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FREEDOM OF THE PRESS AND MEDIA REGULATION IN CAMBODIA

Approaches and Options for
Democratic Diversity

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*With:
Denis Schrey
Lena Ruge
Noyel Ry
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PREFACE

Democratic states and free and independent media are closely interlinked and interacting. The diversity and quality of the media is essential for constituting a broadly, diversely and well informed public. To ensure that media can properly fulfill its information and education function it is of utmost importance to develop and implement democratic regulations that assure program diversity and objectivity to strengthen free formation of opinions in a pluralistic society.

Consequently the aim of this study is to expedite the development and acceptance of a transparent and democratic media regulation in Cambodia. Moreover, the study offers practical ideas and options for Cambodian lawmakers, journalists and other media professionals on how to create and develop such a framework.

After the executive summary and key recommendations for the Royal Government of Cambodia, the study begins with an overall assessment of press freedom and the state of the media (TV, radio, newspapers, internet and social media) in Cambodia, embedding an analysis on recent political and societal developments in the country. The authors then look at the core principles of democratic media regulation, followed by a case study on how public broadcasting is regulated in Germany through laws and voluntary guidelines to ensure diversity of opinions as well as program quality. The obligatory guidelines of German Public Broadcasting ZDF (Second German Television Station) for example, clearly mention that the process of forming judgments in the area of politics must be based on a pluralistic media representation. Thus, the ZDF is not only committed to the entertainment and provision of information to its viewers, but also contributes to its viewers' education. Furthermore, the guidelines refer to non-partisanship of the broadcaster. Hence, a balanced representation of various perspectives is necessary.

Positive regulation must create a democratic framework in which journalists of all media formats – press, radio, television and internet – can carry out their work on a professional level. In accordance with international standards the author recommends a “hybrid model” of media regulation for Cambodia. This model unites mandatory elements with voluntary commitment. On the one hand, mandatory elements should construct a framework for the media to ensure adherence to ethical standards and the principle of freedom of the press, as enshrined in the Cambodian Constitution. Furthermore it should provide for the establishment of truly independent modern media institutions across all media formats. On the other hand, such independent institutions should regulate themselves to a certain extent and install “in-house-rules” to establish a Code of Ethics based on voluntary commitment. All media formats have a serious political responsibility in the promotion of a pluralist democratic media culture as only a pluralistic media environment can help move Cambodian citizens toward participation in political, social and cultural life.

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Phnom Penh, 1st May 2015

DENIS SCHREY

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1 EXECUTIVE SUMMARY

Cambodia is in its throes of profound and radical economic and social change. In its economic growth within the last years, the country has taken a leading position relative to other Southeast Asian countries. While Cambodia, with its 15 million inhabitants, has set goals for progress in the expansion of democratic institutions, political and social conflicts have increased. From the perspective of political development studies, this appears to be symptomatic for societies that have achieved the leap into the industrial age and integration into a globalized economy in specific sectors of their economy. On the other hand, they still have major structural challenges to overcome, such as poverty, rural underdevelopment, and a general growth in social inequality.

Thus, ongoing development of a democratic society in Cambodia depends primarily on solutions for urgent social problems. From this perspective, a pluralistic media environment could make a decisive contribution. Such an environment can help move citizens towards participation in political, social and cultural life. A positive sign is that many issues are already under discussion – in the streets, in squares, in cafés and restaurants and even in the media. Young Cambodians – more than 50 percent of the population is under 25 years – increasingly use the internet and social networks in order to make their voices heard. But traditional media such as television and radio also play a significant role.

Newspapers, radio, television and the internet can only fulfill their functions as a reflection of a pluralistic society when all political groups and parties in the country respect the freedom of speech and press, which are anchored in the country's Constitution. Journalistic independence is also essential for media producers. Journalists need "democratic air" to breathe. This points towards the problem of media regulation: it must create a framework in democratic societies in which journalists of all media formats can carry out their duties on a professional level.

Regulations are therefore not an instrument of political paternalism, but rather a method for promoting a democratic and pluralistic media culture. State and government are often, as experience shows, not the best choice for the development of an efficient and transparent regulatory system. Regulations function best when the participants themselves are committed to and convinced by the reasons and purposes of rules or guidelines. Yet regulations should not lead to a lack of accountability or arbitrariness as this would result in the unwillingness of the stakeholders to participate. Regulations should therefore have "bite" in practice, i.e. stakeholders should follow the rules as if they were traffic rules, so that all can move forward more efficiently.

Two basic principles should prevail for media regulation in Cambodia:

1. Consistent application of the principles of the rule of law on the basis of the constitutional rights of freedom of speech and press (Art. 35 and 41: Cambodian Constitution).
2. Transparent and predictable regulative decision-making that is oriented towards professional journalistic standards.

Thus, the best-suited regulation model appears to be one of “incentivized statutory” regulation. This means a mixture of voluntary and positive incentives open to all media formats and producers. These can be professional publishers or radio/television broadcasters, but also bloggers in a semi-professional field, who regularly write for a broader audience.

The recommendations of this study rely heavily on the Irish regulatory model, seen worldwide as positive example.

2 KEY RECOMMENDATIONS

- 1.** Establishment of an Independent Broadcasting Council (IBC) for the regulation of radio and television, with a transparent and democratic licensure process.
- 2.** Establishment of an Independent Press Council (IPC) and of an Ombudsman for the regulation of the press including the internet, as well as a fair grievance process for citizens.
- 3.** Passage of a binding Press Code, including standards for the independence and quality of journalistic work.
- 4.** Clear rules for domestic plurality in state-owned television and radio, securing journalistic balance in news and information.
- 5.** Reform of Press Law and Criminal Law to abolish restrictive rules and remove limits from journalistic work.
- 6.** Disclosure of the ownership of large media companies in order to prevent market abuse and concentration.

3 FREEDOM OF THE PRESS IN CAMBODIA: CHANCES, CHALLENGES AND RISKS

The media landscape in Cambodia has developed, in the recent past, in close interplay with the country’s social and political events. The terror rule of the communist Khmer Rouge dictatorship in the mid-1970s has had visible effects that have lasted to the present. This means: modern Cambodia lacks democratic continuity in its media culture. Estimates suggest that only 10 journalists survived the Khmer Rouge dictatorship.¹ After the invasion by Vietnam in 1979, strict press censorship on behalf of a communist single-party government following the Soviet model was enforced in Cambodia.

Similar to the beginning phase of the Federal Republic of Germany in 1949 - not many years after the end of Nazi rule and the Second World War - the basic principles of a democratic press were “imported” to Cambodia, following the 1991 UN Peace Agreement. There was no unbroken tradition of open discourse characterized by a diversity of opinions.

To compound this difficulty, a majority of the journalists working for newspapers, radio and

1 C. Mc Carthey: Master Thesis; A.L. Neumann: Cambodia: Restructuring the Media in Post-Conflict Societies.

television stations are not adequately qualified. The Department of Media and Communication (DMC) at the Royal University of Phnom Penh (RUPP) is the sole institute in the country that comes close to international standards in educational quality in its training of young media professionals.

During the period directly following the Khmer Rouge, UNCTAD Radio (1991-1994), founded by the UN Transitional Authority in Cambodia (UNTAC), took on central importance in that it fulfilled the great need of the population for sufficient and objective information. Without UNCTAD Radio, the first free elections in Cambodia in 1993 would not have been conducted as freely and objectively as they were; UNCTAD reported intensively on the political parties and reached almost all provinces of the country.

With the passage of the national Press Law in 1995, the country declared freedom of the press on the basis of a democratic and pluralistic constitutional mandate (Art. 41: Freedom of Expression). In the regional context, the Cambodian Law on the Press is exemplary with respect to its democratic ideals; Singapore, Malaysia and especially Vietnam have more restrictive laws. Nonetheless, the Cambodian Press Law does include problematic provisions that, through narrow interpretation, could lead to limitations of press freedom. This applies particularly to Article 12, which requires respect for "political stability" and "national security".

A further legal deficit is the Competition Clause (Art. 17), which only applies to print formats. According to this article, a natural or legal person in Cambodia cannot own more than two Khmer-language newspapers. The radio and television branches remain, in contrast, unregulated with regard to cartel laws.

Therefore the Press Law requires urgent reform. The Cambodian democracy can demonstrate maturity and self-awareness by avoiding restrictive regulations (Art. 12) or by altering the law, so that any question of state intervention in the independence of the media can be removed. It seems equally necessary that the competition clause shall be clarified in its language and expanded to include radio and television.

The current situation of press freedom in Cambodia is fragile. The situation has its background in the ongoing political and social conflicts in the country. The opposition party, the Cambodia National Rescue Party (CNRP), accuses the ruling Cambodian People's Party (CPP) of election fraud in the parliament elections of 2013. For months the CNRP boycotted the parliament and launched a campaign against the ruling party, which peaked in late 2013 when thousands of people marched through Phnom Penh demanding the resignation of Prime Minister Hun Sen. Eventually, in July 2014, both parties agreed to work together in the National Assembly. Even if political tensions have relaxed to some extent, it can be assumed that the political faction formation of the two large parties will endure in the next years.

The government's reaction thus far has been tense and over-nervous, in particular in its press and media policy. Accusations of one-sided or even false reporting have been raised frequently. Cambodian journalists also see themselves as the targets of state-initiated attempts of intimidation. There are also continuous attacks on journalists by security personnel. This

problem has its roots in the lack of a generally recognized accreditation system with which reporters can identify themselves to police and institutional representatives. Yet even so, journalists report that they are beaten and threatened by security personnel even though they had identified themselves clearly as journalists. This makes free and unhindered reporting on demonstrations and political protests particularly difficult. Due to this situation, which is perceived by many journalists as increasingly threatening, there are frequent discussions on self-censorship. "In our daily work we ask ourselves again and again: how open we can be in expressing criticism of abuses? Some journalists stay well clear of politically charged topics." ²

Even government-friendly journalists criticize obstacles to their work; for instance, whenever they report on demonstrations of the opposition party. Reporters and cameramen of the state television broadcaster TVK were also among those who had been attacked, TVK Director Kem Gunawadh reported in an interview.³ According to Gunawadh, the result of such intimidations is that state television journalists no longer visit opposition events.

The Cambodian Center for Independent Media (CCIM), an institution for the promotion of freedom of speech and press supported by the American development organization USAID delivered a critical assessment in their report on press and media development of 2013:

"Although media freedom has improved since the early 2000's, Cambodia remains among the most restrictive countries in terms of press freedom. Even though freedom of the press is guaranteed under Article 41 of the country's Constitution, the Kingdom's reporters regularly feel the pressure of political influence due to nearly universal ownership or control of the media by the country's ruling political party."⁴ As such, self-censorship is the daily reality of Cambodian journalists. Moreover, political figures are immune from criticism as the 2010 Penal Code allows criminal prosecutions for defamation.

According to the assessment of the organization Reporters Without Borders (RSF), Cambodia ranked 144 on the scale of the World Press Freedom Index (WPFI) in 2014 and thereby finds itself inbetween Ethiopia (143) and Myanmar (145). RSF reasoned with negative aspects such as physical threats and litigation against journalists. In regional comparison, Myanmar (145), Malaysia (147), Singapore (150), Laos (171) and Vietnam (174) were arrayed behind Cambodia.⁵

Many Cambodian journalists see the stipulations of the Cambodian Penal Code against defamation - in effect since 2010 - as an endangerment of their professional work. Despite some improvements with regard to decriminalization measures being considered by the government, courts can still set high monetary fines (in the case of non-payment, jail time may apply) for crimes such as defamation (Art. 305) and public insult (Art. 307). Generally,

² Conversation with The Cambodia Daily, April 2014; Interview with radio journalist Neang Sovathna: see appendix.

³ Interview with Kem Gunawadh: see appendix.

⁴ Cambodian Center for Independent Media (CCIM): Annual Report 2013.

⁵ RSF investigates violent attacks, murders or arrests and indirect pressures on freedom of the press. The RSF notes that the index only reflects the degree of freedom of the press, not the quality of journalism.

jail sentences are imposed for inciting crimes or disturbance of social security (Art. 494 and Art. 495). In addition to the Penal Code, the Press Law (Art. 10) also provides the possibility to sue journalists due to defamation.

There is a lack of systematicity and consistency in the mentioned laws: thus, Article 20 of the Press Code refers to application of the Penal Code in the case of certain infractions, nonetheless it also states that no one may be arrested for exercising his right of freedom of speech. In practice, this leads to confusion and uncertainty, compounded by the fact that it is unclear which Code – Penal or Press – applies in cases of defamation.

As justified as criticism of the limitations of freedom of the press seems, it must also be noted that journalists themselves have contributed to their negative reputation in the society. Bribes for “courtesy articles” are especially common in the local press. This problem has its origin, among others, in inadequate salaries, but also an all too easygoing societal tolerance for corruption as a minor offence or gentleman’s crime.

These problems discourage the development of the press as a respected “fourth power” in the country. The beginnings of a democratic debate culture are already present in the manifold use of various media formats. However, this promotes the pronounced political faction building in the country without allowing for a logical comparison of political interests.

One complicating factor is the lack of a constructive working relationship between journalists and the government, especially in political reporting. The personnel in the press offices of the ministries are, in many cases, not adequately qualified. Journalists criticize that inquiries are processed reluctantly or not at all. The Press Code allows a long response time of up to 30 days to answer written inquiries. The fact that there are no regular press conferences held by the government and the parliament is a missed opportunity. These would provide a forum for communicating political decisions in open dialog with the press and to respond to critique.

In conclusion, the current fragile situation of press freedom is not satisfactory for journalists or for the government. Limitations of freedom of the press - even when intended as short-term measures for calming raised tempers in tense situations - lead to further insecurities and unpredictabilities, as experience has shown. Above all, such measures strengthen the mistrust between opposing political camps. It is therefore in the immediate interest of the government to implement the democratic constitutional mandate of press freedom and to observe the principles of the rule of law.

4 “STATE OF THE MEDIA” IN CAMBODIA

The media sector has developed rapidly in the past several years. It currently includes 14 television broadcasters, 134 radio stations and 30 newspapers that publish on a regular

basis.⁶ All print products, television and radio stations require a license from the Ministry of Information.

A majority of the electronic media (radio, television) is affiliated with the governing CPP or is controlled by people affiliated with the CPP. Especially in television and radio, there is no free market competition to speak of, let alone a broad diversity of opinions. For that reason, it is no coincidence that well educated young Cambodians turn to the internet as the most freely accessible and least controlled information source available to date.

4.1 Television

Television in Cambodia is among the most strictly regulated media medium. “All main television stations are known or believed to be linked to the Cambodian People’s Party”, concludes a British study on media in Cambodia produced by the BBC.⁷ From the CPP’s point of view, television is of central significance, strategically speaking: it reaches more people than any other medium.

Approximately 60 percent of Cambodians use televisions on a weekly basis.⁸ The informational content is, admittedly, sparse. Entertainment and/or infotainment programs dominate television broadcasts. Among these are soap operas, music shows, and action films – mostly imported en masse from China and South Korea.

The news programs conform to the governmental party line in their political orientation. As for content and presentation, there is scant difference between broadcasters. Underlying critical commentary and analytical handling are almost completely absent.

For example, the Minister of Information, Khieu Kanharith, gave recommendations to the state television broadcaster TVK, requiring the discontinuance of longwinded reports on the visits of Cambodian politicians abroad.⁹ Visits made by high-ranking government representatives – among these Prime Minister Hun Sen – are however, exempt from these recommendations. Certainly the Minister’s recommendations highlighted a problem that should spark a debate about basic journalistic approaches, goals and standards of quality at the largest state broadcast channel TVK: that is, in how far viewers can, in fact, be reached through politically colorless, one-sided news programming.

A one-week analysis of the evening prime time news (broadcast at 7 pm) in February 2014 conducted by the authors of this study confirmed this problem: news programs consist almost exclusively of government-friendly conference reporting. Oppositional opinions and perspectives are hardly broadcasted.¹⁰

6 Response by the Ministry of Information. Note: The official numbers of TV and radio stations vary slightly, depending on statistics.

7 BBC Study, Cambodia Demographic and Health Survey 2010.

8 BBC Study, Cambodia Demographic and Health Survey 2010.

9 The Cambodia Daily: 22th November 2013.

10 Investigation of TVK reporting: see appendix.

Otherwise, the reporting of more than one dozen private television broadcasting stations is dominated by apolitical topics. Crimes, celebrities, curiosities, weather, natural events and traffic accidents are intensively reported. Everything appears to be focused on satisfying an assumed public appetite for the sensational. In this respect, Cambodian television is in line with the infotainment trend to be seen in Western states. At least there are signs that the political one-sided TV landscape is undergoing some change. The opposition party's demand for a TV station received positive feedback by the government in 2014. A deal was struck between Prime Minister Hun Sen and Opposition Leader Sam Rainsy after the disputed elections in 2013 and the yearlong political deadlock. The CNRP has been allowed to register a company with the government that will operate the television licence and use a terrestrial station. However, it has to be seen whether the "CNRP TV" is just an opposition TV or also a benefit for media plurality in the country.

4.2 Radio

Radio is the most accessible mass medium in Cambodia. This is especially true in rural areas. A BBC investigation shows that more than 60 percent of the population listens to the radio, whereas the percentage of younger Cambodian listeners is likely under 60 percent.¹¹ Music broadcasts are not the only programs that encounter broad interest; news as well as health and education programs are also popular. Nevertheless, to date there has been no significant empirical study of listener behavior.

In spite of the large number of radio broadcasters, only two providing national coverage can be described as being affiliated with the political opposition:

- Voice of Democracy (VOD): broadcasting since 2003 and overtaken by the Cambodian Center for Independent Media (CCIM) in 2007; currently uses the license of a private company;
- Radio Beehive: founder and owner is the 72-year old opposition politician and self-acclaimed "freedom fighter" Mam Sonando.

Furthermore, there are various foreign broadcasters that Cambodians are able to receive: among these are Voice of America, Radio Free Asia, ABC Australia (short-wave, medium-wave, partner FM station), Radio France International as well as China Radio (FM transmitter).

The allocation of broadcasting licenses by the Ministry of Information is an effective instrument of state supervision. For this reason, representatives of the few independent broadcasters criticize an opaque process of allocation, in which decisions are primarily made based upon political factors. "The whole process is one-sided. Independent applicants are staved off with the argument that there is no room for a new frequency, on technical grounds", VOD Director Pa Nguon Teang critiques the system.¹²

¹¹ BBC Study, Cambodia Demographic and Health Survey 2010.

¹² Interview: November 2013.

Hence, VOD could only begin broadcasting because the radio producers “rented” the existing license of a Cambodian businessman. In September 2014 the Cambodian Center for Independent Media (CCIM) applied for radio and TV licenses for its VOD programming through the Ministry of Information. It remains to be seen if the application will be successful.

Aggravation with the licensure process is not an isolated occurrence: the owner of Beehive Radio, Mam Sonando, has been in disagreement with the government since 2005 over a new license to expand the regional dissemination of Beehive into the provinces, an effort which has been unsuccessful so far. At the end of January 2014, Beehive supporters held a demonstration in front of the Ministry of Information that was dissolved with force by the police. However, according to the Ministry of Information Beehive’s request for greater radio coverage is impossible on technical grounds. The radio dial is allegedly full due to currently 150 private and 17 state-owned stations operating in the country.¹³

Nonetheless, new radio producers from different political and social backgrounds are not intimidated to launch radio programs. Again and again, initiatives from below emerge and try to go on air. They might also opt for a sole platform of an internet radio to circumvent the agonizing wait for a license. For example, a group of socially engaged monks (Independent Monk Network for Social Justice – IMNSJ) plans on starting a new program.¹⁴ The concept is to launch a pilot project (Voice of Independent Monks – VIM) with a one-hour weekly broadcast. According to their own report, the monks have received a timeslot from broadcaster Mohanokar FM. According to branch estimates, the monks have a good possibility of reaching more than nine million listeners. The only prerequisite is, of course, that the government grants them a license to broadcast.

4.3 Newspapers

Even if Cambodia has approximately 300 registered newspapers only 30 are published on a regular basis. Most of these publications are government-friendly; one can assume that they are owned by CPP-affiliated businesses.¹⁵

Overall, the regulation in print is less strict than in radio and television. Nonetheless, newspapers reach a comparatively small audience. Just 2 percent of Cambodians, primarily in urban regions, read newspapers.¹⁶ The reasons for this are a still relatively high illiteracy rate in rural regions and also relatively high prices for print products.

A negative effect of the very limited reach of newspapers is that publishers can barely develop adequate advertising businesses. Where they are unable to build upon financial support from politicians, their financial basis is too weak to secure long-term economic survival. Beyond that, Cambodia is experiencing a trend similar to that in industrial countries namely, that

13 The New York Times: 14th March 2014.

14 The Cambodia Daily: 1st February 2014.

15 Response by the Minister of Information; CCIM: Annual Report 2012.

16 CCIM: Annual Report 2012.

advertising is “migrating” increasingly to the internet and online platforms.

The Phnom Penh newspapers The Cambodia Daily and The Phnom Penh Post maintain critical journalistic reporting. However, their editions reach only a few thousand readers; their name recognition in the country is correspondingly low. The two newspapers find their readers primarily among expats and a small, critical community of domestic readers.

4.4 Internet and Social Media

Cambodians flock to the internet. About one third of the population is online, with the number of online subscriptions increasing by 31 percent in 2014, according to government figures.¹⁷ This means there are currently just over 5 million internet subscriptions in the country, up from about 3,8 million the previous year. This sharp growth rate is driven by an increasingly dominant youth demography that aspires to connect to each other and the world around them, inside and outside Cambodia. Much of the growth of internet usage is based on increasing use of smartphones for taking, sending and receiving pictures using Facebook, YouTube and other messaging apps. Cambodians are going online to find jobs, relationships and to connect with others.

However, there is a clear gap between the poorer rural regions and the richer urban areas. Many Cambodians still cannot afford internet access even though smartphone prices have dropped to 70 to 80 US Dollars. Similarly, subscription fees are approximately 5 US Dollars a month; one of the lowest in the region.

The internet is, among other media technologies, subjected to the least regulation. In the last few years, a small but active blogger scene has established itself in Cambodia. Nonetheless, aspiring “citizen journalists” among members of the scene have yet to be spotted. Many of the more ambitious blogs disappear after only a short period of time. In addition, many bloggers limit themselves to polemical reports that follow a simple political friend vs. foe schema.

Mostly young urban people, who critically follow the social development of the country, sustain within the blogging scene. This group of social media activists primarily leans towards the oppositional CNRP in its political views. The government has indirectly contributed to the advancement of social media precisely because many young people do not see their concerns being addressed in the reporting by government-affiliated television and radio.

Meanwhile, concerns are growing in the blogger scene that the government will restrict access to the internet, an accusation, the government denies. “Cambodia is mature enough to get along with bloggers and social media. At this time we have no plans of controlling or regulating them”, government spokesperson Phay Siphon explained in a conversation with the authors of this study in March 2014.

Keo Kounila, media consultant and graduate of the journalism degree program at the

¹⁷ The Cambodia Daily: 12th March 2015.

Department of Media and Communication (DMC), Royal University of Phnom Penh (RUPP), is one of the most well-known and distinguished bloggers in Cambodia (Blue Lady Blog). She evaluates the democratic leeway for online activities positively: "I have been blogging, and in addition using Facebook, Twitter and other social networks for some years now. Although my comments about government politics are often very critical, to date I have experienced no restrictions."¹⁸

This describes only the current state of the media. Many media-political plans are negotiated behind closed doors in government ministries. There is a lack of transparency and information. In 2013 civil society groups worried about a draft law against internet crime (Cybercrime Law), which could silence free online speech. However, after the public outcry the government announced in December 2014 that the draft has been "scrapped". Yet it has been known through leaks to the press that the government is allegedly planning to install surveillance equipment on the networks of the country's mobile phone and internet service providers.¹⁹ Rights groups have serious doubts on the reasons for the installment of data-monitoring and disbelieve that fighting criminal activities with the approval of the prosecutor and investigating judge is the sole reason for such an installment.

5 PRINCIPLES OF DEMOCRATIC MEDIA REGULATION

Into the 1980s, media regulation in most Western countries was based on a strict "top down" approach. Countries set public mandates that radio and television had to fulfill. In the case of the press, which has traditionally been more exposed to commercial competition, regulations were more fragmented and based in many countries (e.g. Germany, Canada) on voluntary Codes of Conduct launched within the industry.

In the course of the 1980s, within the context of the privatization debate, a regulatory paradigm shift took place for radio and television. In Europe, the political benchmark for the debate was set by the former British Prime Minister Margaret Thatcher. From Thatcher's perspective, the government appears less as a caring authority in media regulation, but rather as an agent of paternalism and external determination for citizens. In turn, economic and political deregulation to remedy this situation implies withdrawal of the government also from media politics. The government should then restrict itself to securing the best possible private economic framework for media.²⁰

Deregulation led to a heretofore unprecedented commercialization of radio and television, especially in Europe. This was also aided by the rapid expansion of cable and satellite broadcasting technologies. Essentially, this was the end of state-protected "television comfort" in the family living room.

¹⁸ Conversation with Keo Kounila: February and June 2014.

¹⁹ The Cambodia Daily: 10th December 2014.

²⁰ P. Lund, S. Livingstone: Media Regulation: Governance and the Interests of Citizens and Consumers.

Up to the present day, public broadcasting service continues to struggle with these transformed regulatory and economic frameworks.

The concern still exists that radio will be pushed off into a media niche role. Interestingly, Margaret Thatcher, the icon for deregulation, did not touch the core of the fee-financed BBC (British Broadcasting Company), the mission and structure of which has been based on a Royal Charter (similar to the German Interstate Broadcasting Agreement) since its foundation in 1927.

In most European states, a dual system of public and commercial broadcasting networks has established itself in the last 20 to 30 years – in Germany, since 1986. This dual system has led to the dissolution of state monopoly from a commercial perspective; however, there are critical questions that remain, especially regarding the guarantee of journalistic plurality and quality.

Criticism of media quality has been on the rise recently. Controversial subjects include protection of youth as well as problems of personalization and scandalization in political reporting. Complex social contexts are too often wedged into a good-versus-evil schema, which primarily serves assumed consumer preferences for infotainment. The internet and the spread of social media are, in the view of many critics, further promoting this trend.

The press wiretapping affair in Great Britain, in which the Australian media tycoon Rupert Murdoch was involved, highlights this problematic constellation. When his son, James Murdoch, Head of News Corporation, announced the discontinuation of the tabloid paper “News of the World” on 7th July 2011, he preliminarily ended a scandal that shook the foundations of freedom of the press in the oldest democracy in the world. For years, “News of the World” employees had illegally tapped the voice mail inboxes of politicians, celebrities and members of the royal house. Their intention was to access the intimate details of the private lives of these celebrities in order to publish them in luridly worked-up stories. An increasing disregard for personal rights in the tabloid press became apparent, proportionate to the assumed hunger for sensation. And yet, the scandal was not just a case of mistakes made by individual journalists, but also a deeply distorted in-house company culture, in which even the chief editors of “News of the World” were directly responsible for illegal information-gathering activities.

The scandal prompted the economically liberal government of Prime Minister David Cameron to initiate a six-person Investigation Commission chaired by the former Court of Appeals judge Lord Leveson. The Commission’s concluding report, submitted at the end of 2012, severely criticized profound failures in press and media supervision. The Press Complaint Commission, operating on a voluntary basis, was not fulfilling its mission. As a consequence, the Leveson Commission called for legislative press regulation stipulating hefty fines for violations.²¹

21 United Kingdom Government: Leveson Inquiry: Report into the Culture, Practices and Ethics of the Press, Lord Justice Leveson.

The Murdoch scandal is no isolated incident. Recently in Australia, there have been similar cases of infringement of privacy and disregard for journalistic standards among tabloids that ultimately led to the initiation of a governmental commission. This commission was chaired by the former judge and lawyer Raymond Finkelstein and it called - in a more than 470-page report - for a comprehensive reform of media regulation.²²

Thus, the regulatory pendulum is currently moving in the direction of greater control and supervision, in comparison to the 1980s. In Western democracies however, the consensus prevails that such regulation must not lead to any restriction of freedom of the press. It is much more directed towards achieving a better balance between the justifiable interests of journalists in information gathering and protection of the personal rights of citizens.

5.1 The Internet Revolution: Challenges for Media and Journalists

The internet has brought the media landscape to a renewed paradigm shift. The era of linear messages conveyed over different platforms – print, radio, television – is over. While media producers have traditionally transmitted content that they themselves perceive to be good and correct, the internet has disrupted this one-sided communication. The users of the internet now have a channel for response and they are delivering feedback. In this, the ideas of Berthold Brecht's radio theory, believed to be utopian in the 1920s, have become a part of reality. Brecht had postulated that radio would develop from a distribution medium to a communication medium. This is precisely what is happening with internet media, particularly with the rapid spread of social media like Facebook and Twitter. It amounts to a shift of democratic power from the broadcaster to the user or reader.

The traditional, linear media have thus far only inadequately anticipated the challenges of the internet. In contrast, best case scenario for being online means continuous linkage with the world – synchronization with the occurrences outside of the newsroom. This has dramatic effects on the organization of work as well as on the content-based implications for each respective media product. The internet dissolves the borders of the traditional media that are bound to specific platforms, in that it, allows the streaming of radio and television programs. This phenomenon is also called media convergence. It is a process by which the platforms for specific types of media are interchangeable.

Critics correctly suggest that the internet also tends towards a trivialization of content. Particularly for politics related topics, nuances, fair balance and critical judgment frequently disappear. This has led to intensive debates over the main responsibilities of journalists. They have lost their traditional role as supervisors of the news flow, but could adopt the role of moderators and quality managers of media content in the future.

The German social scientist and philosopher Jürgen Habermas has aptly described the ambivalent sociopolitical consequences of the internet: "Use of the internet has both broadened

²² R. Finkelstein QC: Report of the Independent Inquiry into the Media and Media Regulation.

and fragmented the contexts of communication [...]. The less formal, horizontal cross-linking of communication channels weakens the achievements of traditional media. This focuses the attention of an anonymous and dispersed public on selected topics and information, allowing citizens to concentrate on the same critically filtered issues and journalistic pieces at any given time. The price we pay for the growth in egalitarianism offered by the internet is decentralized access to unedited stories.”²³

The egalitarianizing effect of the internet described by Habermas has direct implications for modern media regulation. If the borders between sender and receiver are blurred and content is disconnected from platforms in the process of media convergence, it hardly seems reasonable to hand over regulatory tasks to a monolithic institution.

Taking the term “regulatory space” as point of departure, the issue becomes the stake out of general frameworks for efficient and transparent regulation.²⁴ This should include normative guidelines (e.g. a Press Code for journalists), measures for securing diverse opinions, guarantees for public interests (e.g. protection of privacy, protection of youth) as well as economic principles and aims (e.g. competition, ownership regulation).

Regulatory systems are nonetheless confronted with three main challenges:

First, as experience has shown, their bureaucratic organization - for example the establishment of press commissions and radio supervisory committees - limps behind rapid technological development.

It is hardly foreseeable how the internet will “work” in 10 or 20 years and which actors will dominate it. Principles and strategic aims of regulation should therefore be formulated for every case so that they are able to react flexibly to the new technological challenges of the information society.

Second, regulatory authorities should work independently from governments in order to remove themselves from exposure to suspicions of political influence. Conversely, this should also be valid in the authorities’ relationship to the media industry. If, for instance, a press commission seems to be merely an extension of a lobby organization for the industry, it will not achieve social acceptance.

Third, regulation should be comprehensive but also transparent. Regulation is not an instrument of censorship, but rather a method for promoting freedom and plurality of the press. It encompasses the interests of citizens as media consumers who engage in the production of media content. This relates to critical comments about politics and society on Facebook. Such comments must be protected under the right to freedom of speech in a democratic society. A citizen who uses social networks however, frequently leaves the realm of expression of private opinions and steps into the public sphere. Yet he/she cannot

23 J. Habermas: Towards a United States of Europe.

24 L. Hitchens: Media Regulatory Framework in the Age of Broadband: Securing Diversity; Lara Fielden: Press Regulation: Taking Account of Media Convergence, Oxford University/The Foundation for Law, Justice and Society.

automatically be considered a professional journalist, but rather a "citizen journalist". To the extent that the public sphere is used as a forum for disseminating media content and commentary, individuals must be aware of the possible consequences of their messages, such as defamation or slander of other individuals.

The Australian professor and expert of law and media Lesley Hitchens rightly points out that the "regulatory challenge is determining the scope of regulation in the range of actors in the media ecosystem".²⁵

It is not a coincidence that the media policy of the European Union, which strictly follows the subsidiarity principle and does not directly intervene in the national regulation approaches of the member states, presses "digital citizenship" at its center.²⁶ The goal is discrimination-free access to media services. This means: rules for a democratic information society cannot be forced on it from above, instead such rules must take into account the citizens' will, on the basis of their emancipatory claims as citizens of a democracy.

The former European Union Media Commissioner Viviane Reding paraphrased this succinctly in a speech in August 2009: "We must make sure everyone is media literate so nobody is left out. Citizens are being talked to all the time, but can they talk back? If they can use the media in a competent and creative way we would take a step towards a new generation of democratic participation."²⁷ Therefore regulation in the internet era can only fulfill its democratic mission when newspaper readers, radio listeners, television viewers and internet users are viewed as stakeholders in the process. They should be placed in the position of selecting and critically questioning media contents according to their own interests and needs.

Media regulation in Western democracies is based on various approaches and philosophies.²⁸ In principle, a distinction is made between ethical models and legislative approaches. The term "self-regulation" applies to any forms of regulation in which the state forgoes taking any governmental measures.

Independent self-regulation - i.e. media producers regulate specific areas themselves without orders, force or impetus coming from the government - is then to be distinguished from self-regulation. In this context, the concepts of media governance or a Press Code for journalists are frequently at issue.²⁹ The main problem of independent self-regulation is a lack of accountability. Media producers can decide for themselves whether to participate in self-regulation in this type of model.

Against the background of a multitude of press scandals in Western countries, media regulation models of co-regulation are beginning to prevail, especially in the field of press regulation.

25 L. Hitchens: Media Regulatory Framework in the Age of Broadband: Securing Diversity.

26 P. Lund, S. Livingstone: Media Regulation: Governance and the Interests of Citizens and Consumers.

27 P. Lund, S. Livingstone: Media Regulation: Governance and the Interests of Citizens and Consumers.

28 L. Fielden: Regulating the Press: A Comparative Study of International Press Councils.

29 W. Seufert, H. Gundlach: Medienregulierung in Deutschland: Ziele, Konzepte, Maßnahmen.

In co-regulation, either the state or the media producers set standards or guidelines that are then implemented as valid laws by the government.

On the other side of the spectrum we find strict government-implemented mandatory regulations; i.e. regulation through laws or through public companies and government institutions. Participation in regulation is not voluntary. Such regulation is in effect for most public radio and television broadcasters in Western countries; they are subject to direct regulation instigated by the state. Their mission is basic public provision of radio and television programming.

Recently an innovative model of press regulation has been established in Ireland. It presents a moderate variant between independent and mandatory regulation and seeks to use the strengths of both of these approaches and to avoid their weaknesses. On the one hand, the Irish regulation model is based on voluntary participation in the Irish Press Council, therefore avoiding state-enforced compulsion. On the other hand, membership in the Council is rewarded in the case of conflicts (incentivized statutory regulation). Irish courts consider in their verdicts whether media producers have committed to adherence to higher ethical standards.

“If any of our member publications decided that they didn’t want to comply or started to play ducks and drakes with our compliance procedures, they would be seriously disadvantaged in any civil court action against them by a complaint [...]”, the Irish Press Ombudsman John Horgan explains.³⁰

Members of the Press Council sign a “Code of Practice”, which stipulates journalistic due diligence and respect for privacy. In addition, the council provides the possibility for extrajudicial arbitration of conflicts via the Press Ombudsman. The motivation for this alternative conflict resolution process is to avoid costly and time-consuming court trails for the disputing parties. The Press Council as well as the Ombudsman, who belongs to the Press Council, operate independently from the government and the media industry.

The Press Council nominates the Irish Press Ombudsman for a three-year term of service. He must be independent and is the “public face” of regulation. Every citizen who feels treated falsely or unfairly in a publication can direct complaints to the Ombudsman. The Ombudsman then contacts responsible counterparts in order to reach a settlement. Serious cases of neglect or breach of journalistic due diligence are referred to the Press Council.³¹

30 L. Fielden: *Regulating the Press: A Comparative Study of International Press Councils*.

31 Press Council of Ireland: *Annual Report 2012*.

6 CASE STUDY: MEDIA REGULATION IN GERMANY

6.1 Broadcasting

The first radio program in Germany was broadcasted on 28th October 1923. The first public television program followed in 1935. During national socialism, the radio became a mass medium but simultaneously an instrument of propaganda. Following the surrender of the national socialists in 1945, the Allies rebuilt the radio system from the bottom up. Seven years later, television was established in both East and West Germany. In their efforts to restructure broadcasting the Allies oriented themselves on the BBC's model. Basic elements of public broadcasting since then have been a decentralized structure, financed through fees and supervision by independent non-governmental committees.

The term "dual broadcast system", which has defined the German broadcasting landscape since the landmark decision of the Federal Constitutional Court in 1986, is also essential. The decision allowed commercial and public broadcasters to work alongside each other, but specified that public broadcasters remain legally obligated to providing basic programming.

Legislative rights in the area of broadcasting law are, according to the Constitution, allocated to the individual states in Germany. The Interstate Broadcasting Agreement, developed cooperatively by all German states, is one of the most important basic legal fundaments of Broadcasting Law in Germany. The agreement establishes general and specific rules for public and commercial broadcasters. Among these is the establishment of general principles such as respect for human dignity, regulations on the supervision of public broadcasters and the licensure process for commercial broadcasters.³²

6.1.1 Public Broadcasting

According to the Federal Constitutional Court, broadcasters are "institutions of the government" that defend basic rights in an area in which they operate independently from the government. Precisely in order to allow for the realization of the basic right of broadcasting freedom, broadcasters are legally considered to be government-independent, self-administrating entities of public rights; their organization cannot be subject to any dominating influence from the government."³³

They fulfill the legal obligation of providing the population with a general broadcasting program. This so-called "basic programming" should not be understood as minimal programming. Rather, basic programming means ensuring adequate, effective and multifaceted provision of programming for the population.³⁴

32 §§ 3, 20 ff., 35 Interstate Broadcasting Agreement.

33 BVerfG decision from 27th July 1971, Az. 2 BvF 1/68 (2nd broadcasting decision).

34 BVerfG, resolution from 24th March 1987, Az. 1 BvR 147, 478/86 (5th broadcasting decision).

Beyond this, public broadcasting receives an existence and development guarantee. Essentially this means that any infrastructure that enables basic provision to the public must be secured.³⁵ This also applies to newly developed internet services (media libraries, etc.).

The financing of public broadcasting must correspond to the type and scope of its function and should not impinge upon its programming autonomy, which is protected by rights to broadcasting freedom.³⁶ The scope of such financing conforms to the programs that correspond to and are required for the mission of public broadcasting.³⁷

Until 31st December 2012, financing was achieved through the levying of broadcasting fees. The obligation to pay fees depends on the use of a receiving apparatus (television, radio, PC). On 1st January 2013, a new financing model for the broadcasting fee was introduced. Since then, the obligation to pay depends on the number of households rather than on receiving apparatuses. This adjustment is understood by legislators as an appropriate step to take in the era of smartphones and tablets. During the preceding fee model assessments were necessary to identify whether technical innovations could be subsumed under the term "receiving apparatus". This procedure has become obsolete under the household fee model.

An independent commission, the Commission for Establishing Financial Requirements (KEF), is responsible for determining the financing requirements of public broadcasters. The Commission consists of 16 experts. Every German state sends one expert to the Commission. The respective German state's prime minister appoints the experts for five-year terms, allowing reappointment. The Commission's appointees include: three experts in economic oversight and enterprise consultancy, two in the area of business economics, two knowledgeable in broadcasting law and judiciary qualifications, three in the field of media economics and/or science, one with knowledge of broadcasting technology and an additional five from the Court of Audit.³⁸

In two-year intervals, broadcasters must declare their financial requirements necessary to fulfill their programming mandate. The KEF has the task of submitting these declarations for professional examination and determination, with programming autonomy in mind. The Commission must review whether the broadcasters' programming decisions uphold the legally-required programming mandate and must consider principles of economy and frugality as well as macroeconomic developments in their decisions on financing.³⁹

6.1.1.1 Institutions of the Broadcasting Networks

The most important agencies for the individual broadcasting networks are broadcasting or Television Councils, Administrative Councils, and network directorships. The Broadcasting Council is an internally diverse committee that is responsible for ensuring compliance with the legal programming mandate. Its task is to select directors, to consult in program

35 BVerfG, decision from 5th February 1991, Az. 1 BvF 1/85, 1/88 (6th broadcasting decision).

36 BVerfG, resolution from 6th October 1992, Az. 1 BvR 1586/89 and 487/92 (7th broadcasting decision).

37 BVerfG, resolution from 6th October 1992, Az. 1 BvR 1586/89 and 487/92 (7th broadcasting decision).

38 § 4 Broadcasting Fee, Interstate Broadcasting Agreement.

39 §§ 1-3 Broadcasting Fee, Interstate Broadcasting Agreement.

development and to guarantee a diverse content. In order to achieve this various stakeholders are represented in Broadcasting Councils.

The Television Council of the German ZDF consists of 77 members who are, among others, represented as follows:⁴⁰

- Representatives of the German states participating in the Interstate Agreement, representatives of the federal government and of political parties proportionate to their strength in the parliament;
- Representatives of the Protestant and Catholic churches as well as the Central Council of Jews in Germany;
- Representatives of various labor unions;
- Representatives of various professional organizations, e.g. the Journalist Association, the Central German Trade Association and charitable organizations;
- Representatives from the fields of child development and education, science, youth work, art and culture, etc.

Of note here is the decision of the Federal Constitutional Court from 25th March 2014, which classified the composition of the ZDF Television Council, despite its diverse membership, as unconstitutional. According to the decision, ZDF will have to limit the number of government and government-affiliated members in the Television Council to one third in order to ensure the diversity of the membership and limit government influence.⁴¹

In support of programming consultation, as well as in the analysis of complaints, the Broadcasting Councils form member committees whose responsibilities cover various areas of business operation. The Administrative Council, elected by the Broadcasting Council, consists of 12 members. The Administrative Council advises directors in matters of financial decision-making and supervises their management of the business.⁴²

Executive management of the business is incumbent upon the director of the broadcaster. He is the legal representative of the network in judicial and extrajudicial affairs.⁴³ In contrast to the Broadcasting Council, he is obligated to provide information and must report on his activities at regular Council meetings.

6.1.1.2 The ZDF Guidelines

The establishment of guidelines mandated by the Interstate Broadcasting Agreement ensures the independence of committee decisions.⁴⁴ In addition, the guidelines establish the configuration and evaluation of programming and telemedia in detail. Especially noteworthy in the guidelines of the ZDF is the promotion of critical thinking and formation of independent

40 § 21 ZDF Interstate Agreement.

41 German Federal Constitutional Court: Press Release No. 26/2014 from 25th. March 2014.

42 Example: § 24 NDR Interstate Agreement.

43 Example: § 29 NDR Interstate Agreement.

44 § 11e Interstate Broadcasting Agreement.

opinions.⁴⁵ Under this rubric, the guidelines also mention that the process of forming judgments in the area of politics must be based on a pluralistic media representation.⁴⁶ Thus, the ZDF is not only committed to the entertainment and provision of information for its viewers, but also contributes to viewer education.

Furthermore, the guidelines refer to non-partisanship of the network.⁴⁷ Hence, a balanced representation of various points of view is necessary. The balance of multifaceted representation however, does not apply to individual programs, but to the overall programming schedule of the network. The importance of gender equality is also mentioned and refers to equal rights for men and women.⁴⁸ Moreover, every reportage is required to offer an objective overview of events, which requires a factual, truthful and reliable presentation of occurrences.⁴⁹

6.1.1.3 ZDF Grievance Process

In the case of a suspected breach of the guidelines, any citizen can initiate a complaint process according to the grievance ordinance of the ZDF Charter, whereby the breach of programming principles comes under investigation.⁵⁰ Following such initiation of the process, the director must evaluate the programming complaint and provide the complainant with a written response within one month. The initiation of the grievance process and the director's statement must also be reported to the chair of the Television Council.

Should the complainant be dissatisfied with the director's response, he can demand further processing of the complaint within one month following receipt of the director's statement. In this case, the chair of the Television Council directs the complaint to the responsible programming committee. This committee evaluates the complaint and prepares a decision recommendation for the next meeting of the Television Council.

6.1.2 Commercial Broadcasting

Commercial broadcasting networks are, like public networks, subject to legal regulations. The general principles of the Interstate Broadcast Agreement as well as special regulations for commercial broadcasting apply to them.⁵¹

German regional media institutions provide oversight for commercial networks. To fulfill legal obligations in the federal context, four committees have been established that work together on behalf of all of the regional media institutions. These committees are supplied with members chosen for the purpose of pluralistic committee work by the individual regional media institutions.

45 I (3), II (2) ZDF Guidelines for Broadcast and Telemedia Offerings.

46 III (2) ZDF Guidelines for Broadcast and Telemedia Offerings.

47 III (5) ZDF Guidelines for Broadcast and Telemedia Offerings.

48 II (4) ZDF Guidelines for Broadcast and Telemedia Offerings.

49 I (4) ZDF Guidelines for Broadcast and Telemedia Offerings.

50 §21, ZDF Charter.

51 §§ 3 ff., 20 ff. Interstate Broadcasting Agreement.

Broadcasting commercially requires legal licensure, regardless of the distribution technology involved. The Commission for Licensure and Oversight (ZAK) is responsible for admittance to broadcast and its suspension or revocation. The Commission is composed of 14 legal representatives (directors and presidents) of regional media institutions.⁵²

Internet radio programs are exempt from the broadcasting licensure requirement. Producers of internet radio programs are only required to report their programs to the responsible regional media institution.⁵³ The residency principle applies here for determining which regional media authority is responsible. An additional Committee, the Conference of Committee Chairs (GVK), determines the allocation of wireless broadcasting capacity.⁵⁴

The German Commission on Concentration in the Media (KEK) evaluates the question of securing plurality of opinion in nationally transmitted commercial broadcast.⁵⁵ In a licensing process, the Commission determines whether a broadcaster has developed a so-called “prevailing influence” on public opinion due to its number of programs or through corporate involvement. Prevailing influence comes into question when one company has an estimated viewership percentage of at least 30 percent per year.⁵⁶

The German Commission on Media Protection of Youth (KJM) oversees in particular whether commercial broadcasters adhere to the rules of the Interstate Agreement on media protection of youth.⁵⁷

The financing of commercial broadcasters is achieved through advertising and other channels of revenue, such as teleshopping, sponsorship or payment (pay TV). Law does not permit financing through broadcasting fee.⁵⁸

6.2 Press Law

The Constitution establishes freedom of the press and broadcasting in Article 5, Paragraph 1, Clause 2. This guarantees the freedom to form opinions, which includes the pursuit and provision of information, as well as its production, dissemination and publication.⁵⁹ This constitutional guarantee is also related to freedom of the press. This ensures that the core of press freedom is protected as a social institution.⁶⁰

In regard to its orientation, content and form of publication, the press is held to no regulations. According to Article 5, Paragraph 2, freedom of the press is only limited by

52 § 36 Interstate Broadcasting Agreement.

53 § 20b Interstate Broadcasting Agreement.

54 § 36 Interstate Broadcasting Agreement.

55 § 36 Interstate Broadcasting Agreement.

56 § 26 Interstate Broadcasting Agreement.

57 Interstate Agreement on Media Protection of Youth.

58 § 43 Interstate Broadcasting Agreement.

59 BVerfG, partial decision from 5th August 1966, Az. 1BvR 586/62, 610/63 and 512/64.

60 BVerfG, partial decision from 5th August 1966, Az. 1BvR 586/62, 610/63 and 512/64.

general legislation (German state press laws) as well as legal provisions aimed at protecting youth and personal dignity.

As with the Broadcasting Law, the individual German states have jurisdiction over press legislation. The German states use their own power to establish individual press laws. Thus, for example, the Hamburg Press Law also establishes freedom of the press as well as the principle of excluding prior authorization.⁶¹

In addition, the press has a right to information from public institutions. This right requires institutions to grant information within the framework of their public function to broadcasting and press representatives. There are legal exceptions, in case of which information may not be released. This is, for example, the case if information might endanger the objective course of a court trial.⁶²

On the other hand, the press is obligated to operate with due diligence. In the course of its public activities, the press must conduct itself with due diligence with respect to truth, content and origin of its information.⁶³

Within the field of the press, there are no legislatively established oversight committees as in the case of broadcasting. For this reason, the National Association of German Newspaper Publishers (BDZV), the Association of German Newspaper Publishers (VDZ), the German Journalist Association (DJV) and the German Journalist Union (DJU) have joined into a German Press Council, which has the goal of independent self-regulation. The main purpose of the Association is lobbying for freedom of the press, and handling complaints from the readership.

The overarching Press Council Association is structured into a Plenary Assembly of 28 members. Each organization sends 7 members to the Plenary Assembly, which meets twice a year. The members are meant to resolve wrongdoings in the press and to intervene on behalf of free access to news sources. Additionally the Plenary Assembly elects 2 general Complaint Committees with 8 members each, as well as a Grievance Committee for the protection of privacy in newsrooms consisting of five members and a representative of advertising publishers.

The Press Council has established a Press Code that publishing companies can adhere to on the basis of voluntary commitment. In their work, publishers, editors and journalists should be aware of their responsibilities to the public and to the reputation of the press. Because the Constitution guarantees independence and freedom of the press, the Press Council intends to serve as a mechanism for upholding professional ethics in publishing principles (preservation of the reputation of the press, intervention for the freedom of the press).

61 § 1, 2 Hamburg Press Law.

62 § 4 Hamburg Press Law.

63 § 6 Hamburg Press Law.

7 THE OUTLOOK FOR DEMOCRATIC MEDIA REGULATION IN CAMBODIA

Any kind of media regulation confronts the challenge of bringing together conflicting interests under one policy. On the one hand, it is a matter of protecting freedom of the press and freedom of speech as cornerstones of a democratic society. On the other hand, it is a matter of protecting the significant concerns of individual citizens, for example the right to privacy. For these reasons, a Press Code comprising binding standards and guidelines for journalistic work have been developed in most Western democracies. Beyond this, Press Councils are frequently given the task of mediation in the case of complaints, insofar as such complaints are not under the jurisdiction of the courts.

However, the internet revolution has brought new challenges in media policy, which traditional and static models of regulation have only inadequately addressed. The convergence process among various types of media makes it even more difficult to distinguish between “classical” television and radio content as the internet has developed into a multimedial communication channel.

Because of these changes many experts favor the so-called “hybrid model” in intensive international debates on media regulation.⁶⁴ This model unites legislative guidelines with varying intensities of regulation for various types of media with voluntary commitment. These include ethical standards for securing journalistic quality, but also “in-house rules” for the internal diversity of television broadcasters, in order to convey political news in a balanced and objective way.

Certainly, it is problematic to transform regulation models from legal and academic debates into political constellations within a country. Whenever media regulation in Cambodia comes under discussion, specific sociocultural and political frameworks must be considered as well.

Nonetheless, the following goals that are oriented on guidelines of democratic plurality and legitimacy can be set:

- 1.** Security of freedom of the press and diversity in print, television, radio and on the internet
- 2.** Transparency and independence in political regulatory decisions
- 3.** A binding Code of Conduct or Code of Ethics for journalists
- 4.** A clear and unbureaucratic grievance process in cases of breach of journalistic standards
- 5.** Free information and transparency about the ownership of media firms

The authors of this study are aware that these goals are not immediately achievable. They require willingness for reform on the side of the government first. In addition, it is essential that parliament and civil society participate in individual policy drafts. Only a broad public debate can lead to the resolution of the current doubts and confusion surrounding limitations of freedom of the press. The guiding force should always be the Constitution and strict

⁶⁴ L. Fielden, *Regulating the Press: A Comparative Study of International Press Councils*.

application of the rule of law principle.

7.1 Radio and Television

7.1.1 Broadcasting Law

In the long-term, a radio and television law must be conceptualized and passed. This could also include the establishment of a non-governmental public radio or television broadcaster. It would require government readiness to change the current situation. As far as striving for transparency and application of the rule of law, legislative rules must be enacted for licensure processes for television and radio broadcasters. This process must clearly identify radio and television broadcasts, procedures on how to obtain a license and required licensure criteria.

This recommendation cannot be realized in the short-term. The government must work in a reform-friendly way, and cooperate its work with NGOs. In terms of a democratic ideal, these measures are what should be aspired.

7.1.2 Independent Broadcasting Board (IBB) for Licensure

The licensure process should occur through an independent board of experts. Two scenarios are possible:

- a)** An Independent Broadcasting Board (IBB) responsible for all broadcasting licensure affiliated with the Ministry of Information
 - Experts from various fields (plurality)
 - Power to make independent decisions is essential
- b)** IBB with statutes established by the parliament
 - Experts from the field of media and public service
 - Appointed by an independent selection committee for terms of three to five years
 - Power to make final decisions

Recommendation 2a) is more likely to be achievable than recommendation 2b). It still depends on the cooperation of the Ministry of Information, but the notion of an (independent) board cooperating or being in close contact with the Ministry seems more realistic. In this way, the Ministry would not be removed from oversight.

Nonetheless, careful attention must be paid to creating an internal, pluralistic committee that falls under specific prerequisites and that limits the influence the Ministry of Information has on the decisions of the board:

- The board shall not meet in the Ministry of Information
- The board must have power to make final decisions
- The administrative work and official granting of licensure could continue to operate through the Ministry; only the professional decision-making needs to be removed from the Ministry's control

In addition, this recommendation requires that the Ministry is prepared to cooperate. The work of NGOs will also be necessary as initiators or motivators for realizing this recommendation.

7.1.3 Responsibilities of the Independent Broadcasting Board (IBB)

- Composition of a catalog of binding rules for the radio and television licensure process of the Ministry of Information, readily available to the public
- Renewal of licensures must be decided within 6 months
- Provision of information to the public about the ownership of radio and television broadcasters
- Cooperation and collaboration with NGOs and the civil society
- Determination of a legal framework for founding community radio/television or a Public Broadcasting Service (PBS)
- Establishment of a maintenance system for the principle of internal plurality within the state broadcaster TVK

7.1.4 In-House Rules for Television and Radio

Because of their broad distribution radio and television have a serious political responsibility in the promotion of a democratic media culture. They should be bound to continuous adherence to the Constitution and laws. Respect for human dignity and prevention of the disparagement of individuals should be the most important principles in broadcast programming. This in particular pertains to racist content and opinions, to discrimination against minorities and to religious or cultural prejudices. Furthermore, programming should intervene on behalf of gender equality as has been established in many of the programming guidelines of broadcasters in the European Union. Finally, the enacted stipulations for protection of youth should be observed; this comes into effect for certain broadcasting times, age brackets and admissible/inadmissible program choices.

However these requirements do allow critical views on a current legal rule. Disparagement must be differentiated from critical engagement with a variety of political, cultural and religious views. In particular, news programming should have a general interest in appropriate reporting on people's issues. Appropriateness is decided according to the portraying of victims and the protection of their dignity. Furthermore, satire and polemical expressions may also be used in journalistic representations of social, communal, political and cultural problems.⁶⁵

Democracy is not a static "state of being" but rather it thrives on the active participation of citizens. This should also be reflected in the programming principles of television and radio. The Guidelines for Broadcast and Telemedia Offerings of the ZDF state: "Programming should be comprehensively informative, engagingly entertaining, and should also contribute to education. It should encourage critical thinking, conversation and independence."⁶⁶

⁶⁵ Programming Guidelines of the German Regional Media Institutions.

⁶⁶ ZDF Guidelines for Broadcast and Telemedia Offerings.

In Cambodia, there is still no public radio or television. TVK is a government broadcaster that is subject to the oversight and control of the Ministry of Information. At TVK and other commercial Cambodian broadcasters, those in leadership should work on bringing journalistic standards, especially in reporting on sociopolitical issues, more strongly to the fore. Ultimately, such standards guarantee sustainable audience interest, especially among young people drawn to journalistically attractive television and radio programs. Inaction by broadcasters will likely result in even greater numbers of young people “migrating” to the internet.

Respectful and active intervention on behalf of a Press Code of Conduct in daily journalistic work is of central importance.⁶⁷ Such Code should include requirements stipulating fairness and journalistic due diligence. News, information and images must be factual and must not be distorted or falsified.

Tied to this should be a clear separation between news and opinions. In addition, the private sphere must be respected and a strict separation of journalistic content and advertising messages must be created to include prohibition of product placement or concealed advertisement. In order to secure journalistic independence, editorial contributions should not be influenced by commercial or industrial interests of third parties or by personal or financial conflicts of interest on the part of the journalists. This means that journalists should not report about their close family members except in the case of specific objective reasons.⁶⁸

Furthermore, journalists should not be allowed to use their work to create advantages for themselves or others. Accepting presents should not be allowed. Beyond this, TVK should follow principles for securing internal plurality, especially in the case of political news programming. In the opinion of the authors, this measure would not only contribute to journalistic balance but would also make programming more interesting and valuable to the public.

Internal plurality should always reflect the social and political conditions of the country itself. This should be the case for large political parties as well as for relevant social groups (e.g. unions, religious groups). The goal is to achieve a more diverse and objective, but also more journalistically sophisticated news reporting. Programming in which only one perspective is presented on a controversial topic requires a corresponding balancer. Such a balancer could be achieved through a relatively short (15-30 minutes), well-considered discussion forum on current sociopolitical topics with politicians and experts.

Certainly internal plurality cannot be measured in minutes of programming. More importantly, a journalistic culture of fairness that respects varying opinions and points of view must develop among broadcasters.

Furthermore it is important that judgments about people and events are recognizable as personal or editorial opinions.

The authors propose the following recommendations:

67 CCIM: Code of Ethics for Cambodian Journalists. See appendix.

68 ProSieben Guidelines for Securing Journalistic Independence.

1. Political opposition parties should be allowed to present their position on major political occurrences (guideline: a total of 10 minutes during TVK prime time news from 7 to 8 pm) whenever presentation time has been reserved for the government.
2. When filming political events, original comments and sound by citizens should be broadcasted to a great degree.
3. A stronger representation of opinions and positions from socially relevant groups and organizations - e.g. unions, professional organizations and NGOs - should be broadcasted.
4. Striving for a more diverse selection of interview partners seems to be generally advisable, in order to move away from the long-winded conference news reporting that dominates prime time news.
5. It is advisable to shorten portrayals of state visits, such as those of ministers abroad. Instead journalistically prepared news should be emphasized. Visiting events may be incorporated into a more politically relevant and more comprehensive context.⁶⁹

Furthermore, the introduction of a third-party broadcast time period rule should be considered. This means programming time that is used by independent producers and is not subject to in-house editorial oversight. A third-party broadcast rule was enacted in 1996 as part of the Interstate Broadcasting Agreement in Germany. According to this rule, if commercial broadcasters have more than a 10 percent market share of viewers or if their broadcasting corporation reaches more than a 20 percent market share, they must grant scheduling time on certain days to independent third parties. Although these independent producers have only a relatively small share of the viewership, they have been able to establish television formats in the fields of culture, education and information.

In the case of Cambodia however, the immediate next step would be to examine who could actually be called an independent producer of television programming and in how far they might be able to achieve technical and professional requirements for broadcast. Support for a third-party broadcast rule as a solution could be expected from the opposition party, which has sought licensure for television broadcasts for some time.⁷⁰

A binding establishment of programming principles and journalistic quality standards, especially at the government broadcaster TVK, could contribute substantially to making broadcasters more attractive to audiences. Beyond that, with the implementation of these recommendations, the broadcasters could see themselves participating in the beginnings of a future public radio/television establishment. The prerequisite is stronger recruitment of professionally educated journalists. TVK primarily hires young government officers from the Ministry of Information and other Ministries, who receive a brief continuing education for their careers as journalists. This however, is not sufficient to improve the broadcasters' journalistic professionalism.⁷¹

69 Critique of the Minister of Information Khieu Kanharith regarding TVK news reporting on state visits abroad. The Cambodia Daily: 22th November 2013.

70 Interview with CNRP spokesman Meach Sovannara, 25th February 2014. See appendix; The Cambodia Daily: 11th June 2014.

71 Interview with CNRP spokesman Meach Sovannara, 25th February 2014. See appendix; The Cambodia Daily: 11th June 2014.

7.2 The Press

7.2.1 Independent Press Council (IPC) and Ombudsman

An Independent Press Council (IPC) with an associated office of a Press Ombudsman should be introduced as the central regulation authority for the press in Cambodia. The Press Ombudsman would serve as the “public face” of regulation. Any citizen who feels unfairly treated by the press may contact the Ombudsman. The Ombudsman then contacts the involved publication and requests an apology or correction if necessary. This public service should be free of charge. If the Ombudsman was unable to mediate in a case it would be transferred to the jurisdiction of the IPC.

In principle, there are 3 variations that are possible for establishing a Press Council: an independent, voluntary regulation of the field (after the German model), a binding legal regulation of the field, and an “incentivized statutory” regulation (after the Irish model). The first model has the disadvantage that media producers are able to leave the regulatory system at any time. On the other end of the spectrum, media producers could perceive mandatory regulation as an undemocratic “strait jacket”. This could conceivably lower motivation for compliance.

For this reason, the authors of this study are in favor of the Irish model of “incentivized statutory” regulation. It rewards compliance and offers the best quality in terms of binding rules. Membership of publications in the IPC would then be linked to the obligation of upholding the Press Code of Ethics. It would become an image and sales point, a “seal of quality” for fair and balanced journalism.⁷²

A prerequisite for this system of regulation is the reform of the Penal Code and abolishment of the steep punishments for cases of defamation. Furthermore, reform of the currently prevailing Press Law is also necessary. Restrictions that make press freedom hollow should be repealed or be subject to extensive revision. This applies in particular to Article 12, which requires respect for national security and political stability. This of course, presumes government support for reform. Representatives of the media as well as representatives of civil society must also be involved in the reform process.

The authors of this study recommend that the Press Council and Ombudsman should be exclusively responsible for handling complaints about press and internet publications in a one-year test phase.

Later, the Council’s responsibilities could be expanded to radio and television. This assumes close cooperation with the proposed Independent Broadcasting Board (IBB), but also with the Ministry of Information. Furthermore, expansion of the Council’s jurisdiction is only realistic if the Council and the Ombudsman are adequately financed. Financing would be possible via taxes, via fees paid by IPC members or some hybrid model.

⁷² Press Council of Ireland: Annual Report 2012.

7.2.2 Tasks of the IPC and the Ombudsman

The responsibilities of the IPC:

- Upholding journalistic standards (through a Press Code of Ethics)
- Monitoring the development of press and media in Cambodia
- Reaching final decisions on complaints where the Ombudsman is unable to reach a solution
- Issuing public reprimands in the case of breaches of journalistic due diligence
- Cooperating with the Ministry of Information
- Cooperating with members of civil society

The responsibilities of the Press Ombudsman are:

- Appearing as the “public face” of regulation
- Upholding journalistic standards (a Press Code of Ethics)
- Receiving complaints and making contact with the involved publications
- Assisting with and/or consulting on corrections, retractions and counter-statements

The IPC should operate on the basis of a statute approved by the parliament. The members of the IPC board should be required to be independent, as should the Ombudsman. The IPC board would appoint the Ombudsman for a term of 3 years. He should have relevant experience in the fields of law and media.

The selection and the composition of the IPC board must take place in a transparent process:

- An independent Appointment Committee should be created for the IPC.
- 13 IPC board members should be appointed: a chairman, as well as 12 regular members. 6 with relevant experiences in media and communications, and 6 with relevant experiences in public life/service.
- IPC board members should not hold any high political offices.
- IPC board members should be appointed for terms of 5 years.

7.2.2.1 Grievance Process

The grievance process should be open to all citizens who feel that their dignity or privacy has been injured by media publications or that they were falsely represented. The process must be transparent and unbureaucratic. Citizens should send their complaints in written form to the Ombudsman. It would be helpful for the Ombudsman to create a complaint website for citizens, where they may communicate their concerns in a fairly easier manner. The sender of the complaint must be clearly identifiable and linked to a concrete media article or post. The content of the complaint should not constitute a crime and may not be insulting or exploitative in nature. The burden of proof for any claim is principally on the complainant.

The Ombudsman may reject or accept a complaint. He should maintain journalistic standards (the Press Code of Ethics) but should also consider that expressions of criticism – even directed at individuals – are allowed in a democratic press as long as they are not demeaning.

Such disputes are best resolved via a letter to the involved publication, which is required to publish such position statements.

The receipt of complaints by the Ombudsman can lead to an apology and/or to a correction in the involved publication. Such apologies or corrections should be published in a placement comparable to that of the disputed original contribution. Furthermore, the apology and/or correction should be clearly marked as such. Should the Ombudsman be unable to reach an agreement with the complainant or the involved publication, the Press Council must finalize the decision.

The current Cambodian Press Law grants every citizen a legally executable correction right with respect to publications (Art. 10). The problem is that the individual rules of the article (e.g. malicious intent at public figures) are tailored to limit critical news reports, particularly since courts can set very high penalty fees. Thus, the creation of an office of the Ombudsman requires a reform of the Press Law in order to decriminalize press disputes.

It would be worth investigating whether a right to response could be anchored in the grievance process, as it is in the German Press Law. In this way, anyone who sees himself as falsely represented can request a correction in the concerned publication. A prerequisite for printing responses is that they are true. Such a right of response offers the offended person the chance of clarification. The publisher has the right to include a position statement from the editorial perspective along with the complainant's response. This is the so-called "tail" of the editorial team.

Stipulations of the grievance process and duties of the Ombudsman:

- Complaint should be in written form (letter or email) with declaration of reasons, to be sent at latest 14 days after the publication (establishment of a complaint website is advised).
- Acceptance or rejection of complaints issued by the Ombudsman with the declaration of reasons shall be sent at the latest 21 days after the receipt of the complaint.
- In case of acceptance: retraction and/or correction in the concerned publication, latest 35 days after the Ombudsman's receipt of the complaint, must be published on the same page, internet website or broadcasting program.
- In case of rejection: the complainant has the opportunity to appeal the rejection at the Press Council within 10 days following the receipt of the rejection; the Press Council must respond within 21 days.
- In case the complaint is rejected by the publisher: the complaint will be forwarded to the Press Council.

7.2.3 Press Code of Ethics

Democratic freedoms are essential to independent journalism. And yet, it also requires accountability from journalists within a democratic society. Such responsibilities are best suited to a model of voluntary commitment: journalists of various media genres agree to

uphold specific principles. These can be established in a Code of Ethics or a Code of Conduct. However, such commitment is typically not legally binding. Because a Code of Ethics relies upon a cooperative approach of all participants, the motivation for active participation is greater than in the case of “hard” legal regulation, as experience has shown. This does not exclude the possibility that certain self-commitments - e.g. respect for human dignity and privacy - cannot be used to derive certain rights in the courtroom.

Due diligence and a duty to fairness are among the most important elements of a Code of Ethics meaning that a journalist is duty-bound to factual reporting. He cannot falsify information or news. In addition, he must represent all sides and should identify unconfirmed reports, rumors and speculations as such. Furthermore, the Code upholds respect for human dignity – including respect for privacy – and forbids discrimination. News or statements that prove to be false following publication must be corrected. Furthermore the press has the right to refuse to identify sources for their protection. Also important is a clear separation between editorial sections and advertising sections in a publication. Beyond that, a strict ban of all kickbacks or gifts that could compromise journalistic independence should be in place.

A comprehensive and binding Code of Ethics should be established in cooperation with various journalistic organizations in Cambodia. A very detailed and praxis-oriented Code has been proposed by the Cambodian Center for Independent Media (CCIM) which could provide a good basis for further public discussion.⁷³

7.3 Internet, Blogs and Social Media

Whether unregulated access to the internet is an advantage or disadvantage to freedom of speech and press has been subject of debate among Cambodian bloggers. While some commentators see the possibility for internet laws as protection, critics warn that legal regulations could be used to limit the diversity of opinions and to introduce barriers to the internet.

Such criticism seems justified considering the Cybercrime Law, which has been discussed in Cambodia. Up until now, the regulations known to the public could be restrictively applied (Art. 28) and lead to a backdoor restriction of freedom of the press. The danger with the criminalization of journalistic content is that political conflicts could be deflected into courtrooms. It is advised that incidents of defamation on the internet should primarily be handled through the extrajudicial arbitration efforts of the Press Ombudsman.

Still to be discussed is whether the media should be proactive in such situations by going public with their suggestions for internet regulations. In this context, the main issue is a minimal standard with respect to factual reporting and respect for privacy.

The authors of this study contend that the suggested Press Code of Ethics should be applied also to internet, blog and social network publications, especially when the following conditions apply:

⁷³ CCIM: Code of Ethics. See appendix.

- regular news publication
- journalistic or professional format
- a larger target and user group

8 MEDIA, COMPETITION AND THE FREE MARKET

To the present date, Cambodia has had no comprehensive legislative rules for the market regulation of the media. The exception is the stipulation of the Press Law (Art. 17) to print publications. According to the article, natural or juridical persons are not allowed to own more than two Khmer-language newspapers.

Efficient market regulation aims to achieve a multifaceted media offering for consumers produced by a diversity of various providers. This however, is an ideal, not the reality. The tendency towards cartel and fusion control of the media in Western countries, in particular in the European Union, shows that market power and abuse are difficult to gauge. This difficulty is caused by problems such as technical bottlenecks in transmitting, balancing and separating the relevant media markets, audience and reader shares as well as gauging the influence of public providers.

Market regulation of the internet has fueled debates. From the perspective of many experts, the internet is not one unified medium. It is a platform that can convey a variety of types of media; this includes radio and television.⁷⁴ For this reason, whether the internet requires a special legal framework is also debatable.

On the other hand, the internet has brought forth specific forms of journalistic representation, for example in social networks, which could prove to be independent forms of media. The debate surrounding this is not yet over and will continue to influence the Cambodian media market in the coming years.

As long as Cambodia has no effective market regulation short-term pragmatic recommendations for the media field are advised. These are:

- providing public access to the ownership conditions of print, radio and television enterprises;
- establishing a transparent licensure process;
- reforming the Press Law to the effect that natural or juridical persons may not own more than two radio and/or television broadcasters.

Certainly, these recommendations are hardly enough to solve the problem of inadequate competition in the Cambodian media landscape. Limiting ownership to two publications or broadcasters could, for example, be circumvented through the use of straw men or companies. However, it is clear that it is not only in the interest of the consumers, but also in the interest of the government to secure fair competition.

74 W. Seufert, H. Gundlach: Medienregulierung in Deutschland: Ziele, Konzepte, Maßnahmen.

The primary concern here is to stabilize and further develop a thriving plural media culture in Cambodia. This is not a process that begins on its own. As this study shows, backsliding is also possible with regard to freedom of the press. Open debates on causes and possible consequences are important in this context. Just as the media reflects society in its multifaceted opinions, so must a variety of social and political groups be engaged in the development (in the sense of democratic regulation) of the media. Above all, the authors see a need for well-educated young journalists for media development to guarantee the implementation of high professional standards.

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Agreements

- ZDF Interstate Agreement 2009
- ZDF Guidelines for Broadcast and Telemedia Offerings
- ZDF Charter 2011
- German Interstate Broadcasting Agreement
- Interstate Agreement on Media Protection of Youth
- Hamburg Press Law

- Programming Guidelines of the German Regional Media Institutions
- ProSieben Guidelines for Securing Journalistic Independence

Further reference:

- The Cambodia Daily
- The Phnom Penh Post
- Interviews (*see Appendices*)

INTERVIEW WITH MR. KEM GUNAWADH Director of National Television of Cambodia (TVK)

3. March 2014

Q: Can you give us a short overview [of]⁷⁵ what TVK does? What is its mission?

Kem: TVK is the only state run television in Cambodia among 14 TV stations right now. We have to inform the public with the policy platform of the government, not the opposition party CNRP. But [if] CNRP would become a ruling party, it [would] be the same.

Q: What content do you have in your news?

Kem: Most of our news is related [to] the political protocol system like meetings, conferences, courtesy calls. However, we also have [the] "TVK from One Corner" program. It's about a topic which connects to the concerns of the people.

Q: Is there any censorship?

Kem: We have no censor. We have to take care of the government's policy platform. That's it. No bias. However, we are from the government, this is very clear. Most ministries have their own "information desks". It means they have their own cameraman and reporters. They write their own articles and send us the material to put it on air. We check it and choose a suitable time.

Q: Indeed, there are many reports about conferences, meetings of high ranking [officials] or gift presentations in TVK news. Isn't it boring even for the TV viewers?

Kem: This is our tradition. My country is different from other countries. We have our King. Every one of us has to respect the state's institutions. How we plan to broadcast our news follows the ranking: If there is news about the King and Queen, this news has to go first. Secondly, the activities of the Senate. Thirdly, the government, starting from Prime Minister, then deputies. Fourthly, national institutions, we have more than 30 right now.

Q: And the politicians are always keen to be on air?

Kem: Yes. For example if I am a minister I would like to be watched on TV, especially on TVK. It's all about an important rank in the government. So, we follow the guidance because we want to avoid misunderstandings and to avoid problems.

Q: Is there a special attention for the PM?

Kem: For the Prime Minister, there is a group of journalists, at least 38 persons who work for [the] PM's activities. This includes also private TV stations, Khmer newspapers as well as the Chinese newspaper in Cambodia, Sin Choo.

75 Proofreader's additions or changes to improve fluency of the questions and answers are marked with []. Otherwise, the language of interviewer and interviewee have been left as is.

Q: Would you also broadcast about other political parties than CPP?

Kim: Yes, if opposition parties work together with the people and do not point finger and make trouble. In general they should be more constructive regarding the needs of the people.

Q: If something happens, like a strike by garment workers or a political demonstration, do you report about this?

Kem: Yes, we went always. But the demonstrators, the bad guys of the demonstrators, fought our reporters. The Ministry of Information decided to stop us sending our staff there until the opposition party is really able to protect our journalists.

Q: Do you get any feedback from the people who watch TVK news? Do they appreciate it?

Kem: I would like to have someone, an academic, to do a survey. We would be very happy and appreciated. It's now 13 years ago that we had something like a survey. This is outdated.

Q: Who is still interested in TV?

Kem: Especially young people relate more and more to online news, TV less and less. We have now an online website and people look on this. This is especially for the cities and students. Ordinary people in the rural areas still like FM radio. In general the middle age generation watches TV. Entertaining programs of the private TV stations are very popular among younger workers. By the way, private TV stations have a big advantage in financial terms because they can advertise alcohol and cigarettes. TVK is not allowed to do this.

Q: [Do] TVK journalists [have] to follow an internal code of conduct?

Kem: We follow the internal regulation for civil servants. Another thing is that, most of our journalists are not for example from the DMC.⁷⁶ We recruit people who have for example a[n] MBA in administration or IT and also those who passed examinations organized by the Ministry of Information. The Ministry send[s] them to us so that we can coach the people for 3 to 6 months.

Q: That means they are not professional journalists?

Kem: That's right. The reason is because the state servants only have very small salary and the students from DMC wouldn't want to join us. If TVK [could] get those who studied at DMC to work with us, we would be very happy. However, the good part is, we are like a cooker. This means after our staff works with us for 3 or 5 years, they will fly to private TV stations. They are very happy to get them because of the good reputation of TVK.

Q: Would you like to welcome students from DMC?

Kem: Yes. But I'm afraid they don't want to work with us. They prefer instead the private sector. The starting salary is around 150 US Dollar a month and it will go up very quickly. We only can offer 100 US Dollar and it never increases.

⁷⁶ Department of Media and Communication at the Royal University of Phnom Penh.

Q: What are your plans for a future TVK?

Kem: I would like TVK to become a public TV station. The station would not copy the style from BBC or any other international TV channels but we would do our own style. However, we will learn and take some good ideas from them. We don't want to be independent but serving the public. Maybe it will take some time, because now we have to follow the political hierarchy.

Q: What could the Konrad Adenauer Foundation do for TVK?

Kem: First, we need KAS to support us to organize workshops and allow TVK staff/journalists to join. We would like to have a partnership with KAS. During 1993, we had such a very good partnership with KAS. I like to push my young generation to receive these sorts of trainings because they will become leaders in the future.

INTERVIEW WITH H.E. MEACH SOVANNARA

Chairman for Media and Information Department of the CNRP

25. February 2014

Q: Have you ever request[ed] to use/rent airtime from national TV or radio for your party?

Meach: Yes, but they granted only maximum 15 minutes to all political parties just and only in the month before national election time. Beside that period, CNRP always failed to rent airtime on TVK or national radio.

Q: What are the reasons the government gave you [for their refusal]?

Meach: First they said the programs that we planned were not inappropriate. Even though we tried to adjust them few times, it still didn't work. Second they claimed that there was no frequency available.

Q: Are you satisfied yet with the current use of public TV/radio to express your party's interests?

Meach: No. Almost all national TV and radio stations are politically biased. What we understand is that they are supposed to be fair to every political party. But they always disseminate positive news about Prime Minister Hun Sen and also his wife Bun Rany. She is the president of the powerful charity organization Red Cross. We instead want to have an equal voice in our national media.

Q: What are your specific demands?

Meach: The media must be independent from political parties. We need also properly skilled professional journalists.

Q: What are the media outlets used by CNRP nowadays?

Meach: We rent airtime (2 hours/day) from two radio stations (Beehive FM.105 and FM. 93.5). There is also an online TV program. Last but not least we use Facebook intensively. There are three official pages: I Love Cambodia Hot News, Sam Rainsy and Kem Sokha's pages. Unfortunately the government banned us [from having] more relays or [having] our own radio station. They don't like the idea of pluralism.

Q: What are the obstacles for CNRP regarding the use of media outlets in general, and more specific[ally] the government media outlets?

Meach: Most of news agencies and Cambodian journalists work for the government. As their salary is very low they automatically become hostage[s] of the CPP. For instance, most of more than 100 radio stations in Cambodia are under direct or indirect control of Hun Sen and his powerful political friends. None of the 14 TV stations is independent, even TVK.

INTERVIEW WITH NEANG SOVATHANA

Radio Producer Freelancer

7. March 2014

Q: What are you doing currently?

Neang: I'm a freelance radio and TV producer. Weekdays I do Lovely Night (love, domestic violent and women issues) with VOD. [On the] weekend I produce for Friedrich Naumann Foundation a program on youth and politics. All staff who work for this program, including host, producer, speakers are under 30 years old.

Q: What is your impression of the media landscape in Cambodia?

Neang: There are so many ways to disseminate news in various ways by using pictures, electronic means. We can text back and forth. Facebook is very popular. There are also more than 100 radios stations in Cambodia.

Q: And what are the challenges?

Neang: I hardly find any independent political institution in Cambodia. It's like as we have two tigers. If you are not pro-government party CPP, you are on the side of opposition party CNRP. For most of the people it is even harder to make political decisions. Many don't want to take either side of CPP nor CNRP.

Q: Are you scared?

Neang: Everybody is scared and concerned [about] safety. I experienced [...] being threatened regarding my work. However, I myself only criticize a situation or a specific aspect of leadership. I don't like personal insults. I think also, my institution (VOD) will protect me if there are any threats.

Q: How do you use social media?

Neang: As I am on the side of CNRP, I usually raise my voice through my Facebook page.

Q: As you work closely with youth, do you know what sort of outlets do they use to access of information?

Neang: The majority of youth uses Internet if it's accessible. For young people who don't have access to Internet, most of them listen to radio. I think TV is their last choice.

Q: How does freedom of expression affect young people?

Neang: Very strong! Very powerful! Facebookers dare to attack the government. It used to be an untouchable institution. But I think they didn't care [about] people's interests and needs. I think that lots of comments and the posts the user[s] share are terrible and unprofessional. But this is a result of their anger. They ran out of patien[ce].

Q: Have you ever watched TV news?

Neang: Nope! I hate it. I don't want to throw things against my TV's screen. I read VOD Hot News, which usually updates [once] an hour. I read PP Post, Cambodia Daily;

I listen to VOA, RFA or RFI.

Q: What do you think if one day the government bans Facebook?

Neang: I don't want it [to] happen in our country. I think it will be a big mistake.

Q: Are young people in general interested in political issues?

Neang: They are surprisingly interested in politics eve[r] since the national election campaign [of] 2013 up to now. When I organized radio topics [in the past] related to land issues or human rights violation, young people rarely called us. That has now completely changed. We get so many calls relating to politics.

Q: [What] do you think about youth participation and democracy?

Neang: Young people have started to speak out openly. This is good for the democracy in my country. The older politicians have lost their dignity. They [are] supposed to be role model[s]. But government politicians use a lot of harsh terms to shed a bad light on the opposition. On the other hand opposition leader Sam Rainsy also uses inappropriate terms, like "Vietnam's puppet" to blame the government. We need a completely new culture of political debate, which is led by the young generation.

CODE OF ETHICS FOR CAMBODIAN JOURNALISTS

Cambodian Center for Independent Media (CCIM)

Published on Friday, 25. May 2012

Background

Because Cambodia observes democracy, freedom and multiparty system, we notice that the media sector has developed in many forms. As a result, many media institutions were established to serve different purposes. Some of them uphold independence in their mission.

According to the experience in the past, some Cambodian journalists have received formal journalism training in low level and some others did not implement the professional journalism, which are the causes why the media sector cannot serve the need of the social development and its citizens, especially the need for journalistic ethics. Recognizing ethics as a foundation for practicing journalism, and seeing the lack of code of ethics for journalism, media associations and non-governmental organizations (NGOs) agreed on a common code of ethics in conformity with the ethics of journalism in many developed countries around the world.

We, the journalists, believe that having a common code of ethics for journalism is very crucial in improving the confidence among the general public, especially in serving them with sense of seriousness and honesty.

1 Seek and report the truth

- 1.1 Always make the writings and news coverage reliable and accurate.
- 1.2 Collect reports, photos and any information in a legal manner.
- 1.3 Ensure the accuracy of facts before publication.
- 1.4 Identify properly facts and opinions in the reports for clarity of information.
- 1.5 Criticize constructively and in a dignified manner.
- 1.6 Reports only information received from the sources and refrain from omitting or distorting important information.
- 1.7 Make the news coverage fair, neutral, balance, and devoid of misleading information.
- 1.8 Give opportunity to persons who have less chance to speak for them to provide information.
- 1.9 Give opportunity to persons who are involved in news stories to provide information about their side, particularly those who are accused.
- 1.10 Undercover or other surreptitious methods of gathering information should not be used except when the open methods will not yield information.

2 Be responsible

- 2.1 Follow the Cambodian Press Law and the Constitution at all times when performing duties in journalism.
- 2.2 Use Khmer grammar and vocabulary properly in writing news and other media reports.
- 2.3 Press institutions should take responsibility for inaccurate publication and should take measures to correct it.
- 2.4 Avoid plagiarism and ask permission from the writer or author in using information from their reports.
- 2.5 Avoid taking actions that affect the integrity of the journalists and may cause disunity among the journalists.
- 2.6 Media advertisements should not violate the code of ethics, especially Cambodian customs and values.

3 Exercise independence

- 3.1 Media institutions should exercise independence.
- 3.2 Do not reports, speak, or show pictures which are inaccurate and only benefit the interest of a particular individual or group of people.
- 3.3 Separate news articles from advertisements to strengthen the prestige and independence of the media.
- 3.4 Be free, independent, fair, and neutral and do not support political parties.
- 3.5 Protect the right to freedom of information and resist censorship.
- 3.6 Do not violate the integrity of the institution of the independent media in which you work for.

4 Protect the sources

- 4.1 Protect the confidentiality of sources unless there is an approval from the sources.
- 4.2 Acknowledge properly the sources to which information is collected or used as reference.

5 Respect privacy

- 5.1 Respect people's right to privacy.
- 5.2 Avoid intruding the privacy of individuals unless it is important to serve the public interest.
- 5.3 Do not insist in questioning, telephoning, or photographing an individual if he/she refuses to speak or to be taken pictures. Also, leave from the property of others when asked to leave.
- 5.4 Sympathize with someone in grief or shock in making inquiry.
- 5.5 Recognize the greater right of private individuals to keep their information than public officials and others who seek public office.

- 5.6 Do not release the picture of a person who was dismissed from his workplace unless that person has committed crime.
- 5.7 The Media should not show sexual relation in wedding or after divorce without the permission from him or her.

6 Protect women, children and the disabled

- 6.1 Give special consideration to women, children and the disabled.
- 6.2 Do not use naked or obscene pictures of the women victims, which harm their dignity and honor.
- 6.3 Do not use words or phrases that infer judgment on the victims or the suspects, especially the women, children, or disabled.
- 6.4 Seek permission from the parents, guardians or persons responsible of children under 18 years old to interview or take pictures of these children involved in an issue.
- 6.5 Do not use materials to seek for information involving a child's welfare.
- 6.6 Do not divulge the identities of children who are under 18 years old and are victims or witnesses in sexual offences to the media.

7 Do not discriminate

- 7.1 Journalists must abide by the international treaties on human rights.
- 7.2 Avoid hatred, bad attitudes, prejudice, and discrimination against race, color, religion, gender, sexual orientation, and physical or mental disability of an individual.
- 7.3 The journalists must not prejudice, behave badly, or discriminate against race, gender, sexual orientation, language, religion, politic, physical or mental disability
- 7.4 Do not publicize the details of race, color, religion, sexual orientation, physical or mental illness or disability of the individual unless it is related to the issue.

8 Maintain peace

- 8.1 Do not report information defaming an individual or distort the truth which can cause social and national disorder.
- 8.2 Use of obscene words and distortion of information is a serious guilt of misconduct.

9 Keep the hands clean

- 9.1 Do not accept any gift which harm the profession and honor as a journalist.
- 9.2 Do not accept any gift for reporting real or unreal information.

10 Respect national custom

- 10.1 Respect national custom and tradition.

- 10.2 Promote religious and cultural identity.
- 10.3 Do not present obscene and tragic pictures and information which affects Cambodian traditions.

11 Crime reporting

- 11.1 Do not give an opinion on a case in which it is still under investigation or the court has not judged on the case yet.
- 11.2 Be careful and avoid too many details in reporting on the methods used in murder cases.
- 11.3 Respect the rights of the defendants and do not accuse them when the Judge has yet decided on their cases.
- 11.4 Do not identify relatives or friends of the accused of a crime without their consent and unless they are relevant to the case.
- 11.5 Give special regard to the vulnerable people, children, witnesses or victims of a crime.
- 11.6 Do not report the identity of the victim, especially juvenile victim, of sexual harassment, unless it is legal.
- 11.7 Do not report inappropriate, cruel or violent information on physical and sexual violence.

TVK PRIME TIME NEWS BROADCAST

Monday, 24. February 2014

National News (7:01pm-7:37pm)

11 local news stories were broadcasted as follows:

- 1.** Samdech Heng Samrin, President of the National Assembly and an Honorary President of CPP, met with Moroccan delegations to build good diplomatic and economic relationships.
- 2.** Prime Minister Hun Sen participated in the summary of achievements meeting with the Ministry of Women Affairs.
- 3.** Prime Minister Hun Sen met with the Chinese Communist Party to exchange experiences with CPP on how to involve youth in politics.
- 4.** Prime Minister Hun Sen met with a Vietnamese delegation in order to discuss how to work with the Ministry of Planning in order to exchange major economic plans between the two countries.
- 5.** Department of Land Management, Urban Planning and Construction of Kratie province held a meeting in order to improve public services and discuss how to coordinate with citizens on land issues. Messages: if the local authorities cannot resolve issues, they should send the complaints to the national level but not directly to Samdech Hun Sen.
- 6.** H.E. Sun Chanthol, Minister of Commerce, met with a Japanese tourism company and negotiated the possibility of having direct flights between Cambodia and Japan.
- 7.** H.E. Mam Bunheng, Minister of Health, participated in a summary report meeting on 2013 and plans for 2014.
- 8.** Minister of Economy and Finance, H.E. Aun Pornmoniroth, held a meeting in order to solve tax issues for companies and to discuss the reduction of complicated procedures and improvement of the services of the Ministry.
- 9.** H.E. Chea Sophara, Minister of Rural Development, participated in a meeting to discuss a joint project on food security and nutrition for the period of 2014-2018.
- 10.** A national group of road and bridge experts inspected the damaged national road No. 2 and made reparation plans.
- 11.** The National Authority for Combating Drugs, led by Mr. Keo Kim Dara, Deputy Secretary-General of the National Authority for Combating Drugs, reported on its Village Safety Policy during the national committee's efforts to work with stakeholders and local

authorities.

Tuesday, 25 February 2014

National News (7:00pm-8:03pm including international news)

12 local news stories were broadcasted as follows (international news not included):

- 1.** Prime Minister Hun Sen attended the opening ceremony of the coal-burning power plant in Kampong Cham and announced the government's decision to ban the assembly of people. Awards were given to 18 workers for good work.
- 2.** At the Royal Palace, on behalf of the King, Samdach Kong Sam Ol, Minister of the Royal Palace, held a swearing-in ceremony for H.E. Serey Kosal, the new representative of Pursat province .
- 3.** H.E. Im Chhun Lim, Minister of Land Management, Urban Planning and Construction (LMUPC) and Leader of the National Working Group for Kratie province, attended a public forum. The goal of the forum was to resolve citizens' problems in two villages in Kratie province.⁷⁷
- 4.** H.E. Chhay Thorn, Minister of Planning, met with a group of Vietnamese delegates and discussed joint cooperation and exchanged ideas for business plans, new ideas and plans for cooperative binational implementation.
- 5.** H.E. Cham Prasidh, Minister of Industry and Leader of the National Working Group for Kampot province, conducted a meeting in order to follow up on the implementation of the Government's Rectangular Strategy (GRS) at the provincial level. General achievements from 2013 and goals for 2014 were reported. The Minister then advised local authorities to conduct frequent meetings and public forums so that they can familiarize themselves with the issues and resolve them accordingly.
- 6.** The 30th National Day of Brunei Darussalam and 22nd Anniversary of the Brunei-Cambodia friendship were celebrated at Raffles Le Royal, Phnom Penh. Minister of Information, H.E. Khieu Kanharith, and his wife attended as guests of honor. Several government officers, including H.E. Hun Many, son of Prime Minister Hun Sen, as well as staff members from various embassies attended.
- 7.** H.E. Lim Kean Hor, Minister of Water Resources and Meteorology, led an annual meeting with subordinate offices. He focused on the development situation in the country, pointing to the GRS's far-reaching reform and how a more effective implementation of GRS would bring success to the government.
- 8.** H.E. Thong Khon, Minister of Tourism, chaired a meeting bringing together national and private-sector working groups as well as other relevant agencies to discuss on how to improve tourism services in Cambodia.
- 9.** The Ministry of Economy and Finance held a meeting, chaired by H.E. Aun Pornmoniroth,

⁷⁷ This event was conducted in front of pictures of the late King, a few monks and the other Royal Palace officers. Top monks prayed for him, while Samdech Kong Sam Ol gave some gifts on behalf of the current King

Minister of Economy and Finance, together with representatives from relevant ministries. The purpose was to discuss a funding package for agricultural development as well as loan provision procedures for better rice export and agricultural services.

10. H.E. Chheang Vun, Chairman of the Foreign Affairs Commission and a Spokesperson for the National Assembly, met with the German Ambassador, H.E. Joachim Baron von Marschall, to discuss the roles and functions of the Cambodian Foreign Affairs Commission. Access to information, and possible German funding, was among the subjects of discussion.
11. In Svay Rieng province, an opening ceremony was organized by the Ministry of Agriculture, Forestry and Fisheries in cooperation with development NGOs from the Netherlands, Germany and the Czech Republic.
12. Representatives of the Ministry of Agriculture, Forestry and Fisheries attended a conference to receive information on rubber plantation reports from 2013 and plans for 2014.

Wednesday, 26 February 2014

National News (7:00pm-8:00pm including international news)

18 local news stories were broadcasted as follows (international news not included):

1. Samdech Heng Samrin, President of the National Assembly, received credentials from the new British Ambassador to Cambodia. The Ambassador informed him about a British delegation set to visit Cambodia next week. Key persons exchanged promises to maintain good diplomatic relations and to support each other through economics.
2. Minister of the Royal Palace, Samdech Kong Sam Ol, met with Russian representatives to receive historic souvenirs for the King.
3. A pagoda in Kratie province launched a plan for improvements with more than 500 participants, attended by H.E. Im Chhun Lim, Minister of MLMUPC and provincial staff of Kratie province. H.E. spoke on behalf of the top leaders of CPP and HS's wife. His message mentioned having respect for political leaders' regard for and duty to the people. H.E. donated more than \$2,000.
4. H.E. Sun Chanthol, Minister of Commerce, led a group of experts to visit several provinces such as Rattanakiri, Mondolikiri, Kratie, Steung Treng and Kampong Cham. The local officers reported their achievements, particularly in trade cooperation with neighboring countries. The group then visited the wife of Mr. Sin Sisamuth, a famous Cambodian singer.
5. H.E. Chea Chanto, Senior Minister and General Governor of the National Bank of Cambodia, met with a representative of the US Treasury Bank. Continuing cooperation between the two banks - particularly with regard to bank development, technical support, and capacity building - were the main subjects of discussion.
6. A Conference on media achievements in the year 2013 and on plans for 2014, attended

by H.E. Khieu Kanharith, Minister of Information, was held. He expressed his pride in the achievements and in the election results.⁷⁸ He commented on social networks and revealed no intention of blocking any social networking activities. He further advised his staff members to improve the quality of Cambodian news.

- 7.** H.E. Ouk Rabun, Minister of Agriculture, Forestry and Fisheries and H.E. Tram Iv Toek, Minister for Public Works and Transportation, held a meeting in Kampong Chhnang province. The meeting's purpose was to deliver government plans and explain the group's roles in observing the GRS. The plans and advice were pointed out to local officers and the previous year's achievements were reported.
- 8.** A public forum on the "safe villages" program was held at Koh Pich Island. H.E. Ith Sam Heng, Minister of Labor and Vocational Training and Leader of the National Working Group for Khan Chamkar Mon and Phnom Penh, and five village representatives attended.
- 9.** H.E. Mam Bunheng, Minister of Health, attended a closing workshop to review health achievements in year 2013. He encouraged the promotion of health services and improved bureaucracy procedures at every level.
- 10.** H.E. Chea Sophara, Minister of Rural Development, participated in a ceremony at a pagoda in Tbong Kmom province.⁷⁹ H.E. provided positive messages from the government by recalling the empty and negative outlook during and after the Khmer Rouge era. He delivered individual gifts from Prime Minister Hun Sen and his wife to 500 people.
- 11.** H.E. Min Khin, Minister of Cult and Religious Affairs, provided opening remarks for a training workshop for monks in Takeo province. He advised the monks to receive a good training and to maintain solidarity. He contributed books and financial support to approximately 200 monks.
- 12.** Workshop training on legal and procedural documents for adopting Cambodian children was attended by H.E. Vong Soth, Minister of Social Affairs, Veteran and Youth Rehabilitation. Representatives from ministries, embassies, and NGO/IOs also attended the event.
- 13.** H.E. Prak Sokhon, Minister of Post and Telecommunications, participated in the official announcement ceremony of appointing the leadership of the Ministry. He urged his staff members to pay more attention to capacity building and improving services.
- 14.** H.E. Cheam Yeap, Spokesman of CPP and Chairman of Banking and Finance Commission, met with German Ambassador, H.E. Joachim Baron von Marschall, to discuss political and economic development in Cambodia.
- 15.** H.E. Ty Sokun, Under-Secretary of State at the Ministry of Agriculture, Forestry and

⁷⁸ The Minister commented: "I am proud of the result but the opposition party was stubborn, doesn't want to recognize the result, even leading to demonstrations, which caused some serious violence. However, the situation is now back to normal because the two political parties agreed to meet and continue to negotiate for the benefit of the nation and its people."

⁷⁹ Tbong Kmom is a new province; it is next to and has recently been a part of Kampong Cham province.

Fisheries, chaired a meeting on achievements in 2013 and plans for 2014.

16. The Ministry of Economy and Finance organized a signing ceremony for a Memorandum of Understanding (MoU) that will initiate insurance trainings offered by a Malaysian insurance company.
17. A signing ceremony for the 5-year MoU anniversary between Cambodian and Korean research institutes on forest and wildlife conservation took place.
18. Medical experts visited Kampong Spue province to demonstrate methods for eradicating the H1N1 virus in villages. They informed villagers on how to prevent H1N1 and how to report incidents to the local authorities.

Thursday, 27 February 2014

National News (7:00pm-8:16pm including international news)

21 local news stories were broadcasted as follows (international news not included):

1. Samdech Heng Samrin, President of the National Assembly, met with representatives of Russian information technology companies. He welcomed their requests for support of IT businesses.
2. Prime Minister Hun Sen attended a conference on "Vision for Cambodia in 2014" to discuss government reform strategies and the governments' efforts with regional countries to improve ASEAN integration. ANZ Royal Bank and the Cambodia Development Resource Institute (CDRI) organized the event. H.E. Sok Siphanna, Chairman of the Board of CDRI, introduced a plan for cooperation between CDRI and ANZ Royal Bank.⁸⁰ Prime Minister Hun Sen pointed out that the event was organized at the right time, following a peaceful, free and just election; fitting with the government's major plans for far-reaching reforms.
3. At the Council of Ministers, Prime Minister Hun Sen met with Akiyiko Tanaka, President of Japan International Cooperation Agency. Spokesperson to Prime Minister Hun Sen, Eang Sophaleth, reported on Mr. Tanaka's bus trip from Ho Chi Minh City to Cambodia, which provided the chance to see a Japan-sponsored bridge that is under construction.
4. Samdech Kong Sam Ol, Minister of the Royal Palace, visited a four-storage high school campus in Kampot province. The project, sponsored by the King, is still under construction and is 30% shy of completion.
5. Samdech Kong Sam Ol chaired a meeting with around 40 Red Cross (RC) staff members. The meeting discussed the delegation of roles and duties in order to execute major plans such as reviewing the 6th round of RC management, holding an election for the RC Youth and an election for the new RC Leader.
6. H.E. Keat Chhun, Chairman of Economy and Finance Commission, chaired a meeting on "economic policy and finance" in order to plan the achievement of reaching high

⁸⁰ Economic competition between Cambodia and other countries in the region; the reform of trade and commerce environment; improving good governance, rule of law and access to services for communities.

income levels by 2030.

- 7.** At the MLMUPC, a conference was held to review the annual report from 2013 and plan for 2014. The conference was chaired by H.E. Bin Chhin, Chairman of the National Authority for Land Disputes and Resolution, and H.E. Im Chhun Lim, Minister of LMUPC.
- 8.** H.E. Ek Sam Ol, President of the Constitutional Council of Cambodia, met with H.E. Joachim Baron von Marschall, German Ambassador. He briefed the Ambassador on the Cambodian Constitution and the structure of the Constitutional Council.
- 9.** H.E. Im Chhun Lim, Minister of LMUPC, accompanied by H.E. Prach Chhan, Governor of Tbong Khmom province, visited Tbong Khmom province to inspect the administrative offices of this new province.
- 10.** H.E. Khieu Kanharith, Minister of Information, chaired a two-day conference on achievements in 2013 and plans for 2014. Staff members from 5 subordinate offices reported on achievement and plans. The priority has been set to be the expansion of accessibility and increase of the effectiveness of information, education and entertainment.
- 11.** H.E. Khieu Kanharith, Minister of Information, joined the opening program of "hear my song", organized by Sabay Digital Corp, a reality program seeking talented young musicians.
- 12.** At the office of the Ministry of Agriculture, Forestry and Fisheries, H.E. Minister Ouk Rabun gave opening remarks in a meeting of agriculture working groups. The meeting discussed: economic land grantees, procedures for importing fertilizers and agricultural products, cooperation with municipalities and provinces, import of raw materials for animal foods, loans for agricultural purposes, and taxes on agricultural machineries.
- 13.** Minister of Health, H.E. Mam Bunheng, provided the opening remarks at a national workshop on tuberculosis. A representative of the National Center for Tuberculosis reported on its achievements in 2013 and its plans for 2014.
- 14.** H.E. Tram Iv Tek, Minister of Public Works and Transportation, chaired a General Assembly meeting for the Public Works and Transport Association. Representatives of the association reported on the previous year's achievements and future plans for employee welfare.
- 15.** H.E. Chea Sophara, Minister of Rural Development, met with Kim Hansu, Korean Ambassador to Cambodia, to discuss on a previously held meeting on rural development plans: "support themselves through participation".
- 16.** H.E. Aun Pornmoniroth, Minister of Economy and Finance, met with the Bank of the United States representatives in order to expand and strengthen cooperation on efforts against money laundering and terrorists.
- 17.** The Ministry of Education, Youth and Sport, in collaboration with Care International and UNICEF, held a national workshop on plurality/multi-language education programs for minority groups in four provinces: Rattanakiri, Mondolkiri, Kratie and Stung Treng.

18. H.E. Sok Chenda Sophea, Minister of Council for Development of Cambodia, met with a Japanese investor, Mr. Huyosaka, who represents nine small enterprises from Osaka. The purpose of the meeting was to discuss business issues, such as possible development potential in the following areas: agriculture, manufacturing, tourism and human resources.
19. H.E. Yuth Phou Thang, Secretary of State at the Ministry Agriculture, Forestry and Fisheries visited agricultural associations in Kep and Kampot province to understand community activities and learn how communities benefit from such associations.
20. A national conference on domestic animal treatment in 2013 and plans for 2014 was held and attended by representatives of the Ministry of Agriculture, Forestry and Fisheries, the National Research Institute and from all provinces.
21. Representatives of the Ministry of Interior visited prisons in Kampot and Sihanoukville province. Each prison director interviewed reported on the achievements under their authority.

Friday, 28 February 2014

National News (7:03pm-8:03pm including international news)

14 local news stories were broadcasted as follows (international news not included):

1. Monk offering ceremony for the spirit of the former King Norodom Sihanouk at the Royal Palace, chaired by Princess Bopha Tevy. Other royalities and palace officers also attended.
2. Prime Minister Hun Sen attended a closing ceremony for a national conference on tourism achievements. Under the topic "Your Actions for a Clean City" participants discussed preparations for ASEAN integration. H.E. Thong Khon, Minister of Tourism, reported on the achievements of year 2013 and plans for upcoming years.
3. Samdech Kong Sam Ol, Minister of the Royal Palace, visited a primary school in Kep province, sponsored by the Queen.
4. At Prey Veng provincial office, a national working group conducted a visit to monitor and support the implementation of Phase 3 of the GRS. H.E. Sar Kheng, Minister of the Interior, chaired the event.
5. H.E. Mrs. Men Sam An, Deputy Prime Minister of Cambodia, visited Koh Kong province. She encouraged the army to protect the border as well as to reinforce peace and security with neighboring countries and people in the region.
6. H.E. Yim Chhay Ly, Deputy Prime Minister and Chairman of the Council for Agricultural and Rural Development, led a national working group visit to Kampong Cham to observe and enforce the implementation of Phase 3 GRS.
7. H.E. Im Chhun Lim, Minister of LMUPC, chaired a closing conference summarizing activities of 2013 and plans for 2014. More than 460 attendees representing various levels of government institutions, were present at the event.

- 8.** H.E. Cham Prasidh, Minister of Industry, met with Mr. Thidatogo, the Japanese advisor for a team creating development projects related to promoting healthy living in the city, and working on issues of forestry and climate change.
- 9.** Food supplies were contributed to Oddar Meanchey province in a ceremony led by H.E. Nhim Vanda, Senior Minister and First Vice President of the National Committee for Disaster Management. Representatives of the National Assembly, the Senate and the armed forces attended the ceremony. Supplies were distributed to the elderly, orphanages and people living with HIV/AIDS.
- 10.** H.E. Ouk Rabun, Minister of Agriculture, Forestry and Fisheries, participated in the closing ceremony of a conference on rubber plantation production. The purpose of the event was to report on achievements in 2013 and plans for 2014. Medals were awarded to more than 30 people in recognition of good teamwork.
- 11.** Recognition ceremony for the Buddhist Monk Association in Takeo province was led by H.E. Min Khin, Minister of Cult and Religious Affairs. The association fosters relationships between Buddhist monks from different provinces and supports and educates them to preserve Cambodian traditional customs and ethics and morality of the Buddhist priesthood.
- 12.** H.E. Lim Kean Hor, Minister of Water Resources and Meteorology, met with subordinate offices in order to report and reflect on the GRS plan – Phase 3. Activities from 2013 and achievements of the Ministry were reported.
- 13.** H.E. Ith Sam Heng, Minister of Labor and Vocational Training, met with a Japanese delegation from various areas of expertise, including investment. They discussed plans to send Cambodian workers to work in Japan and ways the Cambodian government may support the organization of legal procedures.
- 14.** Japanese military officers met to discuss continuous engineering training to be provided to Khmer Armed Forces. The training includes lessons on how to use machines, undertake construction and organize supply infrastructure.

CAMBODIAN LAW ON THE PRESS

(Unofficial Translation)

CHAPTER 1 — RIGHTS AND FREEDOMS OF THE PRESS

Article 1 This law determines the regime of the press and assures freedom of the press and freedom of publication in conformity with articles 31 and 41 of the Constitution of the Kingdom of Cambodia.

Article 2 The press has the right to maintain the confidentiality of its sources.

Article 3 To maintain the independence of the press, pre-publication censorship shall be prohibited.

Article 4 The publication of official information such as statements, meetings, meeting minutes or reports, etc., may not be penalized if such publication is fully true or an accurate summary of the truth.

Official information covered by this article refers to:

- 1) statements, meetings, meeting minutes or reports of the National Assembly, including its committees and commissions, except if the National Assembly meets in secrecy as stipulated in Article 88 of the Constitution of the Kingdom of Cambodia;
- 2) statements, meetings, meeting minutes or reports of the executive branch, including statements of ministers and other officials;
- 3) all aspects of the judicial process, including its procedures, except in the following cases:
 - closed to the public by court order;
 - regulated by Article 16 of this law, relating to privacy of individuals in legal proceedings;
 - the dossier is still under investigation by the court.

Article 5 A. General:

The press has the right of access to information in government-held records, except for any information that causes:

- harm to national security;
- harm to relations with other countries;

- infringement upon the rights of individuals, including the files of civil servants, medical files and other confidential official documents, etc.;
- exposure of confidential commercial and financial documents obtained from individuals or legal entities and information related to the regulation and supervision of financial institutions;
- an effect on the rights of any person to a fair trial;
- danger to public officials carrying out the law or their duties.

B. Requests for Information:

Requests for information shall be made in writing and shall clearly specify the information requested from the relevant institution.

Officials in charge of such institutions shall respond in writing to requests within thirty (30) days. If the request is denied, in whole or in part, the reasons for the denial shall be specified in writing.

CHAPTER 2 — RESPONSIBILITIES OF JOURNALISTS

Article 6: Journalists have the right to establish journalist associations. Such associations shall be independent. Through a vote of its members, each association shall adopt by-laws which do not contradict the law. The leader of the association, who shall be a member of the Board of Directors, shall be elected following a democratic process.

Article 7: Each journalist association shall establish a code of ethics to be implemented within the association, which includes the following primary principles which journalists are obliged to follow:

- 1) Respect for truth and for the right of the public to the truth;
- 2) Disseminate information in good faith and make fair commentaries or criticisms consistent with a sense of justice;
- 3) Report only in accordance with facts of which they know the origin.
Journalists shall not suppress essential information or falsify documents;
- 4) Use only fair methods to obtain news, photographs and documents;
- 5) Retract any published information which is imprecise and leads to a misunderstanding;
- 6) Avoid publishing information which incites discrimination on the basis of race, color, sex, language, belief, religion, political tendency, national or social origin, wealth, or other social status;
- 7) Respect the rights to privacy of individuals;
- 8) Strictly respect Khmer grammar in writing articles;

- 9) Publication of obscene texts or pictures and graphically violent materials is prohibited;
- 10) Violation of the right to a fair trial of any individual, as stipulated in the Constitution of the Kingdom of Cambodia, is prohibited;
- 11) Regard the following as grave professional abuses by journalists:
 - plagiarism;
 - fraudulent misrepresentation, such as writing to imply a meaning which creates distrust among readers about any individual or party;
 - calumny, defamation, unfounded humiliation;
 - the acceptance of a bribe in any form or attempt to blackmail in consideration of either publication or suppression of any information.

Article 8 Before any press distributes its production, the employer or editor shall submit an application to the Ministry of Information in order to identify itself. The Ministry shall issue a receipt to the press after receiving the whole file.

In case the director of the publication is a member of the National Assembly or of any institution that has immunity, that press organ shall appoint a co-director of publication.

Any employer or editor who publishes without respecting this formality in advance shall be fined from 500,000 to 1,500,000 riels. In case of repeated violations, the fine shall be double the original amount.

Article 9 The formalities which shall be completed by the employer or editor upon registration shall primarily consist of:

- identity of the press organ;
- name and address of the employer or editor;
- name and address of criminal record.

Any change in the above information shall be relayed to the Ministry of Information 5 days in advance, except in cases of force majeure.

Article 10 If any person believes that any article or text, even if the article or text is merely implied, or that any picture, drawing or photograph of any press is false and harms his or her honor or dignity, that person has the right to demand a retraction from or the right to reply to the publisher of the statement and the right to sue on the charge of defamation, libel or humiliation. A retraction or reply shall be published within seven days or in the next issue after receiving a demand for a retraction or reply.

In the case of a public figure, any false allegation or imputation which the journalist publishes or reproduces with malicious intent against such public figure is libel and is prohibited.

If, following a complaint by a plaintiff in a civil action, the court finds that a publication is false, the court may order the press to:

- publish a retraction
- pay compensation, or
- publish a retraction and pay compensation.

A retraction that the press is obliged to publish shall be published on the same page with the same size of type as the text believed to have affected the honor or dignity of others.

In addition, the court may impose a fine of 1,000,000 to 5,000,000 riels.

In addition, in the case that a judgment is made under the above paragraph, the court may order the posting of its decision at specified locations and the publication of its judgment in one or more newspapers at the expense of the accused, not to exceed a maximum of 1,000,000 riels.

Article 11 The press shall not publish anything that may affect public order by directly inciting one or more persons to commit violence.

Commitment of the offense mentioned above shall be penalized by a fine of 1,000,000 to 5,000,000 riels.

Victims of the above acts have the right to file a civil suit in the court as a plaintiff.

In all cases, the court shall directly examine the relationship between the inciting article and the act. Any article more than three months old may not be used by the court as a ground for accusation.

Article 12 The press shall not publish or reproduce any information that may affect national security and political stability.

The employer, editor or author of the article may be subjected to a fine of 5,000,000 to 15,000,000 riels, without taking into account possible punishment under criminal law.

The Ministries of Information and Interior have the right to immediately confiscate the offending issue of the publication. The Ministry of Information also has the right to suspend the publication for a maximum of 30 days and transfer the case to the courts.

Article 13 The press shall not publish or reproduce false information that humiliates national institutions or holds them in contempt. Such publication may be penalized by a fine of 2,000,000 to 10,000,000 riels.

Article 14 The press shall not publish anything that affects the good customs of society, primarily:

- curse words, such as “you” (in a contemptible context) [“ah”] or “you” (in a belittling sense) [“meung”], etc.;
- words directly describing explicit sexual acts;
- drawings or photographs depicting human genitalia, or naked pictures, unless published for educational purposes;
- degrading pictures which compare particular human beings to animals.
- Violation of this article may be penalized by a fine of 1,000,000 to 5,000,000 riels.

Article 15 Unless there is permission from the court, the press may not publish information, photographs or drawings that may make it possible for readers to identify or know the name of:

- parties in any civil suit involving paternity, marriage, divorce or child custody;
- Youths under the age of 18 in any civil or criminal suit; or
- a woman who is a victim of molestation or rape.

Except in cases in which such publication may affect the investigation of the court, the press may publish the above information if the concerned person or custodian agrees in writing.

Any individual whose rights under this article are violated by the press are entitled to file a civil action in court for compensation.

Article 16 A commercial advertisement may be considered to be false if the advertisement exaggerates the quality or value of a product or service and leads to consumer confusion.

Such advertisements shall be prohibited, but a press organ that publishes such advertisements does not have legal responsibility unless the press organ continues to publish such advertisements after having received a warning from the court or competent ministry to cease such advertisements.

In contrast, the advertiser is responsible before the law and the court if there is a complaint by an individual or consumers association whose interests have been harmed by the advertisement.

False advertisements may be penalized by a fine of 1,000,000 to 5,000,000 riels.

CHAPTER 3 – COMPETITION

Article 17: No natural or fictitious person may own or possess more than two Khmer-language newspapers in the Kingdom of Cambodia.

Article 18: The total number of Khmer-language newspaper is owned or possessed by foreigners shall not exceed 20 percent of the total of all Khmer-language newspapers published in the Kingdom of Cambodia.

Once authorized to publish, newspapers owned or possessed by foreigners may not be subjected to closure because of a reduction in the total number of Khmer language newspapers.

CHAPTER 4 – DEPOSIT

Article 19 Employers or editors shall deposit 2 copies of each published edition with the National Library and 6 copies with the Ministry of Information. Such deposit must be made within 15 days of the date of publication when printed in Phnom Penh and within 45 days if printed elsewhere.

Violations of this article shall be penalized by an administrative fine of 30,000 to 300,000 riels.

CHAPTER 5 – FINAL PROVISIONS

Article 20 Any act committed by an employer, editor or author of a text which violates the criminal law shall be punished according to the criminal law. No person shall be arrested or subject to criminal charges as the result of the expression of opinions.

Article 21 All previous provisions related to the press shall be nullified.

This law is adopted by the National Assembly of the Kingdom of Cambodia on 18. July 1995 during the fourth session of the first legislature.

*[signature and seal of Loy Sim Chheang]
Loy Sim Chheang (for the President of the National Assembly)*

Phnom Penh, 18 July 1995

*Related content
[Press Law - Khmer](#)*

GUIDELINES FOR BROADCASTS AND TELEMEDIA OFFERINGS

*of the "SECOND GERMAN TELEVISION STATION" (ZDF) from 11. July 1963
in an updated version from 11. December 2009*

The programs and telemedia (in the following jointly termed "offerings") are bound to the Constitution of the Federal Republic of Germany. The principles in paragraph 5 – 11 of the ZDF Interstate Agreement (ZDF-StV) and the requirements of the Interstate Broadcasting Agreement (RfStV) have set the standard for the development and evaluation of programs and telemedia as set forth in the guidelines numbered I through VIII below. Number VII contains special guidelines for telemedia.

I.

- (1) Human dignity, freedom and personal responsibility are to be upheld in all broadcasts and telemedia offerings.
- (2) Every person has the right to a private life. The rights of individuals, especially to a private sphere, are to be respected in the offerings.
- (3) Offerings shall allow individuals to form their own opinions. They shall sharpen the mind, promote free individual and public formation of opinions, clarify background and context, and offer orientation support in organizing and evaluating information.
- (4) News reporting must be dictated by an unconditional commitment to truth and objectivity. Any doubts about the reliability of a news item should be clearly stated.
- (5) News and commentary shall be separated; commentary should be noted as the expression of personal opinions.

II.

- (1) Offerings will be watched and accessed by people of varying ages, gender and of various educational and maturity levels. Programs will primarily be accessed during time with family. Producers of offerings therefore have a particular responsibility to the family. Protection of youth should be observed, in particular, the youth protection guidelines of the ZDF are to be upheld.
- (2) Offerings shall inform viewers comprehensively, entertain them engagingly, and contribute to their education. They shall empower viewers to critical thinking, conversations and independence.

- (3) Marriage and family as institutions may not be placed in question, demeaned or scorned. Within this framework, analytical and critical engagement with marriage and family issues are reasonable where they are not broadcast in too great numbers; artistic dramatic treatments of marriage and family are reasonable, when the crumbling of marriage and family are portrayed as possible individual realities, not as the standard.
- (4) The equality of men and women must be observed in the broadcasts and telemedia offerings.

III.

- (1) The principles of the democratic and social constitutional state in the spirit of the Constitution are to be convincingly represented in all offerings. Offerings are obligated to confront all undemocratic occurrences from a critical position.
- (2) In the broadcaster's offerings, the common spirit of democracy and consistent conviction in it shall be expressed just as a variety of opinions are expressed. The offerings shall promote understanding between the different political, social and ethnic groups of our people. Ethnic minorities are to be respected. In news reporting about crimes, the suspect or perpetrator's membership in a religious, ethnic or other group shall only be mentioned if it has a tangible factual relationship to understanding of the report or the event. The fact that any mention of such membership could fuel prejudices is to be kept in mind. Appropriate information shall strengthen the capacity for political judgment, and capacity and willingness for accountability shall be promoted by representations of possible duties and decisions. Plurality in political opinion formation shall be secured at the national level as well as with regard to Europe.
- (3) The offerings shall be accessible by all parts of society, shall comprehensively inform viewers about German realities, and provide an objective overview of world events. Representations of German history, the historical path of the German people, the variety of German states and cultures shall also be included. The broadcasts and telemedia offerings shall primarily serve the shared identity of unified Germany and holistic social integration in peace and freedom. Topics, events, individuals, thoughts, languages and settings in the new states (former East Germany) shall also receive an adequate representation in the offerings.
- (4) Informational broadcasts and offerings must serve individual opinion building by depicting essential and important material. They must not seek to determine personal decisions through omission of important facts or through methods falsification or suggestion.
- (5) The broadcaster is bound to impartiality. The balance of its overall program does not, however, require impartiality in every single broadcast in the program. Shows in which one point of view is represented alone or to the diminishment of others require a corresponding balance. If an individual program represents one particular opinion on a controversial topic, during the program the complementary balancing program should

be mentioned. This principle is in effect for telemedia offerings as well.

- (6) Care shall be taken to treat opposing viewpoints as equally as possible. Value judgments about people or events must be identifiable as personal or editorial opinions. These must fulfill the principle of journalistic fairness.
- (7) When presenting opinion polls that have been carried out by ZDF, it must be expressly noted whether the poll is representative.

IV.

- (1) The broadcaster's offerings shall be oriented towards qualitatively high professional standards. The television programs shall contain a significant number of in-house productions as well as commission and collaborative productions from the German-speaking and European region.
- (2) In order to represent the diversity in the German-speaking and European region as well as to promote European film and television productions, the majority of the planned broadcasting time for films, made-for-television films, series, documentaries and similar productions should be reserved for European works according to European law.
- (3) The offerings shall reflect the cultural life of the present and preserve the diversity of cultural heritage.

V.

- (1) The offerings shall serve peace and understanding between peoples and promote mutual respect between all people and groups, regardless of their origin and social or cultural characteristics.
- (2) The offerings shall engage themselves in favor of self-determination rights of people, which corresponds to the independence of human beings founded in the constitution.
- (3) The offerings shall promote the efforts for the unification of Europe. They shall offer foreign viewers the chance to create a picture for themselves of German day-to-day reality.

VI.

- (1) The offerings shall promote mutual understanding between churches and religious communities. Commonalities in their social, cultural and charitable work in particular shall be taken into account.
- (2) Broadcasts and telemedia offerings shall not demean or disparage religious beliefs.
- (3) Religious topics and rituals must be portrayed with due reverence and care.

VII.

- (1) The offerings shall make an essential contribution to the general recognition of the values protected by the Constitution. In particular, reverence for human life, respect for the freedom and physical integrity of humans, promotion of stewardship of the natural foundations of life as well as willingness to serve the common good deserve particular attention.
- (2) The offerings shall promote tolerance in terms of respect for beliefs, opinions, and convictions of other people as well as the recognition of the rule of law. The moral and religious beliefs of the population are to be respected.
- (3) Basic ethical concerns are to be demonstrated through example where possible.
- (4) The offerings must not have any brutalizing or hate-inciting effects. The portrayal of criminal actions, of addiction, vice, violence or criminal milieus shall not be portrayed as exemplary, shall not incite imitation or provide instructions on how to carry out criminal acts. They shall also not give the impression that such occurrences have degree of prevalence above that of reality. Mentions of punishment, regret or atonement, of treatment and healing should not be absent from the depiction. The effect of broadcasts and telemedia offerings on youth is to be taken into consideration.

VIII.

- (1) In development and evaluation of programming, telemedia concepts as well as the ZDF-StV and the RfStV set the standards.
- (2) Telemedia shall, on the whole, contribute to securing diversity, credibility and independence of new media as well as introducing younger population groups to the offerings of the ZDF. They inform viewers about the ZDF, its principles, organization, services and other activities. Telemedia are to be designed so that they are accessible to all current software platforms (browsers).
- (3) The inclusion of content-based links that lead to the offerings of third parties require special editorial care. Content links shall serve immediate purposes of supplementation, enrichment or explanation of primary content. In this, the reciprocal effect between the third party offering on the one hand and the reputation and credibility of ZDF telemedia on the other shall be considered carefully. Content links to third-party sites shall refer to recognized sources where possible. Furthermore, in introduction of the links it must be clear that the user is leaving the ZDF site. Links that lead directly to contents that might be forbidden by youth media protection agreements or that might be harmful to development are not to be used.
- (4) The content accuracy of telemedia disseminated by the ZDF is to be regularly reviewed and updated. Should telemedia contents need to be documented permanently, the possible lack of currency, as far as it is possible, should be made clear by stating the

date of creation of the item.

- (5) Chats shall be editorially guided by a moderator through their entire course. They shall be provided with appropriate participation rules and limits on the number of participants, as far as this seems necessary for preserving editorial supervision, so that no dissemination of information considered forbidden or developmentally harmful by the youth media protection agreement occurs. Should such contents be discovered, they are to be immediately removed. Chats, forums and electronic guest books shall make clear that any comments of third parties are individual opinions and are not those of the ZDF.
- (6) Internal electronic archiving of telemedia shall ensure that preservation of evidence is taken into account. Electronically archived contents are to remain accessible for a period of eight weeks. If, within this time period, someone objects to a content item, this will be continually available until such time as the complaint is finally resolved.



The development of a truly democratic society in Cambodia is in need of solutions for urgent social problems. A pluralistic media environment could provide a decisive contribution as it moves citizens towards participation in political, social and cultural life. Newspapers, radio, television and the internet can only fulfill their function as a reflection of a pluralistic society if all relevant stakeholders respect the freedom of speech and press, anchored in the Constitution, and allow journalistic independence. In this regard, media regulation must create a framework in democratic societies in which journalists of all media formats are able to carry out their duties on a professional level. Regulation is therefore not an instrument of political paternalism, but rather a method for promoting a democratic and pluralistic media culture. This study investigates Cambodia's current regulation and suggests recommendations for future steps to promote objectivity, pluralism and democracy.

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