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Paper No. 14
Asian Media and Freedom of Information: the Thai Perspective

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The history of the Thai media is a long and convoluted one marked with periods of suppression and freedom. During its worst periods, it has been shackled and manipulated, and in many cases supported, authorities and politicians who abused their political power and position. But since the 1970s, the Thai media, especially the Thai Press, has gained strength to become one of the freest in the region as well as the most politically powerful.

For a country with 61 million people living under a constitutional monarchy with His Majesty the King Bhumibol Adulyadej as monarch, Thailand has a sizeable media industry with a long history dating as far back as 1844 when an American missionary first introduced the printing press into this country. The Bangkok Recorder was the first newspaper in this country, published fortnightly. In 1868, the first daily newspaper, the Siam Daily Recorder was published.

Today there are three local English-language dailies – the Bangkok Post, the Nation and Business Day. The International Herald Tribune and the Asian Wall Street Journal is also published here and available in the mornings. There are seven national Thai-language dailies: Thai Rath, Daily News, Matichon, Khao Sod, Siam Rath, Naew Na and Thai Post. Ban Muang, a newspaper linked to former Prime Minister Banharn Silpa-archa, just closed recently. Apart from the general interest Thai dailies, there are two business dailies: Krungthep Thurakij and Phujadkarn. There are also six Chinese-language dailies and three Japanese weekly newspapers. There are 500 weekly, fortnightly and monthly magazines.

We also have six free television channels – Channels 3, 5, 7, 9, 11 and iTV (independent). The first five are all state owned. Channels 3, 5, 7 and 9 are commercial stations with Channel 5 and 7 owned by the Army and 3 and 9 by the Mass Communications Organization of Thailand. Channel 11, also operated by the MCOT is non-commercial. iTV has 12 shareholders led by the Siam Commercial Bank and the Crown Property Bureau but also include the Nation Multimedia Group and Daily News Group. We
have one cable television station, UBC which broadcasts other networks and channels such as CNN, BBC, CNBC, CCTV, French television Channel 5, Star TV as well as a whole host of other entertainment channels and programs such as Discovery, HBO, Cinemax. And the list goes on.

As for radio, there are about 500 stations, mostly owned by the Department of Public Relations, the MCOT and the Ministry of Defence. The Armed forces has the lion’s share.

It should become evident by now that there is a fundamental difference between the Thai Press and Thai television and radio. The Thai Press has a long history of private ownership when compared to its counterparts in television and radio, which is government-owned and controlled. This very fact has affected their evolution and development.

There is a crucial difference between Press Freedom and Freedom of Information. Yet, if we view the development of the media in Thailand, I believe they are linked and that the struggle for Press Freedom in Thailand is a precursor to the current struggle for Freedom of Information.

Thailand has had a long history of Press and media censorship. Such controls were used by governments during various periods of our political history to remain in power or as a means to combat the threat of communism. Between 1919 to the present, there were a string of laws imposing censorship and controls. The first came under the Newspaper Act of 1919 in which all military news had to be cleared by the censors and government criticism was forbidden. The Press Act of 1934 barred publication of stories deemed detrimental to public order and good morals. The Press Act of 1941 allowed the Minister of Interior to shut down newspapers deemed to have offended public order and morals. In October 1976, Decree 42, empowered the police chief to shut down newspapers deemed to have violated national security, public order or morals and cultural values.

Radio emerged in Thailand in the 1930s and was introduced supposedly for education, business and entertainment. But the Radio Communications Act of 1934 made the state the sole owner of radio stations. When Thailand’s first television station started operations in 1955, Channel 4 television was placed under the control of the Radio and Television Broadcasting Act of 1955 which allowed the Department of Public Relations and the military its sole operators. In the mid-1970s, a
period of considerable political upheaval, the National Broadcasting Executive Board was established (1974) to monitor and censor the broadcast media. The 1974 Broadcast Regulation required stations to promote nation, monarchy, and religion and oppose communism.

Between the 1920s to 1970s, there were periods of relaxation sprinkled between periods of control. It was a struggle characterized by efforts to push the limits and making tactical retreats. It was a situation of one step forward then two steps back. Sometimes two steps forward then one step back. I can only imagine that for the journalists at that time, it must have felt that there was no movement at all. I say this because my recollection of the Press and its history started in 1980, when I first joined the Bangkok Post.

Looking back it is clear to me now that incremental improvements started in the 1980s when political liberalization and economic growth paved the way for changes in Thai society. It was a period where the middle class, academics, technocrats and businessmen wanted to become involved in the decision-making process of the country.

Chatichai Choonhavan, the first elected Prime Minister since 1975, revoked Decree 42 in 1991. The economic boom years between 1988 to 1992 saw dramatic changes in the Thai economy and Thai society and clearly, the Thai Press as well as television and radio benefited. Traditional newspaper companies transformed themselves into multimedia groups. The Press became more critical and more demanding in line with the desires and aspiration of Thai society. The broadcast media also benefited. It changed and improved its programming and content. Television talk shows and panel discussions flourished as did talk back radio where ministers were interviewed live on air.

In 1992 when Gen Suchinda Kraprayoon became prime minister eventhough he was not elected, Press opposition grew along with public sentiment. The bloody events of May 1992 which saw a mass uprising led by the middle class was a watershed event not only for the Press and media but most importantly for Thai society. The public for the first time realized that freedom of expression was their right and demanded more freedoms. The demands for basic freedoms and reforms in the political system continued for another three years until the process finally started in October 1996 when the task of drafting a new constitution started.
Thailand now has a new charter that is three years old after it was passed by Parliament in September 1997. What is so special about this charter and how does it affect Press Freedom and Freedom of Information, the key issue of this seminar?

For a start, the charter aims at providing mechanisms to monitor and act against vote buying, abuse of power and corruption while safeguarding the rights and freedoms of the people. For the first time it states that the rights and freedoms of the people are guaranteed by the constitution and must be respected and protected by Parliament, the Cabinet, the courts, state agencies and its officials. This was not stated in the previous constitution. Only laws issued only in cases allowed by the charter can limit these rights and freedoms. Previously, laws that could be issued later may limit these rights and freedoms.

For the first time in Thai political history the charter states that the closure of newspapers, radio and television stations are prohibited. Employees of both public and private media organizations have the freedom to present news reports and cannot be manipulated by the state or media owners. Radio, television and telecommunications frequencies are public resources that must be allocated by an independent state body.

More pertinent to our discussion, the new charter under the same chapter guarantees the individuals' right to have access to public information held by state agencies. In the previous charter it states that the public have the right to know information from the state but only in so far as these rights are stated in laws. If they don't issue the laws, there are no rights. Also, Individuals have the right to seek information and explanations from the state before projects that may affect them or their communities are approved. In the old charter, officials need not inform the public of projects that may affect them.

These rights and freedoms as stated in the charter constitute fundamental changes and on paper further enhances Press Freedom and Freedom of Information. But as the saying goes, the devil is in the details — and here is where the new struggle is being fought. With the new charter, the former Interior Minister has agreed that the Press Act of 1941 should be abolished although police and government officials still insist that there should still be some laws governing the registration of publications so as to supervise against pornography. Discussions are still under way.
The new charter has also resulted in positive steps being taken as far as television and radio is concerned. The National Broadcasting Executive Board, along with dozens of its orders controlling the content of programs, has been abolished. The National Broadcasting Commission and the National Telecommunications Commission – two independent bodies that will be responsible for overseeing radio and broadcasting have been set up. Effectively these bodies will eventually ensure that television broadcasting and radio frequencies will be taken out of state hands. Representatives from the media and non-government organizations are included in the broadcasting commission. Both commissions are still debating and drafting subsidiary laws that would effect this change in line with the constitution. But this does not mean that the military will give up all their rights to radio frequencies. They certainly will lose a significant chunk. But a compromise is likely leaving them with control over a number in which they can still generate revenue.

In order to implement the spirit of the charter as far as Freedom of Information is concerned, the new State Information Act took effect in December 1997. The new law aims at making most information available to the public but draws the line at state secrets and personal data in order to protect individual privacy. Unfortunately, each state agency has the right to determine what are state secrets. The public does have legal recourse to address this situation.

There are two key committees in which the public can appeal a state agency’s decision to refuse information they seek. The first is the Official Information Committee to whom people can appeal if state agencies refuse to divulge ordinary information. The second considers whether an agency is correct in classifying information as a state secret. This second committee has five sub-panels to consider different types of official secrets such as foreign affairs and national security; economics and finance; social, national administration and law enforcement; medical and public health, science, technology, industry and agriculture.

But even with these new laws and mechanisms of appeal, the free flow of information is still just a trickle. The end of 1998 only 20 petitions have been filed, clearly indicating that the people as a whole are still unaware of their rights. And even those who have sought information, they have run into the thick brick wall called the bureaucracy and officials who simply refuse to divulge information voluntarily. The fundamental problem is the bureaucratic mindset of government officials everywhere that has grown deep roots over the decades. Even within the committees
Themselves, government officials are represented and are in themselves obstacles to change.

Thailand has come a long way in its democratic process, especially during that past 10 years, more so during the past three years. The maturing of the Thai democratic process, which is still strewn with serious imperfections, has also meant a strong Press and, hopefully media. Press and media freedom, after all is a crucial building block of a democratic society with transparency, accountability and good governance being core principles. But we are now faced with new challenges – that of deepening to roots of a participatory democracy and an acceptance by public servants that their role is to serve and not be served. Obtaining a free flow of public information is the next challenge and this will not become a reality until the public servant mindset changes. And this is where the Press and media come into play, yet again. The Press and media must hammer away at informing the people of their rights and demanding the freedoms, which rightly belongs to the society in which we serve.