corazon Aquino in the libel suit she filed against the late Luis Beltran,



at that time editor of the daily newspaper Philippine Star. Beltran had written in a column that Aquino 'hid under her bed' during the August 1987 coup attempt.

There are no bodies or commissions that regulate coverage by the print media, but there are a number of government and non-government agencies that may impose restrictions on the broadcast media.

The Movie and Television Ratings and Classification Board (MTRCB) is a government body that reviews programmes on television and movies, as well as publicity materials in print relating to such shows. In May 2005, the MTRCB issued a circular memorandum requiring television public affairs, news documentaries and similar programmes to submit their material to the board for review before broadcast. Television newsrooms and media groups protested against the memorandum, called it prior restraint, and branded it a suppression of TV news coverage. The protests forced the MTRCB chair to revise the memorandum, specifying this time that the board would review public affairs programmes only after they had been aired (Teodoro / Kabatay 2007).

There is also the National Telecommunications Commission (NTC), the government agency that assigns broadcast frequencies, and regulates the broadcast and telecommunications industries. NTC issues the certificates of public convenience for broadcast networks and may revoke these certificates in case of violations of NTC rules and regulations.

In April 2005, the armed forces of the Philippines circulated copies of a compact disc detailing the peace and order situation. In that report, it identified certain groups as 'enemies of the state,' including the Philippine Center for Investigative Journalism, the National Union of Journalists of the Philippines and the Catholics Bishops Conference of the Philippines. Media groups protested what was perceived to be the government's adversarial attitude toward the press (Maragay/Evangelista 2005). At that time, the Philippine Congress was already deliberating the proposed Human Security Act, entitled 'An Act to Secure the State and Protect our People from Terrorism,' which was the government's response to terrorist threats.

*Changes in the past five years*

Human rights groups and non-governmental organisations protested the passage of the law for allowing government intrusion into the privacy of individuals on the mere suspicion of their having links to terrorists. Section 7 of the Human Security Act allows the surveillance of suspects and interception and recording of communications. Media practitioners saw this provision of the law as a restriction on free coverage. As a concession, the Philippine Congress inserted an exception, which reads, 'Surveillance, interception and recording of communications between lawyers and clients, doctors and patients, journalists and their sources and confidential business correspondence shall not be authorised.'

Still, this provides little comfort to journalists, and reinforces the view that directly or indirectly, the Philippine government has been attempting to constrict the democratic space that allowed journalists free and easy access to sources.

In the evening of 29 November 2007, journalists got what they considered a taste of the effect of the Human Security Act. Policemen handcuffed scores of journalists and photographers following the takeover of the Manila Peninsula Hotel by two military officials under detention and facing trial for rebellion. These members of the media were then herded into buses and hauled to a police camp south of Metro Manila where they were 'processed'.

Earlier that day, the two military officers walked out of a court hearing and proceeded to the hotel, the police were supposed to begin an assault but were stopped by the presence of journalists covering the two officers. Police officials defended the arrest of journalists by saying that the journalists had obstructed police operations. The government said the 'processing' of the journalists was done to determine whether those who covered the siege of the Manila Peninsula were genuine journalists and to ensure that media ranks had not been infiltrated by military rebels posing as reporters. Media organisations decried the police action as a curtailment of press freedom.

Less than two months after the incident, the Secretary of Justice, Raul Gonzales, issued an advisory to chief executive officers of media networks and heads of press groups. In his advisory, Gonzales warned the media 'that that your respective companies, networks or organisations may incur criminal liabilities under the law, if anyone of your field reporters, news gatherers, photographers, cameramen and other media practitioners will disobey lawful orders from duly authorised government officers and personnel during emergencies which may lead to collateral damage to properties and civilian casualties in case of authorised police or military operation.' News directors and heads of media organisations saw this as yet another threat to press freedom. Press groups viewed these government restrictions as strong aggravation on press freedom, which prompted them to seek legal redress.

*Legal censorship* The common basis for government censorship and monitoring are security of the state, general welfare and morality (pornography, obscenity, protection of minors, rape, private crimes). The National Telecommunications Commission, a regulatory body, is limited to issuing licences and franchises to radio and television stations and is not empowered to regulate content of radio programmes. The Movie and Television Review and Classification Board is a government agency that screens movies and television programmes for public viewing. It too monitors broadcast programmes for possible violations of laws and ethics. These are government bodies that monitor media, not necessarily to regulate media coverage.

The effects of the denial or regulation of access to information are legalised censorship that prevents free coverage of certain groups, issues and institutions. When President Arroyo issued Executive Order 464 on 26 September 2005, members of the executive branch were banned from appearing before congressional inquiries or hearings without her prior consent.

Journalists who violate the law or government order could face arrest and would have to pay a fine or face prison sentence. Under the Human Security Act, the ultimate penalty is a death sentence, now changed to life imprisonment with the abolition of the death penalty. There is also the chance of government officials exerting economic pressure on a publication, forcing the media outfit to face possible closure due to bankruptcy.

*Media licences* There are no laws that require government licensing of newspapers. However, a law passed almost a century ago requires publishers, editors, managers, owners and stockholders of a newspaper to register with the Bureau of Posts for them to avail themselves of mailing privileges (CMFR 2007: 19).

Broadcast companies are required to obtain certificates of public convenience from the National Telecommunications Commission (NTC) before they can operate. The NTC assigns radio and television frequencies to broadcast stations and enforces telecommunication rules and regulations. Aside from this, broadcast companies are also required to apply for a congressional franchise, which is granted by the House of Representatives.

The president appoints commissioners of the NTC, and therefore the agency may not be totally free from political interference (CMFR 2007: 21). Similarly, managers and owners of radio stations wanting to operate either a local or national station have to deal with politicians and seek a sponsor or sponsors in Congress to be able to obtain a franchise from the House of Representatives.

*Journalists' legal status* Journalists do not need official state permission to practise their profession. In general, journalists are allowed access to public meetings of the government and parliament. Most meetings can be broadcast. Exceptions are executive sessions (closed door hearings) of congressional investigations.

Media organisations have always turned to the courts for relief from state repression. In January 2008, more than 100 journalists filed suit to stop what they considered growing restrictions on press freedom. The cases were an offshoot of the Manila Peninsula siege, which resulted in the arrests of journalists and increased threats of punitive action against the media issued by various government officials.

The two cases were part of a concerted campaign by various media groups to confront increased state restrictions on the media. One group composed of 36 journalists signed a petition asking a regional trial court to issue an injunction against government from further threatening or arresting media persons and demanding P10 million in damages ((\$245, 600). The court granted the petition two hours after it was filed, saying, 'Considering the extreme urgency, and that great and irreparable injury (that) would result to the Plaintiffs before the matter can be heard on notice, the Temporary Restraining Order is hereby granted.' The injunction was good for only 72 hours. The media groups sought an extension of the restraining order but were denied. If the media groups win the case, they intend to put the P10 million peso damages into a trust fund for the defence of press freedom.

The other group of journalists filed a writ of prohibition and injunction before the Supreme Court. Eighty-one signed the petition asking the High Tribunal to prevent the government from making any more threats and arrests, and for imposing any more limits to the freedom of the press. The High Court has yet to act on this petition. Among those named respondents in both cases are the secretaries of justice, national defence, local governments, the director-general of the Philippine national police and the chief of staff of the armed forces of the Philippines.

Journalists likewise filed a class action suit against First Gentleman Jose Miguel Arroyo who they said abused the right to sue for libel when he named 46 journalists as respondents in a case he filed in 2006. Arroyo asked the court to dismiss the class suit, since he himself dropped the libel charges in 2007. The court, however, denied Arroyo's motion to dismiss and ordered the case to proceed (Yap 2008).

The 1987 constitution explicitly prohibits media monopolies. Section 11 of the General Provisions (Article XVI) requires Congress to 'regulate or prohibit monopolies in commercial mass media,' and bans 'combinations in restraint of trade or unfair competition.' This provision seeks to prevent the concentration of media ownership in the hands of only a few entities, which happened shortly before and during the martial law years.

*Monopolies  
and cartels*

When then President Ferdinand Marcos declared martial law in 1972, one of his first actions was to shut down the media, which were owned by the country's richest and most powerful families. He called these families oligarchs who used the tri-media ownership—newspapers and radio and television stations—to protect their business interests. However, the Marcos government itself took over ownership of some of these media entities and used them to control the flow of information during his administration.

The constitution also bans foreign ownership of the mass media. Section 11 requires that ownership and management of mass media be limited to Filipino citizens or corporations that are wholly-owned by Filipinos. In recent years, however, there have been repeated attempts to amend certain provisions of the 1987 constitution, including the provision on media ownership.

### **3. POLITICAL CONDITIONS**

There are still many groups, issues and areas of the country that are underreported or suffer biases from reportage in the national media. There are many reasons for the exclusion. One of these is the physical inaccessibility of groups and communities living in extremely remote areas of the country such as ethnic minorities or indigenous peoples. Another reason is the tendency of the media to focus on events in accessible urban centres, prompting media critics to call this Manila-centric or city-centric reporting. A third reason for the exclusion is the highly commercial orientation of the media, which tend to focus on familiar issues and groups that 'sell' or will attract readers and viewers.

*Coverage of  
marginal groups*

However, there is also a lively provincial press in the Philippines, hundreds of community newspapers and radio stations spread out all over the archipelago trying to reach unreported or underreported sectors and issues. There is also the growing Philippine blogosphere, composed of

thousands of weblogs or blogs, which feature issues and events that the mainstream media overlook. There have been times when big issues start out in the community press or blogs and are picked up by the national media.

*Self-censorship* The Philippine Supreme Court on 25 September 2007 adopted new rules governing the use of the writ of amparo that would deny authorities the basic defence of simple denial when they are sued to produce before the courts the bodies of victims of involuntary disappearances via a petition for habeas corpus (Sun.Star 2007).

The High Court also issued rules implementing the writ of habeas data that specified, among others, the writ cannot be used to force media to name their sources. The rules took effect on 2 February 2008 and named lawful defences such as national security, state secrets, privileged communication, confidentiality of the source of information of media and others (Supreme Court 2008).

Yet there remains a chilling effect on media, and state action to deliberately exclude certain political matters from news coverage could lead to instances of self-censorship. The warning to media issued by the justice secretary on 11 January 2008 against 'interfering' in police operations may unwittingly push a journalist to either tone down or cancel a report. Self-censorship can occur in television, radio or newspaper coverage.

*State repression* The petition of the journalists to the Supreme Court said that 'threats by top-ranking government officials are damaging to a free press because of the chilling effect they produce: the fear and uncertainty they plant in the minds of journalists that leaves them constantly wondering if what they are going to publish or broadcast will land them in jail, and adjusting their actions accordingly' (Fonbuena 2008). The fear of repression is real to media organisations and journalists, who regularly have to fight for their rights. In the last five years, especially as attempts to change the Arroyo leadership have continued, instances of state repression have been frequent.

*Obstacles to internet access* One area of promise is in new media where technology has enabled the free flow of information despite state repression and the vested interests of media owners.

The internet in the Philippines is regulated primarily by the Electronic Commerce Act of 2000 that regulates operations and transactions and does not hinder access or restrict content. But the industry is governed by the same laws on intellectual property, libel and fraud.

*Changes in the past five years* Other than on the internet, the actual threat of state repression on the media has changed in the past five years. Threats on press freedom have grown in number and have worsened from the time Marcos was removed from office. With the Arroyo administration fighting for its survival, instances of state repression have continued and have posed a strong aggravation to media.

The declaration of emergency rule, curfew, the executive order preventing Cabinet officials from appearing in Congress hearings without her permission, and the warning from her justice secretary have been made in reaction to threats to her political hold. State media are used to counter the bad publicity through institutional advertisements, talk shows and commentary; and some government officials have started writing opinion columns in mainstream media.

From 1986 until recently, journalists and media companies did not have to fear state repression. It was only under the Arroyo administration that the media had to contend with state repression, or at least the threat of it. Veteran journalists have, in fact, likened Arroyo to Ferdinand Marcos, and have labelled her administration a dictatorship in disguise, or a democracy in name only.

The Arroyo administration has used the law and various government agencies against the media. In 2005, at the height of the political scandal involving wiretapped conversations between Arroyo and an election official, the secretary of justice threatened to file suit against media entities caught playing the wiretapped conversations for violating the law on wiretapping. Days later, the National

Telecommunication Commission sent out a memorandum to broadcast bodies warning them that their licences could be revoked for airing the contents of the tapes. In February 2008, the Philippine Supreme Court upheld the freedom of the press and ruled that the warnings made by the secretary of justice and the national telecommunications commission were both unconstitutional.

The state does not have mechanisms to control production and distribution of print media but they maximise state-sponsored airtime to spread the government's viewpoint and gain political hold. *Government control over print media*

#### 4. ECONOMIC PRESSURES

The state does not subsidise the private media. However, there are government agencies known to be regular advertisers in print and broadcast. The biggest of these advertisers is the Philippine Charity Sweepstakes Office (PCSO), a charitable institution under the Office of the President which administers the lotto and sweepstakes draws. In 2006, the PCSO ranked first among the top 10 brands advertised in the media, defeating other commercial products that include shampoo, coffee, cigarette, beer, and lotion. It also ranked 10th among top companies in terms of gross advertising expenditure. The Philippine Amusements and Gaming Corporation (PAGCOR) is another consistent advertiser on government and private media and is estimated to be spending some P1.25 billion every year for advertising and public relations. *State subsidies*

For newspapers, the advertising budget of government agencies represents a minimal part of their advertising revenues. That is true for national publications, but for community newspapers with smaller advertising revenues, advertising money could spell the newspaper's demise or continued publication. Still, private media have remained critical towards the government despite the indirect subsidy in the form of advertisements. These placements of advertisements have not created differences among newspapers, radio and television in their critical coverage.

The Philippine government generally leaves private business alone. This is the case too with private media, which government tries not to meddle with because of the principle of independence of a free press. But government has found other means, including economic, to exert pressure on critical media. These are instances of government using market mechanisms to silence the press. *Further aspects*

A threat to cancel an advertisement has been used as a means to warn media. On the other hand, advertisements are placed on a regular basis to control media, to keep them indebted to government for their financial survival.

President Arroyo, on 6 March 2006, issued an executive order that was perceived to have the effect of reining in the press through government advertising. Executive Order 511 seeks to supervise all public information activities, including advertisements, of all government agencies. However, there are doubts whether through EO 511 advertising clout is used to rein in the media.

The private media are dependent on advertising because there is no formal state subsidy, and thus take the lead in reporting otherwise underreported subjects such as the environment, women's and children's rights and the informal economy. But government advertising is providing an indirect subsidy to the private media. Pressure can come in the form of an investigation into tax payments and compliance with regulations by the other business interests of media owners, and buying into the media organisation to control their coverage. All these are economic measures designed to hit back at the media despite constitutional guarantees on the freedom of the press.

#### 5. NON-STATE REPRESSION

Journalists in Metro Manila, the capital region, are free to do their work without fear of attacks from non-state groups and organisations. However, the same cannot be said of journalists working outside the capital, if one were to go by the locations where journalists have been attacked or killed in the last few years. Since the restoration of democracy following the fall of the Marcos dictatorship in 1986, 70 journalists and media practitioners have been killed in the line of duty. A study *Repression by non-state groups*

conducted by the Center for Media Freedom and Responsibility (CMFR) found that about half or 33 of the killings took place under the present government of President Gloria Macapagal Arroyo, who assumed office in 2001 after her predecessor Joseph Estrada was ousted from office for corruption. The CMFR study also said that 90 per cent of journalists killed since 2001 were reporting about corruption and other illegal activities such as drug trafficking and illegal gambling (Khan 2007).

Almost all of the attacks took place in provinces or cities outside Metro Manila. Journalists have been killed even in highly urbanised areas of Cebu in Central Philippines and Davao in the South. The most recent was the killing of Francisco Lintuan, a radio commentator from Davao City, who was shot dead by still unknown gunmen on Christmas eve 2007.

Many of the cases remain unsolved. Although local government officials or policemen have been named prime suspects in some of the cases, these attacks are still considered non-state because they are not part of a systematic government policy against the press. But it is the culture of lawlessness and impunity prevailing in the country that has made journalists easy targets of assassins—law enforcers are unable to protect journalists and to pursue, arrest and convict the killers.

*Changes in the past five years* Although attacks on journalists in the Philippines have alarmed media groups, the number of journalists slain in 2007 has actually decreased from previous years. In 2005 and 2006, the New York-based Committee to Protect Journalists considered the Philippines the most dangerous country in the world in which to be a journalist. That notoriety now belongs to Russia, where in 2007 there were 25 per cent more journalists killed than in the Philippines (Khan 2007).

The Philippine National Police has set up a Task Force to investigate and solve the killings of journalists but its success rate has been low. Although the Task Force claims that a good number of cases were solved, its definition of 'solved' was that possible suspects were identified but still not yet in police custody or on trial (Teodoro 2007).

## 6. CONCLUSIONS

*Freedom of the media: general situation* Press freedom exists in the Philippines because it is a right provided for in the constitution. It continues to be upheld because the media fight to protect that right, and citizens demand truthful reportage from journalists. However, as Filipinos have known from experience, governments have tried to curtail this freedom, as the media push for more transparency especially amid growing political crises. Media groups have noted how the democratic space that allowed journalists to report freely has narrowed in the last few years, as government tried skirting the constitutional provision, imposing limits on press coverage, and punishing with libel suits journalists who expose the truth. The Southeast Asian Press Alliance counts this as part of the 'weakening' and 'backsliding' of press freedom among Southeast Asia's most liberal press systems. The situation in the Philippines could be considered as one of freedom of the media with major restrictions.

*Changes in the past five years* There are a number of incidents that point to a strong aggravation affecting media freedom: Early in the morning of February 25, 2006, policemen raided the office of the newspaper The Daily Tribune, confiscating copies of the newspaper's issue for the day. At that time, President Gloria Arroyo had placed the country under a state of emergency, following a supposed coup d'état attempt by restive soldiers. At that time, Arroyo was facing allegations that she cheated when she ran for the presidency in 2004.

In the months following the February 2006 raid, the government would take other direct action seen as attempts to harass and intimidate the media. These include filing libel suits against journalists and their media outfits, and announcing that it was blacklisting certain media persons. There were also reports that the military had classified some media outfits as 'enemies of the state.'

The arrests of scores of journalists after they had covered two military officers who lay siege to the Manila Peninsula Hotel in November 2007 was seen as a direct curtailment of press freedom.

Indirectly, the Arroyo administration issued Executive Order 464 that limits journalists' access to information by preventing officials from testifying before congressional bodies without prior consent from their superiors. Arroyo invoked executive privilege and the separation of the powers of co-equal branches of government to justify the order. Lawyers' and media groups, however, saw the executive order as an abuse of discretion on the part of the president and a means to withhold information from the public at a time her government was facing a political crisis in 2006. As a result of this executive order, officials of the executive department who in the past would routinely testify on summons of the Senate and House of Representatives could now invoke the EO 464 if they refused to testify.

Most journalists would agree that the biggest obstacle to free media coverage is the negative attitude of the country's political leadership toward the media, which manifests itself in restrictive policies and pronouncements. This distrust toward the media stems from the government's own insecurities: the media have been examining allegations that President Gloria Arroyo cheated in the 2004 elections, and that she, her friends and family are involved in corrupt business deals.

*Major obstacles to free media coverage*

*Luz Rimban/Maria Lourdes Cabaero*

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# THAILAND

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

*Literacy and education* Based on the census 2002–04 the overall adult literacy rate in Thailand is 93 per cent: 95 per cent for males and 91 per cent for females. The educational system offers 12 years of free basic education nationwide. Education is compulsory from seven to 16 years of age. In 2006 only an estimated 6 per cent of students completed sixth grade. Across the whole country there are 20 state universities, 26 private universities and colleges and 120 other institutions of higher learning.

*Media landscape* The 'conventional' media in Thailand consist of newspapers, TV stations and radio. In the newspaper sector there are 21 Thai language and two English newspapers nationwide. The TV sector is structured into six terrestrial television stations, among them a new public broadcasting channel, the Thai Public Broadcasting Service (TPBS, formerly iTV then TITV), and one cable channel (UBC). Across the country there are about 300 radio stations, despite numerous closures in recent years.

*Party media* Although political parties do not own media on the national level, individual politicians are heavily involved in media. For example, the former prime minister Shinawatra Thaksin owned iTV, formerly an independent station. It was purchased just before the 2001 elections by Thaksin's Shin Corporation (McCargo and Pathmanand 2005). In 2007 the military government turned it into the Thai Public Broadcasting Service, South East Asia's first public broadcasting channel. The military controls virtually all radio stations. The state owns all terrestrial television stations.

*Internet media* There are independent internet newspapers. The best example is Pantip.com, a popular Thai language website. It is one of the few, if only websites, requiring a Thai ID card to subscribe. Another is Sanook.com.

*General media access* The coverage of radio and television across the population in Thailand is almost universal. In 2007 13 per cent or 8.4 million out of a total population of 67.2 million had access to the internet (Internet World Statistics 2008) This is slightly above to the mean of 12.4 per cent penetration in Asia but is well below the world's total penetration of 19.1 per cent.

The Thai media focus on sensationalism, soap operas and other entertainment. Since the military and the state own virtually all radio and television stations, hard news is neutralised through a diet of 'light' information and entertainment rather than serious political discourse. In recent years, however, the Thaksin government has tried to somewhat reverse this development. However, to quote Ubonrat Siriyuvasak, a noted social commentator, on observing the complete dominance of radio and television by the Thaksin government: 'Saturating the air waves with one way communication is turning the state controlled media into propaganda machines, enabling the government to sell its populist policies to the masses in an effective manner, as well as creating a good public image for the government' (Siriyuvasak 2007).

*Media consumption* Television remains the main source of information by far, followed by radio, the internet, and the press. With the growth of community radio in recent years, radio has become a major source of entertainment and general information rather than focusing on politics. However, this changes during election time when the party or parties in power use the state's monopoly of radio and television to woo voters with promises.



The media are not as influential as in other countries in forming political opinions. The majority of Thailand's 67 million inhabitants are rural poor. They are easily influenced by television, by far their main source of entertainment and information. The urban middle class of Bangkok tend to be more discerning readers of the mainstream and business media. With the state owning all radio and terrestrial television stations the ability to influence Thais through these media is immense.

*Media influence on political opinion*

Radio is controlled by the military and run through a state organisation called MCOT. All six terrestrial television channels are owned by the state. A seventh – new – channel, the Thai Public Broadcasting Service will become South East Asia's first public broadcasting channel.

*State-owned media*

Given the reliance by most Thais on television for their informational needs, the state ownership of television and radio means public opinion is moulded to meet the political, social and economic objectives of the government and, to a lesser degree, the military. All of these broadcasting outlets are beholden to either the military or the state through licensing agreements. With over 80 per cent of Thais relying on television as their primary source of news, it gives the state-run media an overwhelming advantage in moulding public opinion. However, it should be noted that Thai governments are particularly sensitive about the English language media's ability to attract international attention.

*State-owned media and published opinion*

A regular post-cabinet press conference is conducted by the prime minister and ministers, who hold additionally numerous conferences of their own. The prime minister's press conferences are broadcast. Journalists have equal access to these press conferences. The barring of journalists because of the editorial stance of their newspaper is rare. Surprisingly to many outsiders, the military government of 2006 was more open to media participation in such events than the Thaksin government. Even newspaper reporters, who are more critical, have equal access.

*Government press conferences*

## 2. LEGAL ENVIRONMENT

The constitution of 2007 states that '...a person shall enjoy the liberty of communication by lawful means' (section 37). Section 39 also enables freedom of expression, but adds the caveat that censorship can apply in the event of armed conflict. The same section also outlaws closure of a radio and/or television station and publishing companies. The amendments to the original constitution in 2007 are designed to uphold the military's right to impose martial law or any other form of control over the media in the name of national security and to protect the monarchy.

*Freedom of expression*

Articles 326 to 333 of the Thai penal code establish the defence of criminal defamation, with penalties of up to two years. Under the Printing and Advertisement Act, the Royal Thai Police has the authority to issue warnings to publications for violations such as disturbing the peace, interfering with public safety or offending public morals. The Official Information Act established by the 1997 constitution was passed to enforce transparency in government but it does not always work. Official information requests to authorities like MCIT are refused on the grounds of national security and 'interference with law enforcement'. Thailand has been governed by decree from time to time under martial law, as in the case of the 2006 military coup where radio and television stations were taken over by soldiers and 300 community radio stations subsequently shut down.

The electronic media are more neutral because they are all state owned, while the press enjoys more freedom of coverage – within the constraints of the law and informal pressure (see below). By and large, however, the press tends to be more critical of the bureaucracy and politicians. The new TPBS has a mandate to be independent, but it is still government financed. State control of advertising budgets can, and has, an impact on newspapers which are not government owned. This practice was used by the Thaksin government to bring some newspapers into line who were afraid going out of business. As a result, the subsidised media's coverage is close to the government.

*Free media coverage*

*Regulation of media coverage* The government's Public Relations Department effectively runs radio and television, with some parts of the military which own radio stations imposing their own rules. The Ministry of Information and Communication (MCIT) monitors internet sites and regularly closes them down. The Thai Computer Related Offences Act of 2007 focuses on computer crimes. The Cyber Crime Act of 2007 is designed to seal off criticism of the monarchy and the military (Siriyuvasak 2007).

State authorities have tightened their surveillance of internet sites since the coup on grounds of 'national security' or if they are pro-Thaksin. Internet censorship operates through the Royal Thai Police, who have blocked over 32,000 websites and the Communications Authority of Thailand. The total number blocked as of January, 2007 was thought to be around 45,000. The main reasons for blocking websites were: pornography (56 per cent), sale of sex equipment (13 per cent) and threats to national security (11 per cent), which includes criticism of the king, government or military. All websites are blocked in secret and the criterion is not disclosed by the government. On the other hand, after the coup pro-Thaksin websites such as pvtthai.com, shinawatradio.com and hi-Thaksin.org popped up. Websites are blocked by a URL and/or an internet provider address. Most sites covering the violence in Thailand's south are blocked. Google's shared site with YouTube was blocked for several days in April 2007 because of alleged defamation of the monarchy. This and allegations of libel are also used to close websites.

*Changes in the past five years* There have been changes in the last five years. The 2007 constitution adds important specifications to sections relating to freedom of expression. Under the interim constitution of 2006 the military government closed down over 300 community radio stations. Under the Thaksin government the criminal libel laws were used to intimidate critics. These modifications amount to a slight aggravation of the media situation.

*Legal censorship* The Thaksin government used libel cases, economic pressure on newspapers, acquisition of the major television station iTV (owned by Thaksin's company, Shin Corporation) or shareholder ownership to intimidate many newspapers into self-censorship. Even after having acquired iTV, Thaksin had 26 journalists laid off. However, they successfully went to court and were subsequently reinstated. Under the military government 300 community radio stations, seen by locals as a source of important information, were closed to avoid criticism of the coup. Radio and television continue to be 'neutral' in their coverage of political events. However, the newspapers, including some that went 'soft' during the Thaksin years, remain critical of the government. Nevertheless, these modifications amount to a strong aggravation of the media situation.

*Media licenses* All media have to be licensed or registered. The National Broadcasting Commission is appointed by the government to issue licences for radio and television. The Thai National Police Department has the authority to revoke or suspend the licence of newspapers. The severity of penalties varies, depending on the political climate and the sensitivity of the issue. Usually licenses are revoked or refused because of real or alleged criticism of the government, the military or the monarchy. This more usually affects community radio stations, if they are licensed, and internet providers, especially if they publish or broadcast pornographic and other material contrary to the strict moral tone of the country.

Radio frequencies are apportioned by the Public Relations Department, the Mass Communications Organisation of Thailand (MCOT) and the Posts and Telegraph Department, while the military exercises control over this process. It should be noted, however, that in 2004 UNESCO launched a campaign in Thailand to create an advocacy programme to establish a transparent and accountable licensing system and code of conduct for community radios.

*Journalists' legal status* Thai Journalists do not need government permission to practise their profession. However, foreigners need to be accredited and can be punished by having this revoked. This usually applies to a foreign journalist who has published an article outside the country perceived to be critical of the government or the monarchy. The most celebrated case was under Thaksin Shinawatra, who

threatened to remove the work permits of two Far East Economic Review journalists for an article implying tension between Thaksin and the palace. The magazine was banned and expulsion threatened but removed after an apology from the editor.

The Competition Act of 1999 and the Price of Goods and Services Act are designed to promote fair and free trade within a competitive environment. The Competition Commission is charged with enforcing the Competition Act, which applies to all types of business operations with some exceptions, such as groups of farmers or cooperatives. However, in TV and radio ownership, there is a de facto state monopoly because of the state's and the military's influence in TV (the state) and radio (the military).

*Monopolies and cartels*

### 3. POLITICAL CONDITIONS

The voices of the Islamic militants of the three southern provinces are rarely heard in the media, also the Karen people of Burma, who are deemed stateless and illegal immigrants. The rural poor receive less coverage than the ruling elite and middle classes. As regards the Muslim south, restricted coverage is due to 'national security' since militants call for separation from Thailand and the establishment of an independent Islamic state covering three provinces in the south.

*Coverage of marginal groups*

There is internal self-censorship among the state radio and television. Among the more independent press some newspapers, given their history and connections to the ruling elite, are less critical of the government than others. This varies according to the tone of the government of the day. For example during the Thaksin era large mass dailies practised self-censorship. In 2003 the Thai Journalists Association severely criticised that trend.

*Self-censorship*

Journalists – particularly the press, as it is more independent and critical – have to fear state repression, which often comes by indirect means. In 2002, for example, executives from the Nation Multi-Media Group were investigated by the Anti-Money Laundering Agency for perceived tax violations. This was done through a single anonymous tip and was credited to the Thaksin government. It was quickly dropped after a public outcry, including from the print media. Yet, this subtle kind of state repression is no exception.

*State repression*

The Royal Thai Police has blocked over 32,000 websites. Failures to comply with orders from the Ministry of Information and Communication Technology led to withdrawals of licences. The reasons for blocking the sites – in addition to pornography and the sale of sex equipment, as mentioned above – were alleged threats to national security, and criticism of the king, government or military. Additionally, most sites featuring the situation in the Muslim south are blocked. Several technologies are employed to censor the internet, such as caching, blacklisting a domain name or redirection to a government homepage.

*Obstacles to internet access*

In the past five years, the actual threat of state repression has increased considerably. The Thaksin government set a new benchmark for sophisticated media intimidation. The military then carried on with it in a more blunt way by simply closing websites and community radio stations and, in the end, introducing the Internal Security Act, which gives it wide powers. The increase in state repression is caused by the lax application of the laws, which leads to a breakdown in political and civil society, which, in turn, sees the military intervening to preserve the status quo of a stable constitutional monarchy.

*Changes in the past five years*

Thaksin introduced a more sophisticated approach to controlling the independent media through intimidation, the use of libel laws and economic pressure. This encouraged his business associates to try and buy into troublesome newspapers. The general acceptance of the 2002 war on drugs, in which many innocent people were killed by the police, also set the tone for the increasing acceptability of violence in Thai society. This amounts to a strong aggravation of the media situation.

*Government control over print media*

#### 4. ECONOMIC PRESSURES

*State subsidies* The only major media outlet that will not carry advertisements is the Thai Public Broadcasting Service, Southeast Asia's first fully public television channel. All other media are subsidised by the state in the sense that they carry advertising and much of this comes from state agencies.

In 2008 the Thai advertising industry expects to spend around THB100 billion or about €2.08 billion. Compared to previous years this is an increase but is countered by concerns within the industry that the coalition government being formed will be unstable and therefore not spend as much as a stable government.

#### 5. NON-STATE REPRESSION

*Repression by non-state groups* Generally, journalists or media companies do not have to fear repression by non-state groups, although there have been numerous incidents of supporters of political parties attacking newspaper offices. Thailand has many interest groups and NGOs who all compete for media attention and can be violent in their reactions to negative media coverage. The business elite during the Thaksin years also sought to influence private newspaper coverage through equity stakes.

Public sector vested interest groups are behind these non-state groups. These also include some large companies with close links to politicians who have attempted to take over media companies as 'Trojan horses'. The best example is when Grammy, a large entertainment company, tried to buy a shareholding in Matichon, one of the most outspoken newspapers against the Thaksin government. It failed after a huge public protest.

Public pressure, in response to any perceived criticism of the monarchy, can force the media to apologise or to prior self-censorship. During election time party supporters have attacked reporters. Newspaper offices were attacked during the confrontation in 2005 between Thaksin's supporters and civil society,. State authorities only very rarely prosecute attacks against journalists. There is a natural tension between media and state authorities. Police action tends to be reluctant and successful prosecutions are rare.

#### 6. CONCLUSIONS

*Freedom of the media: general situation* Thailand was rated 135th out of the 169 countries studied in the 2007 report on media freedom by Reporters Without Borders. In 2004 it ranked 59th and in 2005 it was 107th. The Thaksin administration and the military rulers after the coup set back Thailand's hard won reputation for media freedom.

*Changes in the past five years* Two administrations over the last five years, the Thaksin and military governments, have reduced newspaper, television, radio and internet freedom through the imposition of martial law, the application of draconian libel suits under the criminal penal code and the introduction of the all encompassing Internal Security Act. There has thus been a deterioration of media freedom in Thailand.

*Major obstacles to free media coverage* The Internal Security Act, and other acts as outlined above, enables state intervention in the name of 'national security'. Military intervention in civil society, including censorship of the independent media, state ownership of all television, military ownership of the radio network and draconian action against internet sites contributed to this situation.

Another main obstacle is the 2007 constitution, which was written by the military-appointed National Legislative Assembly to protect the interests of the ruling elite. The election of the PPP to power, with Thaksin's financial support and his overwhelming influence on the existing government should also be mentioned as an obstacle to media freedom in Thailand.

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# EUROPE

- Bulgaria
- Poland
- Russia
- Ukraine





# BULGARIA

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

The official statistics show that Bulgaria's national literacy rate is high. All people over 15 years who are able to read and write are defined as 'literate'. According to Bulgaria's latest census in 2001 the literacy rate is 98.2 per cent. That includes 98.7 per cent of its male and 97.7 per cent of its female citizens. Generally the illiterate people are members of the Romany ethnic group who have dropped out of school at an early stage. According to a survey by the Ministry of Education, 57 per cent of the children who have dropped out of school indicated lack of finance as the main problem. However, it is hard to believe this is the only reason for their dropping out since 53 per cent of the children who regularly attend school also face financial problems. Seventy per cent of those who have stopped attending school define themselves as Roma, 15 per cent as Bulgarians and 11 per cent as of Turkish ethnicity. Half of them drop out of school between the ages of 10 and 15, 8 per cent before reaching the age of 10, and 44 per cent after turning 15. One of the fundamental reasons for their failure to attend school is their family. Surveys indicate that 72 per cent of parents have done nothing after discovering their children were not going to school.

*Literacy and education*

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

*Media landscape*

There are 14 influential nationwide daily newspapers in Bulgaria and two of them are quite new on the market – Klasa and Express. Trud and 24 chasa, property of the German WAZ Media Group, are still the ones with the largest circulation. The readership of Trud amounts to approximately 30 per cent and that of 24 chasa is 25 per cent. The overall number of daily papers in the country, including the local editions, is around 80 and weekly newspapers number about 180. According to the World Association of Newspapers, Bulgaria is among the countries with the highest number of dailies per capita and with the lowest newspaper circulation per capita. (If the average number of copies per day in the Czech Republic is 195.5 per 1,000 citizens, in Bulgaria it is 83.6). The highest circulation among the weekly editions belongs to the yellow papers Weekend and 168 chasa, as well as the 'pensioners' paper' Treta vazrast. The most influential and serious non-boulevard weekly newspaper is Capital. Bulgaria's free dailies' market has not been developed yet, but it is expected that in 2008 several media groups are to put efforts into that area.

One of the problems of the press in the country is that in practice there is no objective information on the circulation of newspapers. Surveying agencies cannot quantify the newspapers' audiences easily and precisely because some of the editions are so small that they are considered a statistical error. Circulation data announced by the publishers themselves is usually old, manipulated or obviously overstated. Moreover, there is no objective information on the actual number of the sold

copies of printed newspapers. On the other hand each new edition which is released on the market faces a problem with distribution, since it has been monopolised by the high-circulation papers and to succeed in this established network is difficult.

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

Another problem concerns the omissions in and ill-judged modernisations of media legislation. The legal base is frequently modified in order to satisfy the interests of particular individuals or clienteles. Due to these practices in recent years a vacuum has been created enabling some television operators to do business with temporary broadcasting licences (according to Paragraph 9a of the Transitional and Conclusive Provisions of the Law on Radio and Television). The status quo gave some operators the opportunity to negotiate the mutual assignment of temporary licenses, thereby evading the regulatory authorities. As a result during the last year in addition to the existing three televisions with nationwide-coverage terrestrial broadcast, two new TV channels were launched in Sofia – BBT and TV2 – without even applying through the Council for Electronic Media (CEM) competitive biddings procedure. (At present 38 television operators in 30 towns in Bulgaria are broadcasting, transmitting TV programmes in so called 'temporary tolerance' mode, namely under Paragraph 9 of the Law on Radio and Television. Furthermore there are a lot of radio operators functioning under the same paragraph. Their status is considered to be in conformity with the law until new competitive procedures for issuing licences are introduced in the various towns.)

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

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

There are three television stations with nationwide coverage in Bulgaria with licences from CEM and from the Communications Regulation Commission (CRC) – the public broadcaster Bulgarian National Television (BNT) and the private Nova Television (NTV) and bTV. BNT also has four licensed regional TV centres in Blagoevgrad, Varna, Plovdiv and Ruse. According to CEM there are also 180 registered television operators in Bulgaria, transmitting a total of 226 programmes by cable or by satellite. Among them 136 have a nationwide coverage, 50 have a regional coverage, and 40 have a local coverage. In 2007 the Council for Electronic Media issued four registrations for cable broadcasters and eight licences for terrestrial radio broadcasting. CEM has registered another 17 television operators.

*Party media* In the last few years, press outlets with clear affiliations to political parties have gradually disappeared. At this moment there are only two clearly 'party publications': the dailies Duma and Ataka. However most of the political parties represented in parliament indirectly possess their own media channels. This applies particularly to printed media, the financial support for which is cheaper than for television or radio stations. Usually such media are not directly owned by a specific political party but they are related to allied foundations or party activists.

The most obvious connection between a political movement and the media may be found in the case of the nationalist and populist political party Ataka. The party has itself developed into a political subject due to a cable television channel with a strong regional coverage in Eastern Bulgaria – SKAT TV. Subsequently, the owner of the television channel joined the party and at present he is the chairman of the municipal council in Burgas. Ataka also publishes a newspaper of the same name, which by circulation ranks among the ten most sellable dailies in Bulgaria. The editor-in-chief of the newspaper is the spouse of the leader of the party Ataka.

The governing Bulgarian Socialist Party has its own party publication – Duma. It has been published since 1990 as a successor to the newspapers *Rabotnichesko delo*, *Rabotnik* and *Socialist*, which were issued before the changes. During its existence the ownership of this paper has been transferred between various party functionaries and close party sponsors. The current publisher of Duma owns Balkan Bulgarian Television (BBT) as well. This television channel has recently changed its programming profile and has reformed itself as a news channel, and besides being available on cable it now broadcasts in Sofia.

There are also two newspapers that are close to the right-wing party DSB (*Demokrati za silna Bulgaria/Democrats for a powerful Bulgaria*). The party does not directly own the papers but the journalists are favourably inclined towards it. The newspapers are called *Glasove* and *Sedem* and both have a limited circulation.

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

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

The trend in the last year has been of increased internet media use; the consumption of newspapers and radio on the internet has also doubled. It has made sense for almost all daily and weekly newspapers to develop their own free online editions – except for the biggest circulation publications *Trud* and *24 chasa*, which have a paid version of their printed editions. In 2007 internet advertising doubled and tripled in comparison to previous periods.

*Internet media*

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

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

At present online newspapers enjoy greater independence from the authorities than do other media. There are still no legal restrictions on online media activity, unlike with television, radio and the press. The reason is largely due to the slow progress in modernising media legislation. On the other hand, the currently slight interest of the authorities in online-based media might be explained by their limited audience. Their main users are young people from the large towns, as well as university students and Bulgarians abroad.

The first state institution to engage with bloggers in 2007 turned out to be the Ministry of the Interior. Officials from the Organised Crime Fighting Department of the ministry put a young man under pressure because he posted information about a forthcoming demonstration by environmentalists on the internet. The blogger was questioned on suspicion of instigating civil insubordination. The case was closed with a 'warning' by the authorities, which provoked strong criticism from media and non-governmental organisations.

*General media access* According to a survey by Alpha Research Agency, dated January 2008, 30.9 per cent of the population use the internet, that is 1,975,319 people. More than 20 per cent have access to the internet at home, and 12 per cent have it in the office. After the checking of email, which is at the top of the list, looking for news and reading newspapers and magazines are among the most frequent activities. 17.1 per cent of the population have a cable internet connection, 5.1 per cent are in a local area network and 4.1 per cent have ADSL. A survey of the Bulgarian office of the US market research institute Synovate comes to a similar conclusion: in Bulgaria people increasingly tend to use the internet for information rather than for entertainment. Synovate's research shows that at present the internet is the medium with the best future prospects and the main reason for that is the appetite for information and news, which applies especially to young people and 'mature young people' living in large populated areas. In second place comes communicating with colleagues, business partners and acquaintances by email. Instant online messaging with friends only comes in third place. Adults use the internet mainly as a source of information, and young people use it as an easy way to be up-to-date with the newest and most fashionable trends. Meanwhile the internet is making its way into households. During the first half of 2007 one-third of all households in the country had access to the internet via personal computers, and in only six months that number has increased by 5 per cent. Synovate forecasts that this rapid increase is expected to continue until a 100 per cent web-coverage in Bulgaria is achieved, as in developed countries.

Another tendency besides the expansion of internet accessibility is the decrease in interest in cable television. Synovate informs us that more than three-quarters of Bulgarian households use the service but because of the alternative options for TV access, this market is becoming saturated. Almost 100 per cent of the Bulgarian population has access to television.

*Media consumption* According to Alpha Research's latest data (January 2008) the exact number of people using a television service is 6,277,550, that is 98.2 per cent of the population. Of these 54 per cent (3,452,013 people) use cable TV services, 10.3 per cent of the population (658,440) use digital television services, and 34.4 per cent (2,199,060) watch terrestrial broadcasting television channels.

The second most used source of information is newspapers; 80.9 per cent of adults (5,171,627 people) claim that they read newspapers. Of these 30 per cent are regular readers. The radio is the third most popular medium. Radio's share of the audience is 74.4 per cent (4,756,107). The results of some research on radio audiences by yet another surveying agency, Market Test, show that the largest number of listeners is between 15 and 29 years of age.

Bulgaria is still a country that favours the traditional media and the Bulgarians spend more time watching TV than any other Europeans: 329 minutes per day, that is 5 ½ hours. About 85 per cent of respondents watch TV regularly, 10 per cent often and 3.5 per cent rarely, as shown by Market Links' survey dated December 2007. Sixty-six per cent regularly listen to the radio, whereas 27 per cent of the respondents claim they listen to the radio often. Newspaper readers break down into four relatively equal groups – 29 per cent define themselves as habitual readers;

21 per cent read newspapers often; 27 per cent occasionally; and 23 per cent do not read newspapers. Sixty per cent of the respondents claim that they have no interest in the internet.

Directly or indirectly, people's political outlook in Bulgaria is mainly formed by the media. Therefore politicians endeavour to have a presence in the media as frequently as possible. It is therefore easy to explain the aspiration of political parties, and particularly those in control, to possess or at least control as many information channels as possible.

*Media influence  
on political opinion*

The significance of a particular event is usually judged by the amount of media coverage it receives. The main television stations, newspapers and radio channels have the power to create significant information events. Nonetheless, the media coverage of an event may not always correspond to its actual public importance. Often some facts are exaggerated and others are deliberately underplayed, according to the prevailing trend of the day.

The media have an influence on both people of a lower status and those with higher social positions. The differences between them are evident in their preferences for particular media or journalists, but generally there is no correlation between social status and susceptibility to manipulation. That could be explained by the fact that the mass media still have a strong influence.

In addition to the private media in Bulgaria there is also a national radio station (BNR) and a television station (BNT), which are public media and are owned by the state. Despite legal requirements about public funding from taxes – which is also a EU requirement – they are still supported by direct subsidies from the state budget. According to the Law on Radio and Television their editorial staff ought to be independent from the media management. However that is a formal provision rather than the reality. The monitoring of the content and order of their news has repeatedly confirmed that they follow the agenda of the government institutions in the country rather than providing a critical, journalistic point of view. Different viewpoints are formally and mechanistically presented rather than an attempt made to provide a more objective and in-depth analysis of a process or event.

*State-owned  
media*

The directors-general of national radio and television are elected for a term of three years. They are appointed, through a secret ballot, by the Council for Electronic Media (CEM) – an autonomous regulatory institution. In reality, however, the independence of this process is questionable because CEM's membership consists of a presidential and a parliamentary quota – and as a rule only expert representatives of the governing majority are recruited to the parliamentary quota. Although the Constitutional Court has issued a decision (21/1996) announcing that according to the constitution no political party may take part in the nominations for the post of media regulator, the members of CEM are traditionally nominated by the parties. The latest election for the directors-general of the public media was held in September 2007, however the selected nominees were publicly known some time in advance. Moreover, the press release announcing that Ulyana Prumova had been elected director general of BNT was accidentally sent to journalists by the CEM press office a day before the election was held.

Currently the Council for Electronic Media consists of nine members, none of whom has the required education and experience in the field of media licensing, technologies or intellectual property. Even when it was clear that initially analogue licensing and then digital licensing were imminent, a martial correspondent and a movie director were recruited to the regulatory institution's staff. An external sign of the CEM's inadequacy can be seen in the rather narrow selection of issues that it takes an interest in. The expert talk from CEM members is minimised – they are unable to present to the public a well-grounded narrative about the key issues of licensing or the transition to digitalised broadcasting.

The regulatory organisation is made up of these members because the appointments are made on the basis of members' loyalty to particular political or social groups and not in relation to the individual's ability to contribute to the accomplishment of the institution's mission. In that sense the Bulgarian media regulatory organisation is a set of votes for particular potential decisions with no competence in constructing an expert debate.

Until February 2008, three members of the CEM staff had continued working for several months under the terms of an expired mandate, but that did not interrupt the institution's work. A similar situation also prevailed for a long time at the Communications Regulation Commission (CRC) – the institution, which allocates frequencies to radio and TV operators – because the mandate of the chairman had expired and for ten months the government would not nominate a successor. Only after the European Commission launched sanction procedures against Bulgaria did the Council of Ministers appoint a new chairman.

*State-owned media and published opinion* It cannot be said that the public media lead public opinion. Rather, the private media have a hegemony. On account of their ostensible editorial independence BNR and BNT have a lower public rating than the private media. This assessment, of course, is generalised and does not take into account the presence of individual journalists who observe high levels of professionalism, which earns them a good public rating. The hegemony of the private media is due to the assumption that because of the form of their ownership they present an independent journalistic stand. In reality, however, in many cases and on many matters the private media are controlled more than the state ones through the operation of various economic and power mechanisms. It is typical of the public media to take the side of the governing circles by neglecting public points of view and spokesmen that are unacceptable to the powers that be. These people and opinions are not completely excluded from the media's agenda, but they are presented in such a way that they are always in a weak position and are squeezed by the other point of view, which is considered to be the correct one. BNR and BNT still remain more like a private forum of the powerful, to defend and vindicate their points of view, although recently the people in power have been trying to share their media appearances equally among all leading channels without being partial to the public ones. The assessment of the public media is that they are very friendly towards the government although it is not possible to say whether this is more true of radio or television.

*Government press conferences* As a whole, the institutions in the country demonstrate at least an apparent transparency in their work. Once a week the government convenes a meeting, after which there's the traditional press conference open to all media and journalists and without any special or preliminary accreditation. As a rule the briefings of the cabinet can be broadcast without any restrictions. It is a matter of editorial policy to determine to what degree and within what scope to do that.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* The freedom to express opinions is a constitutionally guaranteed right for all Bulgarian citizens. Article 39 of the main law of Bulgaria states that anyone has the right to express opinions and to spread them through words – in writing or orally, audibly, visually or in any other manner, provided that by doing so the said person does not prejudice someone else's rights or good name, does not provoke violence or act for a criminal purpose.

*Free media coverage* The constitution also guarantees the freedom of the media. Article 40 states that the press and other mass media are free and are not subject to censorship. This text also regulates when the publishing of information may be stopped or the item confiscated. Judicial action is necessary for this purpose, which must prove that the printed publication or broadcaster/publisher harms good morals, that it is against the constitution or that it calls for violence against somebody. The right 'of any person to dispose of information is guaranteed by the main law of the country. This also includes the reciprocal obligation of the institutions to present citizens with all data not protected by the law. These rights approved by the constitution apply to all citizens without limitations and they should not be limited by other laws or institutions.

The Law on Radio and Television also contains texts which guarantee the right to information, equal access to information and freedom from censorship (Article 9). Print media publishing in the media operate under the rules of the Commercial Act. Market entry is comparable to other industries.

The journalistic profession in Bulgaria is substantially free as regards legal regulations and requirements. The most frequent legal prosecutions against journalists are for insult and aspersion, which is a procedure under the penal code. Another peculiarity of Bulgaria is that rural journalists are at a higher risk of being sued for defamation – and receive more severe penalties – than journalists in the capital. In the capital, courts are more reluctant to decide in favour of officials, while they are also more familiar with human rights standards such as the European Convention on Human Rights. At the same time, the central media outlets that journalists in Sofia work for are stronger, richer and more influential. Public officials also bear this in mind and are more cautious about initiating defamation cases. As a result of this gap between Sofia and the rest of the country, there is considerable fear that the actions of public figures outside Sofia are less transparent and less subject to the reduced risk of corruption that often accompanies a culture of openness.

*Regulation of  
media coverage*

It is still a problem in Bulgaria that defamation against public officials is penalised more severely. For insulting a public official, the penalty could be between BGN 3,000 (€1,500) and BGN 10,000 (€5,000), while in the case of libel it is between BGN 5,000 (€2,500) and BGN 15,000 (€7,500). The notion of 'public official' is very broad and embraces not only civil servants and officials, but also managers of private companies (the expression actually used in the criminal code is 'official person', not even 'public official'). The minimum and maximum amounts of fines for defamation are too high in comparison with the average salary in Bulgaria. This is true particularly for the smaller towns and regions, where salaries are even lower. This disproportion, however, is often not taken into consideration by the courts.

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

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

Provisions concerning licensing and broadcast regulations are provided in the texts of the Act on Radio and Television, the Telecommunications Act, and the Act on Copyrights and Related Rights. The first one regulates all programming aspects of the public and commercial broadcasters and their supervisory body, the Council for Electronic Media (CEM). The Telecommunications Act regulates all telecommunications activities, including the statute and functions of the Communications Regulation Commission (CRC) and telecommunications licensing.

The Copyright Act established a separate department at the Ministry of Culture, intended to identify breaches of this law and impose sanctions. The Law on Electronic Communications was adopted in May 2007. By request of the European Commission, this normative act should regulate the relationships between CEM and CRC and supersede the old regulations of the Law on Telecommuni-

*Changes in the  
past five years*

cations. The new Law on Electronic Communications contains two important dates – the year 2012 as the deadline for discontinuing analogue radio and television broadcasting and 31 December 2008 for stopping the issuing of analogue licences.

At present all operators use analogue broadcasting. The transition from analogue to digital video broadcasting (DVB-T), or so-called digitalisation, is expected to start in the summer of 2008. That is the intention of the CRC and the Plan for Digitalisation approved by the government at the end of January 2008. The forthcoming digitalisation also requires changes in the Law on Radio and Television (mainly the responsibility of CEM), which also needs to be in conformity with the new Law on Electronic Communications. These amendments to the Law on Radio and Television should have been voted on by parliament before the end of 2007 but this did not happen.

*Legal censorship* There has been no censorship law since the end of the Cold War. Legal censorship in Bulgaria, therefore, does not exist.

*Media licenses* According to the Law on Radio and Television Operators there are two regimes for official recognition – licensing or registration. The license is compulsory for the so-called terrestrial broadcasting. This licence is issued by CEM following a competition. The licence is valid for up to 15 years, with an option to extend it. The technical parameters of the free radio frequencies are the responsibility of yet another state institution – the Communications Regulation Commission (CRC), which issues the so-called telecommunications licence. Thus not only representatives of CEM but also representatives of CRC participate in the licensing competition.

The law specifically binds the functions of both bodies, which means they must act in collaboration. However, there was an occasion when CEM clashed with CRC, thus complicating the licensing and the work of the electronic media. (According to the Law on Radio and Television, CEM has the principal role in the licensing of electronic media since it is the body which issues programme licenses; CRC is then bound to issue the telecommunications license within 10 days.)

The registration regime, which is also in the hands of CEM, applies to all who wish to broadcast a radio or television programme other than by terrestrial means. The applicants register without CEM examining whether or not the market needs new operators. Unlike with the applications for licences, the organisations wishing to transmit by cable do not have to fulfil special requirements such as for news broadcasting, children's programmes, the European quota, etc. Furthermore, the registration application requires a large number of documents to be filed – more than 300 pages, which compulsorily include a programme project, programme concept, programme profile or a programme design. Among them are a lot of useless documents with information on forecast revenues for the following five years, the amount of the investment, etc.

In 2002 the NDSV (Natsionalno Dvizhenie Simeon Vtori/National Movement Simeon The Second) parliamentary majority discontinued all licensing until the end of its mandate. It accomplished this with an amendment to the Law on Radio and Television, according to which CEM and CRC had to design a Strategy for the Development of Radio and Television Activity, which had to be approved by parliament, in order for licensing to continue. The two regulating organisations filed the strategy at the parliamentary commission on Media and Civil Community within the required time limit but the project was never voted on. In practice, therefore, the fulfilment of one of the main powers of the independent regulatory organisation, CEM, became dependent on a parliamentary vote, i.e. on political interests.

In this way the legislature not only created chaos and lawlessness but also divided the operators into two factions. In the public debate both factions (openly or secretly) were represented by major figures in the business, using their resources for financial and institutional pressure. One faction consisted of those who had already started broadcasting (under the 'protection' of Paragraph 9) and did not want any competition (especially for television licences) and the others were those who wanted to start broadcasting.



In 2006 CEM started the new licensing process, but its procedure and criteria were extensively debated. In the end the licensing procedure developed into a judicial dispute, which favoured the status quo. A lot of resources for lobbying and media and political influence were invested in the struggle for air. Each of the factions engaged a non-government media association: the defenders of the status quo linked up with the Association of Bulgarian Radio and Television Operators (ABBRO); and the group interested in a new competition worked with the Association of Bulgarian Television Operators (ABTO), which unites major cable TV operators such as BBT, TV 7 and Diema Vision, who are struggling to obtain national licences. In February 2008 after a year of judicial disputes CEM decided not to prolong the competition because digitalisation was expected in the summer of that year.

One example of the inadequacy of the media law relates to the cancellation of operator registrations. Since 2001 the Law on Radio and Television has made no provision for the cancellation of a registered programme at the request of the person registered. Despite this, at the request of the operator CEM has been cancelling registrations because it says that although there are no legal grounds for doing so, it still cannot turn down the requests of the interested party.

Up to now only one registration has been cancelled at the request of CEM because the Law on Radio and Television has been broken – the television channel concerned was DEN in 2003. According to CEM's official statement, the penalty was imposed at a signal from DPS-Targovishte after the television channel had been fined. This radical measure was the result of 'consistent violations of the principles governing radio and television broadcasting – non-admission of programmes implying national, political, ethnical, religious and racial intolerance'. Despite the fact that television SKAT, which is close to the party Ataka, has frequently over the years provoked public tolerance with its intolerant and straightforwardly racist messages and statements, CEM comments that it cannot do anything since the channel is not a terrestrial broadcaster, i.e. it does not have a licence and operates by virtue of registration. This is regardless of the similarities to the DEN case, mentioned above.

Besides registrations, CEM can also withdraw licences. According to the law this can happen where there has been a serious breach of radio and television conduct or if freedom of speech has been suppressed, etc. The operator is warned to correct within a given period the actions or circumstances which constitute grounds for withdrawal of their licence. Before taking radical measure CEM imposes a fine. The withdrawal of the licence is also connected to the withdrawal of the telecommunications licence by CRC.

The only attempt to withdraw a radio licence dates back to 2006. The then chairman of CEM wanted to withdraw the licence of BBC World Service radio, which he said was not fulfilling the conditions of its licence since it did not broadcast programmes in Bulgarian. CEM wanted to give the BBC's frequency to a Bulgarian medium radio. The BBC had ended its programmes in Bulgarian at the end of 2005 and the conditions of its Bulgarian licence stipulated a minimum number of programmes in Bulgarian. However, the new programme schedule of the World Service, which had been running since December 2005, included a 24-hour programme in English. In their defence the BBC said Bulgaria's forthcoming membership of the EU required it to broadcast at least one radio programme in English.

In 2007 CEM instituted 57 punitive decrees against radio and television operators: 49 against television operators and 8 against radio operators. Its experts had monitored 23,717 hours of radio and television, of which 9,474 hours were on radio and 14,243 on television.

Journalists in Bulgaria are not licensed by the authorities. The media themselves determine how many and what kind of reporters they need. Accreditation is not provided for by law, but is sometimes practised. In fact the only state institution, which regulates press access through special accreditation is the parliament. Usually a press card, issued by each medium, allows access to other organs of authority.

*Journalists' legal status*

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

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

*Monopolies and cartels* In Bulgaria the law does not impose restrictions on the ownership of media and at present neither a public register of ownership, nor any effective anti-monopoly mechanisms have been established. The main body to take care of free market competition is the Commission for the Protection of Competition (CPC). This institution, however, does not specialise in the media sector, as it monitors all public and economic life. The goal of CPC is to check for the potential development of a monopoly – i.e. for every media transaction, CPC needs to be aware of who owns the buying and the selling companies. However the work of the commission is complicated by the possibility of an offshore company owning a media organisation. A good example is the case of the Balkan News Corporation – the owner of one of the largest national channels, bTV, which is an offshore company registered in Delaware. Two years ago the company also purchased three radio stations – Jazz FM, Classic FM and the radio chain NJoy – with the approval of CPC although the commission was unable to check whether a monopoly was being created. The impression which this transaction left among people involved in the media was that the same owner sold and purchased something to and by himself with the approval of CRC. This statement is entirely true, although it is impossible to prove it.

One of the cases in which CPC has been involved concerns advertising in the publications of West-deutsche Allgemeine Zeitung (WAZ) – Trud and 24 chasa, represented in the country by Journalistic Group Bulgaria. The case features so-called 'mirror advertisement' – the placement of the same advertisements in both dailies and in the 168 chasa weekly, which is the property of the same media group. CPC was approached on several occasions about this matter by owners of other newspapers who objected the practice as they thought WAZ was violating free competition. This dispute has been developing for several years now. The practice of the regulatory bodies in such instances is to hear the statements of all interested parties and to prepare a market analysis. Despite the decision of CPC which considered that a monopoly had been created in the printed advertising market, both dailies Trud and 24 chasa were allowed to continue with the mirror advertisements. At present only two days are free of mirror advertisements.

### **3. POLITICAL CONDITIONS**

*Coverage of marginal groups* In Bulgaria there are no social groups or other segments of the public which are deliberately and tendentiously left out of the media. It is natural for the press and the electronic media to follow the news flow and current public events and to not always have time for more narrow and peripheral matters. However, during the last few years civil society in the country has developed and a large number of non-governmental organisations work with minorities, people of low social status, orphans, invalids and other people in disadvantaged positions, using financing from various programmes in order to publicise these problems. A lot of media products have been created – programmes, films, discussions, publications. Apart from that a new group of journalist has been formed – reporters who follow and broadcast in detail on heated social problems. In 2007 the first registration was granted to a Romany television channel, which is owned by followers of the leader of one of the large Romany parties. Moreover the gypsies in Bulgaria have had their own printed publication for years.

The loyalty of parts of the media to the political elite and the opacity of ownership and capital are the main reasons for the presence of self-censorship in Bulgaria. It is hard to prove but at the same time it is sufficiently recognisable through general media monitoring. Politics is the field in which self-censorship is most frequently present. Usually it is expressed as a desire to avoid confrontation with the governing circles.

*Self-censorship*

The trend of entertainment and fun programmes replacing current affairs and political programmes was characteristic of 2007. The same applies to the three large national television channels – BNT, Nova TV and bTV, which gave up a lot of serious journalism programmes. Some of the radio programmes also turned to a lighter regime with more music and less politics.

Physical altercations with journalists – which is not acceptable in a modern society – is not the only way that the state can suppress the media. Failing to release information is also a form of repression, and no less grave, since it gives rise to public consequences. It cannot be said that during the last few years Bulgaria has progressed in making information transparent and publicly available – indeed, rather the opposite is true. However, thanks to a non-governmental organisation – the Access to Information Programme – the journalist community has been strongly supported in its efforts to control the institutions and force them to go public, including through legal proceedings. Thanks to this non-governmental organisation a lot of journalists have instituted and won lawsuits against various bodies and the representatives of state and local authorities which refused to release information of public significance. What investigative journalism there has been during the last few years has been due to the fact that institutions can be legally required to be transparent.

*State repression*

One cannot say that the state has directly and openly repressed the media. Over the last few years the media environment has been constantly developing without this being accompanied by any notable cataclysms. However, it still cannot be said that the Bulgarian journalist community enjoys European standards of democracy. The appearance of new media – national television, newspapers, magazines, etc. – increased the pluralism of the media but failed to guarantee against intervention from politicians in the journalism agenda. As was made clear above, there are two main reasons for this: the opacity of media ownership and the still powerful mechanisms held by governing circles for intervening in the regulation of the media market, especially television.

One of the main issues over the last few years has been the transformation of radio Nova Evropa – which, as the successor of Svobodna Evropa (Radio Free Europe), had a particular role in civil society – into the music channel Z-Rock. Despite the protests of its journalists and the legal arguments that the change in programme format also changed the public functions of the radio which were stipulated in its licence, the change was implemented and the radio turned into a commercial channel with the approval of CEM.

*Changes in the past five years*

One of new characteristics of the media environment in Bulgaria over the last one or two years has been the deliberate favouring of good news. Journalists are under informal pressure from politicians and their close circle of analysts, who criticise the media for seeking sensation and intrigue. This type of informal censorship is packaged as being the wish of the community, which is presented as tired of politics and of bad news. As a result several media have developed their own permanent programmes: 'The good news'.

#### **4. ECONOMIC PRESSURES**

The only media receiving direct subsidies from the state are the public television and radio – BNT and BNR. The rest operate according to market principles. However, there are other indirect ways through which the politicians, using public money, interfere in the private media. The advertising budgets for public events is a common channel for the state budget to reach the private media, disguised as advertisements for various government initiatives – such as campaigns on a certain issue, communication strategies, joint programs, etc. Particular politicians or political groups try to buy influence or just obtain insurance against journalistic investigations. Parts of these resources go through PR agencies before they reach the media, which makes them difficult to trace. It has

*State subsidies*

been a frequent practice during the last few years for a single PR agency to service several ministries and collect and distribute significant amounts of public money. The amounts for advertising are usually substantially increased before elections. Another notable trend is that the companies servicing ministries also work on the personal image of the ministers when they appear at elections.

*Further aspects* It is hard to say whether and to what extent the budgets for government advertising are reflected in the media's editorial policy. A report by the Bulgarian Helsinki Committee dated 2006 based on inquiries and direct interviews with journalists from all Bulgarian media states suggested that the advertising departments of many publications often have an influence on the writing of content.

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

## 5. NON-STATE REPRESSION

*Repression by non-state groups* It cannot be claimed that there is any consistency in the repression of journalists by organisations or groups. Despite that, violations do exist. One of the main incidents was the attack against the home of investigating journalist Vasil Ivanov, from Nova Television, in 2006. Not long before the home of his mother was blown up Ivanov had made a report on violence in prisons. Despite the prosecutor's investigation, it could not be determined who was behind the attack.

Two more incidents happened in 2007, which were related to representatives of the authorities. The more serious incident was an assault against a cameraman by the guards of the judicial authority, while the cameraman was trying to take pictures of a suspicious businessman brought for questioning under unprecedented security measures. Despite the cameraman's medical evidence of injury the prosecutor's office refused to institute an investigation, arguing that there was insufficient information.

*Changes in the past five years* In 2007 there also was a case in which an independent municipal councillor from Zlatograd beat up the editor-in-chief of a local newspaper over a difference of opinion regarding his publication on fraud in the public commissions for construction. The court imposed a penalty on the municipal councillor of BGN 150.

Another example of a clash between the authorities and journalism is the scandal over the correspondent of BNR in Ruse, Natasha Dimitrova, who was about to become a victim of the rage of the Minister of Interior Rumen Petkov. Dimitrova was nearly fired for 'lowering the reputation of Bulgaria among international institutions' with her question about whether Petkov would reinstate a fired employee of the ministry. The journalists in Ruse then wrote: 'The case, in which on 17.01.2007 the Minister Rumen Petkov quarrelled with Bulgarian journalists due to their "uncomfortable" questions, is a telling example of intolerable behaviour of a high representative of the authority.'

## 6. CONCLUSIONS

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

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

For the last five years it is as if there have not been any general changes in the media that have lead to a change in the quality of journalism. Rather, the situation is static.

*Changes in the past five years*

Investigative journalism is an important field, which has been stagnant during the last few years. The reasons are twofold: few media are inclined to invest time and resources in an investigation and the journalists themselves are poorly motivated since the correlation between risk and reward is still in favour of the risk.

*Major obstacles to free media coverage*

*Sibina Krasteva*

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# POLAND

The media in Poland are currently facing an intriguing and difficult time. The Polish media system is in permanent motion. The government and political elites tend to use the media to further transformation and reform, but nobody in this state-in-transition is ready to make decisions about crucial dilemmas for the media, the foremost being: Where does the media stand between the state and the market? The broadcasting law is still a long way from finalisation in the Polish parliament. There is a presumption that the newly created system of media organisation will be closer to the centre of power than to society at large.

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

*Literacy and education* The literacy rate in Poland stands at 99.7 per cent, consisting of people who completed primary school.<sup>1</sup> Poland has lived an educational boom, with more investment in schools at home and – since its accession to the EU – with many Poles completing their education abroad.

*Media landscape* One can name two main tendencies observed since the 1990s in Poland. The first is that new and large consumer groups have emerged. Poles quickly learned how to be good consumers – and not just the young and very young generation of consumers, but all classes, sexes, ages, and levels of education. Very often the older generation demonstrate their desires, which are significant for consumer culture. These groups live with the media; it means that they treat the media (in many cases) as a peaceful ecosystem around them. In some sense they are a 'sign of democracy' and a lot of people link consumerism with democracy and human rights. If we add the enormous rise of the new media, namely the electronic interactive media, as well as the high rate of TV watching (almost four hours daily for Poles), then we have a full sketch of the Polish media landscape.

The other tendency that has to be taken into account is the gradual liberalisation of the media landscape as a whole. During the period from the end of WWII to the 1989 breakthrough we can distinguish three 'political spheres' that had profound impacts on the media landscape:

An official social sphere inhabited by communist/socialist parties and government-dependent institutions. All cultural, social, and even local groups of inhabitants were controlled by the communist party. The free expression of opinion was dangerous, if not impossible. The propaganda system, as well as exercising an Orwellian-like control, influenced not only people's opinions in all media, but also their cultural choices.

Since 1976 it has been possible to talk about an oppositional sphere in Poland, which existed in the margins or under cover of the official one. These clandestine activities resulted in the Solidarity Movement during 1980–81. Books were printed by small illegal publishing houses and brought from abroad without formal permission, and were distributed among young university students as well as pensioners. VHS films and audio tape recordings of political cabarets and speeches were very popular among the majority of Poles.

The Roman Catholic Church was the leader and the structural base of the third sphere in Poland, namely the religious sphere. It carried out cultural and educational activities in churches or other buildings belonging to the church (Jakubowicz 1992).

Before 1989 the Polish press was designed both to serve as a propaganda instrument and as an instrument of party control. The official newspaper of the communist party, *Trybuna Ludu*, was established principally to achieve these goals. The daily newspaper, whose circulation in the late 1980s approached nearly 1,900,000, dominated the market.

After 1989 the Polish newspaper market totally changed. The new political system brought freedom of speech, of the press, and of association, which meant independence and neutrality in the majority of Polish papers. In April the same year, censorship was abolished.

Nowadays the daily newspaper with the largest circulation is *Gazeta Wyborcza*, established in 1989 to support *Solidarność* before the parliamentary elections. The paper gained a predominant position in the market, which it maintains to the present – although rivals have been established, for instance the daily *Dziennik. Polska-Europa-Świat* is published by Axel Springer Poland. *Super Express* and *Fact* are contemporary popular newspapers inclined to sensationalism.

In 2007 there were eight public TV channels and 109 private TV channels including regional community based stations<sup>2</sup>. There were seven public national radio channels, seven public local stations in Białystok, Bydgoszcz, Gdań, Koszalin, Kraków, Lublin, Łódź, Olsztyn, Opole, Poznań, Rzeszów, Szczecin, Wrocław and about 250 private radio stations. The total number of newspaper circulating in the country is about 2,500.<sup>3</sup>

It is 'common knowledge' that some media are 'associated' with certain political parties. This is usually called 'being united': Civic Platform (PO) is close to the TVN broadcasting company; Law and Justice (PiS) is 'united' in some sense with Television Trwam. Law and Justice also controlled public television stations in 2007 as well as public radio stations (PR) and in January 2008 the leaders of the PiS party announced that they were ready to run TV-PiS, broadcasting over the internet, and would not publish anything that contravened the party's political line.

*Party media*

There are other instances where political parties de jure run their own media: the Democratic Left Alliance (SLD), for instance, runs *Trybuna* daily newspaper, and the Union of Real Politics (UPR) established a weekly magazine *Najwyższy Czas* ('Highest Time').

There are some independent internet newspapers, for instance: *wiadomosci24.pl*, *pardon.pl*. There are also a lot of very popular internet tabloids, e.g. *pudelek.pl*, *plotek.pl* etc. Moreover, every large newspaper has its own homepage and sometimes a web portal as well. In fact some of them (e.g. *gazeta.pl*) became internet newspapers.

*Internet media*

The state authorities do not have the right to censor these internet newspapers because they are governed by the same law that regulates the print media, which means that they are free from censorship. There is one important exemption from this general view. There is some evidence that local government authorities look very carefully at local newspapers as well as internet coverage and at their interpretations of politically and socially oriented decisions. In some cases there have been attempts to apply pressure on journalists and editors to publish or not publish on some issues that are inconvenient for the regime.

The internet has greatly improved the conditions for free coverage. A lot of institutions and groups of consumers have the freedom to access information as well as produce it. One example of this freedom is the large number of journalists' and politicians' blogs.<sup>4</sup>

There has hardly been any obstruction to the internet in Poland from its early days. In October 2007 the proportion of people who had access to the internet was 3.8 million, 36 per cent of the population.

The main obstacles to the dynamic development of the internet are not money but the inefficient old law, which is inadequate for the current situation, and the hierarchic and bureaucratic structure of the Polish telecommunication industry. Despite some improvements the law is still deficient when it comes to copyright protection for companies and individuals. Despite the progress in privatisation Polish Telecommunications still acts as a monopoly in this market.

The typical user of the internet in Poland is young, male (less than 30-years old), lives in a bigger city and graduated from a technical university. But new, impressive movement is also visible here. For instance the number of female users drastically increased (only 22 per cent of women in 1995 said they used the internet in contrast to the 49 per cent in 2006<sup>5</sup>). But the number of all users of internet services grows very fast. Looking at radio on the internet, we were surprised that in 2005 only 1 per cent of internet users listened to radio but in 2007 there were three times more of them<sup>6</sup>. The main reasons for using the internet in Poland are: communication with people and correspondence, searching for information and using press services. The internet in Poland is going to become very commercialised: almost all main firms, travel agencies, cellular telephone operators and car dealers have their own web pages. Shopping on-line is also growing despite the relatively small number of credit card holders.

*General media access* About 90 per cent of people have access to radio, TV, newspapers and the internet (including international satellite programmes).

*Media consumption* Generally speaking, citizens regularly use the media (TV, radio, press, internet, others) as a source of information. Among these television is the main source of information, followed by the radio, press and the internet, which means that they are used often. The verbal exchange of information is used occasionally.

*Media influence on political opinion* The influence of the media on the formation of political opinion in Poland is highly significant. The media in Poland exerts considerable influence on political opinion – some observers of the media and political scene talk about the ‘mediatisation’ of the political sphere. The reasons are primarily that people in Poland generally do not trust politicians although they generally trust journalists.

For a growing group of citizens, the media exert only a little influence on the formation of their political opinions. The reasons for this are very unclear: some of them choose just one medium – for instance a conservative oriented daily – and do not look at any other kind of media. This is very typical of ultra-Catholic groups who are readers of *Nasz Dziennik*, listeners to the *Radio Maryja*, and watchers of television *Trwam*. This attitude is also supposedly typical of some readers of the post-communist daily *Trybuna*.

The majority of them do not respect political information coming from other sources and typically assume that the other media manipulate or fabricate information. On the other hand, they are certain that ‘their’ media deliver the ‘one truth’. There are some important consequences of that thinking for journalistic methods of interrogation. It is obvious that journalists who work in this way invite to their studio or interview in newspapers only those guests who agree with the station or paper’s line. The others are excluded. Furthermore, it is obvious that these guests are given plenty of time to explain their points of view and that the questions delivered to them are not challenging at all.

Generally speaking, the social background of the media consumers does not determine the extent to which the formation of their political opinions is influenced. But it determines which medium will be trusted. Young, educated people living in the cities tend to use liberal media such as TVN, *Gazeta Wyborcza*, TVN24, RMF and Zet etc. People living in the country prefer public/state owned radio and television stations (TVP, PR) and the private TV *Polsat*. A lot of people – the majority of them are older than 55 – are ‘directed’ by *Radio Maryja*<sup>7</sup>.



There are currently quasi-state-run newspapers and television channels, supported in part by a licence fee. There is also one newspaper, *Rzeczpospolita*, that is partly owned by the state (49 per cent). The government does not have a direct influence on the media although parliament and the president can exert indirect influence by appointing members of the National Broadcasting Council. The ministry of finance along with private investors appoints the leading postholders of the daily *Rzeczpospolita*.

*State-owned media*

The National Broadcasting Council (KRRiT) acts as a regulatory body over radio and television channels. It has five members. Two of them are appointed by the lower house of the Polish parliament, one by the Senate and two by the president of Poland. The term of office of each of the members is now six years. The members of KRRiT appoint a board of directors for each media: one for television, 17 for radio (central and local branches). These boards are responsible for choosing the acting chairpersons. This is supposedly the most important source of the 'politicisation' of Polish public media. It means that the nominations for positions are based on political bargains where professional and moral features of the candidates are less important. The politically oriented National Broadcasting Council nominates politically oriented members of the boards of directors, and this is replicated when other directors are chosen. During recent years this strange tendency has become established: the de-facto abolition of the public contest for board candidates. Although prescribed by law to be (in part) open to the public, at some stage of the process decisions were made to close or not hold at all the hearings of the different candidates applying for the leading positions in public media .

Polish media users seem to think that the published and broadcast opinions emitted by public/state owned media reach and influence other groups of media users than those the private media reaches. In television, public opinion is shaped by public/state owned media and private media in roughly equal parts. In the radio, we can observe a clear preponderance of private over public/state owned media. It is clear that the private media dominate the press and internet – indeed, state-owned internet sites hold almost no share of published opinion.

*State-owned media and published opinion*

In Poland it is difficult to evaluate the coverage of public/state owned media. It depends on which party exercises control over the media Board of Directors. The National Broadcasting Council (KRRiT) is now controlled by the opposition parties (the majority of the members were appointed in 2005, when PiS, LPR and Self-Defence were ruling the country). Although they are now in opposition, they still control the council. Influencing media users is done by setting the agendas of television news magazines (where stories are placed or what topics are never covered) as well as by the politically oriented selection of guests in talk shows on television and radio magazines.

The press offers the broadest spectrum of coverage. The majority of radio and television programmes in the state/public media are controlled by the state, a handful of corporations of private investors or cooperatives. Some of these programmes are controlled by the church or religious foundations (one of them is run by the Reverend Tadeusz Rydzyk). Therefore the coverage by radio and television is less broad than in the press or on the internet. The press largely consists of newspapers and magazines controlled by a few editors but there are many titles that are owned by parties (*Trybuna* daily, *Najwyższy Czas* weekly) or by small editorial firms – these last are fairly independent (*Nie* weekly is owned by the last spokesman of the Communist government, Jerzy Urban). Therefore coverage in the press (and especially on the internet) is much broader than is coverage in radio and television.

The government regularly holds press conferences to inform the public of its programme. All journalists have equal access to press conferences and all press conferences can be broadcast. One well-known exception was the case of the TV channel *Trwam* and the Sejm press conference. In 2007, when Jarosław Kaczyński was prime minister, journalists in Sejm were not allowed to cover the celebrations around the signing of the treaty between coalition parties. The one exception was the Catholic station *TV Trwam*, which was invited to broadcast the event.

*Government press conferences*

## 2. LEGAL ENVIRONMENT

*Freedom of expression* Freedom of opinion is established in the constitution and defined as a fundamental individual right in Poland. The Constitution of the Republic of Poland dated 2 April 1997 secures the freedom, rights and obligations of people and citizens. It guarantees everyone freedom of thought and speech, freedom to express opinions, and to acquire and to disseminate information.

*Free media coverage* Freedom of the press and free media coverage is established in the constitution. Article 54 states that 'the preventive censorship of the means of social communication and the licensing of the press shall be prohibited. Statutes may require the receipt of a permit for the operation of a radio or television station'.

*Regulation of media coverage* There are some laws which regulate access to information and protect the privacy of office bearers, e.g. the law of 6 October 2001 about access to public information. The office bearers are expected to publish the information about the income and assets of their and their spouses. Everything else is protected by the law on preserving private data.

Coverage of some issues and of certain people, groups and institutions is restricted by law. This is mainly covered by Article 196 of the penal code, which states: 'Whoever offends the religious feelings of other persons by defaming in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to a fine, the restriction of liberty or the deprivation of liberty for up to 2 years'. Some people have been sentenced under this law, e.g. for posting 'blasphemous' pictures online. Polsat, the private TV station, was sentenced in 2007 to pay a huge fine (about €140,000) for making jokes about the handicapped host of the religious programme on Radio Maryja (the guest on Polsat TV maintained that the joke was directed at nobody in particular).

*Changes in the past five years* The legal regulation of media coverage has been modified over the last five years. The act of 29 December 2005 covered changes and modifications to the division of tasks between, and the powers of, the state bodies concerned with communications and broadcasting. The act meant that the political parties PiS (Law and Justice), LPR (League of Polish Families) and Samoobrona (Self-Defense) took control of public media. However, previous public media were also controlled by parties, namely the SLD (Democratic Left Alliance) and the PSL (Polish People's Party). When we evaluate the effect of these modifications on freedom of the media it has to be said that there was a change but not in quality.

It is hard to evaluate whether 9/11 and the anti-terrorism legislation have impacted on the freedom of media coverage. Legal censorship does not exist in Poland and there are no groups, institutions or issues which are censored. There are also no problems with certain people, groups or organisations illegally being excluded from their jobs as journalists or from their right to free speech.

*Legal censorship* Censorship is partially and not directly regulated by law. There is covert self-censorship in the field of so called 'religious feelings and 'Catholic values' (what every broadcaster should obey). But it has to be confirmed that censorship through state authorities is not permitted by law. Media reports are not examined by state authorities before publication. The main body that (partially) regulates media coverage on behalf of the government is supposed to be KRRiT in respect of radio and television. It is important to add that KRRiT has no formal or legal connections with the government (although the law states that KRRiT and the government 'should cooperate'). Nevertheless, as said above, it is one of the most 'politically oriented' regulatory bodies, so it represents the interest of the government (or acts as an anti-government institution).

*Media licenses* Radio and TV stations have to be licensed and registered by state authorities before they can publish or broadcast; newspapers are independent and free of licensing. The licensing body is the National Broadcasting Council (KRRiT). In December 1992 the Sejm passed the Broadcasting Act, which came into force on 1 March 1993. Under the law, the council was appointed as a state organ

concerned with matters connected with radio and television. Earlier, a draft had been introduced to change the constitutional regulations so that the National Broadcasting Council could be enshrined in the basic law. The National Broadcasting Council has operated since 28 April 1993.

The main reason for refusing or withdrawing licences/registration is that there are not enough radio or television frequencies or that the station did not start broadcasting or that it did not fulfil its programme commitments. It is worth saying that at times of crisis, when communication between KRRiT and the private broadcasters is bad, both sides are conscious of the strong power of the regulatory body that can refuse a licence. However, licences/registrations are removed very rarely.

Journalists do not need official state permission to practise their profession, although a few years ago some circulated drafts of the new Media Law would have required journalists and editors to be holders of a university level diploma in journalism. Journalists have the legal right to participate in all public meetings of parliament, but there are no public meetings of the government in Poland. They all have equal access to the meetings but they need an identity card with a pass. These are usually granted unless a journalist is suspected of being a terrorist, etc. Only meetings of parliament can be broadcast – indeed all the sessions of parliament are broadcast by one of state-owned channel.

*Journalists’  
legal status*

There is a law prohibiting all monopolies and cartels: the act of 16 February 2007 on competition and consumer protection. There are also several other laws on monopolies and cartels.<sup>8</sup> The main organ of control is the president of the Office of Competition and Consumer Protection (OCCP). She reports directly to the prime minister, who appoints her from amongst the members of the public sector’s staffing pool. The job of the president of the OCCP is to shape anti-monopoly policy and consumer protection policy.

*Monopolies  
and cartels*

In terms of competition protection the primary instrument at the president’s disposal is anti-monopoly proceedings in cases of competition restricting practices – abuse of a dominant position in the market and prohibited agreements (cartels). These may result in a decision to discontinue the questioned activities and a fine. The president of the OCCP is also authorised to control mergers in order to prevent a situation where a merger would create an entity that dominated the market.

Private media monopolies and cartels do not exist in Poland. There are, however, some media group partnerships or joint stock companies which own different kinds of media. There are also big corporations with sometimes extensive media holdings, e.g. Agora S.A. has a radio station, a popular newspaper, some magazines and a web portal. Another corporation, ITI, controls a few popular TV stations and the most popular Polish web portal, Onet.pl. Father Tadeusz Rydzyk’s media empire consists of a quite popular radio station, a television station and a daily newspaper. These media groups pursue certain political aims mainly during electoral campaigns. It could be said that before the 2007 parliamentary elections ITI and Agora were against Justice and Law (they partially supported Civic Platform and some other liberal parties) and that Rydzyk’s media group supported Law and Justice.

State authorities do not take any action against private media monopolies because they sometimes make use of them. But generally speaking the authorities usually want the media and journalists to be their allies rather than their enemies.

### **3. POLITICAL CONDITIONS**

In Poland it would be hard to find sections of the population or particular social strata whose political concerns are not represented in media coverage. Some groups are represented much more than others, for example some politicians, celebrities and public servants who have committed a crime. No sections of the population are deliberately excluded by state action from their right to freedom of information.

*Coverage of  
marginal groups*

*Self-censorship* The important issue in recent years has been self-censorship in media coverage on state/public TV and Polish Radio. The chairmen of Polish Television and Polish Radio were questioned by the Parliamentary Commission for Culture and Media on 6 December 2007 about matters of political bias and the best way of financing public broadcasters. The majority of allegations were against Polish Television. The investigative panel was mainly interested in the role of the deputy head of the News Agency, Patrycja Kotecka, who was accused of putting pressure on Polish TV reporters to prepare material that compromised the Civic Platform and dismissing those who would not comply with her methods. She was also accused of stopping a programme when a guest turned out to be critical of the Law and Justice party. Self-censorship occurs mainly in the fields of politics, religion (especially with respect to the late Pope John Paul II), and moral values.

*State repression* Journalists, media companies or organisations might fear state repression because a licence, or its extension, could be refused. KRRiT use this argument very rarely but there is a threat that it could be effective. The reason is that the evaluation of a broadcaster is based on a rather 'free' interpretation of their activity and not on their real achievements.

*Obstacles to internet access* There is no data that indicates access to the internet could be hindered by state measures. The internet has the potential to be an important means of political communication (see the development of politicians' blogs).

*Changes in the past five years* The fear of state repression has not changed in quality over the past five years. It is obvious that all political parties want to dominate the state/public media. But the biggest problem is probably the fact that the people who control the most influential media are sometimes closely connected to politicians. An effect of this collusion is that sometimes the public is either informed about an affair after a delay or probably not at all.

For instance, for a few months *Gazeta Wyborcza* did not publish the information that on 22 July 2002 the famous Polish film producer Lew Rywin had seen first *Agora's* president, Wanda Rapaczyńska, and then the paper's editor in chief, Adam Michnik, to suggest that a bribe be paid. Rywin claimed that he was sent by Prime Minister Leszek Miller and had connections to an undetermined 'power group' that could impose restrictions on TV station ownership for newspaper publishers. The bribe was for USD 17.5 million.

#### **4. ECONOMIC PRESSURES**

*State subsidies* The Polish constitution guarantees equal rights and opportunities to all enterprises, regardless of their form of ownership. Private media are not subsidised by the state. Indeed, according to the Cinematography Law of 2005 broadcasters are obliged to pay 1.5 per cent of their revenues to the Polish Film Art Institute.

*Further aspects* But the state still has an important influence on the economics of the media. The case of Lew Rywin, mentioned above, is a good example of this tendency. 'Non-economic' factors used to play an important role. Needless to say, no new media bill is planned due to the uncertain political pressures and the corruption scandals in this field.

The most important means of applying economic pressure on all media lie in the hands of KRRiT. The council has the right to fine broadcasters for many aspects of their programmes: including sex, obscenity, immoral behaviour or lack of respect for Christian values. Sanctions can vary from fines (up to EUR 140,000; they can be cumulated, doubled or tripled) for making fun of handicapped people to fines for showing people eating worms on an American reality show (both cases refer to fines against the private station Polsat). The fine is painful not only because of the amount but also because of its immediate execution. The money is immediately paid by the alleged offender and it can take two to three years of the judicial process before it is released again.

The interesting overlap of political and economic issues can be demonstrated in the process of drafting a new Media Law, introduced in the Sejm in January 2008. When the financial position of

a local TV station of the public/state broadcaster was discussed, one of the solutions suggested was to shift its ownership from the main/central station to local government. In this way, politicians – using economic arguments – effectively moved the station to the control of local government, which again is made up of politicians.

## 5. NON-STATE REPRESSION

Journalists or media companies in Poland – according to left wing and liberal analysts – may fear repression by non-state groups or organisations, namely the Catholic Church and groups of religious fanatics. This repression relies on the fact that the media can be prosecuted for offending religious feelings.

*Repression by non-state groups*

Sometimes these groups repress journalists as well as politicians. Father Rydzyk, the founder and head of Radio Maryja, a popular/populist, conservative and nationalistic radio station that once enabled the ruling Kaczyński's twins to take power in the country, sparked a storm of controversy when the weekly Wprost released tapes on which Rydzyk calls President Kaczyński a 'con-man' and his wife a 'witch' who should be put to death. The tapes, recorded in April 2007 during a lecture Tadeusz Rydzyk was giving at his Catholic college (the reverend runs his own media empire consisting of radio and television stations, a newspaper and a school of so called 'Catholic journalism'), showed Rydzyk complaining that Lech Kaczyński and his wife Maria had betrayed him when they dismissed parliament's plans to tighten already strict anti-abortion laws.

The problem was that until then Father Rydzyk had been the biggest ally of Kaczyński. The Kaczyński government had always sought strong relations with Father Rydzyk and his media empire as a means of courting Poland's ultra-Catholic and nationalistic voters. Cabinet ministers were regular guests, and Mr Kaczynski's twin brother, Jaroslaw, the prime minister, was among 150,000 at a ceremony to celebrate the station's 15th anniversary of radio broadcasting in 2007. The controversy will further blacken the reputation of Radio Maryja, which has attracted frequent accusations of xenophobia and anti-Semitism.

Freedom of speech, abortion, euthanasia and cloning are among the topics where non-state repression is likely. It is worth saying that the accusations are used rather infrequently (two to three cases per year), but they are always discussed in a very emotional way. It has to be said that the state authorities effectively protect journalists – there are no problems in Poland with attacks on journalists (we can name only one or two over the last three to four years).

There has been no change in intimidation through non-state repression over the past five years: the present situation of media freedom is stable.

*Changes in the past five years*

## 6. CONCLUSIONS

Speaking about the general state of media freedom in Poland, it can be described as free with minor restrictions for radio and television, and a quite unrestricted freedom for the press and the internet.

*Freedom of the media: general situation*

It is generally considered that there has been no change in the quality of the freedom of media coverage. Despite the statement of 2007 made by the former Prime Minister Jarosław Kaczyński that 'there is no free media in Poland', it has to be said that the media are free. The past two years have seen particular pressure on journalists, editors and media owners to be on the right side of the 'barricade', on the side of government. There have been some speeches delivered by the members of the ruling right wing party, PiS, that have reminded some politicians and observers of old style propagandist rhetoric.

*Changes in the past five years*

Free coverage of the media in Poland has generally changed over the past five years due to the existence of internet coverage as well as the more professional character of the media. This was evidenced during the January 2008 crisis between the Polish president and prime minister about

the regulations concerning the handling of sensitive information, when (in the case of an accident involving military aircraft) the commercial station TVN24 was the third to receive news of the event – after the Ministry of Defence and before the president's National Security Bureau. Nobody in the media realm was prosecuted. So it is fair to say that there has been an improvement of media freedom, even though doubts remain whether this is a national trend or just one singular situation in Poland.

*Major obstacles to free media coverage* From the point of view of journalists there are three major obstacles to free media coverage: political pressure, the influence of the Catholic Church, and self-censorship by some journalists and editors.

A few words have to be said about the importance of investigative journalism in Poland in the last few years. Investigative journalism, as well as 'provocative journalism', plays an important role in the media sphere as well as in politics. Grzegorz Kuczek (TVN) and Igor Ryciak (Newsweek) bought false ID cards at the flea market and used them to open a bank account. Using this account, the journalists rented cars and hired expensive video and audio equipment. One group of 'provocative journalists' bought a large amount of dynamite and another gave money to the prosecutor as a bribe. Their intentions were clear: they were trying to reveal the weaknesses of the security system or the gaps in bureaucratic regimes. In some cases they were treated as real criminals and formally prosecuted. Needless to say, they feel they have the support of the people and other journalists – in the majority of cases the charges were dismissed.

One of the most important cases is linked with 'Beger-gate' (the other popular names for case were 'tape scandalous' or 'truth tapes'). In 2006 Renata Beger, member of parliament, participated in a confidence trick in her hotel room, carried out by the TVN station reporters. She invited prominent members of the ruling PiS party to negotiations, suggesting that some members of her party Samoobrona (Self-Defence) were ready to join the PiS. The video coverage of the negotiations was broadcast in the politically oriented TVN show Teraz My ('Right Now: We'). There was a big scandal followed by national discussion about the limits of confidence tricks carried out by journalists. Andrzej Morozowski and Tomasz Sekielski, the TV journalists behind this project, were winners of the prestigious Best Journalist Prize of 2006 founded by the magazine 'Press', but they were also declared to be immoral provocateurs by some conservative groups.

It is worth adding that investigative journalism still continues in Poland. One of the winners of the Best Journalist Prize in 2007 was Marcin Kącki from Gazeta Wyborcza who published a series of articles on sex scandals in the Self-Defence party (a member of the coalition of ruling parties). The 'truth tapes' crisis and other similar cases (when a prominent member of the TVN programme board was accused of being a secret service informer) showed another important aspect of the Polish media scene. There was no one view on this issue. The journalist group was divided: they did not have normal debates with rational arguments but emotional fights depending upon political inclinations.

Article 212 in the Polish penal code include penalties (up to two years in prison) for those who offend or make libellous comments about people or institutions. Some judges and prosecutors use this charge against journalists who do not accurately describe cases during their work. What is most strange about these cases is that these judicial processes are not publicised, which makes it impossible to cover the process of legal proceedings. At least five journalists describing illegal behaviour were sentenced.

It is worth finishing with a general overview of the Polish media scene. In general, Poles trust journalists very much. Young people are very eager to take up this profession (in one faculty of journalism there are more than ten candidates for each place). Nevertheless, at the same time society places rather fastidious obligations on this professional group. It is expected that the journalist will be an efficient media worker, the messenger for news, the teacher who can explain the mechanisms of life and politics, and the master of ceremonies or the court jester.

Another problem is linked to the political pressure on journalists and editors. In the state/public media, it is obvious while in the private media it is becoming more and more visible (it is said that an outstanding TV journalist was removed from a high position in commercial television because of pressure from the ruling political party).

The obstacles to free coverage are indeed very complex in Poland. They combine political pressure and religious tensions, economic reasons as well as a growth in the number of media workers, which could cause a decline in professional skills.

*Wiesław Godzic*

- 1| [http://www.unesco.org/education/efa\\_report/tables\\_excel/Table2.xls](http://www.unesco.org/education/efa_report/tables_excel/Table2.xls)
- 2| 'Press' (12), November 2007
- 3| 'Media & Marketing. Polska' (10), October 2007
- 4| a list of blogs, instructions and netiquette can be found on [blog.pl](http://blog.pl)
- 5| <http://www.egospodarka.pl/20642,Polskie-kobiety-w-internecie,1,39,1.html>
- 6| data delivered by Radio Track, Millward-Brown SMG/KRS, cited by 'Polska. The Times', January 28, 2008.
- 7| Radio Maryja was ranked in 6th place in 2006:  
<http://mediafm.net/radio/5583,EstyMedia.pl:-sluchalnosc-radia-tygodniowa-.html>
- 8| [http://www.uokik.gov.pl/en/legal\\_regulations/national\\_legal\\_acts/competition\\_protection/](http://www.uokik.gov.pl/en/legal_regulations/national_legal_acts/competition_protection/)

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# RUSSIA

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

*Literacy and education* The literacy rate in the Russian Federation for adults (percentage of people ages 15 and above) is 99 per cent.

*Media landscape* In 2007, according to the data of the Federal Agency for Printed Media and Mass Communications, a total of almost 72,000 mass media were registered in the Russian Federation, among them over 59,000 printed media. This number includes 35,500 newspapers and weeklies (7,374 all-Russian and 28,126 regional and local periodicals). However, not all of them actually appear. According to experts' assessment, out of the 26,980 officially registered newspapers (2007) only 17,000–18,000 are actually printed (the 2007 report of the Federal Agency for Printed Media and Mass Communications on the Russian market of periodicals). 1,978 radio stations were registered in Russia in 2007. 113 of them were broadcasting in/from Moscow and 91 in/from St Petersburg. There are 2,500 registered TV stations.

*Party media* Several of the 15 officially registered Russian political parties own newspapers, particularly Unified Russia (the overwhelmingly largest party in the Parliament), the Communist Party of the Russian Federation, the Union of Right Forces, the democratic party Yabloko, and the Patriots of Russia.

*Internet media* Apart from the online versions of many countrywide newspapers, there are thousands of internet newspapers and media outlets. The internet remains the most open, independent and pluralistic information space and is fast growing. The number of internet users grew by 40 per cent in 2007 and reached 35 million (24.6 per cent of the total population of Russia, which is 142 million people).

In 2007, the Foundation for the Defence of Glasnost registered five cases of censorship related to online information resources out of the total 33 registered cases of censorship in the mass media. One of those five cases was registered in Moscow. Apart from this, the foundation has registered 41 cases of hindering the operations of a series of internet editions, particularly those highly critical of the government.

*General media access* In 2006, 99 per cent of the population of the Russian Federation (over 140 million) were covered by the existing TV broadcasting networks. About 1.5 million people (1 per cent of the population) had no access to TV (particularly in the remote mountainous districts of the Northern Caucasus, southern Siberia, Far East, or in some northern regions of the Russian Federation).

The coverage has slightly improved since the early 1990s (in 1990, 2.1 per cent of the population had no access to TV). More important, however, is that Russia is increasingly covered by multiple TV stations. In 1990, 36.4 per cent of the Russian population were able to receive three or more TV programmes. By 2006, this had increased to 88.3 per cent. In 1990, 4 per cent of the population were able to receive only one single TV station. By 2006, this number had dropped to 1.4 per cent (data of the Federal Statistical Service of the Russian Federation, 2007).



About 21 per cent of the total population of Russia (about 30 million) do not read any newspapers, although this is not a question of the availability of the papers but, rather, a reflection of the generally declining interest in newspapers. Local printed media have the biggest circulation (over 30 per cent of the audience) followed by regional press (about 30 per cent) while the federal daily press has the lowest circulation (18 per cent of the audience).

The number of those with access to the internet is growing fast, although it still remains relatively low. In 2001, 29 people out of 1,000 used the internet. This number increased to 246 (35 million) in 2007, which corresponds to growth by a factor of 8.48 within six years.

How frequently do citizens use the media as a source of information? Federal TV channels are used very often (85 per cent of Russian citizens receive their information from the federal TV broadcasts), regional TV channels are used often (40 per cent), the press is used often (31 per cent), the internet is used often (25 per cent), regional radio is used only occasionally (13 per cent), local radio is used occasionally (10 per cent).

*Media consumption*

How significant is the influence of the media on the formation of political opinion? Radio and the internet have rather little influence, while the press and regional TV enjoys significant influence. Federal television is highly significant for the formation of political opinion.

*Media influence on political opinion*

The social background of media consumers does affect the level of influence of specific media. This is particularly true with regard to the limited access of low-income social groups to the satellite and cable TV networks, as well as to the internet (16 per cent of the population live below the poverty line). The regional differences as well as the gaps between the urban and rural areas do affect the influence of different media. Those social and regional differences strongly affect the diversity of the media available to specific groups of the population, thus affecting their ability to freely seek and disseminate information.

Over the past few years, the interest of the public in general information has decreased following an increasing trend of depolitization of public opinion, particularly among the younger generations. These trends have contributed to the increased importance of the federal (state or state-controlled) television, widely available virtually for free, as a major source of information, while the circulation of the countrywide newspapers of general interest has gradually been dropping (an average Russian spends 13 minutes daily on reading newspapers). The spread of satellite and cable TV, as well as that of the internet in urban areas, has not yet compensated for this development.

All levels of government (federal, regional and local) are widely represented in the media market, although there are significant differences as far as particular types of media are concerned.

*State-owned media*

The Federal Media Law (Article 19) stipulates that editorial departments exercise their profession independently. Interference by government authorities (as well as by other actors) in their work is prohibited (Article 58). The Media Law does not directly regulate the procedure for appointing the editors-in-chief who take the final decisions on every issue. It leaves that to the media outlet's own regulations, which are passed by a two-thirds majority of the members of the editorial departments and approved by the owner. In practice, editors-in-chief of state-owned media are appointed by the relevant government or their appointment is overwhelmingly influenced by the government. Wherever professional boards assist the government in decisions, political opposition has no influence on them.

While the market for countrywide newspapers is dominated by the private media (only one countrywide newspaper is owned by the state), broadcast public opinion as well as the regional and local media landscapes are marked by the hegemony of the state-owned media. Two-thirds of TV and radio stations at all levels are state owned or controlled. Over 40 per cent of local and regional newspapers are owned or controlled by local or regional governments, although the presence of private printed media in the market differs from one region to another.

*State-owned media and published opinion*

The hegemony of the state-owned media is particularly strong among the sources of information most often used by the population – federal TV and the local media – with the exception of the fast growing internet. The coverage of the state-owned media is either very friendly towards the government or is degrading into pure propaganda.

The countrywide press is more diverse and pluralistic than the TV coverage. There is a reasonable degree of diversity and pluralism in the private radio coverage as well.

The Media Law (Article 38) provides that the authorities will inform the mass media about their activities by responding to requests for information, holding press conferences, and by disseminating reference, statistical and other materials. Editorial departments can request relevant information from any government agencies (Article 39). The provision of information can only be denied if it is a subject of state, commercial or other secret protected by law (Article 40).

*Government press conferences* Access to specific governmental agencies, including to press conferences, is provided through accreditation. Events attended by accredited journalists can be recorded. The law does not discriminate against the mass media as far as their access to government agencies is concerned. However, the accreditation of any journalist can be withdrawn provided he/she or the editorial department have violated the rules of accreditation or have disseminated information damaging the honour and dignity of the agency concerned (Article 48). Though it must be confirmed by a court ruling, this defamation clause leaves room for practical discrimination against individual journalists or media.

The Foundation for the Defence of Glasnost registers relatively high numbers of cases where access to relevant information has been denied to journalists, including the denial of permission for audio or video recording or photographing of individual events, refusal of requests for accreditation, restriction of attendance and observation of various public meetings held by the authorities). In 2007, the foundation registered 238 such cases (in 2006: 240, in 2005: 233, in 2004: 213, in 2003: 109).

A special law of 15 December 1994, amended on 16 October 2006, regulates the coverage of the activities of the authorities by the state-owned media. It gives the accredited media representatives the right to retrieve or copy records of open meetings made by the press services of respective agencies, or to record those meetings and broadcast press conferences in both audio and video format (Article 4). The law further details which information provided by which government authorities' press services it is mandatory for the state-owned media to reproduce.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* Article 29 (1) of the constitution of the Russian Federation guarantees freedom of opinion. Article 29 (2) prohibits the propagation of social, racial, national or religious hate or enmity, as well as the propagation of social, racial, national, religious or linguistic superiority. This article, as with the whole of Chapter II of the constitution establishing individual rights and freedoms cannot be subjected to any amendment.

While freedom of expression can in principle be exercised by virtually any group, the political opposition and non-governmental organisations most critical of the government are refused access to the state controlled media. Thus the opportunities for expressing the full diversity of interests are limited.

*Free media coverage* Article 29 (4) of the constitution establishes that everyone has the right to freely seek, receive, transfer, produce and disseminate information by any legal means. The listing of information that is subject to state secret protection is established by federal law. Article 29 (5) guarantees the freedom of the mass media. This article, too, as with the whole of Chapter II of the constitution, cannot be subjected to any amendment.

The civil code of the Russian Federation protects the honour and dignity, as well as the (business) reputation of Russian citizens without particularly specifying those of officials (except for the president of the Russian Federation). Under the civil code and the Media Law, mass media responsible for the dissemination of 'false information' can be obliged by a court to pay compensation to the individuals or organisations concerned.

*Regulation of  
media coverage*

Similar cases, and particularly those of 'deliberate' dissemination of 'false information', however, can be treated under the criminal code should the individual or organisation concerned claim the 'false information' disseminated represents 'slander'. In the case of a criminal offence the penalty can reach from financial sanctions and barring journalists from exercising their profession (for up to five years) to imprisonment.

The final choice of route (apart from some fine nuances) remains with the individual or the organisation which intends to bring a media outlet to court. For a variety of reasons, defamation claims are predominantly brought to the courts under the civil code procedure and are seldom treated as a criminal offence. The number of such cases brought to the courts has been permanently growing since 1994, often threatening to bankrupt the media concerned.

For almost eight years after 1997, the Supreme Court of the Russian Federation discussed the implementation of the defamation clauses in the Russian legislation. In 2005 it agreed on a resolution establishing that the claims should be proportionate and should not undermine the existence of the media concerned.

In 2007, the Foundation for the Defence of Glasnost registered 220 civil cases against media outlets (229 in 2006, 382 in 2005, 373 in 2004, 378 in 2003). 124 cases were completed, 64 of them (more than 50 per cent) were lost by the media. At the same time, it recorded 46 cases of the criminal prosecution of journalists in 2007 (48 in 2006, 42 in 2005, 35 in 2004, 34 in 2003).

There is no special legislation determining access to information and/or the protection of the privacy of 'office bearers'. The Media Law mainly refers to the general limits established on the access and the dissemination of information established by the Russian laws on the protection of state secrets and personal data.

Media coverage is regulated by the Media Law of 27 December 1991, with later amendments. It is also regulated by a wider set of media legislation including, apart from the basic Media Law, such acts as the law regulating the coverage of government activities by the state-owned media (1995), the Law on the Languages of the Peoples of the Russian Federation (1991), as well as the provisions of other laws relevant to media coverage, such as of those on elections and combating of extremism.

The constitution of the Russian Federation (Article 29(5)) prohibits censorship. So does the Media Law. Article 3 of the latter prohibits government officials, institutions, organisations and agencies, as well as non-governmental organisations from demanding that editorial departments obtain their permission prior to publicise any information or materials. Neither does it allow the imposition of any prohibition on the dissemination of information or materials, or of their parts. The law prohibits establishing and funding any organisations, institutions and bodies, or of any job positions whose functions would include exercising censorship of the mass media.

The constitution of the Russian Federation (Article 55 (3)) allows that individual human rights and freedoms are limited to the extent necessary to protect constitutional order, public health and morals, the rights and legitimate interest of other individuals, and in the interest of the defence and security of the country. Under the Martial Law (Article 56), freedom of opinion and media freedom may be restricted or suspended.

The basic Media Law has incorporated specific restrictions on the free access and dissemination of information introduced by other laws, particularly by the legislation on combating extremism and on elections. The access to and the dissemination of information on any special counterterrorist

operation is practically exempted from the regulation by the Media Law and is governed exclusively by the commander of the operation. This tacitly gives the person in charge the right to exercise censorship.

The Media Law in principle does not exempt any individuals, groups, institutions or issues from free coverage by the media. However, there are some restrictions established by related laws and partially incorporated into the media legislation. Those restrictions include the following, in particular: Information about candidates (parties) disseminated during electoral campaigning will exclude any attempts to establish a negative image of the rival candidates. This clause is often interpreted as prohibiting any critique of candidates (parties) running in the elections. Breaches of this clause may result in the seizure of the printed materials or a prohibition of broadcasting the relevant materials.

In a special anti-terrorist operation, information gathering and media coverage is determined by the commander of the operation. The coverage of anti-terrorist operations is in general subject to tough restrictions while the dissemination of the information about the individuals involved and about their families is governed by the laws on state secrets and on personal data.

The dissemination of any information about any organisations that have been banned by a court decision and which have been included on the list of extremist organisations is prohibited unless the material explicitly refers to their legal ban.

The Media Law of the Russian Federation does not exclude any individuals, groups of people or organisations from working as journalists or from expressing their opinions, provided they exercise their profession legally (i.e. the media concerned are duly registered, and the journalists have appropriate identification cards).

Any examination of the media reports by state authorities prior to their publication or broadcasting falls under the definition of censorship and is prohibited. However, the examination of the video materials submitted by political parties or candidates for free broadcasting by public TV during election campaigns can be seen as an exemption from this rule.

There are no government committees or bodies that are entitled to regulate media coverage. However, a governmental regulatory body – the Federal Agency for the Supervision of the Implementation of the Legislation on Mass Communications and on Cultural Heritage has specific powers related to the registration of media outlets as well as to the suspension or the termination of their activities on the grounds of violating the law.

*Changes in the past five years* The 1991 Media Law has been amended nine times since 2003 (it was amended five times from 1992 to 1999, and another six times from 2000 to 2002). Apart from some technical amendments, the most relevant amendments incorporated tougher provisions as a result of the amended legislation on elections, and on combating terrorist and extremist activities. Those amendments included an expanded definition of abuses of freedom of the media (Article 4) to include the dissemination of public appeals supporting or justifying terrorism or extremism, or of any information about any organisation that has been banned by a court decision and included on the list of extremist organisations. The 2006 version of the article also included the clause giving the commanders of antiterrorist operations the power to determine the gathering of information about the conduct of the operation. It also prohibited the dissemination of information on the means and tactics used during any anti-terrorist operation, and included an explicit reference to the laws on the protection of state secrets and personal data to govern the release of any information about those involved into the operation;

The amendments introduced since 2003 have resulted in more than a 'slight aggravation' of the free media coverage, but can hardly be described as a 'strong aggravation' as they do not change the original legal regime covering the mass media in the Russian Federation.

The Law on Combating Extremism of 2002, amended in 2006 and 2007, has expanded the grounds for restricting free media coverage particularly for the activities of special services and forces.

The major modifications to free media coverage took place either before or at the very beginning of the past five years. Those changes tightened government control over the federal TV, local and regional TV, radio stations and the printed media. Over the past five years, this control has been consolidated. These modifications have resulted in a strong aggravation of free media coverage.

Censorship is prohibited by the constitution and the law. However, it remains an informal practice in both the state and private media. In 2007, the Foundation for the Defence of Glasnost registered 33 cases of censorship, mainly by local authorities (2006: 28, 2005: 23, 2004: 29, 2003: 12).

*Legal censorship*

Before they start operating, all mass media outlets must be registered with the designated state registration agency, or with its territorial branch. Exemptions from the registration requirement include mass media established by the authorities for the purpose of disseminating official materials; periodicals printed with fewer than 1,000 copies, radio and TV programmes broadcast through cable networks limited to one state body, educational institution or enterprise, or with no more than ten recipients; audio and video programmes disseminated through no more than ten copies.

*Media licences*

The registering state agency is part of the government structure and is neither independent nor impartial. The registration can be refused if the application is submitted by individuals or entities not eligible to establish a mass media outlet; the information provided is false; the title, thematic focus or specialisation of the media outlet abuses the freedom of mass information; or if another mass media outlet with the same form of dissemination is already registered under the same title.

Any changes among the founders of the media outlet, or in the title, language, form of dissemination or territory covered require a re-registration.

The registration can be cancelled by the ruling of a court if: it has been obtained in a fraudulent way; the registered medium has not been published (or broadcast) within a year of registration; the statute or the agreement with the editorial department has not been approved within three months of the publication of the first edition (or broadcast); or if the media outlet has been registered for the second time

The operations of a mass medium can be terminated by the ruling of a court if it has, within 12 months, repeatedly abused the freedom of the press and has been repeatedly warned by the registering state agency. Its operation can also be terminated if it has failed to implement a court's decision suspending its operations.

In 2007, the Foundation for the Defence of Glasnost registered 15 cases of mass media operations being terminated (all had local or regional dissemination with the exception of an over-regional TV programme). In 2006, it registered 26 such cases, 23 in 2005, 16 in 2004 and 7 in 2003. This makes up less than 0.1 per cent of all the registered mass media, which justifies the conclusion that registration is withdrawn rarely.

Journalists do not require any special state permission or certification. Journalists have the legal right to attend public meetings of the government and parliament if they are accredited. Although the law does not discriminate against mass media as regards their accreditation rights, the latter may be affected by the rules of the relevant authorities, which also have the right to withdraw accreditation if a journalist violates established rules or on the grounds of defamation. Journalists attending public meetings of the government have the right to record them, or to receive copies of the records made by the press service of the relevant agency.

*Journalists' legal status*

Cases of journalists being excluded from their jobs are rare. More often they are subject to criminal prosecution or unlawful dismissal. In 2007, the Foundation for the Defence of Glasnost registered 12 cases of unlawful dismissal of editors or journalists (2006: 6, 2005: 11, 2004: 5, 2003: 14) and 46 cases of criminal prosecution of journalists (2006: 48, 2005: 42, 2004: 35, 2003: 34).

The Foundation for the Defence of Glasnost records denials of permission to record or photograph public meetings, refusals of requests for accreditation, and restrictions on the attendance and observation of various meetings of the government. In 2007, it recorded 238 such cases (2006: 240, 2005: 233, 2004: 13, 2003: 109).

Russian media legislation provides legal remedies to protect the rights of the media and journalists. The legal practice indicates, however, that media and journalists seldom win cases against the government.

*Monopolies and cartels* In the Media Law, there are no specific clauses prohibiting cartels in the media market. However, this market is subject to general rules which do not allow monopolies or the establishment of cartels in individual sectors.

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* The diversity of the printed press ensures that the political concerns and interests of different sections of the population are represented in the media coverage. However, the predominance of the state media in the most relevant segments makes this representation largely marginal. The opportunities for expressing different, publicly relevant social and economic interests, from those of pensioners and housing communities to political opponents, is insufficient and is hindered for political, economic and legal reasons.

While the political opposition attributes this to government policy seeking to manipulate the media, the government itself claims it wants to exclude corruption of the mass media by business and extremist political groups, as well as to exclude hostile influences from abroad.

Although political opponents, non-governmental organisations or social movements are not explicitly denied the right to seek and disseminate information, the exercise of this right is limited by the government through reduced access to the most relevant state media and government information, by economic means, labour legislation and taxation, a deficient distribution system and other sanctions. There is a strong tendency towards marginalising media that are critical of the government.

*Self-censorship* Self-censorship is a widespread practice across the whole spectrum of media, including TV, radio and the press. This is particularly true with regard to the state owned media. The delegation of censorship functions to the editors-in-chief, who are given full responsibility for the content of media coverage and sole power for deciding which material is or is not published (or broadcast), has largely replaced censorship by government authorities; it has become an issue of editorial politics.

*State repression* If not with outright repression, journalists and media are confronted with different sorts of sanctions from the state if they do not follow established rules that are often applied by the authorities. However, these rules are not necessarily linked to media coverage of a particular issue. Those sanctions include: denial of access to information (238 cases recorded in 2007); moral compensation claims (220); temporary detention of journalists by police, security services, etc. (140); seizure of an individual edition of a periodical (92); criminal prosecution of journalists (46); denial of access to printing facilities (34); practices of unofficial censorship (33); termination of the opportunity to broadcast (27); termination of a media outlet (15); unlawful dismissal of editors and journalists (12); termination of the office lease for media outlets (7).

*Obstacles to internet access* Access to the internet is free with the exception of schools, where access to the worldwide web is filtered in order to exclude sites which are not compatible with educational purposes.

*Changes in the past five years* The Foundation for the Defence of Glasnost registers an increasing number of conflicts related to freedom of information in Russia. In 2007, it has registered 1,502 such conflicts (2006: 1,345, 2005: 1,322, 2004: 1,236, 2003: 1,119 conflicts. This constitutes a 34 per cent growth over the past five years.

Growing particularly quickly is the number of cases of temporary detention of journalists (140 cases in 2007 versus 22 in 2003), seizure of an edition (92 cases versus 32), unofficial censorship (33 cases versus 12), denial of access to information (238 cases versus 109), termination of the publication (15 versus 7), and criminal prosecution of journalists (46 cases versus 34).

The effect of those sanctions on the present situation of freedom of media can be evaluated as strong aggravation on the scale applied. The reasons for this development seem to be both the widespread fear within the government of a kind of 'orange revolution', and the approach of the crucial parliamentary and presidential elections in December 2007 and March 2008, which were meant to ensure a smooth transfer of political power from President Putin to his successor Dmitrii Medvedev.

The state-owned media do not control either the distribution of paper, or the distribution networks. However, the deficient residual distribution system lacks proper competition and is still controlled by the government, making the distribution very expensive for the independent press, or impossible if entry into the distribution system is denied. *Government control over print media*

The government also controls access to broadcasting facilities and, indirectly, printing facilities. Such controls are used not to influence the content of the mass media but, rather, to sanction the most critical media. In 2007, the Foundation for the Defence of Glasnost registered 27 cases of access to broadcasting facilities being denied (18 in 2006, 23 in 2005, 14 in 2004 and 24 in 2003) and 34 cases of access to printing facilities being denied (50 in 2006, 38 in 2005, 33 in 2004, 65 in 2003). Thus the authorities often apply sanctions to the private media.

#### 4. ECONOMIC PRESSURES

Most of the regional and local state-owned media receive subsidies from the regional and/or local budget. At the same time, the private media are not supported by public money. While there is no consolidated data available on local government spending on the media, in 2006 the Federal Agency for Printed Media and Mass Communications launched public grants to support socially relevant projects in the mass media. In 2006, it disbursed grants amounting to 127.582 million roubles (EUR 3.5 millions). Apart from this, the agency supported periodicals for disabled people with a further 23 million roubles (EUR 640,000 Euro). *State subsidies*

The amount of public support received by the media, however, is negligible when compared with the media market. In 2007, the capitalisation of the three biggest media holdings (Rambler, RBC and STS) exceeded USD 7.5 billion. The total value of the mass media advertising market in the Russian Federation amounted in 2006 to USD 6.5 billion. The cash flow for just printed periodicals amounted in 2007 to USD 4 billion (the 2007 report of the Federal Agency for Printed Media and Mass Communications). The coverage of the subsidised media is extremely friendly to the government, often degrading into propaganda.

Media companies have to struggle with a great number of problems, which include, inter alia, the declining interest of the population, an unstable regulatory environment, a rigid taxation system and accounting requirements, a deficient distribution system, deficits in the regulation of intellectual property rights, an underdeveloped advertising market, and badly developed but potentially promising regional and local media markets, still dominated by the state-owned media. *Further aspects*

#### 5. NON-STATE REPRESSION

A greater number of conflicts related to the freedom of press is registered, which can be attributed to the non-governmental 'repression' of journalists. Those include the following: attacks on journalists (75 cases registered in 2007, a total of 371 from 2003); intimidation of journalists (27 cases in 2007, 147 from 2003 through 2007); attacks on the offices of editorial departments (11 cases in 2007, 74 from 2003); and the murder of journalists (eight cases in 2007, 58 from 2003). *Repression by non-state groups*

The people and/or organisations behind the attacks are not exactly known since the official investigations do not usually succeed. The background of the recorded cases justifies the view that there are a great variety of motives behind them; these include political (government critical journalists and media are often a target for attacks), business and criminal motives. The data above also justifies the conclusion that non-state 'repression' is often used against journalists and the media.

The state authorities have proved both unable and/or unwilling to effectively prosecute attacks against journalists. It is notable, however, that journalists are not an exceptional example of the inefficiency of law enforcement in the Russian Federation. It is also true that the authorities often perceive journalists, particularly the independent ones, as an unwelcome challenge, who rather than deserving protection from the authorities have to be protected against. The feeling of being not protected by the state is widespread among journalists.

*Changes in the past five years* The intimidation through non-state repression has remained, on average, at the same level over the past five years.

## 6. CONCLUSIONS

*Freedom of the media: general situation* The general situation of the freedom of media in the Russia Federation can be characterised as freedom of the (political) media with major restrictions. The free coverage of the media has been strongly aggravated over the past five years.

*Changes in the past five years* The major obstacles to a free media include tight government control over state-owned media; informal influence by the government authorities on either the major stakeholders of the media holdings, or through editors-in-chief on the editorial policy of many private media outlets; sanctions applied to most critical journalists and media; economic problems; a deficient, inefficient and excessively expensive distribution system; and declining interest of the population, particularly of the young generation, in the printed press.

*Andrei Zagorski*

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# UKRAINE

One of the main pillars of democratisation achieved during the Orange Revolution was freedom of the media. This freedom was consolidated during the political crisis in 2007, when the press gave balanced coverage of all main protagonists. However, there are severe deficiencies with the mass media: the low wages of journalists, inadequacies in their training and the dependence of the mass media on various financial and political groups result in major corruption problems with press coverage. Ultimately, the independence and trustworthiness of the mass media suffer and socially relevant topics are not sufficiently covered.

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

The deficiencies of the mass media are certainly not a result of poor literacy levels: the literacy rate in the Ukraine exceeds 99 per cent, which corresponds to the rates of the most developed countries. This is a result of Ukraine's highly developed educational system.

*Literacy and education*

Due to the increasing importance of television and the internet, the share of newspapers and magazines in the mass media is falling, but the total quantity of newspapers still seems impressive: according to official data, 22,794 periodicals are registered in Ukraine (with 9,948 being distributed nationwide, regionally and internationally, including 3,809 newspapers and 4,626 magazines, and 12,846 being published locally, including 10,740 newspapers and 2,106 journals and magazines). However, according to expert evaluation only about 8,000 periodicals are actually being published, of which the most important are the newspaper Fakty (2.65 million readers), the newspaper Segodnya (1.33 million readers), Komsomolskaya Pravda v Ukraine (1.08 Mio readers), and Ekspres (almost 800,000 readers).

*Media landscape*

As for radio and TV stations the total number of currently registered companies is 1,377 (858 broadcasters, 43 production studios, 13 distributors, 463 programme service providers). There are 15 nationwide television networks, 4 regional television networks, 15 nationwide radio networks and 8 regional radio networks.

Internet publications have increased considerably in recent years. Many printed periodicals publish electronic copies of their papers online, but there are also e-publications which have no printed analogues, for instance, proUa, Ekspert-Centr, Ukrayinska Pravda, Korrespondent.net etc. However, according to a survey conducted by the Institute of Sociology of the National Academy of Sciences of Ukraine as part of a European comparative study, 92.8 per cent of the respondents stated that they had no internet access and had never used it, while only one per cent of the population used it on a daily basis. The latter is one of the worst indicators among European countries (Golovaha/Gorbachyk/Panina 2006)

*Internet media*

To evaluate the extent of the media's influence on public opinion, citizens' access to media and their media consuming behaviour has to be considered. According to the report of the World Bank, access to the main communication sources in Ukraine breaks down as follows: households with television: 97 per cent, population covered by mobile telephony: 96 per cent, internet users: 97 per 1,000 people, personal computers: 38 per 1,000 people, mobile subscribers : 366 per 1,000 people.

*General media access*

*Media consumption* According to the research by Golovaha, Gorbachyk, and Panina (2006), low internet penetration is compensated for by increased TV consumption. Almost 45 per cent of the population watches TV for more than two and a half hours on a working day. Radio listening rates are considerably lower. The overwhelming majority of the population either do not read newspapers on workdays (26.7 per cent) or spend less than one hour doing so (55.6 per cent). The frequency of use of the different media sources is as follows: TV: very often (according to the research by Golovaha, Gorbachyk, and Panina (2006), Ukraine has the highest rate in Europe); radio and press: often; internet: low penetration, but those with internet access use it very often.

*Media influence on political opinion* It can be concluded that the media have a significant influence on the formation of political opinion in the Ukraine. Ukrainians often refer to the media items which cover political events, but the political views and allegiance of most Ukrainian media are generally known and most citizens spend considerable time turning to political news provided by the mass media of various political persuasions.

The level of confidence in the mass media remains relatively high. According to surveys, conducted in June 2007 by the Ukrainian Institute of Social Research and the Social Monitoring Centre, 58 per cent of the population trust television, 50 per cent trust radio, and 46 per cent trust newspapers. To compare, only 51 per cent have confidence in the armed forces, for the police it is 27 per cent, for cabinet ministers only 31 per cent, for the public prosecutor's office 30 per cent, for courts in general 25 per cent, and for political parties 22 per cent.

*State-owned media* Most of the political parties have secured an influence over TV channels, radio stations and newspapers, either through tycoons owning newspapers (e.g. the MPs R. Akhmetov and A. Derkach of the Party of Regions, 'Our Ukraine'-member A. Tretyakov) or by direct influence of the parties. Additionally, regional elites control local and regional TV channels and radio stations. Due to their poor advertising income, this also holds true for many provincial newspapers, which are under the strong influence of local administrations. The newspapers and radio companies representing business interests, which oppose local power, continually suffer intense pressure. As a result, deputies of the Ukrainian parliament declared a moratorium on mass-media inspections during the election period.

To give some examples, the municipal channel Kyiv is under the control of the city mayor, L. Chernovetskyi, and the news channel '24' is controlled by the mayor of Lviv, A. Sadovyi (Leshchenko 2006). Chernovetskyi has also succeeded in consolidating such newspapers as Hreshchatik, Vechirni Kyiv, Ukrayinska stolytsia, and the weekly newspaper Zakon i biznes. Sadovyi has also secured influence over the private newspaper Postup (ibid.).

The state should naturally be considered among the protagonists who have an influence over the media as in total it owns about 4 per cent of the TV and radio sphere and 5 per cent of the newspapers. Among state publications the following are worth mentioning: Uriadovii Kurier, a publication of the cabinet of ministers with a circulation of some 87,000 copies, and Golos Ukrainy, a publication of the Verkhovna Rada with some 160,000 copies.

Apart from this, the state owns the National Television Company and the National Radio Company (both broadcast nationwide), Ukrainian TV film studio Ukrtelegram, the television and radio companies Kultura, Vsesvitnia Sluzhba, Ukrainske Telebachennia i Radiomovlennia and others. There also are about 815 municipal television and radio companies, controlled by local authorities. There is no difference in allegiance to the executive power among the different kinds of state media.

*State-owned media and published opinion* In all these cases the relevant authorities entirely control the personnel and editing policies of the mass media, which means that the state-controlled media have a very friendly attitude towards the government. However, the private media remain dominant and the state-owned media hold almost no share of published opinion.

The government, as well as other centres of authority, regularly holds press conferences. Access to these press conferences is open to representatives of all kinds of mass media. Since 2005, there have been no limitations based on political preferences. Access is only limited by the physical space where the press conferences are held. Thus prior accreditation of the journalists is necessary. Private TV channels are often bound by the same rules as state channels.

*Government press conferences*

## 2. LEGAL ENVIRONMENT

Generally, the legal environment for issues concerning freedom of speech, mass media and collection as well as distribution of information consists of the fundamental rights stated in the Ukrainian constitution and three laws regulating those rights in more detail: the laws 'On Information', adopted in October 1992, and 'On Television and Radio Broadcasting', adopted in December 1993, and 'On Printed Mass Media (Press) in Ukraine', adopted in November 1996.

*Freedom of expression*

The legal fundament of freedom of opinion and speech is secured in Article 34 of the constitution of the Ukraine, which was adopted in June 1996. The article deals with freedom of speech and opinion. It states that '[e]veryone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs. Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice. The exercise of these rights may be restricted by law in the interests of national security, territorial indivisibility or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice'.

*Free media coverage*

The Law On Printed Mass Media regulates the mass media sphere, the legal setup of the media's activities, the registration of newspapers and magazines, journalists' rights and duties, how to file complaints, the international cooperation of the printed media, and the sanctions for breaching this law.

Article 34 consists of three parts. The first and the second guarantee freedom of speech and determine how this fundamental right can be exercised while the third part regulates cases restricting freedom of speech. The European Convention on Human Rights (which the Ukraine joined on 17 July 1997) states that restrictions of the freedom of speech should be 'specified by the law and are necessary in democratic society'. The Ukrainian constitution does not do this, but all other provisions are generally the same.

*Regulation of media coverage*

Article 32 of the constitution considers the issues of privacy protection: 'The collection, storage, use and dissemination of confidential information about a person without his or her consent shall not be permitted, except in cases determined by law, and only in the interests of national security, economic welfare and human rights'.

The restrictions on freedom of speech and privacy protection are regulated in more detail by the Law on Information, Articles 28–37. This law is fundamental in character and considers the main principles of media relations, defines the trends, principles and kinds of information activity, spheres, nature and sources of information, and access modes. The form of the information request, circumstances in which cases can be denied and postponed, as well as appeals against denied requests, payments for information provision and finally confidential information are all considered. The law regulates that access to open information should be provided through systematic publication of such information in officially printed periodicals and distributed through mass media.

Information with restricted access is divided into confidential and secret information. Confidential information includes data about a person (e.g. education, marital status, religion, health). It should be mentioned that the comment on the Law On Information of the Constitutional Court of Ukraine from 30 September 1997 regulates journalistic activities, with the goal of restricting the

distribution and storage of information: 'It is prohibited not only to collect, but also to keep, use and distribute confidential information about a person without their prior consent, except cases, provided by the law, and only in the interests of national security, economical wealth, rights and freedoms of a person'. The legal provisions for information access in Ukraine are constantly being violated.

*Changes in the past five years* Over the past few years, Ukraine's media law has been modified and supplemented repeatedly (10 times), though even now it is far from perfect. The law includes general definitions, general principles about the activities of television and radio organisations, articles on licensing and protection for the interests of the national producer. Separate sections are devoted to how the television and radio stations have to be organized, the rights and duties of journalists and companies, the rights of TV viewers and radio listeners, the facilities and equipment of television and radio organisations, responsibility in cases of breach of the law and international cooperation in television and radio broadcasting.

After the presidential elections of 2004 the Ukrainian media entered a new stage of development. The tendencies have been generally positive. Temniki (secret instructional memoranda prepared and distributed by the presidential administration to top managers and editors of national television stations and some newspapers – from the Russian *temy nedeli* or weekly themes) disappeared; there is less evident pressure on the editorial boards.

Although the legal situation has improved strongly, there are still negative indicators with the practical applications of the new laws. These include dismissing editors of newspapers and television companies. For example, the decision of the city council in Kharkiv to deprive the correspondent of the newspaper *Kommersant-Ukraine* M. Spalek of accreditation, stating that the journalist had misinformed the citizens about the reformation of housing and communal services, was significant for limiting freedom of speech and access to information. Officials of the mayor's office punished the journalist for the information, which they depicted as incorrect. This is a very dangerous precedent, which undoubtedly leads to journalists' self-censorship. Unfortunately, this has not been the only case. In January 2007, city mayor of Ladyzhin banned the journalists of *Ladyzhins'ka gazeta* from the meetings of the town council. The reason was the allegedly biased attitude of the newspaper to city authorities.

In several cases, the worst traditions of Kuchma's times have reappeared. In December 2006 in Dnipropetrovsk the central post office terminated the distribution agreement of the newspaper *Litsa* because it accused the city mayor of budget squandering. Following the protest from journalists in December 2006 the president signed amendments to a series of laws, facilitating the participation of the mass media in covering the election process. However, the court retained the right to halt mass media activity during the election campaign period if a breach of election law was proved.

Nevertheless, modifications to free media coverage have had very favourable impacts on the freedom of the media. The situation has strongly improved over the last five years.

*Legal censorship* Article 15 of the constitution forbids censorship, stating that there should be no structures which legally allow censorship and that no people, groups or institutions can be banned from coverage. The period of prohibiting coverage of certain politicians or public characters came to an end at the turn of 2004. Now there are no examples of implementing (or attempting to implement) political censorship. Attempts by the authorities to control the contents of the mass media have been replaced by economic censorship, meaning strict control by owners of the mass media. As a consequence of the rights provided by the constitution, journalism is a free profession without prohibitions; no special permission is required for journalists to exercise their profession. Journalists from the print media as well as from TV may participate in all public activities of the government and of the parliament. However, they need to undergo an accreditation procedure, which is not discriminatory in nature.

The activities of television and radio organisations in Ukraine is regulated by the Laws On the National Council of Ukraine on Television and Radio Broadcasting from September 1997 and On the System of Public Television and Radio Broadcasting of Ukraine from July 1997. The first considers the licensing procedure in Articles 13–19. According to the law, Ukrainian citizens and legal entities of the Ukraine have a right to set up TV and radio organisations. TV and radio organisations with more than 30 per cent of foreign investments are not allowed to operate. In practice, however, this provision is easily evaded. The constitutional body responsible for licensing is the National Council on Television and Radio Broadcasting of Ukraine. The decision on issuing a licence is based on competitive selection and made within a month.

*Media licenses*

Additionally, Articles 11–20 of the Law On Printed Mass Media are devoted to registration issues. Printed papers need to obtain registration from the State Committee for TV and Radio Broadcasting before starting work. A special registration fee is required to obtain a certificate. After getting a certificate, a founder is obliged to start publishing a newspaper, or any other printed medium as provided in the certificate, within one year. Registration may be denied if a media body with the same name is already registered, if less than a year has passed since the court ruling on suppression of such a printing organ, or if the name or the programme concept contradicts the laws of Ukraine. Generally, licences for radio or TV stations as well as newspapers are only rarely taken away and this procedure is only possible with a court ruling or if it is the founder's decision.

Certain printed mass media may be distributed without registration. This is possible if they are issued in the form of bulletins by legislative, executive or judicial bodies, if they are informational digests of documents of companies, enterprises, educational or scientific institutions, and if their printing production is not meant for public distribution.

A problem remains with the forming of monopolies and cartels, especially at the regional level. In theory, there are provisions in the legislation that are aimed against the formation of media monopolies. Article 10 of the Law On Printed Mass Media prohibits printed media monopolisation. An individual or legal entity cannot control more than 5 per cent of the printed media. Article 7 of the Law of Ukraine 'On Television and Radio Broadcasting' regulates 'antimonopoly limitations'. According to this article, TV and radio organisations, including their subsidiaries, have no right to broadcast on more than two TV channels and three radio channels. The communication enterprises operating these broadcasting networks cannot become founders or owners of TV and radio organisations.

*Monopolies and cartels*

The legislative provisions are direct and rigid. In practice however, they are successfully evaded.

An important TV holding is associated with the name of V. Horoshkovsyi. The holding owns TV channels such as Inter (1)<sup>1</sup>, Enter (29), Enter-Film (17), which were recently joined by D. Firtash channels, such as K1 (23), K2 (31), Megaspport (16) as well as NTN (10). Novyj kanal (3), ICTV (4), STB (5), M1 (12), 11 kanal (24) (Dniepropetrovsk) are parts of the media empire of V. Pinchuk (Leshchenko 2006).

Major newspaper publications are owned by Ukrainian tycoons who wanted to influence public opinion. For example, the paper Fakty is owned by V. Pinchuk, whose main business is connected with metallurgy. The newspaper Segodnya (daily circulation 170,000) and the regional paper Salon Dona i Bassa play a key role in the empire of R. Akhmetov. I. Kolomoyskiy is a shareholder of Gazeta po-kievski (around 60,000) and Komsomolskaya pravda v Ukraine (144,000). Perhaps the largest newspaper holding is the Ukrainskiy media-holding, owned by B. Lozhkin. He prints around 80 newspapers and magazines of various trends, including Komsomolskaya pravda v Ukraine (co-owned by I. Kolomoyskiy), Argumenty i fakty v Ukraine (185,000, owned together with A.Chaban) and the magazine Fokus. Another media holding is owned by the American J. Sunden. The holding prints, in part, the magazine Korrespondent (50,000), the newspaper Kyiv Post (25,000) and a free newspaper 15 minut (120,000).

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* As mentioned above, the political situation for the mass media has significantly improved since the Orange Revolution in 2004. Since then all layers of society and social groups have been represented in the media. NGOs conduct social campaigns, drawing attention to groups such as the Roma or people suffering from particular illnesses, etc. There are no sections of the population that are deliberately excluded by state action from their right to freedom of information. The state does not hinder access to the internet in any way.

*Self-censorship* Self-censorship remains a problem in Ukraine. It affects equally the journalists of all mass-media groups: TV, radio and the press. The phenomenon of self-censorship is conditioned not by potential repression by the authorities (as it used to be before 2005) but by the economic dependence of journalists on the owners of newspapers and magazines. It is an 'unwritten law', that journalists do not publish material which could damage any (primarily, economic) interests of the owner. On the contrary, the publication of items directed against the interests of the owner's rivals (not necessarily media rivals; for a considerable part of media owners' media activity is not related to their media business) is encouraged.

*State repression* Journalists and media companies or organisations do not have to fear state repression. State repression is now almost never used against the media; the new president and the government destroyed the system of state censorship (which was carried out through special instructions – *temniki*). Later, the system of political diarchy was formed, when different branches of power controlled each other. This led to the improvement of freedom of speech in Ukraine and ended intrusion into the work of the mass media by the state

*Obstacles to internet access* Generally, the internet in Ukraine is not subject to censorship. Internet publications in Ukraine are not regulated by any separate legislative tools, but this freedom was nearly restricted in 2005: Transportation and Communication Minister E. Chervonenko planned an order 'On securing the order for conducting the state registration of electronic media', obviously attempting to secure state control over internet media. The open protest of journalists and the internet community, and the threat from internet media owners to transfer their resources to foreign servers forced the authorities to drop their plans. As already mentioned, the dependence of the mass media on various financial and political groups remains an acute problem for society. Still, it would be wrong to speak of a monopoly in the Ukrainian media, as there are too many different groups controlling the media.

### 4. ECONOMIC PRESSURES

*State subsidies* The private media are not subsidised by the state, either directly or through advertisements, although there are types of indirect state support: in particular, the state remits the value added tax for paper and for printing equipment imported from abroad. The state conducts no advertising campaigns (except during elections). Since 2006 (according to the media expert O. Khomenko) a series of local authorities have concluded agreements with private media companies on coverage of their activities (such agreements were previously concluded exclusively by state media organisations and they were most often covering their corresponding state organs free of charge). In any case, state advertising plays an inconsiderable role in the media market. During election campaigns, state media organisations undertake all state advertising.

*Further aspects* The distribution of newspapers remains a serious problem for Ukraine as there still exists a virtual distribution monopoly. Around 95 per cent of newspapers are circulated by subscription and the only distributor – Ukrpochta – charges around 40 per cent of the printing cost price for distribution. However, there is now a system for non-governmental newspaper delivery in Ukraine. Yet, the tariffs are set in a non-transparent way, which leads to considerable problems for newspapers' survival. It was only in November 2007 that a distributor in Odessa increased the tariffs for newspaper delivery twice, which led to the representatives of Soyuzpechat in Luhansk to demand multiple payments for newspapers to be included into the sales system (Artazey 2007). Thus, the

delivery system clearly does not favour the newspapers. However, there are no longer any attempts to create difficulties for the distribution of opposition publications or to influence the contents of newspapers. State authorities almost never take advantage of the control mechanisms available to them in order to influence contents.

## 5. NON STATE REPRESSION

Though journalists and media companies do not have to fear state repression, physical safety problems for the journalists themselves and their families still prevail.

*Repression by non-state groups*

In April 2006, an assault was made on the editor-in-chief of the publishing house CN-stolichnye novosti, V. Katzman. He was beaten with wooden bats at the entrance of a residential building. The assailants took none of his belongings. The publication management believes the assault was connected with the newspaper's campaign against incidents of anti-Semitism. A month later a law-enforcement officer seized the property of the journalist, who was convicted by a court in Pecherskyi for his published criticism of the anti-Semitic policy of the management of the inter-regional Academy of Personnel Management.

In June 2006, an unknown person set the apartment of Kievskie vedomosti's staff correspondent, S. Yanovskiy, on fire. Petrol was poured from upper floors into the apartment, when the journalist, his wife and his son were at home, and set on fire. It was only by sheer luck that the journalist and his family survived. One year later the deputy of the regional council of the party of regions, D. Shantsev, beat up a press photographer from the Associated Press and ITAR-TASS agencies, A. Avdoshin, who filmed a fight between deputies during the council session.

The problem of physical threats is intensified by the fact that those organising crimes against journalists are usually not convicted and stay out of prison. Impunity leads to further crimes. This undoubtedly intensifies the potential threat of attacks on journalists. However, non-state repression against journalists, media companies and organisations remain a rare occurrence and the situation has strongly improved over the past five years.

*Changes in the past five years*

Two reasons for this positive development should be mentioned. Firstly, international interest in and pressure on the investigation of the murders of G. Gongadze and A. Aleksandrov demonstrated the danger of such actions for potential perpetrators. Secondly, potential criminals have changed their tactics they use against journalists from physical threats to corruption and the payment of bribes.

## 6. CONCLUSIONS

It can be concluded that freedom of the media has been secured in the Ukraine and that there has been a strong improvement over the last five years. The main achievement of the new authorities (succeeding L. Kuchma) was to destroy state censorship. However, today there are no guarantees that censorship will not be imposed again. A major guarantee would be provided by the introduction of public broadcasting and the denationalisation of newspapers. State censorship has been replaced by owner's censorship and, apart from this, the state still exercises influence through the state and communal press.

*Freedom of the media: general situation*

In principle, the activities of the mass media in Ukraine are legally regulated and should function normally. In practice, however, the implementation of these laws leaves much to be desired. There is no single media law, which would be implemented in its full scope.

However, all things considered, the Ukraine is going through the hard task of consolidating democracy. The process of forming a democratic press is on its way. The pluralism of opinions in the Ukrainian media, however, is not supported by the independence of newspapers and TV and radio broadcasting companies.

*Major obstacles to free media coverage* The main factor threatening freedom of speech is the poor economic state of the mass media in general. Media ownership has not yet become transparent, and antimonopoly legislation has not started working properly. The new power is to blame for that, too. For most media owners the media are not a way of making profit, but a means of creating favourable public opinion. Thus, when investing money into the media business, most investors treat it as auxiliary to their main business. It is therefore no longer surprising that popular publications are sold at rock-bottom prices (this is especially so during election campaigns), which cannot cover the costs. Moreover, the non-profitability of the media is, paradoxically, beneficial for their owners. The journalists are more easily manipulated when they know that their wages depend not on their audience or advertisements, but on the contribution of the media owner. In the end, it is the dire financial situation of the publications that invites hidden advertising. Under these circumstances many critical items published in the media are not an indicator of press freedom, but of founders' or sponsors' orders to destroy their business or political rivals. Many of the mass media organs are not means for informing the audience, but a tool of influence for financial and political clans. Thus, society's interests are pushed into the background. The media's editorial independence, therefore, is curbed by their owners as well as by administrative meddling. Protecting the freedom of speech in Ukraine is critical.

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1| The numbers in brackets represent the market share rating, according to GFK Ukraine.

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# LATIN AMERICA

- Bolivia
- Brazil
- Venezuela



# BOLIVIA

Today as never before, the issue of freedom of expression is under debate in Bolivia. There is no lack of reasons, considering that since the year 2000, the country has been undergoing a change process that is even more marked under the current administration of Evo Morales-Ayma (2005 to the present day). Amidst social and political tensions, Bolivia is struggling to define a new political constitution for the state. Two visions of the country are in confrontation and this also affects the regions which demand departmental autonomy. Parallel to this is the issue of land ownership and social inclusion. In this context, the media and the journalists do not operate on the national sidelines and each day ethical and legal principles are challenged in their coverage. Almost daily, they are cited by government authorities and/or social actors, and they are also questioned or praised by the population and by journalists themselves.

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

Bolivia is one of the three least-developed countries in Latin America. Of its 9 million inhabitants, approximately 60 per cent live below the poverty line. The situation in the rural areas is even more dramatic, with poverty affecting nine of every ten inhabitants. The economic situation is reflected in high levels of unemployment, lack of medical care, and illiteracy. The data of the 2001 National Census revealed that 13.3 per cent of the Bolivian population – somewhat more than one million – cannot read or write. Only 4 per cent have access to the internet and of these only 25 per cent have a direct connection.

*Literacy and education*

There is a serious process of rural-urban migration and from west to east. The greater part of the population and the economic activity are concentrated in the central axis of the country (La Paz, Cochabamba and Santa Cruz). The media, whose number and the trust placed in them by the population, make Bolivia a media-oriented country, are also found here.

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

*Media landscape*

The state, in addition to two licences for radio stations and one for TV at national level, has installed at least 20 of 100 community-based radio stations, which it expects to put into operation during its term in office. Entrepreneurs, churches (Catholic and Protestant), NGOs and social groups are owners of radio stations, TV channels and written media. Their poor economic sustainability due to the quantity of existing media and the small size of the advertising pie (approx. USD 50 million), mean that media bodies are continually for sale, which attracts interested buyers.

The process for the legal setting up of a communications organisation involves requesting a licence from the superintendence of telecommunications – the only entity authorised to assign the radio or television frequencies – and/or the legalisation of a transaction and its registration (with a transfer of licence), in the case of TV channels and radio stations. The written press must register with

Fundaempresa, a foundation for entrepreneurial development in charge of administering the Register of Commerce, and in their municipality, just like all other private enterprises in the country.

How can the existence of so many media entities be justified in a country like Bolivia? The answer may be given from two different angles. On the one hand, there is the simple and entrepreneurial vision, seeking profits, lowering costs, writing-off quality of content and human resources. The over-supply of students and graduates from communications careers, improvisation and the need to sustain programming, will create conditions which will only accentuate the mediocrity of the media. On the other hand, there are sector interests, such as churches – the Catholic and Protestant churches prevailing in the country – which use the media to spread the word of God and, taking advantage of captive audiences, other content for informative nature. A statistical recount of the last five years shows the rapid increase of religious FM, (local outreach) radio stations and UHF TV channels.

*Party media* There are currently no political parties which are openly owners of media entities; however, given the polarisation of the social and political context in Bolivia, entrepreneurial sectors try to use their media to strictly supervise the government's administration, beyond what is ethically permitted. The issue of freedom of expression is frequently debated.

The government initiative of installing community-based radios has also been strongly questioned, given that this decision was not only accompanied by the strengthening of the infrastructure, equipment, contents and human resources of state media, but also by decrees such as Decree 29174, which restricts the economic activity and the diffusion of content of other media in the rural areas<sup>1</sup>.

In this process of constant media expansion, the use of new technologies plays a fundamental role, to the point of permitting the incorporation of areas of the country which, up to two years ago, only existed in the public's mind when there were natural disasters or very significant political events involving bloodshed. The extensive areas of the northern departments of Beni and Pando are not connected to the national microwave circuit. Only in the last three years have the rural areas acquired a national presence.

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

*Internet media* The use of the internet is, without doubt, an artefact of this change in scope and concept of media management. It must be noted that only 1 per cent of the national population have a direct connection to the internet and the proliferation of internet cafes and the accessibility to these centres (using the internet in a town or city costs as little as EUR 0.10 cents), 4 per cent of the national population has access to this technology.

This possibility of access to the world via the internet has permitted an elite culture and politics sector to open blogs (open spaces) for the discussion of different issues, which range from how a certain TV anchor looks to more profound political, social and/or cultural issues. The internet has also permitted hooking-up signals of TV channels and radios and the publication of documents for relevant reflection. Email chains are also frequent. The government has not developed any system of restrictions, except for public denunciations through the media of specific content, calling it racist, intolerant or against the current "progressive" political project in the country.

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

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

Of an average of 18 continuous hours of programming by the TV channels from Monday through Friday, four hours are dedicated to newscasts and/or factual programmes and two hours over the weekend. There are few specialised news programmes, the great majority of which are weekly.

National media production is low and uses canned programmes, including soap operas, films and serials fill the spaces. In October 2007, the media preferences captured by Captura show the UNITEL chain leading with 31 per cent, followed by ATB with 25 per cent and the Red UNO with 21 per cent. Bolivisión registers 8 per cent, tying with PAT and TVB, the state channel, which are included in the category 'others' for their low ranking. In October 2007, in Santa Cruz 51 per cent preferred UNITEL, 35 per cent Red Uno and 5 per cent preferred ATB together with Bolivisión and others.

*Media consumption*

The world of television is expecting more accurate data, given that the Bolivia Media Company, which specialised in measuring rankings, stopped operating in May 2007. Medios y Mediciones of Colombia, which planned to start working in Bolivia, closed operations in its own country, and IBOPE of Brazil, which made a presentation in its application to start work in Bolivia, is a costly service, which television channels and publicity agencies are studying at this moment because of their need to reduce costs.

In terms of radio, the tendency is for AM broadcasters to include entertainment programming (music, show-business gossip and curiosity notes) and information. The great majority of modulated-frequency radios are monothematic and musical. Some FM radio stations also reproduce AM radio signals.

CIDEM is the company which for 12 years has supplied the market with radio ratings for the central axis. In their report of November 2007, they established that for news, there is a consistent preference for Radio Panamericana in La Paz, followed by Radio FIDES, also in La Paz. ERBOL is an alternative which keeps its position as third or fourth choice. Radio Patria Nueva, a state radio, registers more growth in rural areas and does not enjoy massive favour in the cities. Local radios have achieved an interesting position in their own environments, as a result of the demands for autonomy in some regions in the country.

In spite of the tensions in the country, the low reading levels among the Bolivian people and their habitual preference for oral communication mean that people most frequently refer to TV and radio, and only sometimes make use of newspapers and the internet among an elite sector.

The paradox about media influence on the formation of public opinion in the country is that the newspapers, while not reaching the population massively, do reach powerful groups, and so have the opportunity to influence the government and set the agenda for radio and television.

*Media influence on political opinion*

The audiovisual media have a strong influence in generating the concept of citizenship and through this influence the government. The latest studies of attitudes establish that the media with 69 per cent are considered as one of the most trustworthy entities, after the church with 80 per cent, before the armed forces with 67 per cent and the national police with 66 per cent (AOM 2007).

The political crisis, the tendency of the Bolivian people to favour the 'strong man' (caudillo), the positioning of the media, the limited criticism of the media contents and the level of illiteracy, all explain the strong media influence on the opinions held by citizens.

A study of attitudes of undergraduates at the San Andrés University in September 2003, indicated that different strata of the population of La Paz believe what they hear on the radio, and when watching TV, they do not doubt the contents because they see them. Given the credibility that the population gives the media, it is important to understand their role in the present circumstances. The polarisation in the country extends to the media, which, according to some critics, have become entrenched in positions from which they seek to influence public opinion, under the guise of providing information.

The government, in the voice of the president himself (this will be expanded on later), constantly judges the daily coverage of the private media, describing it as an opposition force and 'neoliberal' – a common phrase of denigration among Bolivians. It must be recognised that, above all, the coverage of the private TV media is highly critical of the present government and gives spaces to analysts and sources who question government actions. Some radio stations at the other extreme must also be mentioned. To them, everything the government does is unquestionably considered to be positive and totally identified with the interests of the impoverished majorities in the country. There are few journalists and media which can, or try, to maintain a neutral position.

*State-owned media and published opinion* State media coverage clearly serves government interests, to the point that state radio and TV are a means of propaganda. The present administration shows a determination to have a direct impact on public opinion, through propaganda in the private media, and transmitting information and opinion through its own media. This objective has been reiterated by the president of the republic and the presidential spokesman: 'The informative distortion of private radio stations and channels must be counteracted'. To achieve this, it has been necessary to design and sustain a structure suited to these purposes, so the head of TVB and Patria Nueva Radio are direct appointments by the Ministry of the Presidency. The hiring of journalists depends on the news director together with the heads of each of these media.

What is most important is that the private, religious and state media all have access to the same sources, or to those which they wish to consult for information. In many cases, the state media have used a "clean signal" so that other channels and radios have access to their extensive content, making it possible for them to freely hook up to this signal.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* Bolivia, as signatory of conventions and international laws<sup>2</sup>, is committed to guaranteeing respect for human rights of first, second and third generation. To do this, it has had to adjust some of its laws. Others have become obsolete and some have been maintained in spite of the wish to modify them.

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

To date – January 2008 – in the constitution currently in force, in Article 7, clause (b), freedom of expression is explicitly guaranteed. There is no specific definition of journalistic practice and the media is covered in Article 22, which guarantees private property provided that its use does not impair the common good. Expropriation of property can be imposed when the property does not fulfil a social function.

*Free media coverage* The principle of freedom of expression finds an echo in other laws, such as the Law of Freedom of the Press. Even though it goes back to 1925, it is specific as to the right of each citizen to publish his/her thoughts in the press (making reference only to the written press and, by necessary extension, today – 2008 – to radio, TV and the internet).

The Law for Professionalisation of the Journalist of 1979 (Law 494) recognises and institutes the journalist profession as a nationally recognised degree and establishes a generic framework for carrying out the profession, with a national registry for journalists that has not been implemented to date.

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

*Regulation of media coverage*

Concepts which protect the honour of any citizen, define and punish defamation and calumny, establish obligations on retraction and other matters, are inserted in instruments such as the Civil Code of 1975, the New Penal Procedure Code of 2002, the Law of Telecommunications of 1995 and the 1991 Electoral Law.

Supreme Decree 27329 of 31 January 2004, on 'transparency', seeks to procure the transparency of, and access to, government information. It implicitly establishes free access for any citizen to state information, other than that classified as state security.

There is a general consensus to unionise journalists and the media to defend the enforcement of the Law of Freedom of the Press. The sanctions it establishes are financial only and do not deprive anyone of his or her freedom. Nonetheless, the lack of knowledge and the limited dissemination of other instruments related to the right to freedom of expression are of great concern.

It worth noting the start of a debate in some elite circles about the right to communication and the right to information, at a time of great social and political transformation in Bolivia.

The debate has caused the Association of Journalists of La Paz (APLP) to develop a constitution for an ethical council of journalists and brought about the installation of reader protection offices in some printed media organisations and the establishment by the National Press Association (ANP) of an ethics tribunal to comply with and enforce its recently approved (September 2007) ethics code. These are all mechanisms of self regulation designed to increase the credibility of and trust in the press.

The need for media self-regulation is a constant theme, with ethics codes and internal behaviour and union self-regulation being seen as mechanisms to preserve freedom of expression and free journalistic practice.

*Legal censorship*

External bodies, such as foundations and universities, promote the debate and have set up bodies such as the Media Observatory (of the UNIR Foundation), a private institution which seeks to investigate, monitor and analyse the behaviour of the media in different areas and journalists' activities.

In this legal framework, Bolivian journalism feels it is protected and has juridical freedom to exercise its role. Aspects such as the official accreditation for the Government Palace and Congress, are followed by the media or national or international news agencies. To date, no requests for credentials have been denied. There is no specific law that names bodies to which a journalist who suffers harassment or state repression may appeal. However, bodies such as the ombudsman have already taken up this issue when the need has arisen and also when the media have been attacked by social groups. The associations which represent journalists and media have also expressed their views through public warnings.

*Journalists' legal status*

As Bolivia is a signatory of international conventions safeguarding freedom of expression and because the unions are affiliated to international organisations which support this principle, cases of harassment of the media, with specific references to journalists, have been denounced in the last few months. To date, there has been no legal action and only pronouncements have been made.

- For example on 21 March 2007, directors of the media approached the Inter-American Press Association (SIP) to denounce what they considered to be signs of opposition to freedom of the press. The denouncement was included in a general reference to the region.
- On 25 September 2007, the Committee for the Protection of Journalists (CCP) suggested removing restrictions on the freedom of the press.
- On 31 October 2007, the minister of rural development threatened the journalist Julieta Tovar of the FIDES News Agency, with a law suit. The APLP sent a letter to the minister demanding explanations.
- On 12 December 2007, the president of the republic in person assailed the privacy of the journalist Roxana Lizarraga of the UNITEL TV network. The Association of Journalists of La Paz publicly denounced this type of aggression.

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

Coincidentally, on 14 March 2008, the superintendent of telecommunications, Jorge Nava, announced in a circular that sanctions could be imposed on those media that publish 'information, even though authentic' which may damage or alarm the population either by the means of diffusion or the manner of its propagation.

This event was denounced and vigorously questioned by the media and press unions, who called upon government figures on 23 March to request the authorities to withdraw such sanctions. This led to a landmark – the resignation of Alex Contreras, government spokesman – through a letter made public in which he confirmed his commitment to freedom of expression rather than censorship, transparency rather than acts of corruption, and to the need for dialogue rather than the practice of misinformation. Contreras also states in his letter that: 'The quality of information defines the quality of democracy'. By contrast, international events such as 9/11 and anti-terrorist regulations from within Bolivia or from abroad have not affected the practice of journalism in the country.

*Monopolies and cartels* As regards multimedia monopolies, the case can be cited of the ATB Television Network and the daily newspapers, La Razón of La Paz and Nuevo Día of Santa Cruz, which recently changed owners and the PAT Network and the El Deber newspaper of Santa Cruz. Both are solid entrepreneurial groups which do not necessarily limit their investments to the one editorial line.

In any case, the consolidation of national television and radio networks and the possible influence of public opinion have motivated the government to include this issue in the new project for a political constitution of the state. Article 107 establishes that the state guarantees the right to freedom of expression, opinion and information, to rectification and reproduction, and the right to freely express ideas in any medium, without prior censorship. Furthermore, it recognises freedom of conscience for those working with information. Article 108 then states that the media cannot directly or indirectly form monopolies or oligopolies. Another point asserts that the state will support the creation of community media. It also establishes that all information and opinion must be accurate and responsible. This last point has been questioned by journalists who want a distinction to be made between information and opinion.

### **3. POLITICAL CONDITIONS**

*Coverage of marginal groups* Given the current political situation, the legal framework in force and the proliferation of the media, journalistic coverage is diverse and allows freedom of the press from community to national levels. Except for geographic limitations related to access and connectivity, the different social sectors are included in one way or another in the news broadcasts.



Nonetheless, it is important to pay attention to the forms, the proportion of spaces and the times assigned to the protagonists. All these elements are in many cases fundamental to the complaints of people who accuse the media of more or less disproportion in their coverage.

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

Every Bolivian citizen has the freedom to follow, compare and give an opinion on the range of possibilities offered daily by the media. No action by the state deprives them of this freedom. However, sectors of society identified with the government or the opposition have harassed the media and journalists to the extent of demonizing the media.

This public questioning has been evident since 2003, which was the year in which the mobilised sectors of society began to chant slogans against specific media or take aggressive action against journalists or media infrastructure. These events, together with the initiation of the debate on the role of the media, have made the media stronger in some cases and in others has made them implement self-censoring systems and codes.

*Self-censorship*

The Bolivian Association of Radio Broadcasters (ASBORA), the National Association of Television Enterprises (ANET), the National Press Association (ANP) and other unions have made recommendations to their affiliates to self-censor their news content, as a way to safeguard their credibility and the enforcement of freedom of expression.

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

In spite of efforts to promote a more ethical practice, information obtained by the existing media is politicised: whether consciously or not, this leads journalists to become entrenched in ideological positions which lay the foundations for their coverage and, in some cases, leads them to militant journalism.

Militant journalism is mentioned because this is cited on different occasions and has led, in this last year, to the state taking repressive action against journalists and the media. In one example a minister threatened a journalist and the closure of Channel 20 in Quillacollo in Cochabamba and in another, the superintendence of communications justified this closure, arguing that the channel was operating outside its authorised geographical area.

*State repression*

The economic issue deserves separate consideration. Former owners of the PAT Television Network – Carlos Mesa, a former president of the republic, amongst them – announced that they were victims of government repression due to the lack of investment in state advertisement. It should be noted that the state is currently the major advertiser. The Channel 'A' Television and the UNITEL Network also questioned this situation.

The specific cases cited in this document may be subject to debate. It is evident that the lack of investment in government propaganda has put pressure on the media since the installation of private television channels. No doubt, the national situation has meant that these cases of economic pressure have gained greater notoriety

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

*Government control over print media*

#### 4. ECONOMIC PRESSURES

*State subsidies* Investment in advertising in Bolivia, which covers radio, TV, the written press and small media rises to USD 50 million per year approximately, and 1,199 officially registered media enterprises compete for this advertising pie. Fewer than 10 receive 60 per cent of this amount<sup>3</sup>. The state is the greatest investor with 7 to 9 per cent<sup>4</sup>, followed by ENTEL (telecommunications), Unilever (household products), NUEVATEL (telephone company), Nestle (consumption), Coca Cola (beverages), Pepsi (beverages) and CBN (beer). Of the total amount, TV takes 58 per cent, the written press 28 per cent, radio 10 per cent and the small media the remaining 4 per cent. The data are projections using follow-ups by current general managers. The information of the Tax Service is an indicator, however, it should be noted that some media and enterprises evade taxes, other transactions are not registered and except for investment in electoral propaganda, there are no time limits for publicity investment costs.

The tariffs per second or centimetre per column are the starting point for negotiation between the media and the investors. Those purchasing global, bi-annual, annual or campaign time or space try to lower the costs. There are cases where negotiations start at USD 30 per second and closes at USD 3. Given the limited nature of the investment, many of the media are sustained by entrepreneurial groups, churches, foundations and NGOs. The state also sustains these media economically.

*Further aspects* As in all markets, investment in advertising is used to apply pressure in negotiations with the media, which is not necessarily apparent. The state, for example, uses its propaganda as a prize or a punishment. Some of these cases denounced by the media have been cited above. It is obvious that the great majority of these situations are not made public.

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

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

#### 5. NON-STATE REPRESSION

*Repression by non-state groups* Cases denounced by the Association of Journalists of La Paz (APLP) and the National Press Association (ANP), in addition to direct denouncements of the media to the public, are testimonies of the hostile environment in which journalists carry out their daily work. Physical aggression towards journalists and cameramen, the destruction of equipment, the attacks on installations, intimidation, insults and threats have been reported with progressively greater frequency in the last five years.

Social groups, mobs or specific groups close to the government in the west of the country and to civic committees in the east are responsible for this aggression. Television images and photographs are shown by the media to denounce and defend their members. In the midst of the polarisation in the country, repression is related to how the mobilised groups perceive the editorial line of the media under attack. The vision transmitted by the media has politicised all news coverage, thus, all questioning is directed at the treatment given to political, social and contextual events.

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

- **9 January 2007:** aggression towards journalists in Cochabamba in social uprisings
- **3 February 2007:** Juan Carlos Macias, cameraman of the ATB Network, is injured by a rubber bullet while covering the dislodging of the Transredes installations in the gas-producing population of Camiri
- **22 August 2007:** the superintendence of communications closes Channel 20 in Quillacollo. The APLP send a letter to Mr Clifford Paravicini, the superintendant, requesting legal and technical arguments for this closure
- **23 August 2007:** Journalists, cameramen and employees of the Patria Nueva network, TVB and the state information agency – ABI – suffer aggression at the hands of regional groups
- **25 September 2007:** Journalists and cameramen from the UNO Network and Cadena A suffer the burning of their camera and violent acts perpetrated by university students

In all these cases, the Association of Journalists of La Paz has asked the government for guarantees for journalistic activities and respect for freedom of expression and opinion. The APLP demanded that they be investigated and the persons responsible identified. To date, no case has been made, far less sanctions imposed.

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

## 6. CONCLUSIONS

Freedom of expression in Bolivia is officially consecrated in the political constitution of the state. In recent times journalism has been subject to a diversity of threats and aggressions originating from social groups related to the government or the opposition and the executive branch itself.

*Freedom of the media: general situation*

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

*Changes in the past five years*

The political polarisation which is dividing Bolivia between two diametrically opposed views on how the country should be run, has also led the media and journalists to politicise information and to defend positions in a 'militant' manner. Few professionals can maintain balanced positions. In any case, emphasis has been placed on the promotion of self-censorship as a means to preserve the right to free expression, the practice of journalism and credibility before society.

Limitations in training, an excessive workload, low salaries and constant turnover place restraints on the development of human resources. The excessive number of media organisations (1,199, officially recognised) and an advertising pie of approximately USD 50 million limits entrepreneurial development. In spite of this, Bolivian society places great credibility on the media, which have an important role at present.

*Major obstacles to free media coverage*

Thanks to the democratic process, there is journalism that is absolutely committed to the government and absolutely in opposition. Mention can also be made of the entrenchment of the media and efforts being made for the inclusion and integration of a country with the characteristics of Bolivia. It is not unusual then – and journalists agree – that, with the exception of the aggression registered during this period and the technical, physical and country limitations, journalists' work does not encounter great obstacles but remains is a challenge.

*Maria Rene Duchén*

- 1] *Supreme Decree 29174 restricts the opening of community radios to authorities of the three powers of the state, politicians, leaders and priests, among others. It also dictates that the message must be educational and cultural and not political in addition to restricting its activities to the municipal area. It imposes a series of conditions for the reception of political propaganda in electoral times.*
- 2] *Bolivia is signatory to the Universal Declaration of Human Rights (1948), The American Declaration of the Rights and Duties of Man, the American Convention on Human Rights known as the Pact of San Jose (1969), the International Pact of Civil and Political Rights of the United Nations (1976). Bolivia also ratified the Convention on the Rights of Children and the International Convention for the Elimination of all Forms of Racial Discrimination, among other International Instruments.*
- 3] *Alberto Rojas, general manager of the PAT Network maintains that it is difficult to give an exact figure for the total amount of national advertising investment, given the absence of registration systems. However, it is possible to make approximate projections from historical behaviour.*
- 4] *Data from the Ministry of Finance establish expenditure of USD 9,175,532 on advertising and propaganda.*

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# BRAZIL

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

Brazil is a large country with a vast population of approximately 187 million, of which approximately 156 million live in urban areas (IBGE 2006). In 2006, 21.323 million Brazilians suffered from illiteracy (IBGE 2006). According to data provided by the Economic Commission for Latin America and the Caribbean (ECLAC), Brazil's illiteracy rate in 2005 was equivalent to 11 per cent (for those 15 years old or over in urban areas) and was higher than the regional Latin American average of 9.5 per cent (ECLAC 2008).

*Literacy and education*

A survey on access to cultural equipment and media outlets carried out by IBGE pointed out that in 2006: free-to-air TV (open TV) reached 95.2 per cent of Brazilian municipalities; 48.6 per cent of municipalities had community radios and 2.3 had community TVs; 36.8 per cent had local newspapers; 34.3 per cent had FM radio stations and 21.2 per cent AM stations; and 7.7 per cent of municipalities had magazines published locally (IBGE 2006).

*Media landscape*

There are currently 482 TV broadcasters licensed in Brazil and 3,766 commercial radios. In 2006 there were 3,076 newspapers being published in the country (ANJ, ABRE, ADJORI/SC, ADJORI/RS, ADI/Brasil and Mídia Dados). The five major TV broadcasters in Brazil – Globo, SBT, Bandeirantes, RedeTV and Record – held 84.4 per cent of the national TV audience that same year; Globo, the main broadcaster, had 51.9 per cent of the audience and reached 98.6 per cent of Brazilian cities and 99.7 per cent of Brazilian homes.

Another important and unsettling characteristic of the media in Brazil is the significant number of radio and TV stations under the control of politicians. Data disclosed in 2008 by the Institute for Research and Study of Communication (Epcom) revealed that 271 politicians are currently shareholders or directors in 348 TV and radio stations (Marini 2008). Of this total, 54.24 per cent are mayors; 17.71 per cent are members of Congress – Lower House; 7.38 per cent are members of Congress – Senate; 20.3 per cent are members of state legislative houses; and one is a state governor. Researchers clarify that these are only the numbers of those with direct formal participation in broadcasting. Many others control media outlets through relatives and other fronts in order to conceal their ownership and violate anti-monopoly legal provisions.

*Party media*

Research published in 2007 by Observatorio da Imprensa and the Institute for Development of Journalism (ProJor), reveals that the participation of politicians in the media is now spreading to a new sector: community radios. Despite the existence of 18,000 community radios operating without licences in Brazil, 10,000 undecided licensing procedures closed down by the relevant authorities and another 4,000 procedures pending before the Ministry for Communications, 70 per cent of all broadcasting licenses issued after 1998 were granted to community broadcasting and links between politicians and legalised community radios was found in 50.2 per cent of the 2,205 radio stations researched (Lima/Lopes 2007: 5).

*Internet media* Access to the internet expands continuously in Brazil. Between 1999 and 2006, the number of municipalities with local internet providers increased by 178 per cent (IBGE 2007). Its reach, however, is still limited and in the first semester of 2008 only approximately 34 million Brazilians could access the net from their homes (IBOPE 2008).

The internet provides access to a multiplicity of sources of information, including an extensive number of independent newspapers and news blogs. However, access to the internet, especially broadband, is still expensive in Brazil; info centres have been expanding in small towns and poor neighbourhoods, including with support and subsidies by the state, but it is fair to say that internet access is still today something that disproportionately benefits higher income individuals. Data provided in 2003 by the National Agency for Telecommunications (ANATEL), pointed out that by then 8 per cent of the Brazilian population had access to the internet, of which 42 per cent were among the 5 per cent richest. The poorest 76 per cent of the population made up only 9.3 per cent of the internet users.

*General media access* In a country like Brazil, with significant mass media penetration but marked by low literacy rates, incipient political awareness and low public participation, the influence of communication outlets on political opinion is highly significant. Another element that contributes to such influence is media concentration, especially ownership concentration in the hands of political elites.

*Media consumption* According to a Brazilian media survey group, 98 per cent of women and 97 per cent of men in Brazil watch TV at least once a week; and 88 per cent of men and 86 per cent of women listen to the radio at least once a week. When responding to the survey, 52 per cent of men and 44 per cent of women said they had read the newspapers in the previous seven days. The same study attested that among children and adolescents between 10 and 19 years old, TV audience corresponds to 99 per cent. Though considerably lower than the rates for radio and TV, average daily newspaper circulation in 2007 was higher than 8 million, representing a growth of 11.8 per cent over 2006 (ANJ 2008).

*Media influence on political opinion* Access to diverse sources of information can reduce the media's political influence. Consumers in urban centres tend to have access to a larger array of media products, but in rural areas, limited options are the rule. Social background may also be a factor in minimising media influence over political opinion, especially due to easier access to formal education, literature, internet content and foreign media.

*State-owned media* According to relevant legislation, the domestic broadcasting environment should be composed of a private, a state and a public broadcasting system. In practice, however, there is a substantial dominance of private media and state-owned media hold almost no shares of public opinion. This may be in part a result of the fact that a public broadcasting system was never fully implemented in the country. In 2008 TV Brasil was launched by the federal government. It was intended as the seed for the creation of the public system in the country. According to many experts, however, TV Brasil did not observe the necessary minimum standards of independence and autonomy to be considered a truly public TV station.

Community broadcasting, though created by a later law, is not listed as an essential part of the national broadcasting environment. Community radios could greatly contribute to pluralism and diversity in the media, but have been suffering serious challenges in setting up and surviving due to repression against unlicensed outlets and restrictions on reach, use of technology and funding imposed by law. Licensing procedures for community radios are unjustifiably time-consuming and over bureaucratic, causing radios to wait for up to 10 years for a final registration.

*State-owned media and published opinion* The tripartite broadcasting system adopted by Brazil is a cause of concern. The law provides for the existence of not only a public system, but also a state system, and fails to clearly define the differences between the two. As interpreted by Brazilian communication experts, the state system is formed by radio and TV stations directly maintained and managed by branches of the municipal,

state and federal governments, with no express demand for independence and autonomy, clearly allowing these media outlets to work as a propaganda mechanisms for these state bodies.

In 2006 the federal government reorganised its Secretariat for Social Communication, now in charge of supervising all communication activities carried out by the presidency, its ministries and all public companies under the federal executive. It acts as both a news and a communication agency, disseminating information on public interest topics and on government policies, following an annual work plan. Most state and municipal governments also have some kind of press or communication department with similar functions. In general, however, the calling of press conferences is not a common practice.

*Government press conferences*

Journalists are allowed in public meetings organised by the government or by the Congress and such meetings can be freely broadcast, unless the hearing was previously considered confidential according to legal provision, in which case public access in general, and not only media access, may be limited.

## 2. LEGAL ENVIRONMENT

Freedom of opinion, thought and expression, as well as freedom of information – including state-held information – is protected under Article 5 of the 1988 constitution as fundamental rights. Article 5 is considered a *clausula petrea* in the constitution, meaning that it cannot be modified unless a new constitution is passed.

*Freedom of expression*

The constitution also dedicates another chapter to social communication –Articles 220 to 224 – in which freedom of the press is secured, with the express prohibition of censorship. Article 223 sets forth the competency of the executive to authorise the provision of communication services under a system of public concessions for broadcasting licences. Licences are processed by the Ministry for Communications and submitted to Congress for final approval. Article 220, 6 expressly exempts print media from needing government licensing to operate.

*Free media coverage*

The operation of media outlets, especially of broadcasters, is also regulated by a considerable number of laws, some dating prior to 1988. The two main pieces of legislation regulating media coverage are the Press Law and the Telecommunications Code. Regulations in the area have continuously been partially modified and replaced by subsequent legislation, giving rise to a complex and confused legal framework that creates considerable legal uncertainty and certainly provides opportunities for abuse.

The Telecommunications Code (Law 4.117) is technologically outdated, dating from 1962, a time when satellite TV, mobile phones and broadband internet were but a vision. The code was originally intended to unify and centralise all legal provisions applicable to a broad spectrum of communication services. The main modification introduced to the code dates from 1997, with the adoption of the General Law on Telecommunications (Law 9.472), following a 1995 constitutional amendment that put an end to state monopoly in the area. After this date, only the articles on broadcasting in the 1962 Telecommunications Code remained in force. A series of 1997 regulations covered cable TV services; a 1998 law regulated community broadcasting; and in 2003 new rules on digital TV were adopted.

*Regulation of media coverage*

The Press Law (Law 5.250) dates from 1967, a period when an authoritarian regime was in place, and contains a number of restrictive provisions that, although not applied by courts in the last decade, do represent a serious risk to freedom of expression. Such provisions include those which authorise the imposition of censorship on public entertainment events, such as shows and performances; those forbidding the involvement of foreigners in media outlets; those imposing higher sanctions for calumny, defamation and slander when the crime has been committed by or through the press; those allowing the apprehension of printed material inciting social and political subversion and the closing down media outlets irrespective of judicial decision; those preventing that the truth be found in defamation cases against certain authorities, including the president of the republic.

*Changes in the past five years* In early 2008, 22 articles of the Press Law were suspended by a decision of the Supreme Court under a lawsuit questioning their constitutionality. A final decision by the court is expected later this year. The only worrisome articles of the Press Law that were still being applied by courts were the ones on defamation. Despite their suspension, however, defamation is also considered a crime under the Criminal Code and electoral legislation. Penalties vary from one month to two years imprisonment and a fine<sup>1</sup>. Civil provisions also allow for the filing of indemnification lawsuits for moral damages caused by defamatory speech. A study presented by the organisation ARTICLE 19 to the Inter-American Commission for Human Rights (ICHR/OAS) in 2008 provides an overview of the state of defamation against the media and human rights defenders in Brazil (ARTICLE 19 2008). Civil lawsuits are much more frequent than criminal ones, but a number of criminal sentences were documented, including the case of a retired professor sentenced to four months in prison for criticising the degrading conditions of the local penitentiary in a small newspaper with a circulation of 200 copies. Criminal legislation in the last decade has shifted to prioritise alternative penalties over imprisonment, so if a prison sentence is low and the plaintiff has no criminal records, the sentence is compulsorily converted into service in the community or a fine. Although probably converted into community service, a defamation conviction is a criminal sentence and has a serious impact on the life and records of the accused.

*Legal censorship* Although censorship is expressly prohibited under the Brazilian constitution, many freedom of information advocates argue that the judiciary sometimes concur in prior censorship when deciding on cases taken to its review. This is especially frequent in civil defamation cases where preliminary and provisory injunctions forbid, in exceedingly generalist terms and prior to publication, the disclosure of information on specific topics or people (see illustrational cases in the above mentioned ARTICLE 19 report to ICHR/OAS 2008).

Legal provisions do not expressly restrict media coverage of any people, group or institution, with the exception of children and adolescents, who are protected under specific legislation from undue exposure.

*Media licenses* Until 1988 the granting of broadcasting licences was a prerogative of the president of the republic, who used it as a currency for political bargaining (Azevedo 2006). A 1990 study mentioned by Lima (Lima 2001: 108) indicates that 50 per cent of radio stations in Bahia were in the hands of politicians, 44 per cent in Pernambuco, 33 per cent in Minas Gerais and 20 per cent in Sao Paulo. At the national level, politicians held 31.12 per cent of the 302 TV stations in Brazil and 40.19 per cent of the radio stations.

Azevedo and Lima state that the use of broadcasting concessions for political bargaining continued even following the 1988 constitution, and family group oligopolies were to a certain extent reinforced by a wave of mergers and acquisitions that took place between 1994 and 2001.

*Journalists' legal status* Access to employment in media outlets is also formally open to all. In practice, however, it is possible to say that certain groups have been under-represented. A 2001 study carried out by the magazine Imprensa researched the profile of media workers in 230 outlets and only 85 of them were of Afro-descent (in a country where 49.5 per cent of the population is of Afro-descent, according to IBGE 2007). In 2003, of the 120 unionised media workers in the state of Acre, northern Brazil, only five were of Afro-descent. According to the coordinator of the Journalists' Commission for Racial Equality (COJIRA), Sandra Martins, 'journalism is one of the professions with the lowest participation of Afro-descendants in Brazil'.

According to Decree-Law 972 of 1969, the practice of journalism requires registration with the Ministry of Labour and a graduate diploma in journalism or social communications. Such requirements, however, are currently suspended because the constitutionality of Decree-Law 972 is under review by the Supreme Court. Plaintiffs in the constitutionality suit argue that the requirement for a specific graduate diploma violates freedom of expression according to the text of the 1988 constitution.



Whenever they face problems with lack of access to information or any other kind of restriction from the authorities, journalists and media outlets are free to take the case to the judiciary, which is able to take compulsory measures against illegalities committed by civil servants and public officials. Although sometimes accused of bias, it is fair to say that the judiciary, as a rule, responds to such complaints.

Monopolies and oligopolies in the media are expressly forbidden by Article 220, 5 of the Constitution. Decree 52.795 of 1963 and Decree 236 of 1967 limit the total number of broadcasting licences a legal entity or individual can be granted, as well as the number of same-type licences within a certain geographical area. Limitations are also imposed on multiple shareholder participation in broadcasting companies and authorisation is required for the transfer of broadcasting licences, which are only allowed after a certain time frame. Despite these provisions, effective measures aimed at avoiding monopolies and oligopolies are only starting to be applied. Relevant legislation is poorly enforced and a considerable number of undeclared business transactions conceal the actual owners of the media in Brazil and the extent of their assets.

*Monopolies  
and cartels*

According to Venicio Lima, the Brazilian media environment in Brazil is marked by family monopolies, cross ownership of media outlets and politicians' control of a considerable number of radios and TVs (Lima 2001). According to Lima, in 2001, eight family groups controlled broadcasting in Brazil, as shown in the following table:

<b>BROADCASTING GROUPS IN BRAZIL</b>		
<b>national groups</b>	<b>TV</b>	<b>Radio</b>
<b>Marinho (Globo)</b>	32	20
<b>Saad (Bandeirantes)</b>	12	21
<b>Abgravanel (SBT)</b>	10	--
<b>regional groups</b>	TV	Radio
<b>Sirotsky (RBS-Sul)</b>	20	20
<b>Camara (Centro-Oeste)</b>	08	13
<b>Daou (Norte)</b>	05	04
<b>Zahran (Mato-Grosso)</b>	04	02
<b>Jereissati (Nordeste)</b>	01	05
<b>Source: Lima, 2001, p. 106</b>		

Three other family groups had a strong presence in the press, magazine sector, printing, web portals and sites, and satellite TV: Civita (Abril), Mesquita (O Estado de Sao Paulo) and Frias (Folha de Sao Paulo group). According to Professor Lima, together these 15 families controlled 90 per cent of the Brazilian media (Lima 2001: 106).

'Cross-ownership' refers to the ownership of different types of media by the same group. Professor Lima gives as an example of cross ownership the case of the RBS: although only operating in the states of Rio Grande do Sul and Santa Catarina, in the South of Brazil, the RBS group is made up

of six newspapers, 24 FM and AM radio stations, 21 TV channels, an internet portal and a marketing agency; the group is also a partner in the cable TV company Net. In a 2006 publication, Lima refers to research carried out by Epcom that reveals that the Globo corporation is the largest owner of outlets in relation to all types of media; it owns 61.5 per cent of all UHF TV stations, 40.7 per cent of the newspapers, 31.7 per cent of VHF TVs, 30.1 per cent of AM radio stations and 28 per cent of FMs (Lima 2006).

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* Groups working on Afro-descendants' rights and women's rights have argued that these groups are not properly portrayed by the Brazilian media and that their interests are under-represented in media coverage. This situation could be considered a reflection of decades of discrimination faced by these groups within Brazilian society. Rights advocates affirm, however, that the media also have a central role in perpetuating distorted images of women and black people in Brazil's TV and radio programmes and printed articles.

Author and film producer Joel Zito de Araujo affirms in his *A Negacao do Brasil* (The Denial of Brazil) that the presence of Afro-descendants on Brazilian TV only started to increase at the end of the 1970s. Before that, very few Afro-Brazilian actors and actresses could be seen on TV and, when present, would always play roles such as slaves (in soap operas taking place in the 18th and 19th centuries) and 'malandros' (slightly immoral characters, always seeking to take advantage of any situation) or doing low-level jobs such as maids and drivers. Brazilians waited until the 20th century to see a middle class black family represented in a soap opera and an Afro-descendant host on the main TV news programme. In 2007, the Palmares Foundation (linked to the Ministry for Culture) presented the results of research that examined the content of TV programmes in the three major public educational broadcasters in the country for a period of seven days and reported that only 0.9 per cent of the programmes addressed Afro-Brazilian culture; less than 10 per cent of TV hosts were of Afro-descent and only 5.5 per cent of the journalists working in those TV stations were black.

Inadequate representation of Afro-descendants in the media and in content production may have a serious impact on the debate and coverage of political matters that are of particular interest to the black population, such as actions to refrain and punish racist practices, public policies designed to promote inclusion and fight poverty amongst Afro-descendants, as well as the evaluation of affirmative action programmes already under development in Brazil, such as quotas in public universities.

Women's groups have very similar complaints: though the presence of women in the media has increased considerably in the last decades, stereotypes are still predominant in the manner in which women and women's issues are portrayed. Experts consider that this situation may have a disturbing effect on media coverage on matters such as violence against women (Sanematsu 2005) and sexual and reproductive rights, especially on the debate around the decriminalisation of abortion (Citeli 2007).

Social movements have also repeatedly said that media coverage is exceptionally biased in relation to their activities and interests. Some movement leaders go even further and accuse the Brazilian mass media of conducting an underlying campaign to 'criminalise' their work and strategies. The landless movement, for example, says it is recurrently portrayed by the mass media as promoting illegal action and violence and no mention is made of its successes. According to the landless movement, this discourse aims at undermining their right to question a number of issues, including the current model for expanding agribusiness in Brazil (with large-scale production directed at exports) and its impact on poverty and sustainable development. According to these analyses, biased media coverage is used to silence opposition political views.

In a study published in 2007, the Centre for Security and Citizenship Studies interviewed 64 press journalists and 26 researchers, police officers and observers and reviewed 5,165 news articles and concluded that the coverage of favelas and periferias by the press is stigmatising: '[m]ost of the

professionals heard recognise that their media outlets have great responsibility in the depiction of popular territories as exclusive spaces for violence' (Ramos / Paiva 2007: 77). The number of news articles on drug trafficking, police raids, gun fights, land occupation and summary executions are especially frequent, while there is hardly any news on culture, sports, economy and the daily challenges faced by the inhabitants of these areas. Researchers stress that by giving disproportionate attention to conflicts and police activities in favelas and periferias, the press have a tendency to promote combat/warfare solutions for the problem of urban violence in Brazil; many pieces end up discussing (explicitly or implicitly) solutions to 'neutralise' the favelas, fomenting further social exclusion.

In strictly legal terms, it is not possible to say that sections of the population are deliberately excluded from their right to freedom of information. The only possible exception could be the treatment given by government to community radios. The extreme bureaucracy and hardship to which these radios have been subject is hard to explain or justify and could indicate deliberate intention to restrict the operation of community broadcasters.

The situation of community radios and the incipient public broadcasting system are elements that contribute to the lack of media diversity and the strong dominance of the commercial media in Brazil.

Politicians' influence over the media used to be strong at the state level. With this new trend, this influence now extends to the municipal level. Politicians' control over the media 'gives rise to a new type of power, which is no longer based on the use of coercion, but which creates political consensus. It is such consensus that facilitates (although does not guarantee) the election (and re-election) of representatives (...) and which allows the maintenance of the (...) system' (Lima / Lopes 2007: 3). Within this system, media self-censorship becomes a too common reality; such self-censorship may result from fear of intimidation or conflict of interests.

*Self-censorship*

#### **4. ECONOMIC PRESSURES**

The private media are subsidised by the state in two main ways: tax exemptions on newspapers and magazines, and advertisements. According to the constitution, taxes cannot be placed on newspapers, books and periodicals or on the paper used to print them.

*State subsidies*

During the first semester of 2007 the total invested by the federal government in adverts corresponded to 2.65 per cent of the total market (3.33 per cent for TV, 0.82 per cent for newspapers, 11.71 per cent for radio and 2.38 per cent for magazines) (SECOM 2007). Public companies (two state banks – Banco do Brasil and Caixa Economica Federal – and the Brazilian petrol company Petrobras) were responsible for 13 per cent of the total spent on adverts during the whole of 2007 (IBOPE Monitor 2008).

The influence of adverts on the subsidised media is not self-evident, at least in relation to the federal government. Influence at the state and local levels could be greater and easier to demonstrate, but there are no aggregated data available to support such a conclusion.

Legal provisions restricting commercial adverts in public/educational and community media may have a significant impact on their sustainability. Groups working on communication rights have been pressing for reforms to the relevant legislation.

*Further aspects*

#### **5. NON-STATE REPRESSION**

Fear of repression by non-state actors is especially present among investigative journalists. Some professionals suffer from threats and violence by non-state groups when covering issues such as drug trafficking and organised crime. Investigations of corruption, fraud schemes and other irregular behaviour by public authorities can also be particularly dangerous.

*Repression by non-state groups*

In addition to direct threats and violence, the coverage of these issues can take journalists to risky areas where gun fights, robbery and kidnapping may take place, so concerns over safety are a reality in Brazil when investigating any topic concerning criminality.

*Changes in the past five years* Discussions over criminality and the media were stimulated in 2002 by the brutal assassination of journalist Tim Lopes. Lopes was abducted by a group of drug dealers in Morro do Alemão, a compound of favelas in the North region of Rio, when investigating the sexual exploitation of teenagers at funk parties. He was captured using a hidden camera and after being tortured by the group, his body was ripped and burned.

In 2005 journalist Naja Haddad was injured by a 9mm machine gun shot when covering a gunfight in Morro Dona Marta, in Botafogo, in the South region of Rio.

Journalist Guilherme Portanova and the cameraman Alexandre Calado were captured by the criminal group Primeiro Comando da Capital (PCC) when having a cup of coffee across the street from the Globo TV studios in Brooklin, São Paulo. Calado was soon released with a tape in which PCC presented complaints and critiques about the implementation of a new type of confinement regime created for dangerous prisoners. PCC required Globo to broadcast the tape in return for the release of Portanova. Globo broadcast the full video that same day and an edited version the following night. After that, Portanova was freed and dumped unharmed in a neighbourhood in the South of São Paulo.

Also in 2006, reporter Maria Mazzei faced death threats after publishing a series of articles on a mafia operating within the Forensic Institute of the State of Rio de Janeiro.

The Centre for Security and Citizenship Studies understands that police officers involved in criminal activities form the most dangerous group. According to a journalist interviewed by the centre, '[t]hey are organised and have an institutional shore up. They openly tell us that they tap our telephones. We know they can hear what we say' and reporter Elenilce Bottari adds that '[a] drug dealer rarely leaves his community. A police officer, on the other hand, himself makes the calls to your house. That's the difference' (Ramos / Paiva 2007: 102)

According to media groups such as the Inter-American Press Society, violence against media workers by organised crime is a growing trend in urban Brazil. In rural areas, physical aggression and threats by groups linked to corrupt politicians and economic interests are more frequent. The actual extent of these instances of repression against the media is difficult to ascertain given the limited monitoring carried out, methodological discrepancies between media groups reporting on violations to freedom of the press and inadequate investigative methods.

During 2007 the assassination of Luiz Carlos Barbon Filho, the attempt against the life of radio host Joao Alckmin and the shooting of journalist Amaury Ribeiro were the main episodes in a series of reported cases of violence against media workers. These three examples refer to professionals attacked while carrying out investigations on organised crime, some of them with possible links to corrupt politicians. In the majority of cases, the identification of perpetrators is a challenge, and impunity frequently prevails.

## 6. CONCLUSIONS

*Freedom of the media: general situation* The main challenges to freedom of expression and the press in Brazil are the lack of pluralism and diversity in the media. Media influence on political opinion is very high. Media concentration, allied with significant political control over media outlets, may frame such influence and ensure, or at least greatly facilitate, the permanence of political groups in power. The mass media are regarded by many groups and social movements as biased and lacking pluralism. Freedom of the media is guaranteed under Brazilian law, but the legal framework in place is inadequate and calls for urgent revision and simplification. Law enforcement by administrative authorities is poor. Judicial rulings,

especially in the higher courts, tends to be progressive and ensure freedom of expression; however, worrisome decisions are too commonly seen in the lower courts, including some that could be considered as amounting to prior censorship. Repression is still a reality among media workers, though its exact characterisation and extent is unclear due to monitoring limitations.

Despite this general portrait, it is important to stress that Brazil presents many dissimilarities and complexities in its media context. Differences between the situation in rural and urban areas and amongst different states of the federation cannot be ignored. Separate more thorough analyses of the media situation in such different contexts could provide additional input to a thorough and long-term strategy to improve the situation of the media in Brazil, including by improving diversity and pluralism.

*Major obstacles to free media coverage*

The introduction of new technologies, with the significant changes they bring to the media context – especially the impact of media convergence (digitalisation) – could create a window of opportunity for the implementation of a more independent and democratic media in Brazil. In order to take advantage of this situation, however, the government of Brazil would have to assume a central role in promoting open debate on the uses and possibilities of new technologies, as well as ensuring a proper legal framework that could reconcile media convergence with the protection of human rights. The participation of civil society groups and social movements in this process could ensure that not only economic interests, but also public interest issues would be seriously taken into consideration when reviewing technological opportunities.

The National Conference on Communications – to which the federal government has already committed – could be used as a first forum to set up a meaningful dialogue among the executive, the parliament, civil society and the private sector for the construction of a legal and political framework for the media in Brazil that could be better suited and conducive to democracy.

*Paula Lúcia Martins*

- 1| *To be determined by the judge, between 10 to 360 day-wages; the value of the per day rate is fixed by the judge, but cannot be less than 1/30 of the current minimum wage and not more than five times the minimum wage.*

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# VENEZUELA<sup>1</sup>

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

The official data from the national census in 2001 put the rate of literacy at 93 per cent, with small differences between the genders. In the last few years the national government has pushed a massive literacy programme, using a method provided by the Cuban government. In 2005, the Ministry of Education declared Venezuela free from illiteracy, announcing that it had taught 1,482,000 people to read and write. According to official estimates the actual literacy rate reaches a 96.3 per cent for young males aged between 15 and 24 and 98.1 per cent for young women.

*Literacy and education*

There are five national television networks<sup>2</sup>; three controlled by the national government and two private networks. Their signals reach some 139 transmitter stations that cover the whole nation, excluding the corresponding stations of the new government channel VIVE. There are 63 regional television channels that operate VHF and UHF bands as well as 32 local or community television stations. More than 350 radio stations transmit on AM and FM bands and some 234 community radio stations operate on FM frequencies<sup>3</sup>. More than 100 daily newspapers exist and more than 10 weeklies, with regular and wide circulation, apart from several magazines and smaller print media.

*Media landscape*

The regional and local media are susceptible to a lot of meddling from the leadership around the mayors and governors, and also from businessmen who broaden their investment portfolio by buying into print media, television channels and radio stations. The political parties maintain relations with these media outlets and use some of them as instruments on the executive's behalf at local, regional and national government levels. This includes national opposition parties that are in power in very few states and municipalities. Many private radio stations maintain editorial lines friendly to the national government<sup>4</sup>; the print media (newspapers and/or magazines) that are constituted as independent companies are the exception and they allow the opposition parties and their leaders to present their ideas and positions on national public policies.

*Party media*

Independent media based upon internet platforms exist. In fact, estimates put the total number of Venezuelan websites at 126.500. The main sites that offer news coverage are two websites that provide information derived from other media and the contributions their own readers: Noticias24 and Noticierodigital. The third site is a national newspaper that offers all of its contents for free: El Universal.

*Internet media*

Consumption of and access to information over the internet correlates with times of greatest political and social intensity. In 2007, coinciding with the ending of transmissions by the private television channel RCTV<sup>5</sup>, the information websites saw an increase of more than 40 per cent in new visits, and this behavioural pattern is reproduced at other political events such as elections or at times of public commotion such as demonstrations. The internet is becoming the medium of choice for getting good information on the facts or events that are otherwise restricted in the openly accessible audiovisual media. According to official data, there are more than 1 million subscribers to internet services in Venezuela, which reach 5,719,693 users, signifying a penetration equivalent to 20.83 per cent of the total population (CONATEL 2008).

*General media access*

Television has the broadest penetration and with its openly available and free signal (excluding cable TV) reaches above 95 per cent of the total population. More than 90 per cent of all people watch television's open channels, more than 80 per cent read newspapers and more than 70 per cent listen the open radio. Official sources indicate that in 2007 television by subscription (cable TV) reached 5.89 per cent of the total population (Datanalysis 2006; CONATEL 2008).

*Media consumption* The political polarisation in Venezuela means that political information has a strong social dimension that goes beyond the mere political, a development that is linked to the high frequency of elections in the decade 1998–2008. Open-access television is the predominant medium despite the reduction in quantity of news and opinion programmes in its programming, especially in the private media. It is followed in importance and frequency of use by radio. Then come the print media and the internet.

It is pertinent to point out here the recurrent emergence of the use of new channels of interpersonal communication, especially the intensive use of text messaging on mobile phones. In 2007 it is estimated that some 34,619,225 text messages circulated among the 23,820,133 mobile phone users. The penetration of this medium reaches 86.76 per cent of the total population (CONATEL 2008). Even if it is very difficult to evaluate its relevance quantitatively, this is a powerful medium that has substantially influenced national political dialogue.

*Media influence on political opinion* In the case of Venezuela the media are the main vehicle for political debate and are very important in defining information agendas and in the formation of public opinion. While these agendas are determined by the media, the social construction of public opinion is a process that is also determined by other variables linked to personal experience, people's social and economic positions and the lifestyles. The state maintains a high level of investment in the media in order to guarantee the broadest diffusion of the government's work.

A relevant mode of censorship is the obligatory transmission of government messages by all radio and television channels. These 'presidential broadcasts' are thought to be instruments of the 'raison d'état', as prescribed in Article 192 of the Telecommunications Law and afterwards upheld by Article 10 of the Law on Social Responsibility in Radio and Television that makes reference to the 'modalities of state access to free and compulsory spaces' in the radio and television transmissions. These compulsory transmissions added up to a total of 1,513 presidential broadcasts between January 1999 and February 2007, the equivalent of 890 hours, 29 minutes and 44 seconds of transmission<sup>6</sup>. Most of the content of these presidential broadcasts does not comply with the restrictions established for these kinds of compulsory transmissions by the international systems of human rights protection. They allow these transmissions only in the face of proven facts that disrupt the public health, public morale, national security or public order.

The independent consumers of mass media in Venezuela increasingly want to find alternative views to the news they receive through the traditional media; their distrust of the information products they receive has also increased. The government's supporters and also its detractors remain loyal to 'their' media or use the contrast to accentuate their differences.

*State-owned media* There is a diversity of government media, and state expenditure on strengthening this media platform has increased significantly<sup>7</sup>. There are no laws that would regulate the government's participation in the management of the news coverage of these media. Their directors and editors are nominated by the president or by his ministers<sup>8</sup>.

The decisions of 2007 and the explicit declaration of Minister for Information and Communication Andrés Izarra to build a communications hegemony has led to a progressive reduction of private communication spaces. The media balance now oscillates between the parity between state and private media and the hegemony of government-controlled media (Weffer 2007). This is a consequence of a group of concurrent measures that include indirect measures restricting freedom of expression: such as the arbitrary assignation of state advertising to media with editorial lines close



to the government, the restriction of hard currency for buying paper and technical equipment for media critical towards the government, the discriminating application of fiscal and administrative sanctions and the judicial persecution of critical media and journalists.

The news coverage is notoriously skewed under any circumstances, as has been demonstrated by independent studies of elections. The final report of the Electoral Observer Mission of the European Union dedicated a chapter to the behaviour of the media in the electoral campaign and showed that 'VTV dedicated 86 per cent of its political information airtime (excluding advertisements) to the positions of the government-backed candidate and the tone of this information was predominantly positive (almost 80 per cent of the time), while the coalition Unidad and its candidate Rosales received only 14 per cent of the airtime in the same medium, with a predominantly negative tone (more than 70 per cent of the time)' (EU-EOM 2007).

The coverage of state media is clearly propaganda in favour of the government, with scarce differences between the different channels and programming in radio and television. Some print media or government communiqués are geared towards particular audiences that permit some criticism of public management. But this is always the exception and the criticism almost always parts from an affirmation of political loyalty towards the president or the project he is pushing. In certain media like the websites of some social movements criticism of various aspects of the public management can be observed, but the general tendency is one of being in favour of the responsibilities of the president.

*State-owned media and published opinion*

Press conferences are the exception and all the important information is reserved for the Sunday talk show of President Hugo Chávez Frías. The programme *Aló Presidente*, has seen 298 editions up to December 2007. The average duration of each programme is over 4 hours and 30 minutes. It is transmitted on all state radio and television channels and is re-transmitted by various private regional radio and television channels. Press conferences are held with higher frequency when presidents from other countries visit Venezuela or when they are exclusively for foreign correspondents. Frequently the media and journalists use the state channels to access information from the government. The opportunities to ask questions or to directly criticise the data offered tend to be minimal.

*Government press conferences*

## 2. LEGAL ENVIRONMENT

Freedom of expression, freedom of opinion and the right to information are enshrined in the constitution, in Articles 57 and 58 of the Constitution of the Bolivarian Republic of Venezuela of 1999<sup>9</sup>, in the chapter dedicated to civil rights. Since that date no amendments have been passed that would affect this constitutional guarantee.

*Freedom of expression*

The constitutional guarantee of freedom of information includes the adjective 'truthful' as a qualification of the freedom of expression. In the ambit of the Inter-American System of Human Rights (IASHR), this is considered incompatible with what is established by the American Convention of Human Rights, also called the Pact of San José.

*Free media coverage*

On 9 December 2004 the National Assembly by a simple majority (83 of 165 votes) approved a legal project to partially reform the Venezuelan penal code. It came into force on 16 March 2005. According to this reform, every opinion, dissent or demonstration against any public official, made in public or in private, can be considered an offence, liable to 6–30 months of prison. These penalised offences include offending the President of the Republic (Article 147), the vice president, the Supreme Court justices, the members of the 'Public Powers' (Poderes Públicos), ministers, MPs or the Military High Command (Article 148), with a prison sentence of 6–30 months attached. Also, instigation to contravene this law (Article 283), to disobey it (Article 285) is punishable by prison sentences of three to six years. In the same vein, causing panic through the use of any media (Article 296-A) is punishable by two to five years of prison. Blocking public traffic routes (Article 357) is punishable by four to eight years of prison.

*Regulation of media coverage*

Censorship is applied only in cases linked to legal proceedings, supposedly to protect the due process, and in cases of child and juvenile protection. There are also certain articles in the Law on Social Responsibility in Radio and Television that can trigger censorship of information prior to publication. The National Assembly approved this law on 7 December 2004 with the votes of the government majority. The text was promulgated by the national executive on the same day and was published in the Official Gazette No. 38.081 of the same date. This law develops mechanisms for the control of radio and television, parting from a generic definition of the relevant contents and very harsh potential sanctions that have to be applied by the state administrative organs which are controlled by the government. These instances are grouped together in the National Commission of Telecommunication (CONATEL), especially in its Department of Social Responsibility in Radio and Television.

The Law on Social Responsibility in Radio and Television<sup>10</sup> establishes the responsibilities of owners, editors and journalists for the contents transmitted by their media, even if it comes from third parties (op-eds, information, advertisement, publicity, etc.). The responsibility for voicing opinions or emitting information is thus transferred to the transmitters of the message, thereby establishing an obligation to check and censor the contributions of third parties in order to prevent eventual sanctions against them. Similarly, the government could, by initiating a sanctioning process, ban the distribution of programmes that presumably touch on some of the matters prohibited by law. As long as this injunction is active, the programme remains banned, something that clearly translates to self-censorship.

*Changes in the past five years* The modifications of the legal framework associated with the change of the penal code and the Law on Social Responsibility in Radio and Television all led to more restrictions in the information coverage of the media, especially in the radio and television stations. There has been a strong aggravation in matters of information coverage. These aggravations correspond to a change intrinsic to the Venezuelan context and so no substantial variations in media freedom can be observed that derived from the international impact of events like the terrorist acts of September 11.

The period from 2003 to 2007 has seen a progressive restriction of the freedom of expression, especially through illegal indirect constraints. The radioelectric media are the ones affected the most. Since the approval of the Law on Social Responsibility in Radio and Television, the four main television channels reduced their programming dedicated to news, information and opinion by 50 per cent (Palma 2008). Many independent studies have also shown an increase of self-censorship among information professionals that translates into mechanisms of intimidation and reduction of the spaces of freedom of journalists as well as everybody else (IPYS 2007; Correa/Calderón 2007).

The continuing effect of these restrictions signifies a strong aggravation of the freedom of the media which are now subject to more indirect controls that also include the discriminating application of measures of fiscal and administrative supervision.

*Legal censorship* The judicial censorship has been applied in many instances, especially in the case of the assassination of a judge of the Public Ministry that had important political repercussions<sup>11</sup>. This case demonstrated that the censorship was oriented towards preventing public scrutiny of the corruption of a judicial process that to this day remains unresolved.

Not complying with the mechanisms of previous censorship as prescribed in the Law on Social Responsibility in Radio and Television bears sanctions that reach from minor censorship to the (forced) dedication of editorial space to cultural programs until the concession for operating the assigned frequencies is revoked. This law does not prescribe any penal sanctions. In the cases of judicial censorship, the responsible journalists are prone to jail sentences.

*Media licences* The audiovisual media, radio and television, require a permit of operation that is given by an organ of the national executive. There is no transparent policy of administration of the radioelectric spectrum. Historically, the frequencies have been assigned arbitrarily by the national executive. The reasons to deny a licence are not explained to the postulants. For the government to rescind a frequency the operators will have to have committed a crime of certain gravity.

At the moment, the organ responsible for administering the radioelectric spectrum, CONATEL, maintains an inexplicable delay when it comes to the renovation of old licences that affects more than 80 AM radio stations. Equally, it does not respond to solicitations and permits regarding radio and television operations. CONATEL responds to those solicitations of media with editorial lines to the liking of the present government and deny or not respond to those of the media critical towards the government.<sup>12</sup>

The permit of operation of the frequency that was used by RCTV was the government pretext for excluding a medium with high rates of audience and coverage that maintained a position critical towards the public management. Taking its transmission of the open-access and public signal was a discriminating measure with negative repercussion on due process and on the public scrutiny of the work of the national executive. It is a measure that has an inhibiting effect for other independent media when it comes to realise or permit criticisms of the national or regional executives.

During a military parade on December 28, 2006 the President of the Republic Hugo Chávez Frías announced that he definitely would not renovate the frequency licence to the channel RCTV, which was accompanied by the suspension of RCTV's transmission on the open-access and free signal. Before, the ministerial spokespersons had in different ways criticised, intimidated and threatened RCTV on state-controlled audiovisual media. In one program even<sup>13</sup> a public official counted the months until the revocation of the licence, at a date when the corresponding administrative proceedings had not even been officially announced.

The print media (magazines, weekly and daily newspapers) and websites do not need additional licences different from those any other company would need for its establishment. On July 27, 2004, however, the constitutional chamber of the Venezuelan Supreme Court of Justice (TSJ) validated the compulsory membership of all journalists in their professional association (colegiación) if they want to exercise their profession. The decision declares void the constitutional complaint brought forward in 1995 against several articles of the Law on the Exercise of Journalism of 1994<sup>14</sup>. Venezuela is one of the few countries in Latin America that legally force the association of its journalists. This colegiación implies that the journalists now have to consent to enrolment in a professional school, which includes 5 years of university courses. This precondition in recent years had almost never been enforced to prevent anyone from expressing his or her opinion or from working as a journalist.

*Journalists' legal status*

There is no law that expressly establishes the right of journalists to participate in public sessions of the government and parliament. At the moment, the public sessions of the national executive are transmitted obligatorily through simultaneous broadcasts in the radio and television, both public and private. This is the access that is often permitted to journalists and the media. On many occasions access is granted only to government media and journalists or to media with editorial lines that enjoy the approval of the national executive. The National Assembly owns a television channel of its own (ANTV) that transmits all the public sessions. Access to those public sessions is also granted to the media and their journalists. There have been incidents where some parliamentary commissions have arbitrarily applied restrictions on the access of journalists and the media.

Legal actions are very limited because of the structural impunity within the judicial system in Venezuela. This situation has been long in the making and has aggravated in the period from 1998 to 2007. The impunity contributes to the fact that these attacks persist and prevents the victims from taking recourse to the judicial instances. Over this period there have been no judicial sentences contrary to the lines of argument and positions of the national government. This trend has worsened after a reform of the judicial system that increased the number of magistrates in the Supreme Court in order to constitute a new majority on the bench friendly towards the national government.

The legal regulations concerning monopolies and the promotion of competition are also applied to media companies<sup>15</sup>. They are not applied to print media. There has been a conflict between television channels of national reach due to abusive practices in the process of merchandising advertisements. The laws that regulate the assignation and ownership of radio and television frequencies to

*Monopolies and cartels*

the stations, however, establish a ceiling for the concentration of ownership in one single operator<sup>16</sup>. There are no regulations concerning the horizontal integration of the audiovisual, internet or print media. Especially in the regional ambit, the media articulate partisan political proposals, since they are susceptible to the influence of the local and regional governments. Among the opposition or critical media of national reach one can notice a conviction that there is a necessity to defend the democratic values and on the other hand, the government-controlled public media react very clearly to propaganda strategies. The state does not act against private monopolies because of the fragmentation of ownership in the different private media.

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* Generally speaking, all sectors of society have some degree of representation in the mass media. Exclusion from media coverage has mostly to do with the political variable given the high degree of polarisation of Venezuelan society and the government's intention of augmenting it instead of contributing to its moderation and reduction.

The present context of the Venezuelan situation of freedom of expression is centred on the indirect restrictions designed to strengthen the suppression of messages that contravene the opinion of the national government. The sectors of society that have seen their representation in the spectrum of radio and television reduced are those closely linked to the opposition. At the moment there is no television channel of open and free access and national coverage that sustains positions openly critical of the government.

Since 2002 the number of community radio and television stations (of only local signal coverage) has increased. They are located primarily in suburban areas which especially permits the expression of opinions of sectors politically close to the government. The sectors associated with the political opposition have only scarce possibilities of participation in the majority of these media and the expression of their opinions is channelled through audiovisual media of regional character (Globovisión and others). Despite all of this, we cannot talk of a total exclusion of these political opinions opposed to the national government, given that options do exist to make these kinds of information and perspectives known to the public.

The topics that most suffer inhibition or exclusion are those associated with corruption in the police and military, as well as those with the quality of management local mayors and governors. The government media strongly exclude or restrict certain topics and issues. In those media numerous violent murders that happen in the country's main cities go uncovered, and this despite the fact that according to every opinion poll public security is the single main concern of Venezuelans. Likewise, the government media do not assign space for the expression of opinions of sectors close to public management that are critical of government policies. There have been occasions when demonstrators or detractors take their criticism to independent or critical media and express their anger because the government media did not attend their grievances or claims and turned down their publication or transmission.

The denied access to official sources is one of the main problems for the exercise of the journalist profession and is a recurring violation of the freedom of expression. The ruling norm in the Venezuelan public sphere is the secret or the lack of answer to petitions formulated by professionals and interested parties and the exception is their public diffusion. This directly touches upon the possibilities of a truly democratic deliberation of topics of public interest and reduces the media scrutiny of public management.

*Self-censorship* The topic of self-censorship is present not only in the communicators but also throughout the whole media industry. I think that this is a process that has been growing little by little in the face of the intimidation by measures and policies adopted by the government and by the presence of a 'legal corset' that limits and 'regulates' the full exercise of the freedom of communication. Just as what has been called the 'judicialisation of censorship' has become evident, this itself has made the practice of self-censorship visible. Self-censorship is also evident when the internal revenue service visits.

The topics most prone to self-censorship are those that pose risks for the personal integrity of individuals. The topics that touch upon corruption in the police and military, drug trafficking and the topics dealing with the companies that advertise in the medium proper are those with the highest recurrence. Self-censorship is stronger in the local and regional media which are more vulnerable to pressures from the government and powerful economic sectors. It is also stronger in radioelectric media (TV and radio) because of the enormous regulatory pressure and is present only in smaller measure in the print media.

The media are susceptible to state repression when they maintain editorial lines that go contrary to the political ideas of the national government. The critical media are subject to diverse pressures: extreme supervision by the state fiscal and tributary organs, import restrictions for goods, equipment and maintenance<sup>17</sup>, judicial processes that lead to prison sentences or administrative sanctions against the media and even the forced abandonment of the plot they have been occupying for the past 20 years<sup>18</sup>. These restrictions occur more often with regard to the critical media and according to the cycles of national political confrontation: national or regional elections, referenda and the approval of controversial laws. These acts occur often and have important repercussions for the climate and the context of the freedom of expression. *State repression*

Some of the internet media have fallen victim to public denigration and threats on the side of public officials on government channels. In one case<sup>19</sup> the state forced the resignation of a director and the DNS of two websites based abroad but close to the opposition has been blocked<sup>20</sup>. It is known that some private advertisers were pressured to cancel their advertisements from these websites. *Obstacles to internet access*

In 2007 Compañía Anónima Nacional de Teléfonos de Venezuela (CANTV), the national telephone company, was renationalised. This means that now the state not only again has the control over the telephony but also over the world of telecommunications and the electronic communications and information technology as well (CANTV operates 70 per cent of the national and 42 per cent of the international phone calls). Today, after this process of renationalisation the government enjoys a concentrated influence in the telecommunications that includes the relevant regulatory state organ like the Ministry of the Power of the People for Telecommunications and Information Technology, to which belong the National Commission for Telecommunications (CONATEL), the Postal Telegraphic Institute of Venezuela (IPOSTEL), the National Centre of Information Technology (CNTI) and the Network of Transmissions of Venezuela (REDTV). This means that there is only one single actor dominating the transport of voice, data and video – one that apart from being the regulator now is also an operator. Some government officials have pointed towards the possibility of limiting the access to the network, something that would amount to a new and sophisticated process of restriction of the public and private life. So, recently the idea was expressed that 'The new technical boards of telecommunications, will have in their hands the decision over the restrictions that will be imposed on the contents of the internet, in accordance with the necessities of each community' (Andara Rodríguez 2007). *Changes in the past five years*

Since 2004, state repression is the predominant factor in attacks against the media, and has overtaken the aggressions perpetrated by non-state actors. Here one can observe a strong aggravation of the situation of the freedom of the media and this has seen a climax in the forced closure or non-renovation of the licence of RCTV. The reasons can be attributed to the new push of a political project that calls for the construction of a hegemonic communication model that has become government and public policy. This argument was brought forward by Andrés Izarra, the former director of the TV channel Telesur and now Minister of the Power of the People for Telecommunications and Information Technology: 'Our socialism needs a communicational hegemony, all communications, understood as a public good, have to depend on the state' and 'All communications have to depend on the state as a public good'<sup>21</sup>. Since April 2002 the media landscape of the country and the policies that have been implemented with regard to this sphere are oriented towards the reorganisation of the communicational (media) structure and towards acquiring a supremacy (hegemony in the traditional sense, i.e. dominance of one political community over others) over all sectors of society.

Espacio Público, an NGO, states that from January 2002 until December 2007, there have been a total of 1125 substantive violations of the freedom of expression. The highest number was registered in 2004 (referendum on the president's staying in office), followed by the years 2003 and 2007. The trend towards judicial restrictions has been intensifying in the period from 2004 to 2006 and the same occurs with the administrative restrictions. On the other hand, the victims amount to a total of 776 (January 2002 until December 2007). These are on average 10,78 victims per month. It is important to stress that the majority of perpetrators are public officials, but also included are the cases where individuals attack or denigrate the media. More than 80 per cent of the victims hail from media critical towards the government, independent or opposition media<sup>22</sup>.

#### 4. ECONOMIC PRESSURES

*State subsidies* State advertising money is dispensed according to arbitrary criteria and with clear discrimination in favour of the media that follow editorial lines friendly towards the national government. This advertising money is assigned discretionally and its impact can only be understood by making use of those studies that use indirect means of observation (Pasuali 2007). The state investment in advertising represents the highest share of the national advertising market and the media which receive or are favoured by important volumes of this advertising revenue maintain an editorial line very friendly towards the government.

Today the government disposes of the following radioelectric media: six television channels: Venezolana de Televisión (VTV), Vive TV, Asamblea Nacional TV (under the auspices of the legislative power), Avila TV (owned by the mayoralty of Metropolitan Caracas), Telesur which is a channel of continental reach tuned into by cable or satellite and due to lifting of the concession of Radio Caracas Televisión (RCTV) on 14 May 2007, by presidential decree 38.682, Fundación Televisora Venezolana Social is born. This new television company begins its transmissions on the night of 27 May 2007. It breaks into the radioelectric spectrum under the label of 'public service television' and introduces TVES (Televisora Venezolana Social) which makes its transmissions using the network RCTV had already installed. TVES is a television station born by an initiative of the national executive with an initial investment of 4 million USD and under the auspices of the Ministry of the Power of the People for Telecommunications and Information Technology.

In the radio sector the government operates Radio Nacional de Venezuela (RNV) that possesses three transmitters: one in AM, another in FM and the third one in the international band as well as a group of a total of four transmitters that form the circuit YVKE Mundial. The national news agency, called the Agencia Bolivariana de Noticias (ABN), that is also owned by the state, not only has correspondents throughout the whole national territory, but also has been extended internationally through agreements with news agencies like the Cuban Prensa Latina and the Spanish EFE.

This media scenario is completed by the Red Digital ('Digital Network') of the Ministry of Communication and Information (MCI) that includes a whole ensemble of websites of the different organs of the state apparatus, like that of the MCI itself, Vive TV, VTV, Telesur, RNV and what are called the groups that make up the independent producers of radio and television. On the international level, the government counts with the network Ven-Global News which offers national news abroad.

#### 5. NON-STATE REPRESSION

*Repression by non-state groups* The freedom of the media is threatened by non-state actors. In the years 2002, 2003 and 2004, the aggressions and attacks by non-state actors constituted the main act affecting the freedom of expression, in the years 2005, 2006 and 2007 the restrictions derive from acts for which state actors are responsible. The most frequent forms of repression occur during the moments where journalists and field teams do their transmissions live. The most frequent forms of aggression are the beatings of journalists, threats, the destruction of equipment and attacks on the vehicles and headquarters of the media. Most of the perpetrators identify themselves as being partisans of the president or

followers of his political party. In the time period between 2003 and 2007, these types of acts happen at a measure of 3.75 cases per month. This indicates the high frequency of their use as a means to intimidate journalists.

Impunity is a constant in this type of situations, there are no sanctions for the violators and this has repercussions on the recurrence of the violations. This can also be evidenced before the international instances of human rights protection. Venezuela is the country with the highest number of provisional measures related to the freedom of expression imposed by the Inter-American Court of Human Rights (IACHR) in all its history. Of a total of six imposed measures, four refer to Venezuela; one refers to Peru and another one to Costa Rica<sup>23</sup>. All of these are related to acts of aggression carried out by non-state actors.

Generally speaking, there is governmental complacency regarding these matters, which means that these acts are often abetted and justified. There are no guidelines or public policies to guarantee journalist and media protection and this fact further foments its recurrence. Over the past five years the aggressions and attacks against journalists have constituted more than 20 per cent of the violations occurred on the national level and despite a reduction in numbers this still points to the gravity of the situation this freedom is in Venezuela. These changes are due to the differences in the intensity of the national political confrontation over the years and also to changes in the patterns of perpetration that oscillate between explicit violence and more subtle strategies of judicial or institutionalised restrictions.

## 6. CONCLUSIONS

In Venezuela the freedom of expression exists, albeit under permanent threat and with important restrictions that affect relevant dimensions of the substance of that civil right. The range of violations shows a wide circle of patrons involved with the illegitimate restrictions of the freedom of expression, with a trend towards certain groups of patrons during some periods of time but with different perpetrators over the whole of the researched period.

*Freedom of the media: general situation*

A first characteristic of the government discourse with regard to the independent or critical media is one of denigration, including of a personal and moral kind. This situation ultimately leads to the aggressions or attacks against the media and individual journalists, although present trends indicate that these types of violations are substituted by others of a more institutionalised nature (lawsuits, administrative restrictions, laws and regulations). Yet one can observe that the recurrent denigration on the part of public servants has not changed in and continue to coexist with restrictions or violent incidents, while the restrictions through legal norms, judicial and administrative challenges have increased in the time period between 2005 and 2006.

The aggressions and attacks against journalists are mostly perpetrated by acts from third party individuals. The majority of those violations are occasioned by sympathisers of the national government, although there are also violations of the integrity of journalists and media close to the government by individuals of the opposition. Generally, there is a lack of investigation that would lead to the punishment of the perpetrators and as such the pattern of impunity is perpetuated. This implies that by state omission the professional risk of journalists is increased, as are their disposition to self-censorship and intimidation.

The behaviour of journalists and the media then assume a role that is as important as the context of professional risk. That context is translated into important changes in the news coverage that, on the one hand, are reflected in a transition of the editorial lines which migrate towards the interests of the national government in exchange for advertising and other benefits. On the other hand, the permanent chastisement of the independent media by the government translates into an exacerbation of the public debate that entails a loss of the right tone in the independent media. Many threats seek to provoke a certain conduct that can then be censured politically or can then justify restrictions of media freedom.

*Changes in the past five years*

The situation of media freedom tends towards strong aggravation. This is reflected in the enormous conditioning that can be observed especially in radio and TV. The national print media and some regional newspapers still have economic structures that permit them to be independent of the government pressures. The regional and local media are the most susceptible to being influenced or controlled by the national government.

*Major obstacles to free media coverage* For the journalists the most important pressure that negatively affects the freedom of expression are the advertisers (this tendency is most often found in provincial media outside the big cities) and the owners or editors of the media. Also, they indicate that the access to public information is the other element that affects their own professional performance.

In my view, the main problems are the public chastisement and denigration of the media and their journalists by high public officials; the aggressions and attacks; the limited access to public sources; the judicial processes with prison sentences against journalist; the indirect restrictions (administrative measures, advertisements) and the initiation of a process of concentration of government media.

The appraisal by the public of the risk that those who work in journalism take is high and growing, apart from being intimately connected to the reactions of the Venezuelan state. However, this risk is taken by the same journalists fully knowing that their work can be the object of censorship and lawsuits.

Effective support for journalists has to be oriented towards deepening the understanding of the reach of this human right that will make it possible to confront these restrictions and strengthen the professional capabilities to thrive in this kind of environment. On the other hand, outside support is needed to enhance the capacity of society to document these matters and contribute to stronger public awareness as well as to inform about the possibilities of getting justice and redress within the national judicial order and through international instances. The alliances between different sectors of society are important to contain these restrictions and permit the emergence of leaders among the young journalists, academia and the professional organisations.

*Carlos Correa*

- 1] *This chapter has been translated from Spanish by Christian E. Rieck.*
- 2] *Televisión Venezolana Social (TVES) that presently occupies the TV signal of Radio Caracas Televisión (RCTV) and Venezolana de Televisión (VTV) are government channels. Venevisión and Televén are the private national channels.*
- 3] *In April 2006 the National Commission of Telecommunications (CONATEL) indicated that there were some 3.000 community radio emitters that operate illegally, but it also affirmed that it was processing approximately 1.300 licence solicitations from community radio stations.*
- 4] *According to some estimates more than half the radio stations maintain an editorial line close to the government, headed by Hugo Chávez Frías.*
- 5] *Radio Caracas Televisión was one of the most important openly transmitted television media to have ceased its operations. A presidential instruction alleged that that its concession had expired, but the owners of that channel described this measure as arbitrary and detrimental to their fundamental rights, arguing that the time periods in question were not those the national government had established. At the moment they have a judicial complaint before national courts. Meanwhile, by judicial authorisation, the RCTV equipment is being operated by the new government-owned channel (Televisora Venezolana Social – TVES) without having to pay any economic compensation to its rightful owners.*
- 6] *Studies commissioned by AGV Panamericana, a company that collects data on audiences.*
- 7] *In the year 2006, the government allocated 65,856,232.56 USD – just for additional investment costs and only in the case of the Ministry of Information and Communication. This does not include the contributions of other ministries, extraordinary quotas or the ordinary budget of current costs that includes salaries (budget bill 2006).*
- 8] *In some channels a few nominations do correspond to the users' wishes but overall the channel's president or its highest ranking executive and most of the members of the board are nominated by the national government itself.*
- 9] *Approved by constitutional referendum on 15 December 1999 and proclaimed by the National Constitutional Assembly in Caracas on 20 December 1999.*

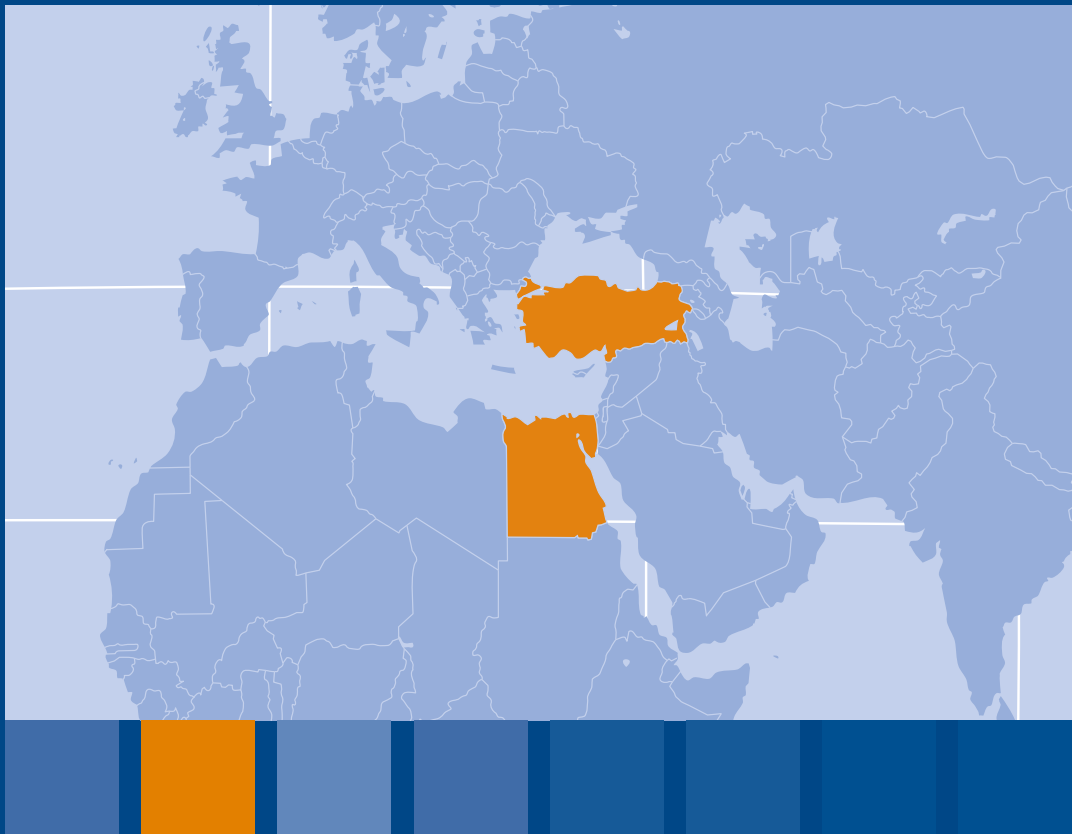


- 10| Articles 28, 29 and 24 of the Law on Social Responsibility in Radio and Television.
- 11| On 17 January 2006 the Higher Regional Court of the Metropolitan Area of Caracas presented a motion before the Sixth Court of First Instance, with the end to obtain an order of previous censorship, directed at all the media, destined to prevent 'a campaign to disqualify the conviction of the authors of the homicide of the judge *DANILO BALTAZAR ANDERSON...*'. This censorship wanted to prevent that the inconsistencies in the testimony of a 'star witness' could become widely known. The witness has now been sent to court for false testimony before judicial authorities.
- 12| *Globovisión*, an information channel critical of the present government, has several pending solicitations for microwave frequencies to expand its coverage but gets no reply from the state organs. In fact some of its equipment for live transmission of information programs has been retained.
- 13| *Mario Silva*, in the television program *La Hojilla*, transmitted during night hours by the state-owned channel *Venezolana de Televisión (VTV)*, Channel 8.
- 14| In its fifth consultative opinion from 1985 (OC5/85) when it analyzed whether the forcing of journalists to join a professional association is compatible with Article 13 of the American Convention of Human Rights – to which Venezuela is a party –, the Inter-American Court for Human Rights established that: '(...) not compatible with the Convention is a law of compulsory membership of journalists in a professional association if it prevents those who are not a member of the association from exercising the journalistic profession, and if it limits the access to this association to graduates of a determined university career'.
- 15| Law for the Promotion and Protection of the Exercise of Free Competition (LPPPLC) was promulgated on 1 January 1992. This law regulates the competition matters in Venezuela.
- 16| No owner or operator may exceed 10 per cent for frequencies on the national level and 25 per cent for those on the regional level.
- 17| There is an exchange regime for the acquisition of currency. This mechanism makes the free acquisition of foreign currency impossible. For each purchase of currency a previously initiated process is required as well as the fulfillment of certain requirements that do not guarantee approval.
- 18| The newspaper *Diario del Caroní*, in *Puerto Ordaz*, was threatened with dispossession of the piece of land on which its headquarters sits, given that it is supposedly a municipal plot.
- 19| *Roger Santodomingo*, director of *Noticiero Digital*, renounced his post after his son had been threatened in his own school and after his car had mysteriously appeared burned in front of his house. The journalist renounced on 4 July 2007. His version of the events can be found under the following link: <http://blogs.noticierodigital.com/roger/?p=278>.
- 20| Since January 2007 it has been known that two websites *Radionexx* and *CaracasRadioTV* that are operated by Venezuelans from the city of Miami, Florida, were blocked in Venezuela. Its contents had little circulation and impact in Venezuela and many attributed its blocking to the fact that the main internet provider in Venezuela, *CANTV*, had been nationalised.
- 21| Declarations of the Minister for Communication, *Andrés Izarra*, on 8 and 14 January 2007.
- 22| Studies are available online at: <http://www.espaciopublico.org/>
- 23| The measures imposed on Venezuela include the protection of *Luisana Rios* and other journalists of *RCTV*; *Globovisión*; *Marta Colomina* and others; the newspapers *El Nacional* and *Así es la Noticia*. In many of these cases Venezuela has partly complied with the sentences of the IACHR. The other two imposed measures apply to Peru (*Ivcher Bronstein*) and Costa Rica (*Mauricio Herrera* and the newspaper *La Nación*).

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# MIDDLE EAST

- Egypt
- Turkey



# EGYPT<sup>1</sup>

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

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

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

*Literacy and education*

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

*Media landscape*

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

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

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

*Internet media* In addition, a rising number of independent local internet newspapers exist. Such local websites, however, avoid agitating the government – i.e. they steer clear of the 'red lines' – as they are still susceptible to harassment, bureaucratic or otherwise. The government, meanwhile, in line with its tilt towards 'modernisation', economic integration and foreign investment, has promoted internet use through several campaigns. Most estimates put the number of Egyptians with internet access at between 8 and 10 per cent of the population.

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

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

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

*Media influence  
on political opinion*

All local television stations, the vast majority of local radio stations, and a large proportion of Egypt's newspapers are state-owned. As stipulated in the constitution, Art. 47, the press is meant to be 'a popular, independent authority,' which '...shall exercise its vocation freely and independently in the service of society through all the means of expression.' In practice, though, the long standing domination of the government by the NDP – and by virtue of the fact that practically all national media organs come under the exclusive purview of the state – has led to a situation where news coverage in state papers is inevitably pro-NDP. Officially, all the holders of leading positions at state-owned newspapers and media authorities are appointed by the Ministry of Information. According to Egypt's Press Law, chief editors of 'national press organisations' are appointed by the Shura Council, whose head is also the head of the Higher Council of the Press.

*State-owned  
media*

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

*State-owned  
media and  
published opinion*

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

The broadcast media are much more conservative. Criticism of the government and its policies is rarely seen or heard. Presumably, the fact that so much more of the population relies on radio and television for their news rather than on newspapers (given the still relatively high illiteracy rate) has emboldened the state to allow greater scope for criticism in the latter. There is a notable difference between local news coverage in English and in Arabic, with news in the former tending to be more liberal. The state-run, English-language Al-Ahram Weekly, for example, is allowed notably greater leeway in its coverage of traditionally touchy subjects, government election rigging, police torture and the presidential succession.

Presidential speeches and press conferences are almost always broadcast or carried in newspapers, while cabinet ministers – especially the so-called 'young reformers' holding economy portfolios – are regular speakers at numerous events, which are usually covered by the local press. With the launching of a daily version of the newspaper Ruz Al-Yussuf they were even able to establish their own 'mouthpiece'. In another indication of Cairo's efforts to at least appear more transparent, the government appointed a presidential spokesman. State television also regularly broadcasts parliamentary sessions. During the presidential election, state-run broadcasters and newspapers

*Government  
press conferences*

dedicated a substantial percentage of their election coverage to the ruling NDP. Organisations which support free media in Egypt have monitored Egyptian state controlled media during the election campaign and criticised that they dedicated up to 95 percent of their election coverage to the NDP (CIHRS 2008).

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

## 2. LEGAL ENVIRONMENT

*Freedom of expression* Technically, freedom of opinion is explicitly defined as a right due to all citizens. Article 47 of the Egyptian constitution reads: 'Freedom of opinion shall be guaranteed. Every individual shall have the right to express his opinion and to publicise it verbally or in writing or by photography or by other means within the limits of the law.' While freedom of opinion is not restricted by any subsequent amendment, it can, in theory, be challenged within the context of the Emergency Law, which has remained in effect ever since the 1980 assassination of President Anwar Sadat. The emergency law stipulates that, given a 'state of emergency', the state can essentially override anything set down in the constitution if it involves a threat – real or perceived – to national security.

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

*Regulation of media coverage* Egypt's defamation and press laws, which include prison sentences in the case of offences, are a source of longstanding controversy. Given the government's tight control of the broadcast media, defamation or libel cases are the most common. Libel is punishable by a maximum of one-year imprisonment and/or a fine ranging between LE 2,000 and LE 5,000.<sup>3</sup> If the target of the offence is a public official, the maximum penalty is two years in jail and/or a fine ranging between LE 5,000 and LE 10,000. The new Press Law of 2006, did in fact remove some of the articles in the Egyptian penal code that result in custodial sentences, but left the overall outlook for press freedoms depressing. To make matters worse, the 2006 law introduced new strictures, one of which created the offence of insulting a foreign head of state. It also made editors-in-chief responsible for the offences of writers serving under them. Observers argue, therefore, that the new press law was at least partly responsible for the deterioration of the legal situation for Egyptian journalists in 2007 (Black 2008).

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



In detail, media coverage is not only regulated by the constitution and the press law but also by a number of other laws such as the penal code, the Journalism Regulation Law, the State Documents Law, the Party Law, the Civil Servants Law and the Intelligence Law. These laws ban a lot of media coverage on several issues and impose detention on 'whoever affronts the president of the republic'.<sup>4</sup> This regulation in particular led to the increase of imprisonments and restrictions imposed on journalists in summer 2007 after the publication of false speculations about the president's state of health. Beside the laws removing the right to collect information, publishing it, and codifying the state monopoly of information, there is also the Emergency Law, under which censorship is permitted in cases of emergency. For instance Article 2 of the Emergency Law 162/1958 provided exceptional procedures against freedoms of the press and expression, empowering authorities to censor newspapers, publications, periodicals and all kinds of expression and advertisement before publication.

The legal framework that governs media coverage has witnessed some ambivalent trends in the past few years. In 2006 for instance, an amendment to Egypt's publishing law was passed by the Egyptian parliament, which removed an article stipulating prison terms for journalists who defamed public officials with allegations of corruption. Positive developments like this were neutralised by new regulations in 2007, which led to the detention of critical journalists and to the closure of some private satellite TV stations (i.e. the Lebanese channel Al-Manal, run by Hizbullah). These developments show that the legal environment has slightly improved in some areas and slightly worsened in others, leaving a general impression of no change in quality.

*Changes in the past five years*

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

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

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

*Legal censorship*

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

viewed as offensive to traditional sensibilities. Political censorship by state authorities is permitted, in a state of emergency, with 'limited censorship' being imposed on mass media 'in matters related to public safety or national security in accordance with the law' (Article 48). Obviously, both terms could be applied to almost anything. In some cases, coverage of certain groups – or issues associated with those groups – is restricted. Coverage of potentially divisive religious issues is forbidden.

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

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

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

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

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

illustrated in 2006, when the council issued a warning against the Journalists' Syndicate, threatening to take its own appropriate measures against journalists.

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

*Monopolies and cartels*

### 3. POLITICAL CONDITIONS

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

*Coverage of marginal groups*

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

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

*Self-censorship*

Instances of threatening or intimidating journalists have gradually declined over the last decades – at least compared to the 1970s – but journalists are still occasionally subject to harassment by the state. A report published in 2005 by the Egyptian Organisation for Human Rights said that journalists in Egypt suffer numerous forms of discrimination including unfairness in legislation, judicial prosecution of journalists for their writing and opinions, assault and death threats, and sexual assault of female journalists (EOHR 2006). The Arabic Network for Human Rights Information (ANHRI) issued its first annual report about the state of freedom of expression in Egypt in 2007. According to this report, many violations were committed in 2007 against the press, including suing, threatening and arresting journalists in addition to defaming them, physically assaulting them and preventing them from doing their job. ANHRI listed several violations committed against various kinds of artistic creation. These violations included: banning, sponsorship, intervention to amend soap operas, filing cases and fatwas of 'Takfir' (edicts stating that someone is an unbeliever) (ANHRI 2007).

*State repression*

Internet access in Egypt is not restricted. Due to the successful implementation of a free internet strategy, Egypt now has the largest internet market in Africa with more than six million users in 2007 (Internet World Stats 2007). However, internet penetration is still relatively low and the vast majority of users are located in urban areas. While Egypt does not have an official policy of

*Obstacles to internet access*

'censoring' the internet, it would appear that, at least on some occasions, state authorities have taken steps to block or disrupt certain websites, particularly those that tend to be highly critical of the government. In this case the user is given the illusion that the websites are inaccessible due to server errors or browser malfunctions (Dziadosz 2008: 122). While mostly Islamist websites were affected by this policy in the past, nowadays it is Egypt's blogger scene that is facing intimidation. Most famous has been the case of the blogger Kareem Amer who was sentenced to four years in prison for 'defaming the president of Egypt' and 'insulting Islam'.

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

*Government control over print media* State-owned media monitor the production and distribution of print media. They are produced entirely by employees of the government, and therefore toe the government line. However, all media sources follow the principal of self-censorship, implying that they automatically avoid whatever issues have been defined as 'off limits' by the government. Generally, state authorities most definitely take advantage of these informal mechanisms of control and frequently use this kind of repression. The legal restrictions also include controlling the distribution of independent newspapers, which are controlled by national newspapers' distribution companies. Nearly all magazines and newspapers are printed by one of seven government-owned printing houses. The government uses its control of the region's publishing to limit the output, access, and influence of opposition groups, which has been observed by the International Journalists' Network. In 2006 and 2007 the daily Al-Masry Al-Youm and some other independent newspapers could not be found on newsstands as the distribution company, owned by the national newspaper Al-Ahram, delayed their distribution.

#### **4. ECONOMIC PRESSURES**

*State subsidies* Government influence on local private media institutions is done more by stick than carrot. While the state does not subsidise private media by way of advertising revenue, it does use the powerful position of its print-media infrastructure to keep private media close to the governmental line. This applies only to print media, as there is little private-sector radio and television.

*Further aspects* The state can subtly threaten publishers with bureaucratic delays or unexpected tax increases for printing/distribution services if a private publication strays too far from the accepted guidelines of what can and cannot be published. Compared to the size of the private media advertising market, the state subsidy is, however, negligible. However, all state and most private advertising goes to the state-owned papers for both political and circulation reasons, despite increasing private advertising in independent newspapers such as Al-Dustur and Masri Al-Yawm. Consequently, the channeling of advertising revenues and public funding is a useful tool for keeping them to the government's line (Allam 2008). No wonder that the state press is considered to be a propaganda instrument of the government.

#### **5. NON-STATE REPRESSION**

*Repression by non-state groups* During the 1990s, journalists and media organisations were repeatedly attacked and harassed by religious groups for broadcasting or printing content considered offensive to religion. Since the Egyptian government has been quite successful in eliminating violent Islamist groupings this no longer seems to be the case. But interference in media coverage by religious groupings and authorities is still – albeit rarely – a problem. In many cases it is unclear whether it can be labelled as 'non-state repression', since the state – as in many other Arab countries – uses religion and religious authorities to censor media.

This is particularly obvious with Al-Azhar, the foremost authority on Sunni Islam. Egypt's various governments gave Al-Azhar's Islamic Research Council (IRC) the power to advise on the banning or censoring of any book it judged to be heretical. The centre was even given the authority by the Ministry of Justice to confiscate books and audio- or videotapes that it believed violates Islamic teachings. This led to the confiscation of hundreds of publications from bookstores. For example, in 2005 IRC banned a book published by the prestigious American University in Cairo Press, which discussed Wahhabi Islam. In 2007, Sheik Tantawi of Al-Azhar, helped to legitimise censorship by issuing a fatwa declaring that a journalist publishing an incorrect report deserved to be lashed 80 times. This influence of traditional Muslim authorities on what can and cannot be published seems to be constant. Therefore, the intimidation through non-state actors has not changed in quality over the past five years.

*Changes in the past five years*

## 6. CONCLUSIONS

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

*Freedom of the media: general situation*

Given all these observations one has to conclude that the short-lived 'Arab spring' of the years 2002–05 must be considered to be over in Egypt. Since that time, the free coverage of the media has slightly worsened.

*Changes in the past five years*

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

*Major obstacles to free media coverage*

- 1| This article is a completely revised and updated version of the 'Egypt' country report that was published in the KAS Democracy Report 2005 'Media and Democracy'.
- 2| Meanwhile, the vast majority of Dream TV is owned by public banks and the state-owned ERTV following the bankruptcy of Bahgat in 2004. In 2002 another private channel, Al-Mihwar TV, was established.
- 3| One LE equaled around 0.12 eurocent in March 2008.
- 4| Article 179 of the penal code.

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# TURKEY

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

According to the Turkish Statistical Institute (TUIK) the population is exactly 70,586,256 (TUIK 2008). Of these 87.4 per cent are adults, defined as people 15 years of age and older. The illiteracy rate among adults is 13.5 per cent. Enrolment in schools between 1990 and 2006 indicate a distinct gender gap. Despite social responsibility projects and campaigns like Baba Bizi Okula Gönder ('Dad, Send Us to School') and Haydi Kizlar Okula ('Come on Girls, Let's Go to School') to encourage poor families to send their daughters to school, the illiteracy rate among the female population is approximately 21 per cent. The Eight-Year Compulsory Basic Education Law, which was passed in 1997 and extended primary education from five to eight years, is expected to improve the literacy rate over time. The secondary school enrolment statistics for girls have been lower than those for boys, mostly as a result of economic and cultural factors (Gök/Ilgaz 2007). According to the OECD indicators on education, girls spend approximately 11.2 years in education (OECD 2006).

*Literacy and education*

At present in Turkey there are 43 national daily newspapers with a total circulation of 5 million. The circulation numbers of some of the national newspapers are listed in Table 1. Among those dailies, there are four sports newspapers (Pas Fotomaç, Fanatik, Efsane Fotospor, Fotogol) with a strong emphasis on Turkish soccer teams and league. The circulation of those four sports newspapers is 513,000 (almost 10 per cent of total circulation). There are also nine newspapers that are printed in languages other than Turkish. Those are Agos Weekly published both in Armenian and Turkish, Apoyevmatini in Greek, Azadiya Welat in Kurdish, Iho in Greek, Salom Weekly in Ladino and Turkish, The New Anatolian in English, Today's Zaman and Turkish Daily News in English and finally Türkei Kurier in German. Moreover, there are 212 local newspapers in 61 different cities. Finally, 3,450 periodicals, half of them weekly, are published in Turkey. The average daily circulation of local newspapers varies between 1,000 and 15,000.

*Media landscape*

### CIRCULATION NUMBERS OF NATIONAL NEWSPAPERS (SELECTION)

Title of publication	Circulation number
<b>Zaman</b>	768,057
<b>Posta</b>	736,473
<b>Hürriyet</b>	504,175
<b>Sabah</b>	432,718
<b>Milliyet</b>	275,147
<b>Aksam</b>	202,108
<b>Star</b>	173,311
<b>Türkiye</b>	143,841
<b>Yeni Safak</b>	128,226
<b>Bugün</b>	100,169
<b>Cumhuriyet</b>	70,118
<b>Radikal</b>	31,612
<b>Taraf</b>	13,325
<b>Birgün</b>	6,231

*Daily circulation numbers between January 21-27, 2008.*

*Source: <http://www.medyatava.net>*

The public broadcaster TRT (Turkish Radio & Television Broadcasting Corporation) has four national television channels: TRT 1 (general), TRT 2 (culture and art), TRT 3 (youth channel with sports and music programmes and broadcasts live from the Turkish National Grand Assembly at specific hours), and TRT 4 (education). TRT also has a regional channel, TRT-GAP, for the south-eastern region of Turkey and two international channels, TRT-INT for Europe, USA and Australia, and TRT-AVRASYA for Middle Asia and Caucasus.

Beside the TRT channels, 24 national, 16 regional and 224 local television channels and 36 national, 108 regional and 944 local radio channels broadcast in the country. There are also 76 TV channels on cable, of which 10 are foreign. There are five radio channels operating on cable. Kurdish-language broadcasts, banned for many years, were introduced by the state broadcaster in June 2004 as part of reforms intended to meet EU criteria on minorities. Some overseas-based Kurdish TV channels broadcast via satellite.

*Party media* No political parties run their own radio, TV stations and newspapers. However, this picture might be deceptive given the complexity of political involvement by the media in Turkey. For instance the daily Cumhuriyet, which is a staunch defender of secularism in the country, acts like an official publication of moderate leftist party CHP (Republican People's Party). Cumhuriyet is widely read among military, diplomatic and academic circles because of its opposition to conglomerate trends



in the media and also its anti-American and anti-globalist positions. Its editorial line mainly focuses on the possible dangers of Islamisation of the country, coming with the rise of the AK-Party (Justice and Development Party) in government.

Starting with Turgut Özal's tenure between 1982 and 1991, religious communities, cults, and sects came to realise the power of the media and have been encouraged in this by the right-wing, conservative political parties for the last three decades. They have gradually become extremely powerful during the current AKP government, recognising the myriad opportunities (economic and political) this particular party could offer them. Despite the complexity of the Islamic media scene in Turkey, there are well-known, dominant actors that have become more visible as a result of their close links with the political establishment. For instance, Fethullah Gülen, a religious cult leader who lives in the United States, has been using the daily Zaman, to spread his message to his Nursi community, whose name comes from the village of Nurs, but which brings to mind the word Nur, meaning 'light' in Arabic. Starting with the wealthy businessmen of Izmir, Gülen mobilised resources allowing him to control Zaman, a television channel (Samanyolu TV), 25 radio stations and two weekly magazines (Aksiyon and Sizinti). His wealth is claimed to be 25 billion dollars (Akyol 2008).

Various Islamic newspapers support different religious sects and congregations such as the daily Türkiye (Isikcilar sufi sect), Yeni Asya (Nur sect) and Yeni Mesaj (Icmal sect) and maintain close relations with the AKP government. However, there is one particular newspaper that has direct links with the AKP. Yeni Safak was founded by Yakup Yönten and Tufan Mengi, who were known as close friends of Prime Minister Recep Tayyip Erdogan. Because of financial problems, the newspaper was sold to Ahmet Sisman in 1995 and eventually the Albayrak family purchased it. The Albayrak family changed Yeni Safak's editorial line from defending the ideas and beliefs of radical Islamist ideology 'Milli Gorus'(National View) – whose manifesto indicates "just order" will overcome the "worthless order" in the West, because it is based upon violence, injustice and exploitation' – to a moderate Islamist position. When one of the columnists, Sadik Albayrak became an in-law of the prime minister, he had to quit his job. However, Yeni Safak continues to support the AKP government with a conservative, moderate Islamist editorial line. In 2005, Ahmet Tasgetiren, the chief columnist, resigned when his article critical of Tayyip Erdogan was rejected by the newspaper. In short, the AKP government is gradually creating its own media conglomerate with various newspapers, magazines, television and radio stations in an effort to defend itself from the harsh criticism of the opposition.

The number of internet users in Turkey increased from 7.5 million to 20 million between 2002 and 2007. There are approximately 60 internet news portals in the country. Since overall trust in the mainstream media is extremely low, younger people prefer to get their news from these news portals. Some of the most popular news portals are Independent Communication Network (bianet.org), internethaber.com, gazeteport.com, iyibilgi.com, stargundem.com, gazeteci.tv, objektifhaber.com, aktifhaber.com, sansursuz.com, and imedy.com. There is no censorship of these internet sites unless they tackle sensitive matters, such as the alleged Armenian issue, criticisms of Atatürk, etc.

*Internet media*

Independent internet newspapers and blogs create a promising platform for the quest for hard news in Turkey. Since scepticism and cynicism about the mainstream media's reliability has grown, readers have turned to the internet in search of more objective and less biased news and analyses. Censorship is not explicit, but self-censorship occurs among online journalists, who are concerned about violating many restrictions. Furthermore, media organisations are nearly all owned by giant holding companies with interests in many sectors beyond the media, and they therefore influence news to serve their own business interests, in addition to allegedly trading positive coverage for political favours.

Of the total of 17.5 million households in Turkey, adult viewers spend 5.5 hours in front of the television set daily, while children spend 3.5 hours, on average. According to Nielsen AG reports, the rating for TRT dropped from the 5th place to 8th in 2007. Only 4 out of 100 households watch TRT programmes. In a week, Turks listen to the radio for 13.3 hours and surf on the internet for 10.6 hours (NOP World Culture Score Index 2008). According to AC Nielsen Research, 7 million

*Media consumption*

households have a digital satellite TV receiver.<sup>1</sup> Also, around 1.5 million digital satellite STB units are deployed in Turkey annually. There are only 1 million households currently using pay-TV services. This represents about 6 per cent of the total market. Today there are over 20 million internet users in Turkey, most with ADSL broadband access, and the infrastructure is rapidly shifting to fibre-to-home delivery.

*Media influence on political opinion* The influence of the media on the formation of political opinion in Turkey is rather low. Since the Turkish press has a history of becoming the mouthpiece of governing political parties and of large corporations, in order to receive social, political, and monetary benefits, the public does not trust the press.

*State-owned media* The official abolition of the state broadcasting monopoly was brought about by an amendment of Article 133 of the 1982 constitution, which defined the public broadcaster TRT as an 'autonomous' corporation. Following this change in the constitution, the long-awaited Radio and Television Law was passed by parliament on 13 April 1994, to regulate both private and public service broadcasting. The bill provided for the establishment of a Radio and Television Supreme Council (RTÜK) to determine whether all broadcasts followed the basic guidelines put forward in the law. This new council was made up of nine members, appointed by parliament. The RTÜK Board includes six members nominated by the AK-Party and three by the Republican People's Party (CHP). As its structure indicates, RTÜK is not an independent entity. Most of the members are elected by the AKP and supporters of the government. RTÜK has the authority to sanction broadcasters if they do not comply with the law or its expansive broadcasting principles; the sanctions it has used include fines and the cancellation of programmes or licences. The broadcasters criticise the broadcasting law for being too vague and restrictive and the penalties of RTÜK for being harsh and disproportionate. For instance, on 2 October 2007 Deputy Prime Minister Cemil Çicek ordered the broadcast media to restrict their reporting on the death of 12 Turkish soldiers who were killed by an attack of the Kurdistan Workers Party (PKK). Çicek sent a letter to the Radio and Television Supreme Council (RTÜK) asking it to censor coverage of the fighting.

*State-owned media and published opinion* Around 70 per cent of TRT's funding comes from a tax levied on electricity bills and a sales tax on television and radio receivers. As these are hypothecated taxes, as opposed to the money coming from general government funds, the principle is similar to that of the television licence levied in a number of other countries. The rest of TRT's funding comes from government grants (around 20 per cent) with the final 10 per cent coming from advertising.

In the past TRT has been used as a propaganda tool by numerous governments. However, after the deregulation of the media scene, as described above, TRT began to lose its dominance in Turkish politics. Yet, still today, as a public broadcaster, TRT has to follow the official ideology and discourse. If the present coverage of TRT was to be evaluated, 'friendly towards the government' would be an appropriate rating.

## 2. LEGAL ENVIRONMENT

*Freedom of expression* The preamble to the 1982 constitution initially stated that 'no protection shall be afforded to thoughts or opinions contrary to Turkish national interests.' On 17 October 2001, a number of constitutional amendments were adopted to improve freedom of expression and of the press in order to improve the country's prospects of joining the EU. The new preamble does not mention 'thoughts or opinions'; the term 'activity' has been substituted instead.

*Free media coverage* Although Article 28 states that 'the press is free and shall not be censored,' a number of provisions make it an offence to write or print any news or articles that threaten the security or 'the indivisible integrity of the state within its nation and territory'. Similarly, although Article 31 states that '... individuals and political parties have the right to use mass media and means of communication other than the press owned by public corporations. The conditions and procedures for such use shall be regulated by law. The law shall not impose restrictions preventing the public from

receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than national security, public order, public morals, or the protection of public health ...,' Article 13 allows extensive exceptions and permits restrictions on the grounds of protecting national security, public order, public peace, public interest, public morals, and public health (Çatalbas 2007). In a former version of Articles 26 and 28 before the 2001 amendments, there was a clause that banned the use of languages 'prohibited by law'. That prohibition was removed from the amended Articles 26 and 28, allowing Kurdish-language broadcasting and publishing.

Article 7 of the Anti-Terror Law was amended to restrict the context in which publishing propaganda could be prosecuted as a criminal offence; it was re-defined to read as 'propaganda which encourages terrorism.' An amendment to Article 8 reduced the upper time limit for the suspension of broadcasts – from 15 days to 7 days – that can be imposed on radio and TV stations for broadcasting propaganda against the territorial integrity of the state. It also changed the aggravating situation clause (use of printed mass media) to limit the increase in the penalty to 'one-third' instead of 'from one-third to half.'

In May 2002, the parliament passed a new Media Law. The law, intended to strengthen the powers of RTÜK, hastened the concentration of media ownership by letting the country's private media barons bid on public contracts and trade on the stock exchange. The law also prohibits broadcasts that 'violate the existence and independence of the Turkish Republic, the territorial and national integrity of the state, the reforms and principles of Atatürk,' or imposes similar restrictions on the internet. In June 2002, the Constitutional Court temporarily froze certain parts of the law, but censorship and other restrictive provisions remain in effect.

*Regulation of  
media coverage*

Another major change to the justice system was the abolition of State Security Courts in May 2004. These courts, comprising both civilian and military judges, tried cases against the integrity of the state and had been accused of human rights abuses and an absence of due process.

The enactment of the amended Turkish Penal Code (TCK in Turkish) on 29 June 2005 fell short of the expectation that it would promote freedom of the press. Some provisions, which the authorities had used before to breach international standards related to freedom of expression, were carried over from the old penal code. For example, Article 159, which criminalised acts that 'insult or belittle' various state institutions, re-appeared as Article 301 of the new penal code in the section entitled 'Crimes against symbols of the state's sovereignty and the honour of its organs'.

Article 301 of the Turkish penal code is certainly the best known of Turkey's restrictive speech laws, but in fact there are a number of others that, taken together, effectively undermine freedom of expression. Article 301 states, '1. Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years. 2. Public denigration of the government of the Republic of Turkey, the judicial institutions of the state, the military or security structures shall be punishable by imprisonment of between six months and two years. 3. In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third. 4. Expressions of thought intended to criticise shall not constitute a crime.'

The attempt to draw a distinction between criticism and denigration is highly problematic. The lack of legal certainty about the crime leads to arbitrary interpretation by prosecutors and judges. Notoriously, Article 301 has been used against scholars, writers, and journalists and has been invoked with increasing frequency in 2006 and 2007. It gained notoriety when Nobel laureate Orhan Pamuk and Turkish-Armenian journalist Hrant Dink were charged under the law for speaking out about Turkey's role in alleged mass killings of Armenians in the early 20th century. In 2006, 55 people were brought to trial under Article 301 of the Turkish Penal code, and six of them were sentenced. Of 199 people on trial, 37 were tried for 'insult' or 'slander', 23 for 'inciting to hatred and hostility', 14 for 'influencing the judiciary', eight for 'alienating the public from military service,' and one

for 'membership in an illegal organisation.' Eighty-three people faced 'terrorism' charges. The year 2007 started with the murder of Agos editor-in-chief Hrant Dink. The charges under Article 301 against Hrant Dink were dropped posthumously, but his son, Arat Dink was convicted in the same case. The Turkish government announced that it would revise the law and bring it to parliament for a vote.

Besides Article 301, many of the penal code violations have an impact on the newsgathering profession and the wording is extremely vague. For instance, Article 278, section (1) indicates 'a person who fails to inform the competent bodies about the crime being committed shall be imprisoned or a term of up to one year'. Similarly, Articles 329 and 336 made it impossible for investigative journalists to expose political or military corruption. Article 329, section (1) indicates: 'A person who discloses information whose nature requires it to be kept secret for reasons relating to the security, or internal and external political interests of the state shall be sentenced to imprisonment for a term of five to ten years', while Article 336, section (1) reads: 'A person who discloses information whose disclosure has been prohibited by the competent authorities through laws or regulatory procedures and whose nature requires it to be kept secret shall be sentenced to imprisonment for a term of three to five years.'

The new penal code also increased prison sentences where the media are involved, in contrast to the Press Law. As an example, where journalists write about an on-going police investigation, the current Press Law (Article 19) provides for large fines, while the new penal code (Article 288) carries prison sentences from six months to three years.

*Changes in the past five years* Article 318 of the penal code has not been modified as part of the reforms which are aimed at a rapprochement with the European Union, although in February 2002, a 'mini-democracy package' (Law No. 4744) was adopted in the process of preparing for EU accession. It provides for jail terms of six months to two years for distributing propaganda or encouraging activities that could divert the population from military service. Similarly, the government has not touched Law No. 5816, under which insulting the founder of the Republic, Mustafa Kemal Atatürk, is punishable by one to three years in prison. In this case, the sentence has increased by a half for journalists and news media.

In June 2006 the Turkish parliament revised the Law to Fight Terrorism, greatly widening the scope and number of crimes punishable as terrorist offences, introducing articles likely to further restrict freedom of expression, and failing to restrict the use of lethal force by law enforcement officials. In July the president approved the law but applied to the Constitutional Court for the annulment of two articles relating to sanctions against the press. Freedom of the media 'could be undermined by provisions allowing the suspension of periodicals and introducing the liability of chief editors and of press and media owners for publishing terrorist propaganda or praise them in press and media organs' (CEU 2006: 6).

Although many positive steps have been taken such as abolishing the death penalty, removing restrictions on minority language education and broadcasting, protecting civil liberties including women's rights, broadening freedom of association and religion, taking stronger measures to protect against and prosecute torture, expansion of some articles to widen the types of cases that can be penalised, it is debateable how real the Turkish government's alleged commitment to human rights is. Besides, how these changes are put into practice is more important than their existence on paper. These modifications can be rated as a slight improvement, however.

*Monopolies and cartels* Corporate entities in Turkey have a maze-like ownership structure. This is not Turkish idiosyncrasy since there has also been rapid and uncontrolled spread of free-market policies and deregulation trends in the post-1980s 'nascent democracies' of Spain, Greece and Portugal (Önis 2003). Although the concentration of ownership is a global phenomenon, there remain major problems in Turkey regarding the legal protection of media workers (the lack of unions) and free speech rights.

Dogan Media Group (DYH), Turkey's leading media conglomerate, includes newspapers, magazine and book publishing and distribution, printing, television and radio broadcasting and new media. It operates eight national newspapers, 24 magazines and six printing facilities in Turkey, as well as one in Germany. The holding is also involved in media distribution, broadcasting (Dogan TV) and retail online sales, including music and book stores.

Axel Springer AG, the German media giant, owns 25 percent of the shares of Dogan TV Holding. This is the leading broadcasting company in Turkey, with an estimated 24 per cent audience share and a 36 per cent estimated market share. The multimedia groups again are the main actors in the private broadcasting market: Dogan Group owns Kanal D, Star TV and CNN-Türk; Çukurova Group owns Show TV and Sky-Türk, Digitürk; Dogus Group owns NTV, e2, Cnbc-e; Feza Group owns Samanyolu TV, and MNG Holding owns TV8.

As the sole bidder, Çalik Group tendered USD 1.1 billion for ATV and Sabah newspaper and purchased those media outlets. The group led, by businessman Ahmet Çalik, has good relations with the government, and Prime Minister Recep Tayyip Erdoğan's son-in-law Berat Albayrak is a part of Çalik's management. Çalik Group is currently engaged in the textile, energy, construction, finance and logistics sectors. The Savings Deposit Insurance Fund (TMSF) seized control of Sabah, Atv and other assets of Merkez Yayın Holding in April 2007. This attempt is a result of seeking to recoup debts of about USD 900 million from Dinç Bilgin, the previous owner of the media titles, whose lender Etibank collapsed in 2000. TMSF sent the results of the ATV-Sabah tender to the Radio and Television Supreme Council (RTÜK) and the Competition Board and the necessary approval was received at the beginning of 2008.

Sabah sells nearly 430,000 copies a day, making it the country's fourth-biggest newspaper (see Table on page 190), and ATV was the second most-watched channel with a 9.5 per cent audience share in July 2007, according to AGB Nielsen Media Research. In September 2007 Rupert Murdoch entered the broadcasting market in Turkey by acquiring a 51 per cent-share of Ihlas Group's TGRT channel.

### 3. POLITICAL CONDITIONS

Media coverage of the Kurds, the largest minority in the country (approximately 15 million), is weak and mostly one sided. Kurds are mostly associated with terrorism (the PKK), and are portrayed as divisive and as putting forth unreasonable demands (Sezgin/Wall 2005). Scholarly research also confirms the nationalistic coverage of the mainstream press, tending to define the nation via perceived internal and external threats (Yumul/Ozkirimli 2000). The coverage of the mainstream press treats Kurds as enemy others, belittling and discrediting their existence and cultural values. The choice of words and pictures to describe Kurds is mostly biased. While news coverage is expected to build bridges between different cultures, the mainstream press continues to reaffirm and reproduce prejudices.

*Coverage of marginal groups*

In contrast to the official line, there are sensitive issues which are off limits, such as criticising Atatürk and his legacy, the military, publishing news and articles about the 'alleged' Armenian genocide and the Kurdish issue. One example is Law No. 5816 under which insulting Atatürk is punishable by one to three years in prison.

*Self-censorship*

Article 318 of the criminal code has not been modified as part of the reforms which have been carried out since 2002 aimed at rapprochement with the European Union. It provides for jail terms of six months to two years for distributing propaganda or encouraging activities that could persuade people to avoid military service. The sentence is increased by a half for journalists and news media. The concept of 'conscientious objection' as a human right is a taboo in the Turkish media. If a columnist or reporter publishes anything on this subject, they are very likely to be charged under Article 218 of the Turkish Penal Code, which criminalises 'alienating the public from military service', and to face several years in prison.

As a result of these articles of the penal code, self-censorship among columnists, reporters and political cartoonists is extremely common. Cartoonists are not immune from these legal restrictions so there are many charges against editorial cartoonists who draw for dailies and weekly humour magazines (Tunç 2002). As a sign of his determination, Prime Minister Recep Tayyip Erdogan has targeted cartoonists by putting them on trial between 2005 and 2008.

Although discrimination on the basis of personal characteristics is illegal under the penal code, it is still common to see stereotypical images, anti-Semitic expressions and sexist discourse on Turkish newspapers and news magazines. Approximately 25,000 Jews, 3,000 Greek Orthodox Christians and 50,000 Armenian Orthodox Christians live peacefully in Turkey as minorities. Though they are integrated in the Turkish establishment, it is still difficult to openly publish about being a non-Muslim or a non-believer, however.

*Obstacles to internet access* A bill passed by parliament on 4 May 2007 allowing the authorities to block websites with content deemed to have insulted the memory of Atatürk, was signed into law by the former President Ahmet Necdet Sezer on 22 May 2007. As a result of this law, an Istanbul court has ordered the national telecommunications company Turk Telecom to block the video-sharing site YouTube on numerous occasions in 2007 and 2008 because of content regarded as being 'insulting' to Atatürk.

As this reveals, legal restrictions extend to the internet. Article 8 of Law No. 5651 on the Prevention of Crimes in the Computer Domain calls for content to be blocked if it violates the Law on Crimes Against Atatürk. The article states that '[w]hen there is sufficient evidence of the improper aspect of content (...) access must be blocked.' As well as punishing crimes against Atatürk, Law No. 5651 also punishes 'inciting suicide' (Article 84), 'sexual abuse of children' (Article 103), 'prostitution' (Article 227) and 'inciting drug use' (Article 190).

*Changes in the past five years* Actual state pressure against the media has changed for the better during the past five years with the help of the prospect of European Union membership. Turkey has seen strong improvement. However, there are still instances of state repression, such as Kanal Türk TV channel's being intimidated by the ruling party because of their critical reporting in February 2007.

#### **4. ECONOMIC PRESSURES**

*State subsidies* The only source of income for the private media is advertising revenues. Private channels especially cannot survive without commercials. According to the recent RTÜK regulations, the duration of commercials has been cut down from 20 minutes to 6–7 minutes. This resulted in a sharp increase in advertising prices on national television stations. However, the public broadcaster, TRT, is not in a vicious competitive environment where ratings are the key criteria for success. TRT's financial status is secured by state subsidies but it still tries to get a share of the advertising.

In Turkey the whole advertising market is worth 3.7 billion YTL (1 YTL = 1.7 EUR). Two-fifths of this is spent on television commercials (approximately 1.4 billion YTL), of which 90 per cent goes to Dogan, Merkez and Dogus Groups.

In 2007 TRT's total income was around 590 million YTL, with 168 million coming from the taxes levied on television and radio equipment, 270 million from the taxes levied on electricity bills and only 55 million from advertising revenues. TRT employs some 7,500 people. TRT's total annual expenditure was approximately 696 million YTL in 2007. As a result, the public broadcaster's financial situation is not very promising. According to Nielsen AG reports, its ratings dropped from 5th to the 8th place in 2007. Only four out of 100 households watch TRT. There has been ongoing mismanagement in the institution, which for the past decade has been over-staffed and broadcasting unappealing programmes.

Although political advertising is banned in the country, the Television Producers Association (TVYD) and the CEOs of private channels are currently trying to negotiate with RTÜK to lift the ban.

One of the biggest concerns in terms of diversity of the media in 2007 was the attempts by the government to establish its own supporters in the media. Television channels, radio stations and newspapers enjoy financial support and favours from the government and in return they are used as propaganda tools. Islamic newspapers such as Zaman, Yeni Safak and Vakit are open supporters of the ruling party whereas Sabah has been sold to a businessman who has close links to the prime minister. Similarly, Kanal 24, Fox TV and Samanyolu are big supporters of the AKP government. In 2008 ATV will be in the hands of the Çalik Group, who also purchased Sabah. As a result, the issue is not that the public broadcaster TRT has become friendly towards government but, rather, the unconditional support that comes from the powerful private media conglomerates. Given its relatively low market share, TRT's role has become almost negligible compared to the big private media companies and their close links to the government. This could be damaging for the alternative and oppositional voices that never get heard in society.

*Further aspects*

## 5. NON-STATE REPRESSION

Following Hrant Dink's assassination, debates about the concept of the 'deep state' reappeared on the nation's agenda. The criminal organisations within the state are believed to be behind Dink's murder. The Turkish political system consists of high-level elements within the Turkish military, the security and intelligence services, and the judiciary. There have been allegations, still not proved, that the deep state is in close contact with foreign intelligence agencies, mafia, drug and arms dealers, and even human traffickers. The notion is similar to that of a 'state within the state', but additionally the deep state operates in the dark, using extra-judicial means, such as death squads.

*Repression by non-state groups*

The members of the deep state are wedded to a fiercely nationalist, statist ideology and if needs be they are ready to block or even oust a government which does not share their vision. They believe they act on behalf of the nation and the state and so may sometimes be willing to ignore the law.

Since Turkey is still going through a strong nationalist backlash, the influence of the deep state makes it difficult for journalists to write critically about five major areas: Atatürk, the Kurds, the security forces, the Armenian killings, and the Turkish presence in Northern Cyprus. There is no direct evidence that the deep state is behind the Article 301 prosecutions, and only circumstantial evidence that it has had a hand in the spate of ultra-nationalist films, books and television programmes that have flooded the market over the past two years (Freely 2007). It is believed that the more Turkey breaks free of the deep state, the more it will become an open, transparent society.

The fear of deep state repression against the liberal media has increased over the past five years and can be rated as a strong aggravation. In addition to the deep state's existence, one of the major problems in the media sector is the anti-union environment. Trade unions are constantly under attack by corporate media owners. Prior to the 1990s, many journalists were members of the Journalists Union of Turkey (TGS). TGS protected journalists' rights and negotiated collective bargaining agreements with the Turkish Newspaper Owners Trade Union. However, after the 1990s, union organisations began to fade away across all publishing and broadcasting in Turkey. This situation left the journalists vulnerable to all kinds of economic and social crises (Tunç 2002). Media owners used blunt tactics, such as threatening journalists with the loss of their jobs if they did not leave the union; journalists were also forced to sign clauses from the labour code classifying them as 'ordinary' labour (Clause No: 1475), as opposed to the clause (Clause No. 212) which offered journalists special legal protections, a minimum salary and working entitlements (Christensen 2007).

*Changes in the past five years*

## 6. CONCLUSIONS

*Freedom of the media: general situation* Freedom of the media in Turkey has improved over the last two years, particularly because of the country's attempts to adjust to EU laws and norms. However, freedom of the media is also restricted. The media landscape is characterised by a combination of the concentration of ownership, the lack of labour rights and problematic press/speech laws.

*Major obstacles to free media coverage* From the point of view of journalists who live and work in Turkey, major obstacles to free media coverage are the infamous Article 301 of the penal code, and many other vague clauses in the code used to penalise journalists and the sensitive issues that cannot be challenged – such as criticising Atatürk and his legacy, the military, publishing news and articles about the 'alleged' Armenian genocide, and the Kurdish issue.

Asli Tunç

1| Interview with Mustafa Gözalan, Executive Board Member, Dogan Media Group for World Vision Issue 8, July 2007 at [http://www.nds.com/worldvision/thirty\\_eight/article\\_1.html](http://www.nds.com/worldvision/thirty_eight/article_1.html).

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# ANALYSIS

## MEDIA AND MEDIA FREEDOM – DEVELOPMENTS AND TRENDS<sup>1</sup>

In the transition processes of young democracies that are still unconsolidated, the (mass) media assume certain significant functions (Tenschler 2008; Voltmer 2008; Vogel and Grabow/Korte/Weissenbach, in this volume). Among other things, they are expected, first, to create awareness; second, to keep watch on the political rulers; third, to articulate the interests and opinions of the citizens; and fourth, to contribute to the peoples' political socialisation and education, motivate them to participate in the political process, and promote the process of democratisation (Tenschler 2008 Burkart 1995: 362ff.; Norris 2003). Countries that are transforming into a democracy are especially likely to impose specific restrictions on the exercise of these functions, particularly the contribution of the (mass) media to the consolidation of democracy. Depending on the country in question and the phase of democratic transition it is in, media freedom may be restricted in a variety of ways.

Based on a questionnaire drawn up by the Research Group on Governance (see Appendix), experts of the Konrad-Adenauer-Stiftung prepared reports on the situation of the media and their freedom in each country. To analyse the results, the questions asked in the study were pooled under five key indicators (cf. Grabow/Korte/Weissenbach, in this volume):

- General information on media and media use
- Legal environment
- Political conditions
- Economic pressures
- Non-state repression

Under these headings, the results of the analysis and any trends identified will be summarised in the following chapters and used as a basis for developing propositions regarding the state of media freedom and the contribution of the (mass) media to the democratisation of developing and transforming states. The salient question is this: can the mass media meet the above-mentioned functional requirements in the transition process of the countries under investigation? This analysis will be followed by statements on whether regional development patterns can be identified or whether other explanations have to be considered. Another question that will be investigated is concerned with the part played by new media formats, such as web 2.0, blogs, and internet forums, in the communication of information and in democratic opinion-forming. Do the new media contribute at all towards enhancing freedom of expression and of the media in transforming states? How do political decision-makers in young or still-unconsolidated democracies cope with these new manifestations of political opinion forming?

## I. AFRICA SOUTH OF THE SAHARA

With regard to information technology and media outreach, sub-Saharan Africa was one of the most backward regions in the world in the early 1990s. Today, progress in the region as a whole may be described as impressive, although – with the exception of South Africa – the numbers of media users, internet access facilities, and PSTN connections still rank fairly low in international statistics.

### 1. General information on media and media use

Thus, for example, the number of internet users rose from 20,000 in December 2000 to nearly 1.8 million in March 2006 in Nigeria<sup>2</sup> and from 40,000 (December 2000) to 482,000 (March 2006) in the Republic of Senegal<sup>3</sup> (Brüne 2007: 318–319)<sup>4</sup>. Although the media landscape in both countries has been enriched by a multitude of privately owned newspapers and radio stations by now, Freedom House rates the media in both states as no more than partly free (Freedom House 2006). Moreover, the experts of the Konrad-Adenauer-Stiftung say that the Republic of Senegal with its 75 radio stations, 4 television channels, and 21 daily papers lags behind Nigeria (100 radio stations, 76 television channels, and 40 daily papers). One thing that equally applies to both countries is that many nationwide television channels are still controlled by the government, and that many ‚private‘ radio stations are owned by influential members of the ruling party. As the large number of radio stations in the two countries suggests, the wireless has remained the most popular source of information in the last five years, exercising the greatest influence on the formation of political opinions among the citizens of both states.

In both countries, increasingly widespread access to information via the mass media is confronted by illiteracy rates that are high compared to the other regions investigated. In Senegal, the proportion of illiterate people in the population ranges around 39 per cent, while in Nigeria, ‚the literacy rate in English (the official language) (...) is placed at 68 per cent‘ (2003 est.: CIA World Factbook, cf. Nosaze, in this volume).

Especially in Nigeria, the expansion in the use of the internet described above is matched by a growing number of newspapers that publish on the internet. Given the neopatrimonial character of the societies in both sub-Saharan countries, the freedom of information enjoyed by the print media often depends on the favour of the government, and state censorship is anything but infrequent. Conversely, the internet offers an arena for online reporting that is largely exempt from state censorship. In Senegal, this ‚online niche‘ is greater than in Nigeria. As most internet articles in Nigeria are online editions of the printed version, the effects of states censorship (mostly concerned with activities of the government) are directly transferred to the online edition. However, estimates of the part played by the internet in the formation of political opinions among the population indicate that, in contrast to the regions of Asia and Southeast Asia, for example, online reporting lags behind radio and television coverage in sub-Saharan Africa.

### 2. Legal environment

Section 39(1) and Section 38(1) of the Nigerian constitution state that ‚every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference‘ and ‚every person shall be entitled to freedom of thought, conscience, and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance‘ (Nosaze, in this volume). The constitution of the Senegalese Republic similarly postulates the right to free speech in Article 8 and the freedom of the press in Article 9 and Article 10. Yet these fundamental rights are mitigated by additional provisions in the constitutions of the two countries: Section 39.2 of the Nigerian constitution states that ‚private ownership and operation of electronic media subjects‘ (ibid.) must be authorised by the president and the National Assembly. In Senegal, reports about the societal order, the security of the state, and any criticism of the president are not covered by the right to

free speech. Although there are no laws explicitly condoning governmental censorship in either of the two states, the influence of government authority in the areas named above is assured by 'marginal additions' in a multitude of laws addressing other subjects.

Thus, although both states appear to guarantee the freedom of the press and the media in their constitutions, a closer look reveals various loopholes and indirect forms of information control, such as 'slander' and security laws, the high cost of licences, and the discrimination against private investors (Brüne 2007). Whereas print media do not require a licence in Senegal, television channels and radio stations are subject to tedious licensing processes, and the right to decide ultimately rests with the President. Thus, for instance, no more than four licences for new television channels have been issued since 2005.

In most cases of investigative journalism and others in which constitutional freedoms are invoked, journalists in both countries mostly end up without success before a paralysed judiciary, although not to such a great extent as in other countries covered by this study, such as Russia or Malaysia.

### **3. Political conditions**

In principle, no population group is excluded from media coverage in either of the two sub-Saharan states. Nevertheless, it must be emphasised that, especially in sub-Saharan Africa, preference is accorded in practice to certain population groups because of factors like the gap between the rich and the poor population, the high illiteracy rate, and the fault line between town and country. The KAS experts on these countries point out that the concerns of the rural population are neglected compared to urban issues. Another fact that needs to be highlighted is that women's concerns are neglected as well, especially in Senegal, and that members of the parliamentary opposition are refused any opportunity to communicate their viewpoints through the mass media as a matter of principle.

In Nigeria as well as in Senegal, self-censorship is a tool that is never mentioned but widespread nevertheless. In Senegal, self-censorship mainly applies to religious matters, such as criticism of the Muslim religion to which 95 per cent of the population belong. Occasionally, this behaviour is based on the regular experience of governmental and non-governmental sanctions that have occurred in the past both in Senegal and in Nigeria (where self-censorship tends to be applied more to reports that are critical of the government).

### **4. Economic pressure**

In Senegal, the state is the biggest investor in the country's private media. Next to providing annual financial support, the government commissions most of the advertising, thus greatly restricting the independence of the private mass media. In Nigeria, on the other hand, state subsidies for private media are not formally regulated. At irregular intervals, the state allots advertising funds to different media (television, radio, and print). Nigeria's media are mainly financed by advertisements placed by private enterprises. As far as the 'economic pressure' indicator is concerned, therefore, media freedom in Nigeria is not restricted by the government.

### **5. Non-state repression**

Although non-governmental abuses in Senegal cannot be compared in terms of frequency and intensity with those in other countries such as Russia or Malaysia, it is a fact that non-governmental reprisals do happen there. While most of these attacks are mounted by militants or religious zealots, some are committed by fans of certain sports clubs. Nigeria too has a history of non-governmental assaults against journalists. However, those militant non-governmental groups which have been attacking media enterprises or individual journalists ever since 1993 appear on the scene less and less frequently. Those non-governmental assaults on journalists that did happen in Nigeria in the last five years were mostly organised by politicians or political parties who thought that their political

interests were not properly represented by the media. Although they are not as common as governmental sanctions in both countries, non-governmental abuses nevertheless help to restrict the freedom of the media and their chances of taking a hand in the consolidation of democracy.

The development of media freedom and the media systems in the two countries that were analysed in the region of sub-Saharan Africa shows that the media landscape in both countries has become more pluralist in the last five years despite the wide variety of variables that restrict the freedom of media coverage (high illiteracy rates, restrictive legislation, a paralysed judiciary, tedious and costly licensing, governmental encroachments on journalists, and censorship). The best seal that could be awarded especially to Senegal but also to Nigeria is 'media freedom with considerable qualifications'. Unfortunately, this judgement obstructs technological progress as well as political and societal change on the way towards consolidating democracy in the two countries and in the entire region (Brüne 2007).

## **II. ASIA**

Its 1.3 billion inhabitants make the People's Republic of China the most populous country in the region, and its authoritarian one-party government contrasts markedly with the systems of the other countries in the southeast of the continent that are included in this study. More than in the Philippines, in Thailand, or in Malaysia, China's media system is dominated by an amalgam of centralised governmental control and a liberal market economy (Hediger 2007). With per-capita GDPs ranging between USD 1,500 and 3,000 and inhabited by 90, 60, and 25 million people, respectively, the Philippines, Thailand, and Malaysia are relatively populous emerging countries in Southeast Asia which have enjoyed high average rates of economic growth in the last few years. In formal terms, all three states are either democracies and/or constitutional monarchies. In the Philippines as well as in Thailand, democratic governments have been frequently ousted by the military. To this day, the military and, in Thailand, the king remain important veto actors in these two countries, a fact that is also reflected in their media legislation. In Malaysia, the military has no important part to play; instead, the ethnic division of the country has brought forth a coalition of the parties representing the three largest population groups. This coalition has ruled the country almost without interruption since its independence in 1957, greatly impairing the democratic contest.

### **1. General information on media and media use**

In all four countries, illiterate people account for about ten per cent of the population, although there is a wide gap between the low illiteracy rate in the towns and the extremely high illiteracy rate in the country, especially in China. In all countries of the region, media diversity is great in the print as well as in the radio sector. Next to daily papers in the respective national languages, English-language papers are distributed nationwide. Malaysia alone is unusual in that print media with a high circulation are published in the entire territory in all the four languages that are spoken nationally.

Particularly in Thailand and Malaysia, radio and/or print media are owned both by political parties and individual top-flight politicians. Malaysia is an extreme case because virtually all mass media with a high circulation and a wide outreach are de facto directly or indirectly controlled by the government coalition, especially by the UMNO party. In Thailand, former prime minister Thaksin controlled a popular TV station until he was deposed. With some qualifications, the same can be observed in the Philippines at the regional level.

Like elsewhere, the growing importance of the internet for media freedom and free speech deserves to be highlighted in the region of Asia and Southeast Asia. In all four countries, the number of internet users has been growing by leaps and bounds in the last five years. Accordingly, all four countries have their own popular internet papers and an active scene of politically interested bloggers, the only exception being China, where electronic filters and government censors are increasingly employed to purge undesirable reports from the net. Although the Chinese authorities are supported in this by foreign enterprises such as Google Inc., Microsoft, and Yahoo, the influence of the 'new' internet medium on media freedom and free speech is growing because governmental

controls often cannot keep up with the speed and diversity of the world wide web: especially in Malaysia with its authoritarian regime, political coverage on the internet and the expression of political opinions in blogs and chat rooms has been growing as considerably as in authoritarian China, where ,the use of the internet as an information channel has been widely utilised by China's online community ... [E]specially among China's younger generation the new media has established itself as a major source for news gathering' (Kühl, in this volume). Moreover, internet papers and blogs offer an important alternative source of information to the population of Thailand (especially during the military rule of 2007) and Malaysia. However, all four countries obstruct access to pages that are critical of the government. What is notable in this context is the vehemence of the action taken by the democratically elected Philippine government. In this respect, the Malaysian government is exercising some restraint, probably because it does not wish to hamper the economic development of the IT sector.

In the three countries that belong to the Southeast Asian region, access to radio media is widespread. Far more than 90 per cent of the population enjoy access to wireless media, and in Malaysia at least, c. 50 per cent of the population occasionally read a daily paper. In Malaysia, internet use is extremely widespread, with almost half the population having access to the internet, although many are restricted to internet cafes. In the two other countries, the utilisation rate ranges around 20 per cent. While people in Malaysia and Thailand watch television very frequently, the wireless tops the list in the Philippines. In the judgement of experts on the countries studied, the mass media exert a significant influence on opinion-forming everywhere, especially in the Philippines where journalists have been among the initiators of various major political upheavals. Thailand alone is an exception because the media there mainly offer entertainment and focus less on political reporting. Thus, it can be said that the part played by Thailand's mass media in the formation of political opinions is no more than marginal.

Government-owned radio stations and print media exist in the countries of Southeast Asia as well as elsewhere. In Thailand and Malaysia, they play a particularly dominant role. In Malaysia, for example, almost all mass media with a large circulation or outreach are controlled indirectly or directly by governmental players. In Thailand, the military control the radio, while all six commercial TV channels belong to the state. The controlling bodies of the governmental TV stations are not independent, and members are appointed under (party) political influence. Accordingly, government-owned media dominate the formation of public opinion in Malaysia and Thailand, acting as an instrument of the government. By way of contrast, government media in the Philippines reach only a fraction of the consumers, so that private media with their highly commercial orientation may be said to predominate in the country.

## **2. Legal environment**

The constitutions of all four countries guarantee freedoms of opinion, the press, and/or the media, yet this right is mitigated by other laws. Although the right to free speech and the freedom of the press are enshrined in the current constitution of the People's Republic of China, which was promulgated as early as 1982, opponents have remained exposed to considerable governmental persecution in the last five years. In the Southeast Asian region, evidence of restrictions imposed on freedoms enshrined in the constitution is most drastic in Malaysia and Thailand. In both countries, there are so-called ,internal security acts' which may be invoked to censor or ban media reports, especially those that cover conflicts with ethnic minorities in the two countries. In Malaysia, deliberately vague legal regulations protect the Prime Minister and his government from any critical reporting, and in Thailand, the same holds true for the king and the military.

Although such restrictions of media freedom are somewhat less severe in the Philippines, it must be said that the law of the land particularly protects the private lives of public personages (e.g. politicians), partially rendering them immune to criticism by the media. Summing up, we may say that media coverage is censored in Malaysia and Thailand, with the most severe restrictions being imposed in Malaysia. In Thailand, there are great obstacles to free media coverage, while in the Philippines it is limited.

Under China's authoritarian one-party system, there is no separation between the party and the state, and there is none between the media landscape and the one-party state, either (Kühl, in this volume). Independent media are banned, government censorship is common in all media formats, and the country's licensing policy is rigorous. In parallel with China's intense market orientation, such extensive governmental control of media coverage, causes a paradox inasmuch as a consistent party line in political reporting is accompanied by a maximum of diversity and variety in media formats and offerings' (Hediger 2007: 302).

In Thailand and Malaysia, all media formats need a license to operate. Malaysia's licensing policy is particularly restrictive. Since 1984, the prime minister has been issuing licenses which remain valid for no more than one year and can be withdrawn without giving reasons. In Thailand, too, licences are not issued by independent authorities, and what is more, they are withdrawn frequently. Internet providers are most severely affected. Once again, it is the Philippines where the situation appears more positive: print media do not need a license, and radio licenses are issued by a government-controlled commission and revoked only rarely. In the Philippines and in Malaysia, journalists do not require a licence to practice their profession. Nor does this appear necessary in the latter case because of the government's rigorous media and licensing policy. In Thailand, a different situation presents itself: under the Thaksin government, foreign journalists who criticised the government routinely lost their licence.

According to the constitution, journalists who suffer from governmental abuses and repression may appeal to the courts. As in the regions of Southeast Europe and Latin America (Brazil excepted), they would hardly stand a chance if they did. In this respect, the constitutional court of the Philippines is a positive exception. Similar discrepancies are to be found in the areas of media concentration and the formation of monopolies. In all three countries, laws exist that prohibit the formation of monopolies in the media sector. The Philippine constitution even bans foreign ownership of mass media. In point of fact, however, media monopolies exist in all three states, although this includes state monopolies such as those that predominate in Thailand and Malaysia. The print media form the sector in which tendencies towards monopolisation are weakest.

### **3. Political conditions**

As before, the People's Republic of China prohibits objective coverage of sensitive issues like Taiwan and Tibet and suppresses any representation of the relevant population groups in the media. In the three Southeast Asian countries, too, there are various social groups which appear very little or not at all in the reports of the media. In Malaysia, these groups are mainly political in nature (trade unions, opposition politicians), whereas in Thailand, they are ethnic or religious minorities (the Karen<sup>5</sup> and the Muslims). In the Philippines, on the other hand, media coverage concentrates on urban centres and hardly concerns itself with indigenous communities, one of the reasons why the media are so highly commercialised. Similar to some South American countries such as Bolivia and Venezuela, the situation in this Southeast Asian island state is rectified to some extent by communal radio stations. Self-censorship is widespread, affecting all media formats. The subjects to which self-censorship applies are many and varied. In Thailand and Malaysia, they relate primarily to the government, the king, and minority conflicts.

In Thailand and Malaysia, many journalists walk in fear of state reprisals that range from vehement verbal attacks to the closure of private radio stations by the military in Thailand. Basically, the extent of state repression is smaller in the Philippines but the Arroyo government is currently helping to make the situation worse. At the same time, there is at least one prominent case in which the country's constitutional court put a stop to abuses by governmental players. In Thailand, the danger of falling victim to state repression has increased markedly in the last five years, whereas it remained level in Malaysia and the Philippines.

#### 4. Economic pressure

In all three Southeast Asian countries, the economy has been expanding rapidly in recent years. As the private advertising market is relatively well developed, the environment is favourable for independent media. In Malaysia and the Philippines, private media receive no subsidies from the state, while in Thailand, TV channels partly depend on government advertising, which causes their coverage to be government-friendly. In China, government subsidies for the media used to be an integral part of the system. In the 1990s, however, the media began to turn to the private advertising market in order to become independent of the financial support of the state. However, state resistance towards this development makes it difficult for an environment to develop in China that is favourable to independent media.

#### 5. Non-state repression

If at all, journalists in the three Southeast Asian countries under investigation rarely have reason to fear reprisals by non-governmental players, although the regions outside the Philippine capital form an exception. Particularly journalists who report on organised crime, which is widespread in the country, frequently fall victim to assaults and even murders. Although this repression is no way systematic, a culture of lawlessness and impunity has established itself in the country. In this regard, there are unmistakable parallels between the Philippines and the South American countries. The threat situation in the island state has grown considerably more critical in the last five years, and according to the Committee to Protect Journalists<sup>6</sup> the Philippines were rated as the most dangerous country for journalists in 2005 and 2006.

As far as this indicator is concerned, there is a glaring contrast between the Southeast Asian region and the People's Republic of China: 'Non-state repressions against journalists, media companies or organisations are often used in China. The actual intimidation through non-state repression has increased. The situation has therefore slightly aggravated over the past five years. Assaults and defamation suits against journalists have been on the rise in recent years. To silence critical reports about their companies, businessmen sometimes hire thugs to physically attack journalists. The ones most at risk are reporters writing for tabloid newspapers whose zeal to report crime stories sometimes leads them into danger in pursuit of scoops. Reporters without Borders concluded that journalism has become the third most dangerous job in China, after mining and police work' (Kühl, in this volume).

In the course of the last five years, media freedom in the region of Asia and Southeast Asia has declined overall. What is particularly noteworthy is the fact that Thailand plummeted from 59th position in 2004 to 135th in 2007 in the ranking of Reporters without Borders, a judgement which agrees with that of the KAS experts on the spot. Much of this deterioration is due to the military putsch and the Thaksin government. Even the democratically elected government of the Philippines considerably restricted freedom of action in media coverage, often by circumventing the constitution. In the Freedom House ranking, the Philippines lost their free media status in 2004 and have been rated as partly free ever since then (ranked 100th in 2007). The same holds true for Thailand (ranked 126th in 2007 compared to 88th in 2004). Still characterised as not free, Malaysia's position at 150 puts the country somewhere among the bottom third of the list.

### III. LATIN AMERICA

#### 1. General information on media and media use

Brazil, Bolivia, and Venezuela differ markedly not only in the size of their population but also in their level of economic development and the state of their democracy. This is reflected in the widely divergent structures of their media systems (Massmann 2007). In contrast to the regions of East and Southeast Europe, transboundary trends and developments are difficult to identify for that reason. Even so, there is a remarkable feature that is shared by all three countries: at more

than 10 per cent, the proportion of illiterate people in the total population is relatively high, although the situation in Venezuela has improved noticeably due to the alphabetisation campaigns carried out in the last few years. On the other hand, there is great diversity in the print as well as in the radio media sectors of all three countries. This is particularly noteworthy in the case of Bolivia, given the low economic strength and the small population of the country. Assisted by Venezuela, Bolivia also supports the creation of so-called citizens' radios as a 'third sector' between governmental and private providers.

In all three countries, political parties do not officially own media enterprises. In point of fact, however, Bolivia's extreme political polarisation does affect the media sector, so that media companies can be unambiguously associated with political parties. The same more or less applies to Venezuela, although the current government is leaning heavily on media that are close to the opposition. In Brazil, more than 17 per cent of the members of both houses of parliament hold shares in TV companies.

The degree of TV penetration reflects the economic disparities between the three countries: in Venezuela, television and radio reach more than 95 per cent of the population and more than 90 per cent in Brazil, but no more than c. 65 per cent in Bolivia. Whereas the people describe the mass media frequently or very frequently as a source of information, internet use has remained fairly sparse so far. Even so, independent papers that are published exclusively on the internet exist in all three countries. Being used extensively, the mass media (particularly television) exert a significant influence on the formation of political opinions. In Brazil, print media play a subordinate role in terms of circulation. In Bolivia and Venezuela, on the other hand, they act as agenda setters and opinion formers by which both radio and television are guided in their coverage. The state radio media sectors closely resemble one another. State-operated radio stations exist in all three countries. Top managers are appointed on the basis of party-policy criteria, not by an independent body. In their coverage, they closely follow the lead of the government. In the judgement of the KAS experts, however, their influence on public opinion is small, so that a hegemony of private media may be said to prevail in all three countries of the region.

## **2. Legal environment**

All three countries emphasise freedom of opinion and the press in their constitution. Both pre- and post-publication censorship are legally banned. Especially in Brazil, however, there are still a few regulations left over from the era of military dictatorship that might have a potentially restrictive effect on these freedoms. The consequences of this dependency on the chosen path, which not only include regulations that are detrimental to media freedom but also affect the entire media system, are characteristic of all three countries in the region: 'During the phase of military dictatorship, these rights of the media [the freedom of the press, assembly, and opinion enshrined in the once-liberal Latin American constitutions] were truncated massively. Media were banned, and journalists male and female were persecuted, particularly if they represented opposition media. During the phase of transition in the countries of Latin America, the freedom of the press, assembly, and opinion were reinstated. Today, the laws relating to the media are formally democratic. (...) [Nevertheless,] journalists in Latin America belong to the most severely threatened members of that profession worldwide to this day' (Massmann 2007: 262).

Accordingly, there are no laws that formally restrict media coverage either in Brazil or in Bolivia and Venezuela. In all three states, media laws have been modified in the last five years. Brazil's endeavours to do away with the relics of its authoritarian past in its media law particularly deserve to be seen in a positive light. In Bolivia, governmental inaction prompted journalists to take matters into their own hands by establishing a National Ethics Council (Consejo Nacional de Ética) whose task is to formulate a code of conduct as well as quality requirements for journalists. The prime reason for this lies in the declining quality of media coverage caused by the extreme political polarisation, which makes it very difficult for journalists to maintain their independence and objectivity.



In Venezuela, private communication spaces have been noticeably constricted in the last few years by a bundle of measures implemented by the government to ensure political tractability through governmental privileges (advertising revenues, protection from tax collection and legal prosecution), a restriction of media freedom by indirect means.

It is true that journalists have relatively few problems in obtaining a licence to practice their profession in all three countries. However, defects in the judiciary and the high degree of its politicisation make it hard for them to defend themselves against governmental repression, particularly in Bolivia and Venezuela. Brazil's relatively efficient judiciary forms an exception in this regard.

In all three countries, media monopolies are banned de jure. De facto, however, the situation in Brazil is problematic. The country's large and lucrative media market is characterised by a high degree of concentration in the TV sector. So far, the owners of these companies appear not to be pursuing any identifiable political objectives.

### **3. Political conditions**

One of the political problems confronting Brazilians of African origin as well as the so-called *mestiços* is discrimination on the job. These and other concerns are only rarely taken up by the Brazilian mass media which, therefore, clearly neglect to cover the concerns of certain population groups. In Bolivia, there is at least a risk of the concerns of certain groups not being given a hearing in the mass media because of the growing polarisation. In Venezuela, corruption in the security agencies and the military is the prime taboo subject. Media organs close to the government play down the explosion of violent crime in the country's big cities by omitting to report on it.

Self-censorship is a problem especially in Bolivia and Venezuela, one of the reasons being the political division of the two countries which is reflected in their media systems. Thus, journalists who work for papers close to the government often do not dare to criticise it, and the same holds true, vice versa, for the opposition. In Venezuela, the buzzword is 'judicialisation of censorship', a term that describes the constant threat of being prosecuted under criminal and civil law for any criticism of the government. In Bolivia and Venezuela, moreover, media companies close to the opposition repeatedly suffered attacks that were either stage-managed or tolerated by governmental players in the last five years. Thus, a pro-opposition TV channel was declared an enemy of the state by the president of Bolivia. In Venezuela, the most eminent critical TV station was first warned and branded a 'mouthpiece of empire', after which its licence was withdrawn by the president. In Brazil, the situation appears more moderate: reprisals by government players directed against media or journalists are rare, and if they do happen, it is likely to be at the regional level.

### **4. Economic pressures**

The analysis of the fourth indicator clearly reflects the differences in the economic strength of the three countries. Because the advertising market in Bolivia is small, the state is the biggest advertising customer in the country, indirectly contributing to the subsidisation of the mass media. This being so, it may be supposed that the beneficiaries of these advertising commissions will modify their coverage accordingly. In Venezuela, private advertising budgets have been declining because arbitrary and discriminatory criteria are applied in allocating state advertising funds and the media landscape is highly politicised. The state pays for the fealty of government-friendly media by disdaining the opposition media and subsidising one side of the media market only. By contrast, the influence of the state as an advertising customer is kept in check by the size and diversity of the Brazilian media market. In Bolivia, media freedom is hampered mainly by the economic weakness of the country and the smallness of its advertising market, while in Brazil it is the dominance of a few large media groups that makes it difficult for newcomers to establish themselves. In Venezuela, the biggest obstacle to media freedom is the fact that advertising funds are allocated on the basis of political criteria.

## **5. Non-state repression**

Repression by non-governmental actors can be found in Bolivia as well as in Brazil and Venezuela. Related reasons vary widely: in Bolivia, the first on the list is the political division of the country. Supporters of both the government and the opposition will attack journalists supposed to belong to the hostile political camp. In Brazil, on the other hand, journalists who report on organised crime or corruption are most likely to be persecuted. The same holds true for Venezuela, where attacks on journalists are encouraged by the pervasive impunity and the constant mobilisation of government-friendly ‚grassroots movements‘. One feature that is common to all three countries is the inability or reluctance of the judiciary to put a stop to such attacks. Both the threat situation and the restrictions imposed on freedom of the press have helped to worsen the situation of journalists in these three countries of the South American region over the last five years.

In that period, Brazil, Bolivia, and Venezuela followed different paths on the way towards free media coverage. While the media freedom situation has improved slightly in Brazil despite the numerous problems that persist, it may be said to have worsened in Bolivia and Venezuela because of the political division within these two countries. Defects in the freedom of media coverage are similarly due to a variety of reasons. In Brazil, they include the influence of private players, organised crime, and monopolisation tendencies in the media market. In Bolivia and Venezuela, the most important factors are of a political and ideological nature, reinforced in Bolivia by the economic division between highlands and lowlands and in Venezuela by the considerable oil revenues of the state.

## **IV. EASTERN EUROPE AND THE MIDDLE EAST**

### **1. General information on media and media use**

In the cluster of countries analysed under the heading of Europe, its periphery and the Middle East, media diversity is high in the print as well as in the radio sector. In the last five years, two remarkable developments have taken place in media use: in the countries of this cluster, small newspaper readerships and declining print runs are offset by the growing number of independent papers that are published exclusively on the internet. Indeed, there is now independent coverage on the internet in all countries. The examples of Turkey, Georgia, and Russia show that the ‚new‘ internet medium furnishes an important platform for independent high-quality information sources in countries where media freedom is otherwise restricted (cf. Freedom House 2007). Accordingly, our analysis shows that, especially in Russia and Turkey, people’s media use has adapted itself to this development: blogging and chatting are increasingly being used as alternative sources of information. At the same time, it can be observed that Turkey and Russia have so far been the only countries in this group that have attempted to regulate access to the internet, albeit only to a limited extent. These results may be interpreted as showing that there is a connection between the restricted freedom of the press that prevails especially in Russia and the increase in blogging by which users of the new media occupy niches featuring freedom of expression. Even so there is no question of the part played by the mass media in political coverage and the formation of political opinions shifting to the internet: in the states covered by this study, the proportion of internet users is markedly below 30 per cent, an outreach that is low compared to the radio (95 per cent). What is more, experts judge that television has been exerting the greatest influence on the formation of political opinions in the last few years within the East and Southeast European region, Turkey alone excepted.

In Egypt, too, a multitude of independent high-quality papers has established themselves on the internet, and the country’s highly active blogger scene is using this niche to voice its opinion. To be sure, the proportion of internet users among the population is low at 8–10 per cent, and internet use is limited to the major cities. On the other hand, there is a radio in almost all Egyptian households, two-thirds own a TV set, and 15–20 per cent of the population regularly read a daily paper.

State radio stations are common to all countries in this cluster. One extreme is Georgia, where the state radio network is relatively weak; the other is Russia, where there is a hegemony of government or pro-government media groups. Accordingly, the influence of Russia's government radio network on public opinion is very great. No government print media of any relevance exist in any of the six countries.

In all countries, leading positions in government media are awarded by a kind of executive council. With the exception of Georgia, none of these bodies may be characterised as independent. Small wonder, then, that the coverage of the state media is almost always friendly to the government, although Bulgaria's relatively objective reporting distinguishes it among the other states investigated.

## 2. Legal environment

In principle, free speech and a free press are enshrined in the constitutions of all countries in this cluster. Pre- and post-publication censorship are legally banned in all countries. Turkey alone differs from the other cases because the freedom of the media and the press is restricted there by addenda and special provisions in the law. In Egypt, the state of emergency that has been extended again and again every since 1980 allows the state to invalidate any article of the constitution. A dedicated law permits censoring the mass media to a limited extent while this state of emergency prevails. Emergency law provides the executive branch with a legal basis for massively obstructing oppositional media or even banning them without judicial control.

In all countries of this group, considerable changes have been implemented in media legislation in the last five years. Positive changes in the legal framework for the freedom of the press and the media can be identified in Bulgaria, Poland, Georgia, and Ukraine. In the first two cases, the objective of meeting the criteria for accession to the EU has had a considerable catalytic effect on the efforts to strengthen press and media freedom. In Georgia and Ukraine, legal reforms became possible only after the two governments had been overthrown in 2003 and 2005. In Russia, the development of media freedom has instead gone into reverse in the last five years because of new legal regulations, and there is an observable trend to restrict (political) coverage. The judgement in the case of Turkey is ambivalent: next to changes in the law that serve to promote freedom of the media, restrictions on (political) coverage have simultaneously been imposed: „The law [New Media Law, 2002; author's note] also prohibits broadcasts that „violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk," or that „instigate the community to violence, terror, or ethnic discrimination" and imposes similar restrictions on the internet. In June 2002, the Constitutional Court temporarily froze certain parts of the law, but censorship and other restrictive provisions remain in effect.' (cf. Tunç, in this volume).

Compared to the state of the laws by which media freedom was regulated five years ago, two tendencies appear in the 2008 analysis of the countries in this cluster: in the EU member states of Poland and Bulgaria as well as in Turkey and Ukraine, constitutional and ordinary-law regulations tend to promote the development of media freedom or at least to safeguard the status quo, whereas the situation has deteriorated noticeably in Georgia and Russia. What is remarkable is the difference between the path chosen by Ukraine and Georgia. Although both countries have experienced a successful democratic revolution in the last five years, Georgia appears to be bogged down on the road towards consolidating its democracy, and the opportunities for the media to contribute to the process of democratisation seem to stagnate as well. The consolidating function of the mass media in Georgia is impaired by the stagnation of the democratisation process, which is primarily due to intervening variables such as the lack of a democratic tradition, the inadequate institutionalisation of political parties and institutions, and the lack of democratic elections (Weissenbach/Korte 2006; Korte/Weissenbach 2007). This close link between the current phase of transformation and the development of media freedom can be demonstrated particularly well in the media systems of the East European transforming states (Thomaß 2007). However, deficits in the judicial implementation of the freedom to report may be identified in differing degrees in all the countries investigated in East and Southeast Europe.

Although journalists are assured that the press is free de jure, the gap that yawns in reality between constitutional rights and an often paralysed judiciary appears clearly whenever they attempt to defend themselves in court against unjustified governmental reprisals.

In Egypt, the freedom to report has deteriorated slightly in the judgement of KAS experts. By way of explanation, the following facts are quoted: first, some prominent journalists have been arrested; second, the surveillance of the highly active Egyptian blogger scene has been stepped up; and third, the tax law compliance of the independent press is now being monitored more closely. Censorship in Egypt is strict. As a general rule, government media censor themselves in anticipatory compliance. Print media of foreign origin are censored with regard to their political coverage and ethical/religious content before they are published in Egypt. Journalists who rebel against state censorship may expect considerable fines or even imprisonment for up to two years.

Unlike Egypt, where there is no legal ban on monopolies, the constitutions of all the other countries in this cluster restrict the establishment of monopolies. Still, at least a tendency in that direction can be observed in all states. Once again, Russia is exceptional in this respect because all private monopolies were broken up while President Putin was in office. Close links between political players and media companies are frequent, and the boundary between the two is often blurred. This being so, many entrepreneurs use their media organs as political mouthpieces to support their own political ambitions.

### **3. Political conditions**

The questions asked under the 'political conditions' indicator reveal the specific factors that might potentially influence media freedom on the spot. Basically, it may be said that all population groups are represented in the coverage of the media in the countries that belong to this cluster. Turkey, however, is an exception inasmuch as the Kurdish-speaking population is not reflected in the media landscape and the media system. In Egypt, on the other hand, the media system traditionally gives only inadequate consideration to two groups of the population: the members of the Coptic Church and – in geographical terms – the areas outside the capital, Cairo. Even large cities like Alexandria receive no more than inadequate coverage in the media, while rural regions are neglected completely.

Self-censorship is widespread among journalists. To a varying extent, it prevails in all the countries of East and Southeast Europe and the MENA region that were studied. However, our analysis shows that there are two grades of self-censorship: first grade self-censorship relates to religious or 'moral' contents, as in Turkey, for instance. The effects of second-grade self-censorship on media freedom is more incisive whenever it applies to internal or external security, the incumbent head of state (Russia), or the founder of the state and his ideology (Turkey). In the last five years especially, the internet with its blogs, chat rooms, and online coverage has been offering a platform that is largely free of self-censorship, thus promoting freedom of the media and the formation of opinion, although it is not a mass medium.

Russian journalists in particular walk in fear of government reprisals, ranging from brief imprisonment without charge to the technical blockade of transmission channels. Conversely, our analysis of Turkey reveals some positive developments: thanks to the country's endeavours to obtain the status of an EU accession state and the pressure exerted by the EU, the threat of state sanctions has become markedly less severe.

### **4. Economic pressure**

With the exception of Russia, all the states investigated subsidise private media at least indirectly, i.e. through advertisements and PR campaigns. Yet even in Bulgaria, the only country where such subsidies attain a dimension that is worth mentioning, indirect subsidy is negligible compared

to the advertising market as a whole. Further aspects described as obstructing media coverage include moot laws, close links between media entrepreneurs and politicians, distribution system deficits and, in Bulgaria, the pressure of foreign investors on the established media.

## **5. Non-state repression**

Turkish and Russian journalists in particular are at risk from repression by non-state players. In both countries, journalists have been murdered in the last two years, and the risk of being assaulted by non-governmental players may be regarded as high in Turkey as well as in Russia. In the other countries, abuses are very rare, and they have not increased. In Egypt, tension has been relaxing since the 1990s, but even here the judiciary is reluctant to put a stop to abuses or prosecute them. Poland is an exception inasmuch as the judiciary there is relatively efficient and independent in contrast to the EU partner country of Bulgaria.

In the countries examined, the freedom of media coverage presents a differentiated picture compared to the situation five years ago. Thus, the indicators analysed show that the framework conditions for media freedom have improved considerably in Ukraine as well as in Turkey, although numerous problems persist. Poland and Bulgaria have been able to maintain their status quo in the last five years, while in Egypt political coverage and the framework conditions for media freedom have been deteriorating.<sup>7</sup> In Georgia, there has been a major increase in curtailments of media freedom. In Russia, where media freedom has been eroding continuously since 2001 and all major radio stations are controlled either directly or indirectly by the government, restrictions of media freedom have multiplied considerably. In this respect, the judgement of the KAS experts essentially corresponds with the country ratings of Freedom House. Poland's media system is the only one in the countries investigated to be rated as 'free' by Freedom House, and while Bulgaria, Ukraine, Georgia, and Turkey are still rated as 'partly free', Russia has been regarded as 'not free' for some years (Freedom House 2008).

## **V. MEDIA FREEDOM IN 16 STATES UNDER INVESTIGATION: DEVELOPMENTS AND TRENDS**

The media and their consolidation of the democratisation process have to meet great expectations, especially in the view of the western industrialised nations. Our analysis of media freedom and its limitations in the 16 countries examined reveals the major obstacles to free media coverage. Based on this, developments and trends that are specific to each country can be identified and starting points for measures to support sustainable framework conditions for media freedom can be determined.

### **1. The new media are conquering niches where freedom of coverage and opinion prevails.**

It is true that the advent of 'new' internet-mediated information sources does not relieve the 'classic' mass media (radio and print) of their societal information and integration functions (Tenscher 2008; Donges 2000). Nevertheless, it is a fact that, especially in Asia, the 'web 2.0' as well as the opportunities offered by blogs and internet forums (chats) are increasingly used for purposes of political coverage and the free expression of political opinions. Based on expert assessments as well as on the current state of research, two developments have been identified: first, the more the mass media are subjected to state censorship or constrained to censor themselves, the higher the density of political coverage and free speech on the internet, particularly in blogs. Second, whereas blogs and internet forums are regarded mainly as 'leisure and fun activities' in states with a high level of democratisation, their relevance as a serious format for political reporting and expression is much higher in states that are still in the initial phase of their transition to democracy (Merkel 1996). This is despite the fact that bloggers who report about, for example, human-rights infringements or fight for their right to express their opinion on the internet risk their own physical integrity.

**2. Within the sphere of influence of the European Union, the threat posed to media freedom by state reprisals is declining.**

In Turkey as well as in Ukraine, two countries which are striving for the status of EU accession candidates and have set themselves the goal of meeting the Copenhagen criteria, the threat posed to media freedom by state reprisals has been declining. This is one result of our analysis of the region of East and Southeast Europe. In Poland and Bulgaria, both EU members, as well as in Turkey and Ukraine, both interested in accession, constitutional and legal regulations either promote media freedom or at least safeguard the status quo, whereas in Georgia and Russia, media freedom has been deteriorating. Despite pressure from the EU, deficits in media freedom persist in the countries investigated. Compared to the other regions examined, it may be said that, allowing for differences in grade, an upward trend prevails in the EU member states and accession candidates, and endeavours are made to comply with EU standards for media freedom.

**3. There is an interdependence between the phase of transformation and the degree of media freedom.**

It is impossible to state in general terms which is the dependent and which the independent variable in the relationship of mutual influence between the media and the degree of democratisation. This study clearly shows that both variables are interdependent and mutually interactive. In transforming states, the process of transition from an authoritarian regime to a consolidated democracy runs through three phases, namely liberalisation, democratisation, and consolidation (Merkel 1996). This process may well have been marred by occasional setbacks. In the region of East and Southeast Europe, all states which were co-opted into the EU were categorised as 'successful'. There are other states, however, which either settled at the 'semi-authoritarian regime' level or receded to a lower phase (Thomaß 2007). In almost all the countries investigated, such a relapse was accompanied by a decline in media freedom. The fact that Ukraine and Georgia are pursuing different paths is significant in this study. Although both countries have experienced a successful democratic revolution in the last five years, Georgia appears bogged down on the road to a consolidated democracy, which is not the case in Ukraine. By the same token, it may be stated that the opportunities for the media to contribute to the democratisation process have stagnated as well, and that they are no longer able to perform their consolidating function.

**4. Functional starting points for promoting media freedom.**

Especially in transforming and developing countries, the (mass) media are considered to perform important functions as catalysts. The 'younger' a democracy, the greater the importance of free media coverage for the ongoing process of democratisation. In differing degrees, all states examined in this study show functional 'deficits' in the promotion of democracy by the media. If we follow Tenschler (2008) and Burkart (1995) once again, we may say that tight restrictions are often imposed on the functions expected of the (mass) media. From these restrictions and the related functional 'deficits' of the media in the democratisation process of the states investigated, starting points may be identified for future measures to support sustainable media freedom. It is true that all such support measures are tied to specific framework conditions in each country. Thus, our investigation of the Latin American region shows particularly clearly that transboundary or regional conclusions and patterns are inadequate. Nevertheless, our study of the cases under consideration has yielded five main obstacles to free media coverage, which are:

- Lack of editorial freedom
- Close links between media entrepreneurs and politicians
- The economic pressure on and dependence of journalists
- Widespread self-censorship
- The low degree of professionalisation among journalists.

- 1| The authors wish to thank graduate assistant David Goertz for his assiduous research and preparatory activities for this study.
- 2| In a population of 159,404,137.
- 3| The figure quoted for 2008 by the Observatory on Information Systems, Networks and Highways (OSIRIS) is 540,000 internet users.
- 4| Cf. [www.internetworldstats.com/stats1.htm](http://www.internetworldstats.com/stats1.htm), 29-06-2008.
- 5| Mountain people from Burma who fought for an independent state and partially fled to Thailand.
- 6| <http://www.cpj.org/>, 28-06-08.
- 7| Today, Freedom House rates the Egyptian media as 'not free'.

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# **PROMOTING FREE MEDIA**

## **THE MEDIA PROGRAMME OF THE KONRAD-ADENAUER-STIFTUNG<sup>1</sup>**

Free and independent media are indispensable for the promotion of democracy. In a modern society, they fulfil a number of important functions, such as spreading information at all levels of the state and society, conducting public debates, launching ideas, rendering decisions transparent, voicing criticism, and calling decision-makers to account. Thus, the media enable citizens both to participate in the policy-making process and to form their own opinions, which is crucial in a democracy. By the same token, they influence and monitor the outcomes of the political, social, and economic development of the state. This being so, democratic framework conditions may only evolve successfully if the media sector is promoted and enhanced in an ongoing process. This is why promoting freedom of opinion and the media plays an outstanding part in the international cooperation activities of the Konrad-Adenauer-Stiftung.

Today as in the past, the picture presented by the state of the media in many countries is by no means uniform. Mirroring differences in levels of political and economic development, the degree of freedom and independence enjoyed by the media fluctuates as widely as before. For this reason, the process of democratisation remains predicated on constant and effective support for the media in their endeavour to secure greater freedom of action as well as professional integrity. This is where the media programme of the Konrad-Adenauer-Stiftung comes in. Besides promoting the media under the national programmes for individual countries, the KAS operates a separate media programme which, managed by media experts, is dedicated exclusively to promoting the media in Latin America, Asia, sub-Saharan Africa, and southeast Europe.

### **THE INTERNATIONAL MEDIA PROGRAMME OF THE KONRAD-ADENAUER-STIFTUNG**

The Konrad-Adenauer-Stiftung adapts its media-related activities to the specific consultation needs of each and every region and country in the world. Still, our experience with project developments in the various regions suggests that the deficits to be found in the media sector are the same everywhere. The resultant need for action is embodied in four overarching long-range objectives:

- Enhancing quality and qualification in journalism
- Ensuring free, responsible, and ethically-founded reporting
- Creating and extending journalistic networks on the national and regional plane
- Improving the political communication of politicians and parties

To reach these objectives, the KAS has instituted related measures in all its four regions.



### **1. Enhancing journalistic quality and qualification**

Many journalists are inadequately trained, lacking professional knowledge despite many years of experience. Targeted in-service training and information programmes addressing current political, economic, and societal issues provide media representatives with any technical knowledge they may lack, enabling them at the same time to furnish society with the information it needs in order to get its bearings in an ever more complex world, in a manner that is both understandable and tailored to the needs of the audience. In addition to enhancing the quality of reporting, this serves to strengthen the media in their role of controlling political, economic, and societal forces within the political structure.

Next to defective professional knowledge, it is often found that information about the journalistic trade itself is lacking. Training courses on investigative journalism enable media representatives to cope better with the complexities of background research and to report on abuses more competently. Applying the methods of investigative journalism permits the media to fulfil their function as guardians in society.

To improve their training, moreover, journalists need to be informed about their own rights and obligations. However, many media workers in the various regions have no more than rudimentary knowledge about these matters, and some have none at all. Targeted courses inform journalists about their rights and obligations as well as about the media law in their respective home countries, enabling them to claim their rights and fulfil their duties.

### **2. Ensuring free, responsible, and ethically-founded reporting**

Furthermore, freedom and accountability in journalism depend on the creation of ethical criteria, such as editorial statutes, and their widespread acceptance. If ethical standards are in place and compliance with them is monitored by self-governing bodies, independent, careful, comprehensive, truthful, and unimpeachable reporting will be underpinned, enhancing the credibility of the media.

Regarding media self-organisation, Germany has a variety of interesting models to offer, which were developed against the background of totalitarianism and national socialism. Public-law radio stations and the Federal Press Conference guarantee a basic supply of information as well as pluralism and constant institutionalised access to information. Together with some variants elsewhere in Europe, these models demonstrate the prerequisites for the development of an independent media landscape. Positive experiences are constantly introduced in the debate about creating a media system that is based on the fundamental democratic principles of remoteness from the state, programme diversity, and freedom of opinion.

### **3. Creating and extending journalistic networks at national and regional levels**

Journalists only rarely maintain contacts with neighbouring countries. Lack of experience abroad diminishes their understanding for the problems of their neighbours. Because of its regional structure, the media programme of the KAS permits transnational measures which offer opportunities for making contacts with colleagues not only from the region in question but also from Germany and Europe. To the participants, the knowledge they acquire at international events is advantageous in many respects: Not only will journalists report more equitably on events in neighbouring countries, they will also be less susceptible to economic pressure if they hold contracts as foreign correspondents. Media companies, in turn, may learn from good examples set by other enterprises in the region and implement new ideas in their home countries. Lastly, a view across the border helps people to understand their neighbours' situation, thus preventing conflicts within the region. Furthermore, placing journalism on a regional footing is a prerequisite for pillorying abuses and creating an international audience within the region and beyond.

#### **4. Improving the political communication of politicians and parties**

Mastery in media competence is very important for the presentation of political matters in a democratic media society. In the regions where the KAS is active, parties and politicians often have nothing more than a relatively undeveloped system to communicate their political programmes to the population. Particularly in those countries where a single party is dominant or even all-powerful, this plays into the hands of the leaders. Citizens need information to arrive at democratic decisions. This is particularly important in the run-up to elections when political marketing and good campaign management are crucial for the communication of political ideas and concepts. This is why political communication forms one of the focal points of the media programme. Acquiring knowledge about political communication and campaign management enables people to present their own political objective in a contemporary manner which, in turn, reinforces democratic competition.

#### **THE REGIONAL DIVISIONS OF THE MEDIA PROGRAMME**

##### **Latin America**

In Latin America, the impact of the media is frequently unpredictable. Print products, radio programmes and, even more importantly, television exert a crucial influence on the opinions of the people. Particularly on television, emotional coverage may trigger immediate reactions. Dramatic reports may easily cause political or economic projects to be cancelled in short order, not least because either the country does not have much of a media culture where stories are checked against other sources by other journalists, or because those media outlets do not have the same influence as others that are more friendly towards the government. By staging emotional appearances on television, presidents can drive masses of people into the street to protest. Political demagogues find it easy to instrumentalise the power of the media because well-trained and well-informed journalists form an alarmingly small minority among the media population. This is why prophetic speeches by demagogic politicians are often reproduced uncritically in media reports or published without an explanatory context. Thus, journalists will report about campaigns without analysing the programmes of the candidates, or indeed without a proper understanding of the country's electoral system. Or again, they may report about disputes between warring parties, as in Colombia, without knowing the history of the armed conflict.

Moreover, the importance of the media ultimately depends on the way in which they are utilised in the various regions: papers are read only by elites and members of the upper middle class, particularly in major cities. Marginalised groups, such as indigenes and members of the lower social classes, mainly use (citizens') radio and a few television programmes, especially in the provinces. This is why small citizens' radio stations are so important in some areas. The actual importance of the media crucially depends on whether they operate in a monopolised media landscape (e.g. television in Mexico and the entire media sector in Venezuela) or greatly depend on government advertising, which tends to reinforce the trend towards servile reporting and self-censorship.

These deficits threaten the development of democracy in Latin America. What is more, there is a flagrant contradiction between the influence of the press and the broadcasting media on the one hand, and the inferior qualification of many journalists and the shaky economic independence of the media in Latin America on the other.

The KAS has been funding media projects in Latin America since the 1970s. Media promotion under a programme dedicated to the sector in Latin America goes back to the year 1993. Throughout the many years of its presence in the sector, the Konrad-Adenauer-Stiftung has amassed a hoard of experience and knowledge. Thanks to its promotion of the media in Latin America, the KAS today enjoys great trust and esteem everywhere. The focal points in its current programme are the product of an ongoing critical discourse about the media and political communication on the sub-continent. By focusing on these items, the KAS has been able to adjust to changing requirements and the swift development of the sector.

Today's focal issues reflect key problems and challenges. One example which illustrates the way in which objectives are updated without abandoning the necessary sustainability and continuity is the inclusion in the programme of the 'new media' and the resultant demands on media legislation. Another useful move that was implemented many years ago was to entrust only experienced journalists with the management of the various tasks.

Since the autumn of 2006, the media programme has been headquartered in Buenos Aires, enabling an intense exchange with local media experts and consultants who work in the international field. Today as always, the programme meets the growing demand for in-house measures in journalist training and education, media law and media policy, and political communication in all areas of relevance. Recently added to the range of tasks, the 'internet and new media' complex will be integrated into all segments of the regional programme. The internet platform that was created some three years ago to facilitate communication with our target groups without regard to space and time is constantly updated to meet current media requirements.

### **Asia**

Because of the great differences that exist in the level of economic and political development in the various countries of Asia, it is well-nigh impossible to pin down any general trends in the state of the media. As ever, the freedom enjoyed by the national media differs greatly from one country to the next. A positive development could be witnessed in Nepal, where freedom of the press improved dramatically when the king was peacefully deprived of power in 2006. Once again, it was mainly the radio stations which supported the democratic idea. Cambodia, another country where the infrastructure is problematic, provides abundant evidence that radio is a tool whose importance for information and democratic opinion-forming should not be underrated. Consequently, there is considerable need for development-policy action to which the media programme for Asia is responding with its own means and measures.

Since its launch in 1996, the media programme for Asia has established itself as one of the most effective international partners in the Asian media sector. What is more, it is highly esteemed by journalists, politicians, academics, and representatives of civil society organisations. As the political and economic conditions prevailing in the countries of Asia are highly heterogeneous, the problems that exist are complex and demand medium to long-term strategies.

The range of subjects covered by the media programme is being constantly enlarged and adapted to its target groups. It now includes the issue of regional integration within ASEAN, the shifting geopolitical balance in the Asian region, inter-regional relations between the EU and ASEAN, the challenges to democracy and journalism posed by the new age of the media, media management, and competent journalistic reporting on issues such as religion, conflicts and terrorism, and media law.

Furthermore, the fact that presidents, heads of government, ministers, and other leading figures in public life readily agree to participate as keynote speakers in media programme events testifies to its growing profile and outreach. The Asian-European Editors' Forum, for example, which has been taking place in a different country every year since 2000, has been honoured with speeches by the presidents and/or heads of state of the Philippines, India, Indonesia, Cambodia, Thailand and Singapore.

The regional programme promotes a media landscape that is independent and committed to ethical and professional standards, thus stabilising and strengthening democratic structures in the countries of Asia. Consequently, programme activities concentrate on fostering dialogue among Asia's media representatives, exchanges of experts and journalists, and the process of harmonising professional and legal standards in the Asian media landscape. In addition, the programme focuses on supporting initiatives that aim to preserve journalistic diversity in the face of growing international media concentration and to reinforce independence, diversity, and professionalism in the local press.

In the field of Asian-European exchange, the above-mentioned Asian-European Editors' Forum has been particularly successful in establishing itself as a recognised platform of dialogue between publishers and editors from Asia and their German and/or European colleagues. On the one hand, the forum serves to create personal networks and enable participants to acquire more detailed knowledge about the host country of the moment; on the other, it facilitates professional exchanges about current issues of regional and supra-regional relevance.

In pursuit of the goal of intra-Asian cooperation, the Asian media programme established the Asia News Network (ANN) in 1999 to facilitate the exchange of news among its current membership of 16 papers, all holding a leading position in their respective countries of origin. Without parallel in Asia, the network is increasingly proving itself a medium of communication whose importance can hardly be overestimated. Founded on successful cooperation and coordination among its members, the ANN has been growing steadily in terms of membership, outreach, and the quality of its joint initiatives. During the previous promotion period, the ANN added to its portfolio of initiatives the creation of the ANN Business Group to develop its own sources of revenue together with the launch of two weekly publications, the ANN E-Paper and the AsiaNews magazine. Now that the Kathmandu Post (Nepal) and the Vientiane Times (Laos) have joined, the network has moved yet another step closer to its goal of regional inclusiveness.

Cooperation with the Konrad Adenauer Asian Centre for Journalism (KAACfJ) at the renowned Ateneo University of Manila has been highly positive as well as effective. The centre's diploma and certificate courses, including a distance learning MA course in online journalism which it has been offering since 2004, contribute a great deal towards sustainably improving and professionalising the media in Asia. The programme appears particularly impressive because of the widespread and still-growing regional response to its curriculum, and because it brings the centre's Asian profile even better into focus. To safeguard the sustainability of the initiative, moreover, an alumni network complete with database has been created. Another new initiative is the Young Leaders' Forum to which mainly MA students at the KAACfJ are invited. One of its purposes is to facilitate networking.

Up-to-date publications of practical relevance are yet another way in which the Asian media programme attempts to guarantee the sustainability of its education and training measures for journalists. Among the publications that appeared in the current promotion period, the Asia Media Directory deserves to be highlighted because of the great demand which it provoked among journalists, editors, and academics. As the response to this publication was so widespread, the Media Programme for Asia is planning a reissue for the year 2008/09. Further highlights include Reporting Development News, a manual that aims to improve the understanding of development journalism in Asia; the first volume of the newly-launched Book Series in Asian Journalism, which contains articles on current challenges confronting journalists in Asia (written by graduates of the MA in journalism programme of the Konrad Adenauer Asian Centre for Journalism at the Ateneo University of Manila); and Covering Maritime Piracy in Southeast Asia, an introduction to responsible and informed reporting on this topical issue.

### **Sub-Saharan Africa**

In operation since 2002, the media programme for sub-Saharan Africa focuses on South Africa, Namibia, Botswana, Swaziland, Lesotho, Zimbabwe, Mozambique, Malawi, Zambia, Angola, the Democratic Republic of Congo and Kenya. Occasionally, education and consultation measures will be implemented in other countries of the region, and delegates from these countries may be invited to regional events.

A large proportion of the journalists working in the project region remain inadequately trained even after years of professional experience. On the one hand, the knowledge that surrounds the journalistic trade is either not taught at all or passed on by superiors without any thorough training of their own. The consequence is that fundamental errors are handed down from generation to generation. On the other hand, there is often a lack of specific knowledge about the subjects

covered. Thus, for example, journalists who report on press conferences of their country's ministry of economics may be unable to explain fundamental terms like inflation. At best, the resultant reports will be unreflected, but in most cases this is aggravated by mistakes and untruths. This is what the media programme has been focussing on since its inception. Because of the size of the region and the low level of knowledge that is widespread among media workers, some measures are accompanied by training courses for multipliers who pass on their newly-acquired knowledge to their colleagues.

The strength of the media programme results from its regional approach. Next to measures implemented in specific countries to address, for example, campaign coverage in the run-up to national elections, regional events are planned and implemented as well. This approach has proven extremely sound and successful. As a general rule, journalists working in the programme region do not have a chance to travel to a neighbouring country. Most know little about the countries next to their own. Regional measures may not only help to create mutual understanding, they also enable participants to gather best practices from other media houses for later application in their own editorial office. Moreover, international contacts make journalists less susceptible to reprisals by their own government because of the transboundary employment relationships that often develop in the course of time, such as correspondence contracts, for instance. Thus, the regional approach operates at several levels to improve the working conditions of the journalists and enhance the independence of their companies. This is most clearly evident whenever the managers of a company cooperate with its owners on developing financial strategies to strengthen their media house.

The legal framework conditions for free media similarly need improving. In the past, the media programme has implemented a variety of projects under this heading. The publication of handbooks on media law assists journalists and media houses in judging their own rights and obligations.

In 2006, the field of political communication was added to the regional programme. Its objective is to enable politicians to competently inform citizens about political processes and contents. Thus, a summer school is held to teach young representatives of political parties from southern Africa the skills they need to improve their communication.

In the early days of the media programme, it was assumed that the new-media sector would develop as swiftly in southern Africa as in Europe or Asia. Looking back, we find that this development did not materialise even in South Africa. It is true that the number of internet subscribers has been booming, and that data communication rates have improved markedly, but even so, the technical facilities available are far from adequate for operating further education within the region via the internet, for example. Moreover, it was found that although the influence of the new media on the market has been immense, their impact on the tasks and the work of journalists was not extensive enough to affect their everyday lives seriously. Even so, the media programme relies on the internet as a handy medium for communicating information across large distances and national borders.

The steps taken by the media programme for sub-Saharan Africa to consolidate the freedom of the media address one of the core problems of the countries within the project region as they aim to reinforce existing development potentials, to promote democratisation, and to develop together with local partners proposals on how to strengthen the generally weak position of the 'fourth branch of government'.

Guided by the goal of sustainable development cooperation, the key areas of the regional programme are based on an analysis of the framework conditions as well as the obstacles to and potentials of media development within the region. To secure the involvement of the target groups, the programme maintains a permanent dialogue with media representatives, political players, and partners within the region to discuss its objectives and measures. The media programme attempts to overcome the weakness of the media in the project countries in harmony with other international organisations. The programme's intended effect extends to two levels. At the first, the programme responds with education and consultation measures to the need for information and in-service

training of selected target groups. Project activities are tailored to these information and education needs. At the second level, the programme promotes the development of democracy within the region beyond the limits of its concrete activities. To achieve this indirect effect, tools and target groups are carefully selected for the programme. The effect of the activities is bound to spread because of the nature of the programme and its target groups, for these include without exception democratic forces of reform which act as multipliers. The key tools of the programme are systematic education and consultation measures as well as the development of training materials which may be used in measures other than those promoted by the KAS.

### **Southeast Europe**

The sector project Media and Democracy in Southeast Europe has been operating from its own office in Sofia since 2007. It covers the constituent countries of the former Yugoslavia as well as Bulgaria and Rumania. Albania and the Republic of Moldova, two countries currently under observation, are regularly involved in regional events. When the programme was created, the contacts of the numerous KAS offices abroad proved very helpful. Thus, cooperation with representatives of media houses, journalists, journalist organisations, and universities in the region quickly acquired a high degree of quality and mutual trust, and the popularity of the programme grew rapidly.

The strong point of the regional programme is that it uses media promotion to develop and stabilise democracy as well as to foster the European idea in the region. Whereas other organisations, such as the OSCE, concentrate on protecting freedom of the press, the KAS media programme addresses not only improvements in the quality of the media but also the aspect of political communication. Moreover, the regional approach of the sector programme, which is designed to encourage networking and exchanges in southeast Europe, is unique at the moment.

To underpin processes of integration and cooperation in the region, the media programme strengthens the media sector as an important pillar of democratisation. The areas to which particular attention is paid include, among others, the training of journalists (especially specialisation in technical subjects) and ethical self-governance. It also aims to ensure that the subject of Europe is no longer described in abstract political terms but finds its way into all segments of society and into widely different milieus. All in all, the approach is designed to promote continuous improvements in the quality of journalism, a major contribution towards the reinforcement of democratic structures.

The Foundation's efforts to establish a media council in Croatia were very well received by the public and the media sector. Thanks to its support, the KAS is now regarded as a serious interlocutor for establishing organs of self-regulation.

There is still a very great demand for offers of specialisation as the training of southeast European journalists is largely confined to political, linguistic, and cultural studies. Learners are not taught the elementary methodology of journalism, and there is no specialisation. This has a highly negative impact on communication about the EU, a political subject that greatly exercises all southeast Europeans at the moment: People learn very little about the opportunities offered by the EU.

In addition to the difficult process of political and economic transformation they are passing through, the countries of southeast Europe have a hard time coping with the recent past. This is especially difficult against the background of the Yugoslavian war, which raged in the countries of the western Balkans from 1991–1995. Coming to terms with the socialist past while simultaneously overcoming the war years constitutes a double burden. Nor have the other countries succeeded in coming to terms with their communist legacy. To support this process, the KAS is running several projects, mostly of a legal nature. In Bosnia-Herzegovina, where the issue is of particularly great importance because of the ongoing trials of war criminals, the foundation succeeded in establishing close contacts with the association of trial reporters and other organisations promoting further education for journalists.

Because of its positive measures, the media programme is being well received in all countries of the region although it was launched only a short while ago. Even now, many successful informal partnerships and forms of cooperation exist with players who are important for the programme. The media programme greatly benefits from the fact that public authorities as well as the media appreciate that further development in this field is indispensable for the development of democracy.

## **CONCLUSION**

In view of the difficult framework conditions prevailing in the programme regions, media promotion will retain its outstanding significance in development policy. Forming a core element of the promotion of modern democracy, it may contribute effectively and sustainably to overcoming the wide variety of political, economic, social, societal, and ecological deficits that exist.

*Nino Galetti*

1| *The author would like to thank Werner vom Busch, Dr Dirk Förger, Dr Karla Sponar and Frank Windeck, all members of the media programme staff, for providing content-related information during the writing of this contribution.*

# APPENDIX

## QUESTIONNAIRE

### I. GENERAL INFORMATION ON MEDIA AND MEDIA USE

- Literacy and education* 1 What is the percentage of literacy (reasons, explanations, interpretations)?
- Media landscape* 2 How many radio and TV stations (including regional community based stations) and newspapers are there in total ?
- Party media* 3 Are there political parties which run (de jure or de facto – indirectly) their own radio and TV stations and newspapers ?
- Internet media* 4 Are there independent internet newspapers?  
*If yes: Do the state authorities try to censor these internet newspapers?*
- Has the internet improved free coverage?  
*If no: What are the reasons?*
  - Please estimate the proportion of those people who have access to the internet.
- General media access* 5 How many people (in total, as a percentage) have access to radio, TV, newspapers and the internet (including international satellite programmes)?
- Media consumption* 6 How frequently do citizens use the media (TV, radio, press, internet, others) as a source of information in your country?
- Media influence on political opinion* 7 How significant is the influence of the media on the formation of political opinion in your country?
- Referring to the answers above: What do you think are the reasons for the media exerting only a little influence on the formation of political opinion?
  - Does the social background of the media consumers determine the level of influence?
- State-owned media* 8 Are there state-owned (or de facto/quasi state run) newspapers or radio and television channels?  
*If yes: Are editorial departments protected by law from having their coverage influenced by government authorities?*
- Who appoints the leading post-holders of state-owned newspapers or television and radio channels? (General directors, editors-in-chief etc.)
    - only the government
    - independent committees (including members of opposition parties and/or civil society)
    - miscellaneous: (several answers possible)



- 9 To what extent is published and broadcast opinion determined by state-owned media (reach and share in comparison to private media)? *State-owned media and published opinion*
- dominance of state-owned media (private media have almost no share of published opinion)
  - hegemony of state-owned media (state-owned media have the clear majority share)
  - shared nearly equally by state-owned media and private media
  - hegemony of private media (private media have the clear majority share)
  - dominance of private media (state-owned media have almost no share of published opinion)
- Evaluate the coverage of state-owned media (on a scale from anti-government to neutral to propaganda for government).
  - Are there any differences between press, radio and television coverage?  
*If yes: what are the differences?*

- 10 Does the government regularly hold press conferences to inform the public about its programmes? *Government press conferences*
- If yes: Do all journalists have equal access to press conferences?*
- Is it allowed to broadcast press conferences?  
*If yes: Are particular channels refused the right to broadcast?*

## 2. LEGAL ENVIRONMENT

- 1 Is freedom of opinion established in the constitution and defined as a fundamental individual right? *Freedom of expression*
- If yes: Is freedom of opinion restricted in any way by an amendment?*  
*If yes: What and whom does the amendment refer to?*
- 2 Is freedom of the press, or more precisely, free media coverage established in the constitution? *Free media coverage*
- If yes: Is free media coverage restricted in any way by an amendment?*  
*If yes: What and whom does the amendment refer to and with what consequences?*
- 3 Are there any defamation laws or laws which determine access to information and the protection the privacy of office bearers ? *Regulation of media coverage*
- 4 Is media coverage regulated by law (or decree)?
- If yes: Is censorship by state authorities permitted by law?*  
*If yes: In what cases does the law permit censorship by state authorities?*
- Is free coverage of certain people, groups, institutions or issues restricted by law?  
*If yes: What kind of people, groups, institutions or issues are concerned?*
  - Are certain people, groups or organisations excluded by law from working as journalists or from expressing their opinions?  
*If yes: What kind of people, groups or organisations are concerned?*  
*What are their fields of work?*
  - Do media reports have to be examined by state authorities before publication?
  - Are there any bodies or commissions that "regulate" media coverage on behalf of the government?
- 5 Has the legal implementation of media coverage been modified during the past five years? *Changes in the past five years*
- If yes: In what kind of way has it been modified?*
- Evaluate the effect of these modifications on the freedom of the media.
  - Comment on whether 9/11 and possible anti-terror laws or regulations have impacted on and/or restricted the freedom of media coverage.

6 Has free media coverage been modified during the past five years?

*If yes: In what way has it been modified?*

- Evaluate the effect of these modifications on freedom of the media.

*Legal censorship* 7 Does legal censorship exist?

*If yes: Free coverage of which people, groups, institutions or issues is hindered by censorship?*

- Are certain people, groups or organisations excluded, contrary to law, from their jobs as journalists or from their right to free speech?

*If yes: What kind of people, groups or organisations are concerned?*

*What are their fields of work?*

8 What kind of legal consequences do journalists, media companies or organisations have to fear if they act in breach of the law of censorship?

- minor fine
- major fines that might endanger the financial security of certain people and/or media companies/organisations
- official debarment from one's occupation
- compulsory liquidation of media companies/organisations
- from short-term to medium term prison sentences
- from long-term prison sentences to life imprisonment
- from physical punishments to the death penalty
- miscellaneous: (several answers possible)

*Media licenses* 9 Do newspapers, radio or TV stations have to be licensed or registered by state authorities before publication or broadcasting?

*If yes: Are those state authorities politically independent or impartial bodies?*

- What are the reasons for refusing or taking away the licence/registration?
- How often are licences/registrations taken away or refused?

*Journalists' legal status* 10 Do journalists need official state permission to practise their profession?

*If yes: What are the reasons for refusing a journalist permission or for taking it away?*

- How often are work permits taken away from journalists or being refused?

11 Do journalists have the legal right to participate in all public meetings of the government and parliament?

*If yes: Do all journalists have equal access to the meetings?*

- Are the meetings allowed to be broadcasted?

*If yes: Are particular channels refused the right to broadcast?*

12 Do journalists have the right to legally challenge state repression?

*If yes: Do the courts have the opportunity to stop state repression?*

*Have they effectively done so?*

*Monopolies and cartels* 13 Is the formation of monopolies and cartels by private media companies prohibited by law?

- Do private media monopolies and cartels exist?

*If yes: In which sections of the media are there monopolies and cartels?*

- Are monopolies restricted to only one section of the media or do they overlap?
- Do media monopolists pursue particular political aims and what are these aims?
- Do state authorities really take action against private media monopolies?

*If yes: What kinds of action?*

*If no: What are the reasons?*

### 3. POLITICAL CONDITIONS

- |  |   |
|--|---|
| <p>1 Are there sections of the population or particular social strata whose political interests and concerns are not represented in media coverage?<br/><i>If yes: Which sections or social strata of the population does this affect?</i></p> <ul style="list-style-type: none"> <li>▪ What are their political concerns?</li> <li>▪ Why are their concerns excluded from media coverage?</li> </ul>  | <p><i>Coverage of marginal groups</i></p>         |
| <p>2 Are certain sections of the population deliberately excluded by state actions from their right to freedom of information?<br/><i>If yes: Which sections of the population are affected?</i></p> <ul style="list-style-type: none"> <li>▪ By which means are they excluded?</li> <li>▪ What are the reasons for their exclusion?</li> </ul>  |   |
| <p>3 Is there self-censorship in media coverage?<br/><i>If yes: In which sections of the media does self-censorship occur?</i></p> <ul style="list-style-type: none"> <li>▪ With reference to which thematic areas does self-censorship especially occur?</li> </ul>   | <p><i>Self-censorship</i></p>                     |
| <p>4 Do journalists, media companies or organisations have to fear illegla state repression?<br/><i>If yes: What kind of repressions?</i></p> <ul style="list-style-type: none"> <li>▪ How often is state repression used against journalists, media companies or organisations?</li> </ul>  | <p><i>State repression</i></p>                    |
| <p>5 Is access to the internet hindered by state measures?<br/><i>If yes: In what way?</i></p>   | <p><i>Obstacles to internet access</i></p>        |
| <p>6 Has the actual threat of state repressions changed during the past five years?<br/><i>If yes: Evaluate the effect on the present situation of freedom of media.</i></p> <ul style="list-style-type: none"> <li>▪ What do you think are the reasons for the change?</li> </ul>   | <p><i>Changes in the past five years</i></p>      |
| <p>7 Do state-owned media monitor the production and distribution of print media (for instance the distribution of paper, the surveillance of distribution systems)?<br/><i>If yes: What kind of control mechanisms exist?</i></p> <ul style="list-style-type: none"> <li>▪ Do state authorities take advantage of these control mechanisms in order to influence contents?</li> <li>▪ How often do state authorities use this kind of repression?</li> <li>▪ Please try to estimate the frequency of the repression mentioned above.</li> </ul> | <p><i>Government control over print media</i></p> |

### 4. ECONOMIC PRESSURES

- |  |                               |
|--|-------------------------------|
| <p>1 Are private media subsidised by the state (e.g. through adverts)?<br/><i>If yes: What sections of the private media are subsidised and by which percentage?</i></p> <ul style="list-style-type: none"> <li>▪ How large is this subsidy with regard to the whole private media market?</li> <li>▪ How much does the government spend on (political) adverts in the TV, radio and print media (in comparison to big companies' spending on advertising)?</li> <li>▪ Evaluate the coverage of subsidised media (on a scale from anti-government to neutral to propaganda for government).</li> <li>▪ Are there any differences between press, radio and television coverage?<br/><i>If yes: what are the differences?</i></li> </ul> | <p><i>State subsidies</i></p> |
| <p>2 Do you know of any economic matters which disadvantage media companies?</p>   | <p><i>Further aspects</i></p> |

## 5. NON-STATE REPRESSION

- Repression by non-state groups* 1 Do journalists or media companies have to fear repression through non-state groups or organisations?  
*If yes: What kind of repression?*
- Who is behind these non-state groups or organisations?
  - In the context with what kind of topics is non-state repression likely?
  - How often is non-state repression used against journalists, media companies or organisations?
  - Please try to estimate the frequency of the repression mentioned above.
  - Do state authorities prosecute attacks against journalists?  
*If no: What are the reasons?*
  - Can state authorities effectively protect journalists?  
*If no: What are the reasons?*
- Changes in the past five years* 2 Has the actual intimidation through non-state repression changed during the past five years?  
*If yes: Evaluate the effect on the present state of media freedom.*
- What do you think are the reasons for the change?

## 6. CONCLUSIONS

- Freedom of the media: general situation* 1 What is the general state of media freedom?
- no freedom of the media
  - freedom of the media with major restrictions
  - freedom of the media with minor restrictions
  - unrestricted freedom of the media
- Changes in the past five years* 2 Has free coverage of the media generally changed during the past five years?
- Evaluate the effect on freedom of the media.
- Major obstacles to free media coverage* 3 From the point of view of journalists you are acquainted with: what are the major obstacles to free media coverage?
- 4 From your own point of view: what are the major obstacles to free media coverage?

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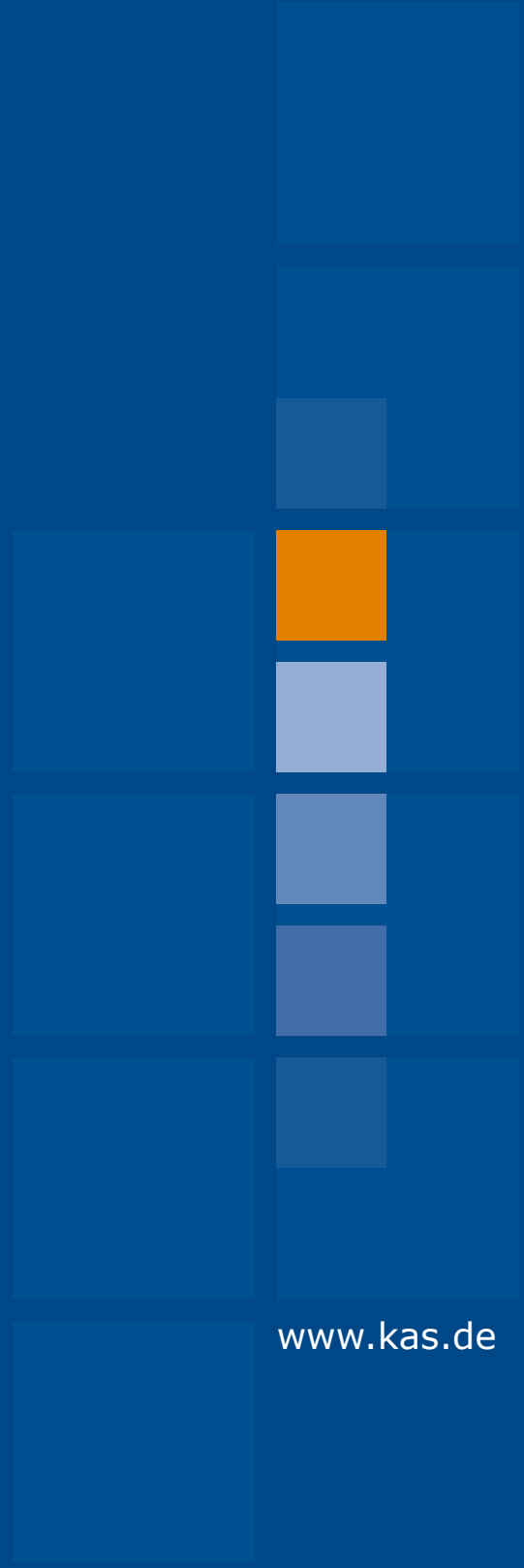
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