

Media Development

1/2015

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In the Next Issue

The 2/2015 issue of *Media Development* will look at “Life after 2015: What next?”, exploring a “best of all possible worlds” scenario after the debates around a Post-2015 Development Agenda have concluded.

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EDITORIAL

What's in a name? In 1989, the ruling military junta changed the name of Burma to Myanmar, one year after thousands were killed in the suppression of a popular uprising. The change was recognised by the United Nations and by countries such as France and Japan, but not by the United States and the United Kingdom.

A statement at the time by the UK Foreign Office said, "Burma's democracy movement prefers the form 'Burma' because they do not accept the legitimacy of the unelected military regime to change the official name of the country. Internationally, both names are recognised." The European Union sat on the fence by adopting the compromise "Burma/Myanmar".

The name "Burma" derives from the ethnic Burman (or Bamar) majority and, following local custom, was adopted by British colonialists in the 19th century. The more formal indigenous name "Myanmar" has been used for centuries in titles, literature, and official documents. The English language version of the 1947 Constitution, prepared the year before the country regained its independence, referred to the "Union of Burma", while the Burmese language version used the name "Myanmar".

Burma's opposition movement clung to the old name as a protest against the military regime. The opposition said that it was a matter that could only be decided by the people. The name Myanmar is also controversial at another level. It can be traced back to the pre-colonial period when successive kings ruled the central lowlands of Burma and periodically clashed with the states and societies around them. It implies the continuing political dominance of the major ethnic group living within the geographical boundaries inherited from the British in 1948. This is a problem for many of the country's ethnic nationalities.

To some, the use of either "Burma" or "Myanmar" represents a political position. To

call the country Myanmar is deemed by activists to denote sympathy for the military regime. To the government, continued use of the country's former name is considered insulting. Yet, many who preferred to use "Burma" after 1989 did so without such connotations, arguing that "Burma" is more easily recognised than "Myanmar" and lends itself to the adjective "Burmese". Myanmar does not have an equivalent adjective in English.



The Shwedagon Pagoda in Yangon, Burma, is a Buddhist shrine. According to legend, it has existed for 2,600 years, making it the oldest pagoda in the world. (Photo: Ralf-Andre-Lettau.)

Such linguistic tensions are symptomatic of Burma's inner turmoil, a country of over 51 million people with 135 distinct ethnic groups speaking 11 languages. The Bamar form an estimated 68% of the population; the Shan 10%; the Kayin 7%; the Rakhine people 4%; and overseas Chinese approximately 3%. They prefer the term "ethnic nationality" to "ethnic minority" as the term "minority" deepens their sense of insecurity in the face of what is often

described as “Burmanisation” – the proliferation and domination of the Bamar culture over other groups.

And then there are the Rohingya, a relatively small ethnic group who practice Islam and whose origin is disputed. Some say they are indigenous to the state of Rakhine and others contend they are migrants from East Bengal, today’s Bangladesh, who came to Burma during the period of British rule. In 2012 riots took place between Rohingya and Arakanese in northern Rakhine State. The government responded by imposing curfews, deploying troops in the region, and declaring a state of emergency allowing the military to oversee the administration of the region.

In July 2012, the Burmese government omitted the Rohingya – since 1982 classified as “stateless Bengali Muslims from Bangladesh” – on the government’s list of more than 130 ethnic races. The government said that the Rohingya have no claim to Burmese citizenship.

Stalled reform

At a press conference in November 2014, opposition leader Aung San Suu Kyi was asked for her assessment of Myanmar’s reform process. “Stalled,” she replied, before challenging anyone in the room to name a significant change that had taken place in the previous two years. Commentators concur with the view that the pace of political change has slowed since the early reforms introduced when Thein Sein became President in 2011.

At that time, many political prisoners were released, censorship of newspapers and the Internet was lifted and a (flawed) law passed allowing public demonstrations. In a short period of time, control over one of the world’s most tightly controlled societies was relaxed. Private newspapers regularly carried stories of demonstrations – mostly connected to land rights – and criticism of government ministers.

But that thaw has not continued and many believe that the real objective is to leave the army in charge of a nation but with the appearance of it being more democratic yet subject to the same

old constraints. One key frustration is that the country’s Constitution has not been rewritten.

Drafted in 2008, the current Constitution guarantees the military a quarter of the seats in the Hluttaw (the Burmese parliament). Opposition leaders have focused on two Articles they want removed: the clause barring anyone who has foreign family members from becoming president (which effectively prevents Suu Kyi from standing) and Article 436, which gives the army a veto on constitutional changes.

Altering the “Suu Kyi clause” has been dismissed outright as a “threat to national sovereignty”, while amending Article 436 will be discussed in parliament, although if the army remains opposed there is no way it can be changed. Nevertheless, senior leaders are said to be discussing possible compromises.

Then there is the issue of equal rights for minorities. Ever since independence (1948), Burma has never been truly at peace, with minority ethnic groups fighting guerrilla wars against the Burman-dominated state. The last three years have seen progress towards a nationwide ceasefire agreement to which all the major rebel groups were drawn by the promise of dialogue about a more inclusive future. But recently clashes have begun again.

Media scenario

Print and broadcast media in Burma have faced strict censorship and regulation since the March 1962 military coup d’état. The Constitution provides for freedom of speech and the press, but in practice the military government prohibited the exercise of those rights. After the coup d’état, journalists responded by forming the Burma Press Council to protect press freedom. Within a month, however, several journalists had been arrested and publications shut down. By 1988, the number of newspapers had decreased from 30 to eight and the media gradually became the mouthpiece of the military junta.

On 20 August 2012, Burma announced that it would stop censoring media before publication. Newspapers and other outlets no longer had to be approved by state censors, but journalists



is to create a series of bureaucratic formalities such as registering with the Ministry of Information and sending it information on the import and export of publications. While these procedures are less problematic than those under the 1962 law, it is not clear why they are necessary.

Internet access

In the early hours of 5 August 2013, Burma completely disappeared from the worldwide Internet. A total outage followed a series of problems with the power supply to the terrestrial cables, disrupting the connection to the country's undersea link on and off for two weeks and causing the

country's normally slow Internet service to grind almost to a halt.

One of the main factors dragging down Burma's Internet is that there is simply not enough capacity or bandwidth on the domestic network and international connections to support the amount of people going online. However, conspiracy theories abound, from suspicion over why problems seem to occur every year near the anniversary of the 1988 democracy protests to claims that the government deliberately slows the Internet down.

In 2011, Freedom House ranked Burma's Internet policies as the world's second most repressive – surpassed only by Iran, and in the same league as China and Vietnam. To keep citizens in the dark, Burma's government routinely restricted Internet access and censored large amounts of online content, including most foreign media. Those who defied them faced severe penalties.

In 2012, the government unblocked most previously banned content, including the websites of outlets that frequently criticized the regime, and stopped requiring journalists to submit content to government censors before

in the country could still face consequences for what they wrote or said. On 4 March 2014 Burma's Parliament formally approved two laws to regulate the country's media, which lawmakers said would extend press freedom despite leaving media licensing in the hands of the Ministry of Information. Easing restrictions is one example of reform undertaken by the quasi-civilian government of President Thein Sein, but media freedom advocates have warned that recent moves by the government threaten those gains, which they say must be enshrined in law.

ARTICLE 19, the human rights organisation dedicated to promoting freedom of expression and information, analysed the 2014 "Printing and Publishing Law of Myanmar" in the light of international standards on freedom of expression. The new Law represents a step forward compared to its draconian predecessor of 1962. It no longer facilitates prior censorship, and the penalties imposable under it are relatively modest. Oversight of the printing and publishing sector has been partly transferred from the government to the courts.

However, ARTICLE 19 questions if a specific law to regulate the printing and publishing sector is needed at all, since its primary impact

Media freedom in Burma/Myanmar

Index on Censorship

The media in Burma are freer now than at any point in the last decade, yet significant challenges remain and there are troubling signs on the horizon. The abolition of the pre-censorship of the printed press, the return of daily newspapers and of formerly exiled independent newspapers and media outlets all point to demonstrable change since the beginning of the transition. It is also a better climate for journalists with the release of a number of journalists from jail during the transition.¹

Under Burma's five decades of military rule, the country's media environment became one of the most restrictive anywhere on earth. The 1962 Printers and Publishers Registration Act established Press Scrutiny Boards to scrutinize all material prior to publication, or in some cases after publication. After a flurry of open publication during the August-September 1988 revolution, the military amended the 1962 Printers and Publishers Registration Act to significantly raise fines payable by newspapers that break its strict rules from 2,000 Kyat (\$2) to 30,000 Kyat (\$30).²

As a result, Burma remained in the top ten of Freedom House's "least free" countries with regard to press freedom from 2002 to 2010,³ before emerging from the group in 2011 as a result of improvements made during the transition.

Progress has been made but the media is still not free.⁴ The existing media laws are still highly restrictive. Legal reform, as initiated by the Press Council and sought by domestic NGOs, is necessary to provide a proportionate legal framework to bring Burma into line with its international obligations. While the laws are restrictive, the transition has meant they are no longer used to

publication. Today, those that can afford access can see whatever they want online. Exiled news organisations have moved into Yangon, their online presence now accessible from within the country. Webmail and social media, once blocked, are increasingly popular despite low Internet penetration. Facebook is home to most of the country's million or so Internet users – although just 2% of the population.

Burma's transition to greater democracy is proving a test case for communication rights in practice. If the government is serious about unifying and reconciling its different peoples and allowing them a voice in policy-making, it will have to grant them open access to media platforms that enable them to express their opinions and to raise issues of public concern.

The Burmese people may find inspiration for their ongoing struggle in the Burmese journalist and politician Win Tin (photo left by Soe-Zeya-Tun), imprisoned by the military government in 1989 for his critical writings and for taking up a leadership position in the National League for Democracy.



After his release in 2008, Win Tin continued to wear his blue prison shirt "because my friends were still in prison, and I feel that the Burmese people, as a whole, are still in prison."

Win Tin died on 21 April 2014. While incarcerated, he had written on the wall of his cell, "As long as the black stripes on the yellow background are painted vividly enough, the tiger is still a tiger." It's a warning the Burmese people understand very well. But can the tiger change its stripes? ■

the same extent. As one activist said: “We call it ‘rubber theory’: the authorities use the law as they see fit, every day the restrictions stretch and re-shape.”⁵

Currently there are four laws that have been proposed or drafted with the aim of reforming the legal framework for the media: a draft Press Law which is the work of the press council, a draft Printing and Publishing law, which was proposed by the Ministry of Information and a consultation on a new Broadcasting Law. Public service media reform to create a model of majority publicly-funded, public-interest newspapers is also on the agenda.

The following will look at these proposals in more detail as well as analysing other restrictions in place that also require reform – in particular, the licensing framework for newspapers and Burma’s criminal defamation laws.



Mural in Yangon. Photo: Tajagro.

Role of the Press Council

The Press Council has an important role to play in revising a number of the laws that impact on freedom of expression. The council was founded in October 2012, after the Ministry of Information instructed the main newspapers and journalist associations to set up a self-regulatory body. Journalists have complained that government intervention in the formation of the Press Council prevented the formation of a genuinely self-regulatory press council. Despite this, the current Press Council is made up of 29 members, many of whom are independent journalists and opposition media editors, as well as representatives from media business owners.

The Ministry of Information tasked the Press Council with drafting a new press law within a year. The council has been criticised for the amount of time it has taken to make proposals with still no finalised press law available.⁶ It is the case however that the significant engagement the

Council has undertaken with external groups during its drafting process has taken time. The Council has committed to using a broad new press law to reshape the press freedom legal framework.

Journalists in Mandalay were positive about the Press Council’s work in consulting journalists and a broad range of civil society representatives. Beyond the clear interest of journalists in enhancing media freedom, a new press law has the po-

tential to enhance freedom of expression more broadly. Yet the Press Council also recognises the political constraints in which it operates and the need for the final law to be acceptable to parliamentarians, who will vote on the law. The Press Council has received guidance from international organisations⁷ and the secretary of the council, Kyaw Min Swe, told Index on Censorship their law borrowed from similar laws in India, Indonesia and Austria.

The Press Council has produced two drafts of its “Press Law”.⁸ The first draft of the Press Law was criticised for falling short of international standards by setting out in statute a prescriptive list of responsibilities for journalists with overly restrictive rules on content which will encourage pre-censorship, the law also allowed for the licensing of newspapers and the prior-censorship of foreign publications.⁹ Some civil society groups

thought the Press Council should go further in advocating for the repeal of restrictive laws.¹⁰

The second draft of the Press Council's Press Law contained stronger protections for freedom of expression. The second draft contains a number of positive recommendations including: the abolition of criminal defamation, the increased use of mediation (Chapter IV) to settle disputes, including a right to correction or clarification; increased judicial oversight, a limit on criminal penalties present in the existing law and the establishment of a new right to information.

There are still improvements to be made: the internal mediation proposed by the Press Council would allow the journalists and editors who are members of the Press Council to act as judge and jury over complaints from members of the public. As the complaints could be about journalists who are members of the Press Council, the internal mediation must be more independent from the Press Council in order for it to be attractive for claimants. The review of journalists' requests for information, led by judges, may be less effective due to the limited knowledge of the judiciary in the field of freedom of information and the judiciary's lack of independence. A specialist information commissioner model, with an expert in the field of freedom of information tasked with assessing specific information requests, may be more appropriate and effective.

Beyond drafting its Press Law, the Press Council is also working to improve media standards in Burma. According to International Media Support (IMS), the media in Burma is currently dominated by young, untrained journalists with an average age of 25.¹¹ This places a large burden on editors, who must ensure that the content produced is compliant with Burma's tough laws. The granting of licenses to newspapers to publish on a daily rather than weekly basis is viewed by editors as a significant, and welcome, challenge with more copy to check for compliance with media ethics and internal standards.

The challenge from government

During the process of re-drafting its Press Law, the Ministry of Information unexpectedly pub-

lished a draft Printing and Publishing Enterprise Law which would continue to give the Ministry of Information the power to license newspapers, news websites and foreign news agencies and has strict rules on pornography and the incitement of public disorder. Burma's increasingly vociferous civil society launched a public campaign to prevent the adoption of this law, including launching a public signature petition. The Press Council sent letters to the president and the Speaker of Parliament setting out their objections to the law.

Perhaps, as a reflection of the increased responsiveness of the government to external pressure after just one day of coordinated pressure, the Chair of Parliament's House of Representatives Sports, Culture and Public Relations Development Committee (and Vice-Chair of the Union Solidarity and Development Party), Thura Aye Myint, said the law needed reflecting upon and it would not be debated in this session of parliament. This gave the Press Council space to formulate a viable press law by June.

Unfortunately, at the time of publication [2013], the Press Council has still not published its revised press law. Instead, on 4 July, the Lower House of Parliament approved the Ministry of Information's Printing and Publishing Enterprise Law to the dismay of the Press Council.¹² Members of the Press Council have threatened to resign if the Ministry of Information law is passed by the Upper House of Parliament and signed into law by the President.¹³

The Ministry of Information's draft Printing and Publishing Enterprise Law was seen as analogous to the 1962 law. Punishments under this proposed law were not as harsh as the 1962 law with the maximum prison sentence reduced from seven years to six months and fines capped at around \$12,000 for owners of publications (equivalent to the salaries of four journalists for a year).

Even though the punishments for breach of the law would be reduced, the proposed Ministry of Information Law would be highly prescriptive and limit public interest reporting. Chapter III of the law listed a broad number of categories of article that would be prohibited:

7. Printers or Publishers shall not print or pub-

lish the relevant publications which

(a) reveals a subject that aggrieves, other similar national races or other different national races and similar or other religion.

(b) instigates for violence or jeopardize the tranquillity of community; and prevalence of law and order

(c) portrays obscene language, pictures, photos and paintings.

(d) abets and instigates any criminal case, cruelty, violence, gambling, committing Narcotics Drugs and Psychotropic Substances crimes.

(e) publish and print the matter that opposes and breaks the provisions of the constitutional law or other existing law.

The broadness of these clauses in particular the clause on portraying obscenity (clause c), abetting gambling (clause d) and publishing material that opposes the constitution (clause e) would undeniably add to the uncertainty facing journalists reporting on public interest matters.

The full range of reasons why the Ministry of Information produced this draft law are unclear; what is clear is that former military generals are seen to be the driving force behind the law and that they (in particular, Dhan Shwe) disagree with the Press Council's liberalising Press Law. The Ministry of Information's draft law is indicative of some of the complexities of the transition: the restrictive law was put forward by government officials with the clear intent of by-passing an established civil society process and to dictate the terms of the debate as the government used to.

Yet the campaign against this law highlights the new strength of civil society in Burma and its ability to put pressure on the government. The outcome of this process in particular whether the Upper House of Parliament and Presidential Office ignore the Press Council (forcing mass resignations) and allows the Ministry of Information's law to proceed, will be a key test of how much effect the transition is having on media freedom.

Existing impediments to media freedom

Criminal defamation. Criminal defamation originates from the colonial penal code of 1861.¹⁴ Section 499 of the penal code ("Of defamation") provides

for a jail sentence of up to two years. Criminal defamation is viewed as an increasing problem for Burmese journalists. Many editors told Index that although they welcomed the abolition of the Press Scrutiny Boards, pre-publication censorship removed the risk of a criminal defamation claim lodged by public officials against their journalists. In the last year, there have been a number of cases where public officials have threatened to use criminal defamation actions against journalists.

In March 2012, the Ministry of Mining lodged a case against Kyaw Min Swe, the chief editor of *The Voice*, for an article in which he alleged corruption by the ministry's officials. The charges were dropped in February 2013 after mediation by the press council between the parties.

The list of defences in criminal defamation law is extensive including the defence of truth, a variety of honest opinion defences and the defence of qualified privilege.¹⁵ Civil defamation has a more narrow range of defences, but is viewed to be a lesser problem because it is rarely used. In order to protect media freedom, libel should be decriminalised in line with the recommendations of the UN special rapporteur on freedom of expression.¹⁶ In addition, civil defamation laws must not give rise to excessive costs or damages and must have adequate defences to protect the public interest, truth and fair comment.

The licensing of newspapers. The end of pre-publication censorship began with the termination of the Press Scrutiny and Registration Division (PSRD). According to the state journal *New Light of Myanmar*, it was signed off at the cabinet meeting on 24 January 2013.¹⁷ It was a Ministry of Information official, not an NGO, that described the abolition of the Press Scrutiny and Registration Board as necessary in order for the country to be consistent with the "Myanmar Constitution and the UN Declaration of Human Rights (UNDHR)."¹⁸

1 April 2013 heralded the return of independent daily newspapers to the streets of Burma, effectively ending the government's use of the 1962 Printers and Publishers Registration Act to limit non-state media to publishing only week-

ly journals. However, other provisions from the 1962 Act are still in force. Newspapers continue to be licensed by the Ministry of Information under the Press Scrutiny and Registration Division (PSRD). Failing to register for a licence prior to publication carries a maximum jail sentence of three years under the Printers and Publishers Registration Law of 1962.¹⁹

The licensing of newspapers is an unwarranted restriction on freedom of the media in Burma on principle and in practice. In practice, the process for licences has failed to be transparent. On 1 February 2013, the government allowed newspapers to apply for daily licences. A number of publications were refused licences for arbitrary reasons including the Eleven Media Group, whose application apparently lacked an official revenue stamp valued at 100 kyats (\$0.12).²⁰ Eventually the decision was overturned and the group launched a daily newspaper *The Daily Eleven* symbolically on World Press Freedom Day on 3 May.²¹

Editors and journalists were concerned that their previous political activities would be assessed by the PSRD when awarding daily licences after the application included questions as to the previous political activities of the applicant. On the whole, these fears were not realised during the granting of daily licenses for newspapers, yet the threat that politicians or the military will move to withdraw licenses remains.

The registration process has been time-intensive and restrictive with the application requiring a code of practice, a code of ethics and a code of conduct for the publication – even though the Press Council is working on a series of ethical codes for journalists as part of its ongoing negotiations to draft a more proportionate press law.

In principle, the licensing of newspapers in Burma has proven to be problematic as it grants the government the power to stop publication. Under the existing licensing regime, newspapers continue to have their licences revoked. In July 2012, the license of *The Voice* journal was temporarily suspended for breaking news of a cabinet reshuffle²² and printing a satirical cartoon on the cover page, while the *Snapshot* news journal was also suspended in June 2012 for printing a photo-

graph of a murder victim whose death triggered sectarian violence.²³

The banning of the sale, reproduction, distribution or even possession of the *Time* magazine issue, “The Face of Buddhist Terror” by The Central Management Committee for Emergency Periods demonstrated the limited space in Burma for discussion of ethnic conflict and the sensitivity of the government on this issue. The use of emergency legislation and its impact on press freedom in Burma is of particular concern to the Press Council who believe a dangerous precedent has now been set. The Press Council was not consulted and it claims neither was the Ministry of Information.²⁴

Media plurality

The return of formerly exiled media groups such as Mizzima, the Irrawaddy, the Democratic Voice of Burma and the ethnic media umbrella group Burmese News International²⁵ has added to the plurality of the media in Burma and demonstrates that media organisations are optimistic that the transition could be sustainable.

There is a push from civil society, in particular from members of the Press Council, for parliament to create a media anti-monopoly law to promote media pluralism. While there is, as yet, no draft anti-monopoly law, the Ministry of Information is working on a plan to reconstitute the state-run newspapers – *New Light of Myanmar*, *The Yadanabon*, *The Mirror* – into a model of public service media, comprising public funding for public interest journalism (of up to 70 per cent of revenue) with editorial independence.²⁶ In June 2013, it [was] expected the Public Service Media law [would] be tabled in the Lower House. The draft law has been criticised for creating public service newspapers that could intensify the government’s competition with private newspapers, with the result of undermining their income.²⁷

The government has indicated the Public Service Media Law will move state-owned television channel MRTV towards a public service broadcasting model, which is a positive step.²⁸ Concerns remain²⁹ that the law has insufficient safeguards to guarantee the independence of the

new public service broadcaster. In the meantime, both the BBC and VOA are involved in training work to improve editorial standards at MRTV and at the Ministry of Information to move the organisation towards a public service broadcasting model.³⁰ In March 2013, it was announced that MRTV will work with UNICEF regarding programming on healthcare for children and for ethnic minorities.³¹

The new public service broadcasting model will also require new rules prior to the 2015 presidential elections to ensure not only the impartiality of the coverage but also to restrict election spending in order to prevent the block purchase of advertising on limited frequency media by one particular political party.³²

Broadcasting law

The government is consulting on a new Broadcasting Law which has also seen input from international experts³³ and UNESCO. UNESCO's representative in Myanmar has welcomed the provisions that the new Broadcasting Law has to create an independent broadcasting council similar to the United States' Federal Communications Commission (FCC). The draft law includes safeguards to ensure media plurality and prevent excessive media cross-ownership though there continues to be concern over the ability of the government to influence the state broadcaster.³⁴ ■

Excerpted from Burma: Freedom of expression in transition Report, July 2013. Author: Mike Harris. Published under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Unported License by Index on Censorship is an international organisation that promotes and defends the right to freedom of expression.

Notes

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5. Interview with activist (Yangon, 13 March 2013).
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7. Including the Centre for Law and Democracy and the South East Asia Press Alliance: <http://www.law-democracy.org/live/wp-content/uploads/2012/08/Myanmar-Guidance-on-PressLaw.English5.pdf>
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Burma through the eyes of Reporters Without Borders

For 25 years, the international NGO Reporters Without Borders that monitors attacks on freedom of information worldwide was banned from visiting Burma. Inside the country, all freely-reported news and information was forbidden and the country's leading journalists were detained in its 43 jails. For years, the military regime would suspend publications for trivial reasons and the repression spared no one involved in news production, not even printers, some of whom were sentenced to seven years in prison for printing poems with democratic messages.

After being removed from the blacklist at the end of August 2012, at the same time as Aung San Suu Kyi's children and former US secretary of state Madeleine Albright, Reporters Without Borders was finally able to visit Burma for the first time and meet all the generations of journalists it had supported from a distance, including the Burmese journalist, politician and political prisoner Win Tin, who spent 19 years in prison and who died on 21 April 2014, as well as those who had been on Democratic Voice of Burma's list of imprisoned "VJs" (video-journalists).

In its report *Burmese Media Spring* (December 2012), Reporters Without Borders said it was able to see the initial results of measures designed to loosen the government's grip on the media. But the way forward for the media was still far from clear at this early stage of the government's reforms.

It was following those visits that Reporters Without Borders compiled its report about the transition in Burma and taking account of the

creation of new entities representing the Burmese media. Reporters Without Borders recommended that:

The Burmese government

- Strongly affirm its commitment to freedom of information and demonstrate this in a concrete way by beginning to dismantle the information ministry, which has no place in Burma's new democratic environment.
- Severely punish anyone who is responsible for freedom of information violations.
- Curb lawsuits against the media by ministry officials and civil servants.
- Support the repeal of repressive laws and the adoption of a media law that respects freedom of information.
- Allow all journalists including freelancers to have access to state institutions in order to ensure that all government activity is fully transparent.
- Announce that the state media will be completely overhauled in the near future.
- Create a proper, recognized university course in journalism and, as soon as it is created, ensure that it is made available in all of the country's major cities.

The Assembly of the Union of Myanmar

- Repeal repressive media laws as soon as possible, above all the Electronic Transaction Law and the 1962 Printers and Publishers Law.
- Adopt a media law that has been approved by the Press Council

The Press Council

- Draft a law for the print media that respects international standards and guarantees real protection for journalists.
- Ensure that that the print media law addresses issues linked to the publication and circulation of news and information on the Internet.
- Quickly draft laws for the other kinds of media.
- Draw up a code of conduct for journalists, taking care to consult journalists during the drafting

The international community

- Continue its aid to Burma but condition it on

respect for fundamental freedoms, especially freedom of information.

- Ensure that assistance provided to the media does not allow the authorities to implement repressive policies.
- Condition the lifting of additional sanctions on a positive and significant improvement in freedom of information.

International NGOs

- Support the development of the Burmese media and the training of journalists.
- Continue to closely follow developments in media freedom, media legislation and the way ethnic conflicts are handled.

Burmese journalists

- Continue to participate in journalists' associations and unions in order to revitalize the media and defend the media's interests.
- Observe the rules of professional ethics and conduct and resist pressure to censor themselves.
- Continue to show each other solidarity during the transition, in which the disappearance of media will not in any way benefit the remaining media.
- Ensure that staff receive training that is adapted to the new media environment.
- Develop investigative journalism.
- Prioritize coverage of the country's most isolated regions and not ignore the situation of the various ethnic groups.
- Continue to be objective and responsible in their work. ■

[The full report is available here.](#)

Burma and freedom of religion

Freedom of religion in Burma has become a controversial political issue after the Burmese government published a religious conversion bill in state-owned newspapers in May 2014 inviting input from citizens. The publication followed a pro-bill campaign spearheaded by a group of Buddhist monks called the Organization for Protection of National Race and Religion.

Calling the draft law a breach of “every tenet of religious freedom”, [Human Rights Watch](#) (HRW) said it meant “any Burmese citizen who plans to change religion must seek a series of permissions from local representatives of government departments, including the Ministries of Religion, Education, Immigration and Population, and Women’s Affairs, and wait 90 days for permission to be granted.”

According to HRW, “If enacted, the bill would violate Burma’s obligations to uphold the rights to freedom of religion, conscience, and expression under international law. The proposed restrictions on conversion, proselytizing, and speech contravene the Universal Declaration of Human Rights, which states that ‘everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom’.”

The proposed law could also violate the rights of women “freely to choose a spouse and to enter into marriage,” under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Burma is a

signatory.

In June 2014, three United Nations experts on freedom of religion, minority issues and human rights in Myanmar called on the Government of Myanmar to discard the draft bill. The then Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, noted that “State interferences into the right to change one’s religion or belief are per se illegitimate and incompatible with international human rights standards.”

“Freedom of religion or belief is a human right, irrespective of State approval, and respect for freedom of religion or belief does not depend on administrative registration procedures,” Mr. Bielefeldt stressed. “I am very disturbed by the attempt to regulate religious conversion.”

The Ministry of Religious Affairs in Burma drafted the law as part of a series of four related to religion, marriage, polygamy, and family planning, comprising a legislative package “on the protection of race and religion.”



Religious leaders pray for those who died in the 1988 democratic uprising, also known as 8888, on the 25th anniversary, in Yangon August 8, 2013. Photo: Reuters/Soe Zeya Tun.

Many have criticized the role of Buddhist monks in stage-managing the proposed bill. Buddhist monks have considerable political stature in

Burma. They were major players both in the struggle to regain independence from British colonial rule and in democracy movements, including the “Saffron Revolution”, the months-long protests in 2007 against the then military government.

At a 13 June 2014 press conference in Yangon, Ashin Wirathu, an influential and well-known monk who has sparked fierce criticism for his anti-Muslim speeches, told reporters, “I have dreamed of this law for a long time. It is important to have this law to protect our Buddhist women’s freedom.”

The proposed bill resulted from a petition filed by the Buddhist monks movement and signed by more than 1.3 million people with the aim of “protecting the race and religion of the majority Buddhist nation.” The promoter group is the nationalist “969 Movement”, which is opposed to what it sees as Islam’s expansion in predominantly-Buddhist Burma. It has organized public demonstrations of hatred and violence against Burmese Muslims.

Aung San Suu Kyi, leader of the “National League for Democracy”, has also criticized the proposal, saying it discriminates against women and violates human rights and personal freedoms. And on 12 June 2014, over 80 organizations from civil society worldwide called on the Government of Burma to scrap the proposed legislation, saying that it would violate fundamental human rights and could lead to further violence against Muslims and other religious minorities in the country. They urged the government to:

1. Amend all other legislation to ensure that it incorporates the principles set out in Article 18 of the UDHR, which reads: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”;

2. Sign and ratify the International Covenant on Civil and Political Rights (ICCPR), without reservation to Article 18;

3. Sign and ratify the International Convention on the Elimination of All Forms of Racial

Discrimination (ICERD);

4. Extend official and unconditional invitations to the UN Special Rapporteur on freedom of religion or belief and the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to visit the country, and to travel within the country and meet representatives of different communities, political actors and civil society organizations without restriction or hindrance;

5. Study and implement the recommendations of the most recent report of the UN Special Rapporteur on freedom of religion or belief to the UN Human Rights Council, with regard to measures to address collective hate speech [iv];

6. Study and implement the recommendations of the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, which was adopted by experts including the UN Special Rapporteur on Freedom of Expression and Opinion and the Special Rapporteur on Freedom of Religion or Belief in Rabat, Morocco in October 2012 [v];

7. Abolish the Ministry of Religious Affairs and replace it with an independent and impartial religious affairs commission with a mandate to eliminate all forms of religious discrimination;

8. Remove the requirement to list religion on the National Registration Card.

In addition, they called on the international community to publicly urge the Government of Burma/Myanmar to immediately scrap the proposed legislation.

The international community must make concerted efforts to press the Government to implement the above recommendations as a matter of priority, in order to protect the right to freedom of religion or belief and to prevent further violence against religious minorities. ■

Tackling hate speech in Burma

Jessica Mudditt

Former political prisoner Nay Phone Latt, 34, is the secretary of PEN Myanmar and executive director of the advocacy group, Myanmar ICT Development Organization (MIDO). In April 2014 he launched the anti-hate speech movement panzagar (“flower speech”), which has campaigned on social media and in public using street theatre. He spoke to Mizzima Business Weekly’s Jessica Mudditt about his passion for information and communications technology and his efforts to create a more tolerant society.

What sparked your interest in ICT?

It was during the 18 months I spent in Singapore from 2006 that I learnt how powerful it can be when used effectively. Myanmar was completely different back then – we had very little electricity and even less access to the internet, whereas in Singapore, my friends never needed to shut down their computer or to log off from Gmail. I started working as the editor of an online magazine and my friends taught me how to blog. I really enjoyed it because I could write whatever I wanted and in my own language.

So when I came back to Myanmar I wanted to keep blogging – but at the time even using Gmail was illegal. I knew of the dangers of blogging so I never posted political content on my own blog – not even during the Saffron Revolution in 2007. I used to send articles to my friends with blogs overseas. However just before the Saffron Revolution I organised a seminar called “Why we blog” to try to introduce people to this type of technology – but after that I became well known to the military government.

Were you aware of the risk you were taking by promoting blogging in Myanmar then?

Yes I was, but that was also partly because I come from a political family – my parents and grandparents were NLD members and I was a NLD youth leader. I knew I could end up in prison at any time; so many people were being sent to jail. So it wasn’t a big shock when I was interrogated. I was forced to hand over my Gmail password – I was told I would be hung if I refused.

I had several different accounts and I gave military intelligence a password to an account that I thought was “safe.” However they found a cartoon of [Senior] General Than Shwe that someone had sent me and I got a 16-year sentence for that. I got another five-and-a-half years for owning a VCD of one of Zarganar’s performances that was a bit critical of the regime.

How did you react to such a harsh sentence?

The thing that saved me was that I knew I wasn’t alone – so many of us were in the same situation. Zarganar was also in Insein Prison¹ at the time, although we weren’t able to talk to each other because we were kept in separate parts of the prison. And although the food was really bad and we couldn’t go outside, I had a daily schedule that kept me from getting too bored. I spent an hour reading, meditating, learning English, relaxing, and I also taught some of my cellmates about ICT.

What were your reasons for founding MIDO?

I decided to set up MIDO because Myanmar’s political situation had changed somewhat: things were more open. However the problem is that although the country is more open and there are new forms of technology available, awareness about ICT remains very low because it’s not a subject taught in schools. The only people who have a chance to learn about ICT are those who can afford to attend a costly private school. And the University of Computer Studies in Yangon lacks basic facilities.

So the first project I set up was ICT training for staff at local organisations, who were able to learn how to use the internet effectively and why hate speech is dangerous and unacceptable. We were invited to run classes for members of the

Chin Youth Associations last September and we also have connections with the National League for Democracy, of which I'm a member.

I've given lectures at NLD headquarters around the country as well as many other different organisations. I'd also like to work with the Ministry of Education and the Ministry of Information to create a long term solution for addressing the gap in our education system regarding ICT, but so far it hasn't happened.

Why did you decide to campaign against hate speech?

I am really worried about our country's future. The religious conflicts that exist aren't a new problem – it's been a technique used by every government, including the British administration. If we look back throughout our history we can clearly understand the phenomenon as a "divide and destroy" tactic used to prevent people from being united and therefore more powerful. But the problem now is that the young generation are spending so much of their time on social media that they aren't learning about this and don't understand the real perspective behind the violent events that are taking place.

Our reading culture has changed – attention spans are shorter and most young people just want to digest very small amounts of information. For example, when I post an article on my Facebook page, in less than a minute there are so many "likes" – but they obviously hadn't even had time to read the article! This is one of the reasons why I don't keep a blog anymore – and I know of other bloggers who have also given up. However I do have plans to write a book about my time in prison – but I want to focus on the positive things that happened, rather than all the negative stuff.

What's the most common justification you hear from those who believe hate speech is acceptable?

People say they have the right to express themselves however they please. We respond by explaining the difference between saying something

like, "I hate you" and "I hate them and want to kill them." Some forms of hatred are very dangerous for society and shouldn't be tolerated.

Who are the targets of hate speech?

It's a big problem in Rakhine State, but hate speech has now spread from previously being targeted towards the Rohingya people specifically to Muslims in general. There's also a lot of hate speech about foreigners in Rakhine State. Hate speech against the gay community has flared up over the last six months after the media reported the marriage of a gay couple. Then there's hate speech about China



– not against the people but their government. Although internet penetration rates are still low, the problem is getting worse and my concern is that it will continue to worsen unless people take action.

Describe your involvement with PEN's research project on hate speech.²

We are monitoring four aspects: print media, online media, social media and content on VCDs. I'm responsible for monitoring social media, which is mostly scrutinising Facebook accounts. I take screen shots of pages that contain hate speech. It's a three month project and we'll publish a report of

our findings on International Peace Day on September 21. We'll distribute the report to members of the government and civil society groups so that people become more aware of the issue, and hopefully take action. It will also be available to download on PEN Myanmar's website.

What forms of hate speech exist in the media?

Following the riots in Mandalay, for example, there were some very problematic statements made by members of the [regional] government. We believe that statements that incite hatred and violence should not be published and editors need to start taking responsibility to ensure this. The problem is that there are so many new journals now, but very few journalists – as well as editors – are well trained in media ethics. Some lack any concept of it.

Are those using hate speech fanatics?

There appear to be two types of people using hate speech – some are doing it intentionally while others are actually paid staff. I don't want to discuss who it is that might be paying people to spread hate speech, but the fact that some people are constantly online and within a minute after posting something on their Facebook account there are an enormous number of "likes" and "shares" indicates that it's an organised activity by a large group of people. I've also noticed that many pages share a lot of similarities and use the Buddhist flag or national flag, or an image of the Buddha as profile shots.

You were in jail when Time magazine named you one of its 100 "Courageous Heroes" in 2010. Were you aware of the honour?

Yes I was – a warder told me. It gave me strength and it was also a very useful thing for political prisoners in general, as well as for me personally. After I received the award, the warders knew that I was known in the international media and organisations so they didn't dare to treat me as badly as others, particularly the criminals, who were regularly beaten. I was even allowed to start receiving English-language books from my parents – I told the warders that I would tell the international

media if they didn't allow it! My parents visited me every month and exile media groups would then call them to ask what I had said. Knowing that I hadn't been cut off from the outside world was very good for me. ■

This article first appeared in the September 18, 2014 edition of Mizzima Business Weekly.

Source: [mizzima news from myanmar](#)

Notes

1. Insein Prison is located near Yangon (Rangoon), the old capital of Myanmar. It is run by the military junta of Myanmar, the State Peace and Development Council, and used largely to repress political dissidents. The prison is notorious for its inhumane and dirty conditions, and use of mental and physical torture. Nobel Peace prize winning human rights activist, Aung San Suu Kyi, was confined to Insein on three separate occasions in 2003, 2007 and 2009.
2. PEN International promotes literature and freedom of expression. Founded in 1921, its global community of writers now spans more than 100 countries. PEN International is a non-political organisation which holds Special Consultative Status at the UN and Associate Status at UNESCO.

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Revisiting Cambodia's contemporary media landscape

Theara Khoun

A few months before the 2013 elections, many Cambodians began to break out of their culture of fear, silence and political ignorance and embrace civic engagement. They participated in opposition campaigns, demonstrations, and the elections themselves. The public domain has become a place for political discussion and the expression of dissatisfaction with the government, despite threats and warnings from the authorities (Khoun, 2013). As a result, the ruling party majority in the National Assembly was heavily reduced – from 90 in 2008 to 68 in 2013 – with the Cambodian National Rescue Party (CNRP) benefiting. What has changed?

The election outcome raises questions about the efficacy of traditional media, once instrumental in mobilizing support for the ruling party. Its weakening influence can be explained by the growing discontent at its failure to address obvious shortcomings such as nepotism, cronyism, chronic corruption, Vietnamese migration, deforestation and land grabs, with social media stepping in to fill the vacuum.

The rise of social media as an alternative to, if not an outright replacement for, pro-government media means that information and these shortcomings can no longer be monopolized or concealed. Internet access becomes less of a luxury in the country, and the cost of smartphones is plummeting by the day (Colin, 2013). Six years ago, fewer than 10,000

Cambodians had a web connection, and it was extremely slow. Today 3.8 million people or nearly 40% of the population have access to the Internet, mostly via their smartphones. Of those, nearly two million users have Facebook accounts (ECDGS, 2014).

While Cambodia's traditional media often run stale, pro-government content, social media feature more varied coverage, and users can comment, share, and express their opinions without fear of censorship. Sensitive issues such as human rights violations and land grabbing – concealed by traditional media – are often discussed online, especially via Facebook.

Additionally, the rising popularity of international broadcasters (among them the Voice of America, Radio Free Asia and Radio France International, citizen journalism, donor-driven media initiatives, foreign-language newspapers (such as *The Cambodia Daily* and *Phnom Penh Post*) gives news consumers more options and access to independent coverage. As a result of this trend, the opposition now dominates in most of the populous provinces and cities where access to the Internet and information is most prevalent.

Why reform is rational

The diminishing role of traditional media in aggregating electoral support triggered a need for comprehensive media reform, for the sake of both the government and its media allies. Continuing to generate one-sided news will ultimately push more and more news consumers to new media alternatives. Already the opposition CNRP can point to a total vote that is almost on a par with that of the ruling CPP, at 2.9 million to 3.2 million. This support will only grow without comprehensive reform, including media reform. Any attempt to muzzle criticism will only strip traditional media of their relevance and further the divisions within society. In this sense, media reform is an efficient way for the government to restore credibility.

Moreover, although information posted online is timely, pluralistic and interactive, it is often unreliable, misleading and provocative, while generally favouring the opposition. Should

Cybercafes abound in Phnom Penh, Cambodia. Photo: DW/K. James.



democracy. William E. Todd, U.S. Ambassador to Cambodia once said, “They [Cambodian citizens] expect the media to act as their eyes and ears, investigating issues and problems that are important for the people to know about” (Todd, 2013). This vital social bond should be reinforced, as informed citizens are the foundation of any democracy.

Content revisit and reform agenda

What does reform mean? In Cambodia, more balanced

the CPP fail to respond to this threat, it will likely face further losses at the next elections. Yet suppressing Internet freedom is unrealistic, and would prompt outrage from young people, academia and the international community. Indeed, rights workers and many Internet users regard the ongoing drafting of a cyber-law as an attempt to suppress their Internet freedom (Khoun, 2012).

A few days before the 2013 elections, the Cambodian government issued a directive that temporarily banned programs from international broadcasters, including Khmer services of Voice of America and Radio Free Asia. Cambodians immediately condemned the move through Facebook and other social media, echoing criticism by the U.S. government and international media outlets, forcing the government to reverse the ban the following day (Soeung, 2013).

Instead of these ham-fisted attempts at restricting social and independent media, a more effective measure would be to strengthen the value of traditional media, which is more supportive of the CPP.

Media reform is also a moral and professional responsibility. While social media have a significant function in contemporary society, it should not be the only source of news for citizens in a

news coverage, greater space for different views, and access to credible, verifiable resources.

Restoring trust is probably the most challenging task for Cambodia’s ruling elites and traditional media, but it is feasible. First, the government and the traditional media should work in parallel to achieve this by providing more timely and accurate information to the public and providing a platform for different and even critical views. However, professional content cannot exist with restrictions on freedom of expression. Verbal, physical and legal threats to independent media lead to self-censorship and should thus be minimized.

Second, meaningful and constructive debates and policy discussion on a wide range of social issues should also be on the agenda. Silence or attempts at concealment serve the interests of neither the ruling party nor the traditional media. Rather, both should learn to recognize their limitations, make demonstrable efforts to address them, and just as important, justify their actions if problems remain unresolved. Holding officials accountable via traditional and non-traditional media is fundamental to building trust and embedding a culture of transparency.

In early December 2014, Prime Minister

Hun Sen surprised many long-time Cambodia watchers with an unprecedented speech recognizing many shortcomings under his leadership that have frequently been cited by government critics including trade deficit, weak infrastructure and poor human resources (Kevin & Meas, 2014). While this is commendable, many other lower government officials should also be encouraged to speak out faithfully with minimized repercussion.

Last but not least, information also needs to be made more accessible. Access to information in Cambodia is customarily overcome through personal contact rather than through institutionalized and transparent mechanisms (Raymond, 2009). Information that is in the public interest should be made public for verification, and legislation giving citizens and media the right to access it should be introduced in the name of open government, public debate, and social integrity.

A freedom of information law has been proposed for 10 years, but to date its drafting process is very sluggish despite the government's repetitive pledges to push for its adoption by this mandate (Hul & Colin, 2013).

There are other signs of change. Some local television stations, newspapers and radio stations have begun to cover land grabbing, opposition demonstrations, and sensitive issues. This should be applauded. However, there is still significant room for improvement in terms of professionalism and balance. Equally important, the ruling party has agreed to offer a television license to the opposition CNRP under the 22 July 2013 deal between the two political parties.

The television station is expected to be operational by 2015, which will be the first opposition television of its kind as the country's nine existing analogue television stations are all either owned by CPP officials or aligned with the ruling party (Alex & Hul, 2014).

The government has also expressed its commitment to some other comprehensive reforms, covering the media and freedom of expression, and aims to pass the law on freedom of information by this mandate. For now, though, this is still in the realm of rhetoric. Its true commitment to credible reform remains to be seen.

For a thousand years, Cambodia has been characterized by a culture of secrecy, hierarchical rule and patronage among rulers and government. Any reform in this regard cannot take place overnight. It will require patience, political commitment and a collective push for change. ■

Note

1. Hun Sen's CPP won 64 of the 123 seats in the National Assembly in the 1998 elections, 73 seats in 2003, and landslide victory with 90 seats in 2008 before it was heavily reduced to just 68 seats in 2013 elections.

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Cambodia: a long way towards freedom of expression

Chak Sopheap

Freedom of expression is supposedly guaranteed in Cambodia. Both domestic laws and international instruments that Cambodia is bound by protect this fundamental right.¹ Yet, restrictive legislation, media censorship and judicial harassment of civil society actors have created a culture of silence and impeded full enjoyment of this right. The situation of freedom of expression in the country remains dire.

Article 41 of the Constitution of the Kingdom of Cambodia (“the Constitution”) guarantees all Cambodian citizens the rights to freedom of expression, information and publication within boundaries that would appear reasonable to most analysts.² Despite this, several other domestic laws clearly contradict both the Constitution and Cambodia’s international obligations, thereby creating a tortuous legislative framework that severely undermines the exercise of those fundamental freedoms.

At first glance, the 1995 Press Law takes a relatively liberal and protective approach.³ Article 1 of the law guarantees freedom of expression in print media and “assures freedom of the press and freedom of publication in conformity with Articles 31 and 41 of the constitution.” However, subsequent content limitations prohibit any publication that may affect “public order by directly inciting one or more persons to commit violence” (Article 11), “national security and political security” (Article 12) or the “good customs of society” (Article 14).

In fact, the law fails to explain these very broad or undefined limitations, therefore posing serious challenges when it comes to implementation and undermining the ostensible scope of Article 1. In addition, the Press Law largely constrains criticism of public officials and institutions, and hence the right to freedom of expression, by stating that the press “shall not publish or reproduce false information which humiliates or contempt national institution”.⁴ Journalists who violate this vague provision can be fined a sum of between 2,000,000 and 10,000,000 Riels (USD \$490 – \$2470).

While the Press Law provides that “no person shall be arrested or subject to criminal charges as the result of the expression of opinions”,⁵ other Cambodian law criminalizes defamation. The criminalization of defamation, together with several other provisions contained in the 2009 Cambodian Criminal Code that restrict freedom of expression such as those relating to public insult, discrediting judicial decisions or incitement to commit felony, further stifles the right to freedom of expression. Indeed, those provisions can lead to long-term prison sentences and the Royal Government of Cambodia (“RGC”) has repeatedly used them as tools to crack down on the exercise of free speech by journalists, political opponents, human rights defenders and other activists.⁶ Interestingly, during the last United Nations Universal Periodic Review (“UPR”) of Cambodia in 2014, the RGC noted, which essentially means ignored, those recommendations directly requesting the repeal or amendment of those articles of the Criminal Code.

Other UPR recommendations, this time accepted, urged Cambodia to comply with its commitment to guarantee fundamental freedoms, including establishing a law on freedom of information as an essential component of freedom of opinion and expression.⁷ Article 19 of the International Covenant on Civil and Political Rights (“ICCPR”), which Cambodia acceded to in 1992,⁸ states that the right to freedom of expression “shall include freedom to seek, receive and impart information and ideas of all kinds.”⁹ The steps that have been taken towards adopting freedom of in-

Public protests and peaceful protests in Cambodia attract police crackdowns. Photo: Chak Sopheap.



formation legislation and policy are encouraging, but little tangible progress has been registered so far. The appointment of ministry spokespersons to answer queries from the media was a welcome development in that direction.

However, Cambodia has not adopted any law on access to information (“A2I”) yet and the principle of maximum disclosure has to be fully embraced, even by ministry spokespersons appointed to share information. In March 2011, in response to increasing demands from international actors for access to information, the RGC established the Press and Quick Reaction Unit (“PQRU”) to relay information to the press on issues relating to military action, diplomacy and national security.¹⁰ The founding of this unit was an important step in providing swift access to information. However, the government has utilized the PQRU for its own political ends. This lack of access to adequate and unbiased information severely hinders the formation and dissemination of free opinions.

Freedom of expression encountered another serious obstacle in the 2010 Anti-Corruption Law, which fails to provide a legal framework for the physical and legal protection of individuals who blow the whistle on corruption. In fact, Article 41 of the law creates criminal offences for leaking information and for making false complaints of corruption.¹¹ It is nevertheless unclear whether an incorrect complaint, rather than a deliberately false one, would constitute an offence under the

Law. The intent to create a new law to protect whistleblowers has recently been reported by the media,¹² but the currently existing provisions, and the lack of certainty as to how they will be interpreted, are likely to deter those who might come forward with information about corruption.

Censorship and repression of dissent

Over the past year, restrictions and repression of freedom of expression, affecting especially but not only the media, have markedly increased in Cambodia.

Traditional media, namely print, radio and television, remain the main source of information for most Cambodians; however, few have access to unbiased news. Free media, indispensable to safeguarding freedom of expression and the dissemination of information in a democracy, are quite rare in Cambodia. The government and the ruling Cambodian People’s Party (“CPP”) control most of the media and there is no law on broadcasting. Newspapers, television and radio outlets require a license from the Ministry of Information (“MoI”) prior to beginning publishing or broadcasting.¹³ The CPP either directly owns or holds a position of strong influence over all of Cambodia’s 11 television networks. An advisor to Prime Minister Hun Sen owns the country’s most popular TV station, the Cambodian Television Network, while his daughter owns another popular channel, Bayon TV.

The lack of independent outlets has significantly hindered the capacity of TV as a space for exercising the right to freedom of opinion and expression, particularly during election time. Election observers noted severely biased reporting in the run up to the 2013 elections. Bayon TV broadcast more than 15 hours of coverage of CPP activities and programs, while opposition parties were allowed less than two hours.¹⁴

Radio is also central to Cambodian society. It provides information to a large public, especially in the provinces and rural areas. Significantly, with 74 radio stations officially registered in Cambodia,¹⁵ only three are independent. Among the latter, 105 FM Beehive radio has become a prime example of the struggle for freedom of expression and opinion. Because of its critical positions, Beehive radio has been shut down several times and its owner, Mam Sonando, arrested three times, most recently on charges of secession and incitement to take up arms related to a land dispute in Kratie, a province in the South of Cambodia.¹⁶

Judicial harassment and physical attacks against human rights activists and journalists are also routine in Cambodia. Accordingly, censorship is a well-known reality which is both government-orchestrated and self-censorship due to fear of violence and a culture of impunity. Thirteen journalists have been murdered since 1994.¹⁷ Heng Serei Odom, a journalist who had reported on cases of illegal logging implicating powerful and well-connected individuals, was found dead

inside the trunk of his car on 11 September 2012.

Most recently, on 2 May 2014, Lay Samean, a reporter from Voice of Democracy, was beaten and left unconscious in the street after attempting to take photographs of security guards chasing a monk at a rally held by the opposition party's supporters at Freedom Park in Phnom Penh. His vision has been permanently affected, but the Phnom Penh Municipal Court has dropped his case requesting compensation. Exercising the right to freedom of expression is thus often met with violence and impunity.

Excessive use of force against peaceful demonstrators has also been reported in several instances. Violent attacks on freedom of expression intensified in 2013 with the CNRP's boycott of the National Assembly and post-election protests. On 15 September 2013, Mao Sok Chan, a 29 year-old father of four, was shot dead by security police while asking for an international review of the results of the National Assembly Elections. Instead of investigating the case and against the background of the deaths of several other protestors, in January 2014 the RGC decided to further restrict freedom of expression and freedom of assembly with a ban on all demonstrations. The ban was lifted only on 22 July 2014. Public gatherings are still subject to restrictions and strict control.

Signs of hope

Despite direct or indirect government control over most media and all the de facto restrictions



Human rights and democracy activists in Cambodia face many threats and can be imprisoned for a number of offences including “cybercrimes”.

on freedom of expression, some space remains to freely exercise this right. The Internet represents one such space, and a central platform for activism. Classified as “partly free” by Freedom House in 2014,¹⁸ the internet in Cambodia remains relatively uncensored in comparison to traditional media. Nevertheless, efforts by the government to monitor and control the web have recently increased, making the Internet a target of the RGC’s censorship policy.

A controversial draft cybercrime law, which contains provisions that could severely restrict online freedom of expression, was leaked in April 2014 and is currently on hold, while the creation of a “Cyber War Team” to monitor the use of social media was announced in October 2014.¹⁹ Furthermore, in a very concerning move, the RGC has reportedly ordered Internet Service Providers operating in the country to disclose very sensitive information. Such a practice, if not properly regulated, would not only violate the right to privacy but also seriously threaten the rights to freedom of opinion and expression.

Freedom of expression continues to suffer severe restrictions in Cambodia, and significant challenges remain ahead to change the legislative landscape and end the pervasive culture of silence. Furthermore, *De facto* censorship and control of dissent need to be fought, and protection ensured to those who exercise their fundamental rights. There is much room for improvement. Some steps forward would include (i) adopting a law on access to information in the near future (ii) amending the Criminal Code on all points related to freedom of expression to bring it into line with international standards, and (iii) ensuring press freedom and equitable access to channels for the free distribution of information. ■

Notes

1. See Articles 31, 35 and 41 of the Constitution of the Kingdom of Cambodia; Article 19 of the Universal Declaration of Human Rights (UDHR); and Article 19 of the International Covenant on Civil and Political Rights (ICCPR).
2. Art 41 Constitution: “Khmer citizens shall have freedom of expression of their idea, freedom of information, freedom of publication and freedom of assembly. No one shall exercise these rights to infringe upon the honor of others, or to affect the good customs of society, public order and national security.”

3. See the entire Press law at: http://www.sithi.org/temp.php?url=law_detail.php&id=16
4. See Article 13 Press Law
5. See Article 20 Press Law
6. CCHR, *Repression of Expression: The state of free speech in Cambodia* (Report) September 2013 :<http://bit.ly/1lBgmal>
7. See UPR recommendation 118.17
8. Office of the High Commissioner for Human Rights Cambodia, *Treaty reporting* :<http://bit.ly/1mnS7O9>
9. Article 19, *International Covenant on Civil and Political Rights*, 16 December 1966 : <http://bit.ly/1jZpYQs>
10. The Phnom Penh Post, , *PM touts media task force*, 25 March 2011
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12. Phnom Penh Post, *ACU to make law to protect sources*, 27 November 2014: <http://www.phnompenhpost.com/national/acu-make-law-protect-sources>
13. Transparency International Cambodia, *Final Election Observation Report on Cambodia’s 2013 National Election*, 2013 : <http://bit.ly/1uD1JfX>
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16. The Guardian, *Cambodian activist Mam Sonando to be freed in days*, 14 March 2014: <http://bit.ly/1t20cAc>
17. CCHR map regarding Journalist killed in Cambodia: http://sithi.org/temp.php?url=jour_killed/journalists.html
18. Freedom House, Report, *Tightening the net : Government Expand Online Controls*, 2014 : <http://bit.ly/1vQBvg3>
19. Cambodia Daily, *‘Cyber War Team’ to Monitor Web*, 20 November 2014: <https://www.cambodiadaily.com/news/cyber-war-team-to-monitor-web-72677/>

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Thai freedom of expression: Waiting for the dawn

Walakkamol Changkamol

The increase of political conflict in Thailand from late 2013 to 2014 contributed to the downfall of freedom of expression and freedom of information both on the public and personal levels. In 2015, Thailand is going forward with a coup d'état government that is trying to infuse people with propaganda in the name of so-called "morals" or "Thai tradition". We are now going back to the age of top-down communication from the head of state to the people, the communication model that used to be in Thailand 50 years ago.

In November 2013, the latest political crisis arose when there were protests against Prime Minister Yingluck Shinawatra. The goal was to oust the government, which was believed to be

involved with and manipulated behind the scene by the former Prime Minister Thaksin Shinawatra. The protest began after Parliament passed the Amnesty Bill, which would pardon offences of politicians and people behind political movements. If passed, this Act would have been retroactive to the year 2004.

The bill was not approved by the Senate, but this did not stop the protests, which sought the overthrow of the entire government and all its supporting networks. However, the protest ended in May 2014 when the coup d'état took place and the government lost its status by implication. The current head of state is General Prayut Chan-o-cha, Commander-in-Chief, who took office as prime minister. Because of the law and especially under a coup d'état time, protests and demonstrations could not easily take place.

Direct threat to freedom of expression

Freedom of communication is assured in more than four articles (45, 46, 47, and 48) of the Constitution, which is the supreme law of the country. All four articles stipulate the freedom to speak, write, print and advertise, the protection of journalists and mass media organizations, prohibiting government ownership and intervention by giving financial support. The Constitution was torn up by the coup d'état, but even during the

The street protest of a group called "People's Democratic Reform Committee" (PDRC) against the Thai government in January 2014. Source.



time when the Constitution was still in effect, the threat to media freedom was still posed both directly and indirectly by politicians, the government and non-government people (Thai citizens).

An online news agency has compiled information and produced a timeline showing the threats to the media freedom from 2013 to 2014 (Prachatai News Agency, 2014). The report shows that there were over 20 incidents of physical force or verbal confrontation. All are considered intimidating violence. Examples are an army troop gathered around the front of ASTV news office, requesting that the agency apologize to General Prayut Chan-o-cha, Commander-in-Chief of Royal Thai Army, for an interview and voicing strong opposition to how the ASTV Manager reported the news.

Moreover, a protest group called “People’s Democratic Reform Committee” (PDRC) attacked a journalist who was reporting news in the area. Journalists from Channel 3 and Channels 9 and TBS were rebuked and also attacked on 23 December 2013. The protesters said they were upset about the false number of protesters being reported and that the news took the government’s side. A journalist from *The Nation* was attacked on 16 January 2013.

The government itself or people in authority are also using media – namely Channel 11, 3 and 9 of the state-owned public broadcaster Mass Communication Organization of Thailand –to talk to people and screen information about protesters. The prime minister’s legal advisor has threatened the media with a lawsuit for slander once in a while. Later, this attempt switched to messages posted on social media using the Computer Crime Act and Internal Security Act.

Indirect and structural threats to freedom of expression

Freedom of expression has also been threatened indirectly by media owners imposing their authority. This is a form of structural violence. An obvious example was when a TV commercial was suddenly played in the middle of “Hardcore News Program” on TV that was reporting on a water management project done by the government and

a private company in Korea. It investigated the project and questioned the government budget allocation (26 June 2013). The government denied any involvement in subsequently altering the TV programming schedule.

Similarly, broadcasting a political discussion panel on TV’s “Tob Jote Pratesthai” (Solving Thailand’s problems) was postponed by Thai PBS TV station. Four episodes had been aired, but the last one was cancelled when a group of monarchy supporters and an opposition scholar were discussing the monarchy. The TV station stated that the decision was based on feedback from viewers and for reasons of social responsibility in order not to create further conflict in the country about sensitive matters (15 March 2013).

Even entertainment programs such as soap operas have been affected by politics. A series titled “Nua Mek 2” on Channel 3 was banned when it screened a story about a government filled with corruption and power struggles. The government denied all responsibility for the censorship and Channel 3 management stated that the censorship was done by the TV station because of some inappropriate content (4 January 2013).

Self-censorship also threatens mass media freedom. When the military government took over after the coup d’état in May 2014, freedom of information and freedom of expression became even more restricted. The military authority announced a state of abnormality and it is controlling matters in accordance with the national security principles.

Silence or self-censorship has become common for fear of further conflict or fear of being seen as an outsider. This shows an intolerance of different opinions and it demonstrates the “spiral of silence” theory where thinkers do not have the courage to express an opinion different from the mainstream.

Thai ranking “Not Free”

Because of the situation in Thailand, it comes as no surprise that the country’s freedom of expression and freedom of information has been “Not Free” since 2012. Freedom House ranked it 64 (0 = Best, 100 = Worst) from “Partly Free” prior to



The pro-government group called “United Front of Democracy of Democratic Against Dictatorship” (UDD) or the “Red Shirts” also staged the protest to show their political power. [Source](#).

2012 (Freedom House, 2014).

Freedom House has compiled how the law is used as a tool to limit freedom of expression. The *lèse-majesté* law, the law that criminalizes defamation, Internal Security Act, Computer Crime Act all can be used without any consideration of the main legislation that assures freedom under the Constitution.

Moreover, Freedom House showed that media ownership is a monopoly of a very few people, resulting in lack of diversity in news content. While broadcast media are still owned by the government, there is a National Broadcasting and Telecommunication Commission (NBTC) founded in 2010 to regulate the media’s role of serving the people and assuring freedom. Because broadcasting has been tied to people with political and military powers for such a long time in the history of Thailand, reforming it needs well-planned tactics and strategies.

Southeast Asian Press Alliance (SEAPA) also published an annual report on press freedom

and rights titled “Media at Political Crossroads” (Southeast Asian Press Alliance, 2014) which clearly reflected the landscape of Thai media today. The main concern was about the political conflict that affected freedom of expression both of the media and the general public. There are threats both from the state authorities and influence from ownership and advertising businesses. At the same time, there was also the problem of ethics and professional norms of media practice.

Online society and the challenge to the future

At present, social media have become very popular in Thailand. Many sources confirm that Thailand is one of top countries in which people use Facebook, Twitter and most recently Line. This may increase freedom of expression among Thai people. More importantly, freedom of expression may no longer have to rely on mainstream media only, but people will now have their own channels of communication.

However, censorship of social media has become more intense as conflict and turmoil escalated over the last two years. The Computer Crime Act was used more including the Internal Security Act and the lèse-majesté law. Nevertheless, online communication with no limit of time, place and target groups seems to be a positive reinforcement to freedom of information for Thai people.

The real challenge to freedom of expression is not the lack of a platform or government censorship or laws limiting freedom, but the ethics of respecting human rights, human diversity, and tolerance of different views. ■

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Imagine a world without nuclear weapons

Desmond Tutu

In February 1990, the same month that Nelson Mandela (known as Madiba) walked free after 27 years behind bars, South Africa's then-President, Frederik Willem de Klerk, issued written instructions to dismantle the nation's atomic arsenal.

Like Madiba's achingly long incarceration, the Apartheid regime's development of these most abominable weapons, though never officially acknowledged, had become an intolerable blight on South Africa's image abroad. Divesting ourselves of the bomb was – as de Klerk later remarked – an essential part of our transition from a pariah state to an accepted member of the family of nations.

In his time as president, from 1994 to 1999, Madiba frequently implored the remaining nuclear powers to follow South Africa's lead in relinquishing nuclear weapons. All of humanity would be better off, he reasoned, if we lived free from the threat of a nuclear conflagration, the effects of which would be catastrophic.

Addressing the U.N. General Assembly in 1998, he said: "We must ask the question, which might sound naive to those who have elaborated sophisticated arguments to justify their refusal to eliminate these terrible and terrifying weapons of mass destruction – why do they need them anyway?"

Despite Madiba's undisputed moral authority and unmatched powers of persuasion, his *cri de coeur* for disarmament went unheeded in his lifetime. South Africa, to this day, remains the only nation to have built nuclear weapons and then done away with them altogether.

Nine nations still cling firmly to these ghastly instruments of terror, believing, paradoxically,

that by threatening to obliterate others they are maintaining the peace. Quite unaccountably, all are squandering precious resources, human and material, on programs to modernize and upgrade their arsenals – an egregious theft from the world’s poor.

No right hands for wrong weapons

Madiba attributed the lack of progress in achieving total nuclear disarmament to “Cold War inertia and an attachment to the use of the threat of brute force to assert the primacy of some states over others.” To his mind, the struggle against the bomb was intertwined, inextricably, with the struggles to end racism and colonialism. He abhorred the double standard, deeply entrenched in today’s international order, whereby certain nations claim a “right” to possess nuclear arms – in the hundreds, even the thousands – while simultaneously condemning, and feigning moral outrage towards, those who dare pursue the same.

We must vociferously challenge the perceived entitlement of a select few nations to possess the bomb. As Ban Ki-moon, the U.N. Secretary-General, put it succinctly in January 2013: “There are no right hands for wrong weapons.”



But how do we uproot the discriminatory order? How do we end the minority rule? In our decades long fight against apartheid in South Africa, we depended upon the combination of an irrepressible domestic groundswell of popular opposition to the regime and intense and sustained pressure from the international community. The same combination is needed now in the movement to abolish nuclear weapons.

Time to negotiate a ban

In February 2014, in the Mexican state of Nayarit, ministers and diplomats from three-quarters of all nations – those not coming include the Permanent Five members of the U.N. Security Council, the U.S., UK, France, Russia and China – gathered to discuss the devastating humanitarian impact of nuclear detonations.

This covered the inability of emergency workers to provide relief to the wounded; the widespread dispersal of radiation; the lofting of millions of tonnes of soot from firestorms high into the upper troposphere; the collapse of global agriculture from lack of sunlight and rainfall; the onset of famine and disease on a scale never before witnessed.

It is high time for the nuclear-free nations of the world, constituting the overwhelming majority, to work together to exert their extraordinary collective influence. Without delay, they should embark on a process to negotiate a global treaty banning the use, manufacture and possession of nuclear weapons – whether or not the nuclear-armed nations are prepared to join them.

Why should these weapons, whose effects are the most grievous of all, remain the only weapons of mass destruction not expressly prohibited under international law? By stigmatizing the bomb – as well as those who possess it – we can build tremendous pressure for disarmament. As Madiba understood well, a world freed of nuclear arms will be a freer world for all. ■

Source: Banning Nuclear Weapons: An African Perspective. ICAN 2014. Photo: The Most Reverend Desmond Tutu, Archbishop Emeritus of Cape Town. (Erick Coll).

On the Screen...

Molodist (Ukraine) 2014

At the 44th Kyiv International Film Festival (25 October to 2 November 2, 2014) the Ecumenical Jury, appointed by INTERFILM and SIGNIS, awarded its Prize in the International Competition for full-length films to *Difret* (Oblivion) directed by Zeresenay Berhane Mehari, Ethiopia (USA, 2014).

Based on a real-life story, the film tells about a struggle of a committed woman lawyer, Meaza Ashenafi, to defend freedom and rights of a girl abducted and raped because a traditional custom allows it. The film takes place in Ethiopia of 1996, in a society where unjust customs became a social rule. It is a movie about courage when facing violence and social injustice and fighting them.

In addition, the jury awarded a Commendation to *Anywhere Else* (Anderswo) directed by Ester Amrami (Germany, 2014). The movie tells the story of a young Jewish woman experiencing a personal crisis, returning from Germany where she has studied to her homeland and to her family in Israel. It is a positive picture of a family in which a human being can find consolation and support. Reconciliation of social and historical divisions, as between Jews and Germans, is difficult and may last for generations, but it is possible.

In the International Competition for professional short films, the jury awarded its Prize to *Last Time Paris* (Perlmutter) directed by Rupert Höller (Austria, 2013). The short fiction film shows in a humanistic and touching way the issue of growing old as well as feelings, needs and longings of elderly people. It depicts a relation of mature love and respect of an adult daughter to her aging mother.

Members of the Jury: Cyprian Czop (Poland), Radovan Holub (Czech Republic), Olga Volynets (Ukraine).

Leipzig (Germany) 2014

At the 57th International Leipzig Festival for Documentaries and Animated Film (27 October to 2 November 2014) the Ecumenical Jury, appointed by INTERFILM and SIGNIS, awarded its Prize comprising €2,000 by the VCH-Hotels Germany GmbH – in the “Verband Christlicher Hoteliers e.V.” including the Hotel MICHAELIS in Leipzig to *Toto și surorile lui* (Toto and His Sisters) directed by Alexander Nanau (Romania, 2014).

10-year old Toto lives, together with his two sisters, in the Roma quarter of Bucharest amidst drugs and crime. Thanks to his personality and with the help of his sister Andrea, he finds access to a youth centre. A better future is opening up for both. The deeply documentary narration makes it clear how much strength the two children need to get out of a hopeless context.

Members of the Jury: Thomas Bohne OR (Germany), Guido Convents (Belgium), Angelika Obert (Germany), Peter F. Stucki (Switzerland).

Lübeck (Germany) 2014

The INTERFILM Jury at the 56th Nordic Film Days (29 October to 2 November 2014) chose as the winner of the Church Film Prize, endowed with €2500 donated by the Evangelical-Lutheran Church District Lübeck-Lauenburg, the film *1001 Grams* (1001 Gram) directed by Bent Hamer (Norway, France, Germany, 2014).

Motivation: Working for the Norwegian Weights and Measures Institute, Marie lives a life of numbers and exact calibrations. However, her

father's death brings her new challenges and measurements. In poetical images the film shows what is valuable in life. It tells a story about a measurable world and about the longing for a reality beyond.

Synopsis: How much does the human soul weigh? Marie is not the type to ask those sorts of deep questions. She works for Norway's weights and measures institute. Her workdays follow a carefully calibrated routine; she studiously avoids contact with her ex-husband and her only human contact is with fellow workers. But when Marie's father, the institute's director, takes ill, everything changes. Marie must take his place on a trip to Paris. In her luggage, Marie carries Norway's highly-valued prototype kilo, so that it can be weighed against its French counterpart. In Paris, she meets former scientist Pi and undertakes an emotional re-calibration of her own.

Members of the Jury: Mirko Klein (President, Germany), Ieva Pitruka (Latvia), Bernd Schwarze (Germany), Sofia Sjö (Finland).



Cottbus (Germany) 2014

At the 24th Festival of East European Cinema on Cottbus (4-9 November 2014) the Ecumenical Jury, appointed by INTERFILM and SIGNIS, awarded its Prize to *Klass korrektsii* (Corrections Class) directed by Ivan I. Tverdovskij (Russia, Germany 2014).

Motivation: Using the example of a Russian School the movie shows how difficult it is for pupils with bodily, mental or social deficits to find their place in society. In doing this the director avoids being one-dimensional or just depicting martyrs. With convincing actors and a sensitive camera Ivan Tverdovskij formulates a sustainable appeal for inclusion.

Synopsis: At a Russian school maladjusted and disturbed children are separated in a special class. Lena, who is physically handicapped and confined to a wheelchair, is out of place here. When two classmates are vying for her favours, the situation escalates.

The Members of the Jury: Kirsten Dietrich (Germany); György Frenyó (Hungary); Lothar Strüber (Germany); Giuseppe Vitale (Italy).

Mannheim-Heidelberg (Germany) 2014

At the 63rd International Film Festival held 6-16 November 2014 the Ecumenical Jury, appointed by INTERFILM and SIGNIS, awarded its Prize, endowed with € 1500.- by the Catholic Film Work in Germany and the Evangelical Church in Germany (EKD), to the film *Nabat* directed by Elchin Musaoglu (Azerbaijan, 2014).

Motivation: In a mountain village in Azerbaijan which is threatened by war people leave



“I came across it through a TV documentary where a woman refused to leave her home when everyone else was evacuated. When asked why, she said that her deceased son and husband were still there. This was where the subject first came from. And when the Russian army came in 1991, I was making a documentary for Azerbaijan Film. I thought about this subject again where the enemy comes to the village and only one person stays. This all came back to mind before I started on Nabat.” Source: [Nabat: An Interview with Elchin Musaoglu and Fatemeh Motamed Arya flickfeast](#).

their homes. Living on the outskirts Nabat stays although her means of subsistence diminish more and more. As a visible sign of her spiritual resistance and the hope for a return of life she kindles lights in the village every evening. For his moving story the film finds poetic, quiet and expressive images of high symbolic value.

Synopsis: Nabat and her bedridden husband Iskender live on a small, remote farm in the Nagorno-Karabakh region of Azerbaijan. Their only cow gives a little milk, which the old woman takes into the village every other day. From afar, you can hear war sounds from beyond the mountains. More and more inhabitants leave the village, and when her husband dies, she is all alone with her memories; memories of her son, who was killed in action in the 1990s, and of the way things were.

Members of the Jury: Alain le Goanvic (President, France); Markus Leniger (Germany); Natalie Resch (Austria); Christine Ris (Switzerland).

Berlin Film Festival Award

The Homage of the 65th Berlin International Film Festival will be dedicated to German filmmaker Wim Wenders, who will also be awarded an Honorary Golden Bear for his lifetime achievement. The award ceremony on February 12, 2015 in the Berlinale Palast will include a screening of *Der amerikanische Freund* (The American Friend, 1977).

“In dedicating the Homage to Wim Wenders, we honour one of the most noted contemporary auteurs. His cross-genre and multifaceted work as a filmmaker, photographer and author has shaped our living memory of cinema, and continues to inspire other filmmakers,” said Dieter Kosslick, Director of the Berlinale. ■