Communication Rights as Human Rights *for instance* in Thailand*

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Abstract

The right to communication as a fundamental human right clearly indicates that another communication model necessitates participatory democratization and thus a redistribution of power on all levels. The point of departure is not an elitist position, but development from the bottom-up. For instance, the UNESCO-sponsored MacBride Report suggests that the right to communicate "promises to advance the democratization of communication on all levels – international, national, local, individual" (MacBride, 1980, p. 171). Fundamental here is the other vision of the role of authorities in processes of social change. Unlike the confidence in and respect for the role of the state, which is characteristic of traditional development perspectives, more recent perspectives advocate a rather reserved attitude toward authorities. Policies therefore should be built on more selective participation strategies of dissociation and association. The Kingdom of Thailand went through a period of political turmoil recently. So-called democratic rule had once again been replaced by military rule. We do not intend to analyze the most recent military coup of September 2006 and its immediate aftermath, which resulted in democratic elections in December and a return to democratic rule since. In this paper we focus on the period 1997-2006 in Thailand. Under so-called democratic rule and a liberal constitution, the right to communication as a fundamental right was guaranteed in principle. However, in practice it was a different story for the Thai media and the public at large.

Introduction

There is evolving in our time a global civic culture, a culture which contains further elements to be incorporated in a new global ethics. The idea of human rights, the principle of democratic legitimacy, public accountability, and the emerging ethos of evidence and proof are the prime candidates for consideration... Today, the idea of human rights, though still challenged by recalcitrant governments, is a firmly entrenched standard of political conduct and will have to be a corner-stone of any global ethics.
(Javier Pérez de Cuéllar, 1995, pp. 36-37)

Freedom of thought and expression is guaranteed and official censorship of newspapers, radio and television is prohibited except in times of war or unless laws are enacted to preserve national security, individual privacy, maintaining public order or good public morals.
(Article 39 of the *Constitution of the Kingdom of Thailand*, 1997)

 "A blow to Thai democracy. The mob has beaten the ballot box in South-East Asia." With these opening words, the editorialist of the UK-based weekly *The Economist* (8 April 2006, p. 13) clearly expressed displeasure at the way the 2006 electoral events in Thailand led to the stepping down of Mr. Thaksin Shinawatra as Prime Minister. *The Economist* made it clear that "In Thailand, while Mr. Thaksin is undoubtedly a disease in the body politic, the cure that has just been applied is worse than the illness itself" (Ibid). In other words, for *The Economist* the current electoral system has to be preserved and accepted as the only legal option for a democracy.

Another international newsmagazine, US-based *Newsweek* (3 April 2006, pp. 20-21) arrived at a slightly different conclusion: "A 'Fragile Foundation'. Massive anti-Thaksin

street protests underscore a growing disillusionment with democracy in Asia". Newsweek correspondents George Wehrfritz and Joe Cochrane called it '*democracy fatigue'*: "The disillusionment has grown because the social improvements people dreamed of when first casting their votes haven't materialized" (*Newsweek*, 2006, p. 20). In other words, not the democratic system at large is at stake but the dissatisfaction with the proper functioning of the current democratic system. By refusing to cast their vote, the majority of the Thai urban middle classes indicated that the system of vote buying and corruption was no longer their preferred procedure to democratic rule.

Thailand was once recognized as the country with the *most liberal media system in South East Asia*. Thailand has also been boasting about its constitution as being one of the *37* (Chongkittavorn, 2000). In general, under a democratic system, media are expected to serve as the political watchdogs, and therefore media claim to have the right to free speech. In reality, despite media freedom, media also faces legal limitations. In Thailand, for instance, under the concept of "Lèse Majesté", the media cannot cover news about the royal family in a disrespectful or critical way. However, in general and in a comparative way, it is fair to say that the Thai media and people enjoyed a high degree of freedom. Unfortunately, over the past 10 to 15 years media freedom has sunken again to the lowest level since the time that Thailand had freed itself from military regimes. It seems that the combined effect of both political and economical interventions has led to this *deterioration of media freedom in Thailand.*

The Report of the *World Commission on Culture and Development*, chaired by Javier Pérez de Cuéllar (1995), starts from the so-called third generation of human rights, or solidarity or *collective rights.* In general, solidarity rights pertain primarily to certain collective concerns, such as peace, development, ecological balance, democracy, culture and communication (for more details, see Barendt, 2005; Berting, 1990; Galtung, 1994; Linden, 1887, and Servaes, 1996a). In a development context it contends that development divorced from its human or cultural context is growth without a soul. According to de Cuellar the basic principle should be "the fostering of respect for all cultures whose values are tolerant of others. Respect goes beyond tolerance and implies a

positive attitude to other people and a rejoicing in their culture. Social peace is necessary for human development: in turn it requires that differences between cultures be regarded not as something alien and unacceptable or hateful, but as experiments in ways of living together that contain valuable lessons and information for all" (De Cuéllar, 1995, p. 25). This perspective could be applied to both external (inter-cultural) and internal (intra-cultural) communication.

However, more is at stake here than attitudes. It is also a question of *power*. Policymakers cannot legislate respect, nor can they coerce people to behave respectfully. But they can enshrine cultural freedom as one of the pillars on which the state is founded. *Cultural freedom* is rather special. It differs from other forms of freedom in a number of ways. First, most freedoms refer to the individual. Cultural freedom, in contrast, is a *collective freedom*. It is the condition for individual freedom to flourish. Second, cultural freedom, properly interpreted, is a guarantee for freedom as a whole. It protects not only the collectivity but also the rights of every individual within it. Thirdly, cultural freedom, by protecting alternative ways of living, encourages creativity, experimentation and diversity, the very essentials of *human development*. Finally, freedom is central to culture, and in particular the freedom to decide what we have reason to value, and what lives we have reason to seek: "One of the most basic needs is to be left free to define our own basic needs" (De Cuéllar, 1995, p. 26).

In this article we will try to assess the consequences and constraints of such a cultural freedom for communication in a global as well as Thai perspective. After a more theoretical excursion on the links between communication rights and human rights, we would like to position the above presented difference in interpreting democratic principles and procedures in a Thai context. We intend to explain some characteristics and constraints of the Thai political and media system in the broader context of communication rights. We do not intend to analyze the latest military coup of September 2006 and its aftermath, nor the elections of December 2007 in this article. Instead we will focus on the period 1997-2006 in Thailand. Under so-called democratic rule and a liberal constitution, the right to communication as a fundamental right was guaranteed in

principle. However, in practice it was a different story for the Thai media and the public at large.

Communication Rights

In the domain of the freedom of expression and the freedom of press, one can observe a double evolution over the past sixty years. Whereas originally the *active right* of the so-called *sender-communicator* to supply information without externally imposed restrictions was emphasized; nowadays the *passive* as well as active right of the *receiver* to be informed and to inform gets more attention (Jorgensen, 1981). Therefore the principle of the *right to communicate* was introduced as it contains both the passive and active right of the receiver to inform and be informed. This principle first appeared in 1969 in an article by Jean d'Arcy, the then director of the UN information bureau in New York. D'Arcy wrote that "the time will come when the *Universal Declaration of Human Rights* will have to encompass a more extensive right than man's right to inform, first laid down twenty-one years ago in Article 19. This is the right of man to communicate" (1969, p. 14). Only in 1974, this principle made its entrance at a more global political level, when it got introduced in the UNESCO discourse. Both *individual and social rights and duties* have since been included in this right to communicate. This right has, in our opinion, become basic for the future search for a public or participatory oriented view on communication and democracy issues.

At the same time, another and related shift took place in the discussions on communication rights and responsibilities; that is, from the so-called maintenance duty of the government towards the media to the emphasis on the government's duty to take care of and to create the conditions and infrastructure in which the freedom of communication can be realized and stimulated as a fundamental social right. These rights embody the duty of the state and all social organizations to place people's collective interests before national and individual interests. At the same time, there is the related recognition that individual rights under international law are linked with the notion that individuals have duties and obligations (Hamelink, 1994*b*, 2004).

Robert White aptly summarizes this perspective in the following six points:

(a) The communications media should serve the interests of all the public, not just the interests of the economically and politically powerful, whether the powerful be individuals, corporations or countries; (b) communication is not a process of handing down in didactic fashion the knowledge of an elite, but rather a fostering of horizontal interchange and a mutual fashioning of culture among equals; (c) more decentralized communication systems are needed, allowing broader access to, participation in and use of these systems; (d) communication is a human right and communication systems should allow greater participation in their creation and administration; (e) if the right to communication is basic, then education to use this right should be an integral part of all education; (f) the authoritarian models of communication need to be questioned and radically reformulated.
(1985, pp. 53-54)

In line with this perspective, in 1994 a provisional version of the People's Communication Charter was proposed (see Hamelink, 1994*a*). Also the statements adopted by organizations such as the World Communication for Christian Communication (WACC), the so-called MacBride Roundtables, the Platform for Co-operation on Communication and Democratization, and the Communication Rights for the Information Society (CRIS) campaign during the World Summit on the Information Society (WSIS, 2003-2005) accept the same principles.

Communication Freedoms in Cultural Settings

One of the consequences of the right to communicate is its grounding in a particular cultural setting. If we ever will be able to arrive at principles which not only 'claim' but may also entail a 'universal appeal and validity', a more *culturalist-anthropological understanding* of communication principles is of crucial importance. For instance, in Asia, a number of values and norms, which the West considers very important, like

equality of men and women, or democracy, are considered less important in reality. Other values, like respect for the elderly or loyalty to the group, on the other hand, are in the East considered much more important than in the West (Hofstede & Hofstede, 2005; Hsiung, 1985; Servaes, 2005).

In most cultures, there is a difference between the rules of the written and unwritten culture. While many (non-Western) governments, in their official declarations and documents, underwrite the Universal Declarations issued by the United Nations, which for a number of historical reasons are mainly based on Western ideas and first or second generation rights, in reality they don't pay much attention to their implementation. This is often due to reasons which have to do with power and culture (Goldfarb, 1982). For international agreements and declarations also the *non-binding nature* of many of these agreements is a crucial factor. Take, for instance, the discussion on the freedom of expression.

According to Article 19 of the *United Nations' Universal Declaration of Human Rights*, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers." This right of freedom of opinion and expression is often only partially achievable; not only in developing but even in developed countries. Section 39 of the *Constitution of the Kingdom of Thailand* stipulates a similar content: "An individual has the freedom to express his viewpoints through speech, writing, publishing, advertising and other means of communications." Given that Thailand again has a so-called democratic rule, such freedoms are among those Thai should be able to enjoy equally. However, in practice, as we will argue it is a different story for the Thai media and the public at large.

Policy Options

The principle of *free flow of information* can be considered the communication policy application of the modernization paradigm (for an elaboration on development

paragraphs, see Servaes, 1989a, 1999, 2003; for a more detailed discussion of the so-called normative media theories, see Servaes, 1989b, Smith, 1981, Nordenstreng, 1997; for models of democracy, see Held, 1987, 1993, 1995). After a fascistic and authoritarian period of war, it took little effort in 1945 for the Free West, led by the United States, to have this principle accepted as a universal value within the United Nations. This principle of freedom was initially interpreted in a rather individualistic and liberal manner and formed the basis of the so-called *free-press theory* that still determines the international communication policy of many Western governments and communication transnationals, as well as of the Third World elites oriented to the West. It took considerable time before this extreme liberal vision would be complemented with a more social explanation particularly in the so-called *social responsibility* or *social-liberal theory.* The major difference between the free-press and social-responsibility theory is related to the question whether the freedom of information principle can or should only be guaranteed by private competition, or also by public authorities and institutionalized groups of media workers and media consumers. In everyday life one observes that publishers and media owners, both in western and southern countries, advocate extreme liberal interpretations of the above principle. Governments, on the other hand, tend to take more ambivalent and varied positions, which are more in line with the latter interpretations of the free flow principle.

With the development of the dependency viewpoint, this free and unhindered flow of information, grafted into the free-flow doctrine, was challenged. From the Third World arguments were put forth for a *free and balanced flow of information*, a principle that was backed particularly in the seventies by the Non-Aligned Nations in the debate on the New International Information Order. At the same time, it was contended that this free and balanced flow could be better guaranteed and organized by governments than by private enterprises. These viewpoints are explicitly formulated in the so-called *development media theory*, and are also implicitly there in the *social-authoritarian and social-centralistic philosophies.*

This position was strongly contested by the defenders of a free press, who charged that it

could lead to governmental censure and curbs on the press. And, indeed, in reality this did often appear to be the case. In Latin America, the mother continent of the dependency paradigm, the process of capitalistic state intervention brought authoritarian, generally military governments into power that tried to centralize the decision making and opinion formation. These governments controlled the production and distribution of communication and used the media for their own legitimation purposes. Participation and politicization of the population was countered with every possible means (Motta, 1984). Since, the situation may have improved in most of Latin America, but still prevails in other parts of the world. These countries have a *contradictory communication policy*. Abroad, they support a free and balanced flow of information, while they do as much as they can to keep communication under control within their own borders. The same applies for many other, also Western nations. The United States government, for example, supports free export of American communication products, but tries to stop the import of such products from abroad as much as possible by protectionist measures. Even Ithiel de Sola Pool (1983), one of the fierce propagandists of the free flow principles, had to admit that "in rhetoric, the United States government favors diversity of voices and seeks to break up communications monopolies. The reality, however, is more ambiguous" (p. 241).

In general, the governments of these countries hold rather contradictory views with regard to *external versus internal* communication policy principles. They support the demands for an expansion of the free and balanced flow between and among countries, but not within the borders of their individual nations. Therefore, the policy options of the above two paradigms – modernization versus dependency – have one fundamental trait in common: they are *elitist* in the sense that they only want to increase the power of their respective elites and certainly do not strive to achieve universal social development and cultural freedom in a global perspective. While the modernization paradigm legitimates the interests of Western political and economic interest groups and their 'bridgeheads' in the South, the dependency theory meets the economic and political needs of those Third World elites who want to play an autonomous role. While the first group thus strives for international integration, the second group wants to turn back the international

dependency relationship by means of a radical and dissociative policy. In both cases, however, little is done to alter the internal power relationships and dependency structures.

The Right to Communicate and the Obstacles to Participation

The right to communication as a fundamental human right clearly indicates that another communication model necessitates *participatory democratization* and thus a *redistribution of power* on all levels. The point of departure is not an elitist position, but development from the *grass-roots or bottom-up.* The so-called MacBride Report therefore suggests that the right to communicate "promises to advance the democratization of communication on all levels – international, national, local, individual" (MacBride, 1980:171; see also Fisher, 1982, 1983). Fundamental here is the other vision of the role of the authorities in processes of social change. Unlike the confidence in and respect for the role of the state, which is characteristic of the modernization and dependency paradigms, the third *multiplicity paradigm* (see Servaes, 1999, 2003) has a rather reserved attitude toward the authorities. Policies therefore should be built on more selective participation strategies of dissociation and association.

Though the right to communicate is widely shared theoretically, it is difficult to promote in practice. As most scholars admit, genuine participatory communication in the Freirean (1983, 1994) sense hardly exists, except, in a very limited way, in a number of small localized experiments (Berrigan, 1977, 1979; Lewis, 1993). In translating broad policies to specific practices, obstacles arise. The inherency of conflict, and the propensity to avoid it, is but one example of barriers to participation. Another is that participative endeavors are not in the interest of those seeking high visibility. Their demands for detailed, up-front planning, coupled with rigorous adherence to fast-paced implementation schedules and pre-planned specifications ensures that the real decisions will remain with professional technicians and government bureaucrats. In other words, when participatory efforts are implemented they are complicated by real world realities and sharp political conflicts.

Authentic participation directly addresses *power and its distribution in society*. It touches the very core of power relationships. Just as the multiplicity paradigm argues for structural change, it also asserts that the route to individual and social development is seen as precisely as being the route to increased participation. Development and participation are inextricably linked. Participation involves the more equitable sharing of both political and economic power, which often decreases the advantage of certain groups. Therefore, Bordenave observes that "the major resistance to participation is most often not such overt, cataclysmic actions. Rather, the main obstacle is the much less visible, yet insidious and continuous reluctance to organizational change" (1994, p. 8).

Governments have historically been timid toward direct or *participatory democracy*. In framing the US constitution, for instance, many of America's founders feared the political influence of undereducated people, and participation was therefore deliberately restricted through the establishment of a representative system and an electoral college, in order to establish government by those thought best able to contribute. This representative democracy is not to be confused with direct democracy or popular participation, which more directly realizes the conditions of self-management and participation in decision-making by all those affected by it (Held, 1987, 1993). The premise here is that control over and action should rest with the people who will bear the major force of its consequences, not with their mouthpieces, nor their representatives. Granting this direct participation is often not feasible, efficient or, at broader levels, even possible, logistical constraints are not foremost among reasons political and cultural structures do not include a more direct mode of participation. Change may be resisted even in institutions which publicly acknowledge the need for alternative communication and take pride in their progressive stance.

Structural change alone will accomplish little. As it is not enough to provide participation in the system, even if this can be made less formal and more substantial; the aim should be to create a more just society. Participation is necessary but not sufficient for this to happen. The "chicken and egg" paradox is that, while existing structures are a substantial impediment to participatory processes, valid, applicable restructuring can occur only

through some degree of *authentic participation*. Therefore, unless policy making and the social process are themselves participatory, it is unlikely that the result will be a democratic pattern of communication.

The Thai Cultural Roots: The "Sakdina" System

We would now like to turn our attention to Thailand and analyse how the above more theoretical observations are visible in the current-day Thai context. Excess governmental control of the media, lack of transparency in the political system, and abuse of power of the media by politicians, either through governmental or non-governmental means, can be identified as causes of the current political instability. The Thai media do play a major role in all of this. However, before going into details, we also need to understand the specificity of the Thai cultural and political system.

Historically the Thai societal structure is rooted in the so-called *Sakdina* system. (*Sak* means status or power and <u>*na*</u> means land or rice field. Sakdina could therefore be translated as "land status" or "status shown by land".) The major difference between the Sakdina system and the European feudal system is its dependence on the king and the changeability of status. Status was not possible unless one had royal blood. The king or *Chao Paendin* (the lord of the land) was perceived as infallible, semi-divine, and all-powerful. He was the only land owner. He distributed the right to use land according to the Sakdina status which depended in turn on an individual's relationship to blood or by service to the king. The closeness of that relationship had to be ranked with great precision because the Sakdina status determined an individual's rights, wealth, political power, and responsibilities to the state as well as his/her relationship to the rest of society. According to Somsamai Srisootarapan (pseudonym for Jit Pumisak, a famous artist and critical scholar who was killed by the police in 1966) the major characteristics of the Sakdina system are: (1) The king was the owner of all land, with absolute power over land and people; (2) The people did not have the right to own land. They had to rent the land and pay back with produce at high rates; (3) There was an exploitive relationship between landlord and serf; and (4) The king's officials were given land, horses, buffaloes

and men so they could exploit common men for personal and royal benefits (Srisootarapan, 1976, p. 91-92).

The introduction of capitalist modes of production has not fundamentally altered this Sakdina system (Keyes, 1989; Baker C. & Baker, 2003; Phongpaichit P. & Baker C., 1996). *The Sakdina system modernized materially without changing its psychological dependence on the old traditions of power*. Therefore, Yuangrat Wedel argues that "the monetization of the economy eventually forced the old system of land control to become one of private ownership. Land changed from the means of subsistence to just another commodity that could be sold. This change and the failure of the Thai peasant to understand it, at least initially, worked to concentrate land in hands of many fewer people. This created problems of land ownership that persist today" (1987, p. 23). The *monetization of the economy* also increased the power of at least a portion of the noble class who could siphon off profits from their political control over the capitalist class and who were clever enough to convert their ancestral control of land in the king's name to actual ownership. The natural alliance of the Chinese capitalists and old aristocratic families began to be expressed in convenient marriages that joined economic and political power (Charoensin-o-larn, 1988). Therefore, "the transition from a feudalistic to a capitalistic society leaned on rather than destroyed the conservative force ... (and) the formation of a public consciousness through State or military-owned mass media has also brought another form of feudalistic thought" (Lertvicha, 1987, p. 59).

Public life is organized on the basis of friendship circles with an influential leader on the top, that is the so-called *patronage system* (Chaloemtiarana, 1983). The Thai do not follow political programmes or abstract ideas but follow leaders and charismatic figures on the basis of the 'right or wrong, my group'-principle. The majority of the military coups and political fractions can be explained through this perspective. John Girling (1984), who applied the Gramscian hegemony principle to the Thai society, came to the conclusion that the production basis is integrated in and determined by the culture-ideological superstructure of the civil society: "The result, in Thai terms, is the 'bureaucratic policy', or what Gramsci calls 'transformism': a ruling class that grows

ever more extensive by absorbing elements from other social groups who then operate within the established framework" (Girling, 1984, p. 445). He concluded that in these circumstances there is *little chance for social change*. From a culturalistic perspective this view is confirmed by Niels Mulder (1985, 2000) or Amunam Rajadhon: "The social system, habits and customs as seen in modern times are superficial modifications of the fundamentals and in a comparative degree only" (1968, p. 29).

The Thai Value System

Generally speaking, the Thai social system is essentially a society where 'self-centeredness' and interpersonal relationships are of utmost importance. Even though the Thai self-image is often described as individualistic, we prefer to term it *a weak rather than a strong personality*. This is also the opinion of Hans ten Brummelhuis (1984): "The individual's preoccupation is not so much with self-realization and autonomy as with the adaptation to the social or cosmological environment. If a notion of Thai individualism is to have any specific meaning it is in designating that particular mode of retreat, avoidance and distrust, which colours so many forms of behaviour and social relationships" (Brummelhuis,1984, pp. 44-45). Seksan Prasertkul is more critical: "Our national traits, which I think are very strong, are: firstly, Thais do not like serious matters; they like to crack jokes and talk about sensational matters, especially dirty 'under the belt'-matters. Secondly, they are egotist. They use group benefits to be their norms. If matters are not relevant to their own lives, they will not take them into account" (1989, p. 64).

Suntaree Komin (1988, 1991), in her Thai Value Study, identified nine value clusters according to their significant positions in the Thai value system, namely, (1) ego-orientation (which is the root value underlying various other key values, such as 'face-saving', '*kreng-jai*', etc.), (2) grateful relationship orientation ('*bun-khun*', reciprocity of kindness, '*ka-tan-yu*'), (3) social smoothing relationship orientation (caring, pleasant, polite), (4) flexibility and adjustment orientation (situation-orientedness), (5) religio-psychical orientation (*karma*, superstition), (6) education and competence orientation

(form is more important than substance), (7) interdependence orientation (peaceful co-existence of ethnic, religious, etc. groups), (8) achievement-task orientation (achievement is the least important value among Thai, it connotes social rather than task achievement), and (9) fun-pleasure orientation (fun loving is both a means and an end in itself). "These are the major value orientations registered in the cognitive world of the Thai, and serve as criteria for guiding behaviour, or as the blueprint that helps to make decisions at the behavioural levels" (Komin, 1988, p. 172). She argues that these value orientations have to be taken into consideration in any development perspective as they often prove to be 'stumbling blocks' to social change.

Special Characteristics of the Thai Media

There are several characteristics which make the Thai media different from most other media in the world (McCarco, 2000; Servaes, 1999, Seypratub, 1995, Siriyuvasak, 2002). First and foremost, *media ownership* determines the way the media operate. In Thailand one can distinguish between state-owned and private media (Article 19).

Secondly, the above nine *value clusters* obviously also affect the organization and reporting of the Thai media. Therefore, in general, Thai media are not really interested in hard core news. They rather tend to focus on human interest stories and sensational issues. This is to support the modern sakdina (elite, middle class and the rural) system and superstitious beliefs. A third characteristic is that the Thai media are usually preoccupied with gathering quotes from important people of the political world. Instead of reporting properly and putting quotes into context, the Thai media see the collections of opinions as an equivalent to news. The fourth characteristic is that publications on politics in Thailand always maintain a strict distinction between news and comment. News in this place would refer to the opinions of important figures outside the media organisations, or most likely important political figures. On the other hand, examples of comment would be editorials and columns of political columnists, who are usually senior figures in media organisations. The problem with this pattern is that the analysis of those senior columnists often consists of personal opinions, as well as their writing is often meant to demonstrate their knowledge of the field. Thus, what is lacking is an effort to

inform and explain the political circumstances to the general public, which usually needs concise and understandable information put in the proper context. Currently, people only consume the media, but they do not get to digest them effectively (McCarco, 2000, p. 45).

Furthermore, the views of the columnists are usually subjective, as they tend to develop *mutual beneficial relationships* with the politicians. Sometimes owners also play important roles as they also develop such relationships with politicians. Owners tend to encourage their journalists to support the political parties or politicians they have affiliations with. The result is that political journalism in Thailand is totally based on relationships and affiliation. Therefore, based on the 'right or wrong, my group' principle, journalists may take sides with politicians, only if they are inspired by the same ideology (Lertrattanavisut, 2004, pp. 212-3). Fifthly, *political information* (both data and comments) cannot be easily obtained in Thailand. What are required for political newsgathering are not good research or investigative skills, but rather good connections and networking. Those who wish to acquire the exclusivity of the political news stories must develop special relationships with the news sources. Unfortunately, forming such relationships often means abolishing one's journalistic integrity. Therefore it is hard for the Thai media not to be biased when it comes to political news reporting (McCarco, 2000, pp. 45-6; Lertrattanavisut, 2004, pp. 212-3).Sixthly, most of the national newspapers are *Bangkok-based* and therefore focused on Bangkok. They usually do not have their own journalists in areas outside Bangkok. In addition, most political and economic activities are centralized around Bangkok (McCarco, 2000, p. 47). And finally, another characteristic is that advertising revenue is the main source of income for most media outlets in Thailand, with the exception of the State-run Channel-11, which operates under the Public Relations Department (Article 19).

Thai Media Regulations

The first formal censorship regulation came under the *Newspaper Act of 1919*, which required that the censor clear all military news first and forbade all criticism of the

government bureaucracy. In practice, however, the censorship was mild. To expand the treason law, the government announced the *Press Law of 1927,* which directly instituted controls and indirectly tried to promote increased press responsibility. The direct controls were withholding publishing licenses to persons who had not been permanent residents of Thailand and revocation of licenses at any time for reasons of public security. The effort to promote responsibility came under the form of provision that all editors must have had nine years of formal education (Mitchell, 1971).

On December 10, 1932, Thailand saw its *first Constitution*, which granted everybody "full liberty of person, abode, property, speech, writing, publication, education, public meeting, association, or vocation", yet all these liberties were placed under statute laws. Thus, the Thai press did not get to enjoy absolute freedom. Then the *Press Act of 1934,* along with the Bureau of Censorship, formalized the censorship. One of the duties of the bureau was to certify a list of approved news sources (Mitchell, 1971).

Regarding *Defamation Laws*, Thai legislation contains provisions for defamation in two separate laws: The Thai Penal Code of 1956 for criminal defamation, and the Thai Civil and Commercial Code for civil defamation. In addition, Thailand also has the already mentioned 'Lèse Majesté'. The *1997 Constitution* re-emphasizes the law, and places the King above comment or criticism. Section 8 of the *Constitution* states that "the King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action."

The defamation provisions in the Thai *Civil and Commercial Code* (CCC) do not distinguish between libel and slander. Section 423 of the CCC states that "any person who, contrary to the truth, asserts or circulates as a fact that which is injurious to the reputation or credit of another, or his earnings or prosperity in any manner, shall compensate the injured party for any resulting damage." The court can also order additional measures to restore the injured party's reputation (Article 19).

In the new constitution of 1997, Chapter III, Section 39-40, the people's right to know and freedom of expression are guaranteed by a freedom of information law, officially known as the *Official Information Act* which became effective before the new Constitution (Kittisak Prokati, 2001). The *Act* guarantees access to public information for all citizens and sets a code of information practices for the processing of personal information by state agencies. Since it was enacted, the *Act* has been an important tool for the media as well as the citizens to gain access to government information. It has slowly forced ruling politicians and bureaucrats to be more transparent in their activities (http://www.ect.go.th/english/laws/constitutioneng.html#13).

The *Official Information Act* can be linked to Article (58) of the constitution that establishes citizens' '*right to know',* and Article (34) that ensures the '*right to privacy'* of the people. According to the law, all Thai citizens and foreigners residing in Thailand have all the rights to request the government to disclose all public information, except for information on national security. The Act applies to all public agencies in both the central and local governments. Agencies attached to the legislature, as well as the courts, are also subject to it. At the same time, the Act protects information as private matters. It came under the administration of two newly established bodies – the *Official Information Commission,* which oversees affairs concerning the Act, and the *Information Disclosure Tribunal,* which handles appeals regarding the Act from the public (Kittisak Prokati, 2001).

Under the 1997 *Constitution* the police are required to obtain a warrant before conducting a search. In practice however, the procedures for obtaining warrants under the *Criminal Procedure Code* are said to be outdated, and overly intrusive searches are not uncommon. In 2002 the Ministry of Justice introduced a bill to establish a Special Investigation Department (SID). Under the bill, the SID would be authorized to investigate any criminal case and could search people's homes without a warrant. They would also be authorized to conduct body searches if suspects refused to co-operate. In June 2002, a police committee issued a report opposing the proposal saying that it could infringe on individual human rights and could lead to inter-agency conflict (Kittisak Prokati, 2001).

Examples of Media-Political "Tensions" At Crucial Moments in Thailand's Recent History

Firstly, and during the crucial 1973-1976 period long-standing restrictions on press freedom were swept away, allowing journalists to critique the political order, national sovereignty, and economic independence. However, increasingly, the media had become a tool of power holders and interest groups, rather than an independent actor and commentator (McCarco, 2000, pp. 10-11). For instance, the Thai press as a whole was not consistently supportive of the *student movement.* The Thai press was internally divided. The electronic media, notably the army-controlled Free Radio Broadcasting Network, obviously sided with the military that sought to undermine the student movement.

On 5 October, 1976, *Dao Sayam* and the *Bangkok Post* published a controversial photograph of a show of mock-hanging of the Crown Prince. Many analysts believed that the photograph had been retouched by the rightists. The photograph let to the assault on Thammasat University in the morning of 6 October, and resulted in the so-called student massacre. Consequently, all newspapers were banned by the Thanin government, though over the next few days most were allowed to resume publication, beginning with the more moderate and conservative newspapers. Nevertheless, the government only permitted newspapers to reopen if they fired certain journalists and barred others from writing. The government also published its own model newspaper *Chao Phraya*, which was both a commercial and journalistic failure (Ibid).

The press was extremely dissatisfied with the Thanin government, which was not only authoritarian and unresponsive to public opinion, but also consistently hostile to press freedom. More than 20 newspapers were closed down during the government's one year in office and all of the journalists were forced to apply for work permits from the Ministry of Interior. Some columnists and newspaper owners were arrested in connection with the attempted coup of 26 March 1977. A second coup successfully removed Thanin

on 20 October 1977, permitting the more moderate Kriangsak administration and a gradual return to business for the Thai press (http://www.cabinet.thaigov.go.th/eng/pm_his.htm).

Secondly, and on 23 February 1991, a bloodless military coup led by the National Peace Keeping Council (NPKC) ousted Prime Minister Chatichai from power because of alleged massive and systemic corruption. The NPKC declared martial law, abrogated the constitution, restricted the press, and dissolved the cabinet (McCarco, 2000, p. 12). In March 1992, at a rally attended by 100,000 demonstrators, General Suchinda became Prime Minister amid continued unrest. Two months later, Major General Chamlong called for the resignation of Suchinda and an amendment to the constitution. Most of the press joined force with the protestors, determined to bring Suchinda down. The story that Chamlong pledged that he would fast to death, but gave the government a one-week grace period to amend the constitution to prohibit the appointment of an unelected prime minister, ran on newspapers every day during that period (McCarco, 2000, p. 13).

The roles of the newspapers during the May events represented the stances of individual interest groups. *The Nation*, *Phujadkarn* (The Manager), and *Naew Na* (Frontline) were the leading newspapers against Suchinda. The reason behind is that *Phujadkarn* was a close ally of Chatchai, while Naeo Na had good relations with the Palang Dhamma and New Aspiration parties, which were on the opposite side of the coup. The popular newspapers *Matichon* and *Thai Rath* had close links with the NPKC, while they also insisted that they were on the right side. The perception that the newspapers could not be trusted grew even more. *The Nation* was the only one that stood out as the leading anti-Suchinda newspaper, adopting a clear liberal stance largely on the basis of ideological and principled opposition, rather than personal connections. The stance was recognized by the International Committee to Protect Journalists, which presented the editor, Thepchai Yong, with an award in recognition of the newspaper's courageous and straightforward stand in reporting the May events. On 10 June, the national assembly approved the constitutional amendments, including the prohibition of unelected politicians from forming a cabinet. A general election on 13 September 1992 resulted in

Mr. Chuan Leekpai, leader of the winning Democratic Party, as Prime Minister (McCarco, 2000, pp.13-17).

A third example was in January 2002 where the police expelled reporters from the Hong Kong-based magazine *Far Eastern Economic Review* and banned the publication after it had printed a report hinting at a rift between Prime Minister Thaksin and King Bhumipol Adulyadej. The article in question was a one-paragraph item in the magazine's 'Intelligence' section that commented upon reported tensions between the Prime Minister's office and the Thai Royal Palace. Much of the information was based on a public speech given by King Bumibol Adulyadej on his birthday on December 5. The content of the speech, which was widely perceived to be critical of Thaksin, had already been reported in the Thai press.

Prime Minister Thaksin declared that action had to be taken not out of concern for his own reputation but because of that of the Monarchy (Article 19). The royal palace did not publicly complain about the article, and many observers believe the magazine's frequently harsh criticism of Thaksin motivated the action. The move sparked local and international outcry, and eventually the magazine issued an apology (Nelson, 2004, pp. 577-590). The government later backed down and allowed the journalists to remain in the country. *The Economist* magazine, meanwhile, avoided a formal ban by withholding an issue from Thailand in early March, after authorities announced they would review the contents. The issue carried an article analyzing the thorny relations between the palace and Prime Minister Thaksin (Vachiraluengchai, 2004, pp. 210-213).

In the aftermath of the incidents, the government also acted against the local press. Officials pulled the independent Nation Multimedia Group's news program from a government-owned radio station in March because a show included commentary criticizing the government's moves against the Far Eastern Economic Review correspondents. The Nation Multimedia Group later pulled all political commentary from its cable news channel, Nation TV, to protest what it called *government interference.* Just days later, *The Nation* newspaper, which is also owned by the Nation Multimedia Group,

reported that local bankers had received a letter from the government's Anti-Money Laundering Office (AMLO), a body created to investigate drug dealers and other criminals, requesting the financial records of journalists from The Nation and another critical daily, the *Thai Post.* The Administrative Court quickly issued an injunction calling the probe illegal and ordering the AMLO to suspend the investigations. At the same time, some 1,000 Thai journalists sent a petition to Parliament calling for legislators to defend press freedom.

Also in March, an executive of *Naew Na*, a Thai-language daily, told a Senate committee that Thaksin himself had asked the newspaper to drop the column of a staunch government critic Prasong Soonsiri. The newspaper refused, and the executive told the committee that, as a result, the publication had lost advertising revenue from several state-owned enterprises. The government frequently withholds advertising from critics and awards lucrative advertising contracts to favored media outlets (Lertrattanavisut, 2004, pp. 123-125).

How the Media Crisis Turned Into a Political Crisis

Tul Pinkaew explains the recent lawsuits that the media faced (in the Bangkok Post on Friday, March 24, 2006): "Mr Thaksin yesterday authorized lawyer Chatri Tharipapassaro to file a complaint with Crime Suppression Division commander Pol Maj-Gen Winai Thongsong against the Manager Daily, Krungthep Thurakij, Post Today and Thai Post newspapers and four PAD leaders – Sondhi Limthongkul, Pibhop Dhongchai, Somsak Kosaisuk and Somkiart Pongpaiboon.after his family sold Shin Corp to Temasek Holdings." In the complaint, Mr Thaksin accused the four PAD leaders of libeling him as someone who sold out the nation's assets.

Boonlert Changyai, one of the leading columnists, in *Matichon Daily* on July 20, 2006, ridiculed the caretaker Prime Minister when he stated he did not read newspapers but he sued many newspapers on charges of defamatory (www.matichon.co.th). Media also face limitations. In Thailand, under the concept of 'Lèse Majesté', the media cannot cover

news about the royal family in a disrespectful or critical way. The concept of 'Lèse Majesté' was also used to accuse journalists and intellectuals who dared criticize the current administration in many lawsuits. At the same time it is also used by the anti-government groups to accuse the caretaker Premier.

The Media under Mr. Thaksin Shinawatra

Initially in 1997 the *Thai Rak Thai* (TRT) party was welcomed as a popular alternative to the traditional parties. It "was the first political party in Thai history to be drafted by the people and the first party to declare from its inception an official platform, a political agenda and a formal list of candidates" (Taveesin & Brown, 2006, pp. 61-62). However, the TRT party soon revealed its true colours. The financial backers was a group of economic powers with close ties to Mr. Thaksin and his family: the Shin Corporation, the Shinawatra Group, the TT&T telecommunications Group, BEC-TERO Entertainment (the producer of Channel 3), Sony Music BMG, Thaiticketmaster.com, Virgin, and Radio Thailand. The Telecom Asia (TA) Company, which has become True Corporation since, is a subsidiary of the CP Group. Apart from telecommunication interests, TA also had a joint venture with the Mass Communication Organisation of Thailand through UBC cable TV. Furthermore, there are also the Thai Charoen Commercial Group and Quality Products Co., and the Summit Autopart Group (Siriyuvasak, 2004). The new 1997 Constitution expects politicians to declare their bank accounts and asset holdings. Politicians are not permitted to possess more than 5% of the share in a company. It appeared that Thaksin's domestic servants held shares worth one million Bahts in his companies, but no money actually changed hands through share transfers. It was believed that he transferred the shares to people close to him so that it would appear to the law that he had no legal rights in the shares anymore while he still could exert his power over the shares (Siriyuvasak, 2004).

In February 2001 the TRT party won 50% of the seats in Parliament and Thaksin Shinawatra became Prime Minister. The TRT's success was repeated with a landslide election victory (61% of the votes) in the general elections of 2005. With the popular

support and the backing of the biggest business powers of Thailand, Thaksin could directly and indirectly influence the media. While the constitution and the freedom of information law protect the people's right to know, the situation of media freedom in Thailand has been in doubt ever since the start of the Thaksin administration. Instead of using the law to protect the right to speak, it has been used to shut up the media. It has succeeded in *silencing media*, which were once seen as the most outspoken in South East Asia. Unlike the direct intimidation from military regimes of the past, Thaksin suppressed the Thai media by applying sometimes overt but most *often indirect financial, legal or political pressures*. Several cases have been documented by Ubonrat Siriyuvasak (2004), Thaniya Pinprayong (2006), Sopit Wangvivatana (2005), the Thai newsmedia, and on websites of the Thai Journalist Association, the Media Channel, Reporters Sans Frontieres, the Southeast Asian Press Alliance, and the World Association for Christian Communication. The list is long: the Far Eastern Economic Review (see above), the acquisition and re-programming of iTV, the Bird Flu cover-up case, the removal of TV and Radio programs on Channel 11 and Channel 9, and Sondhi Limthongkul. Let us only briefly elaborate on the Shin Corp vs. Supinya Klangnarong case.

The Shin Corp vs. Supinya Klangnarong Case

This case is built on a 16 July 2003 *Thai Post* article in which Supinya Klangnarong, the Secretary General of the Campaign for Popular Media Reform (CPMR), an advocacy non-governmental organisation (NGO), expressed certain views on matters of high public interest about the relationship between Shin Corporation Public Company Limited and the Thai Prime Minister, Mr. Thaksin Shinawatra. In her article, she claimed that the election of Thaksin as Prime Minister "helped cement the business and political sectors," that the policies subsequently passed by the government have helped Shin Corp to grow and that, as Shin Corp grows, this will in turn strengthen the political power of the Thai Rak Thai party.

The Shin Corporation filed a law suit and demanded 400-million Baht in civil damages from Supinya and Thai Post (SEAPA). This case raises important questions about

freedom of expression and, in particular, the fundamental right of citizens and the press to express their opinions on matters of public concern. Supinya's lawyers argued that Supinya's statements were made in good faith and, more importantly, dealt with a question of public interest. Media advocates in Thailand and Southeast Asia warned that punishing the media advocate and the newspaper over the published comments would adversely affect free expression in Thailand, as it would dissuade citizens and members of the press from confronting their political leaders on issues of transparency, governance, and conflicts of interest.

The underlying facts were well-known and are not themselves doubtful. These are that Shin Corp is a telecommunications company that, among other things, operates a national communications business under concession agreements with the Thai government; that Thaksin was the founder of Shin Corp and that, since he became Prime Minister, his family members have remained its major shareholders; that the government has enacted policies and revenue-sharing changes relating to telecommunication concessions (including those operated by Shin Corp); and that, from the time Thaksin and his Thai Rak Thai party assumed political power from 2001 until 2003, when the article in question was published, Shin Corp experienced a rapid growth in its revenue, net profits and stock price. [Since, the Shinawatra family sold its 49% share in Shin Corp to Singapore's Temasek Holdings in early 2006 (Kazmin, 2006, p. 1)].

Therefore, the statement by Supinya invites the question whether the Thai standard on freedom of expression and defamation meets with international and leading comparative standards, which are relevant to the specific defamation issues raised in this case. The statement presents three specific arguments that are relevant to the facts of this case. First, it argues that the challenged statements are expressions of opinion, not assertions of facts. As such, they benefit from a high level of protection under international law. Because Supinya's opinions are honestly and reasonably held, the statement argues that they should not bring upon criminal defamation liability (Article 19).

Second, even if some of the challenged statements were considered to be assertions of fact, under international law and in some national jurisdictions, the defendants would not be subject to liability unless the plaintiff proved that those statements were false. Requiring a defendant to prove the truth of their challenged statements is inconsistent with international standards relating to defamation, as well as basic principles of criminal law, according to which defendants benefit from the presumption of innocence until proven guilty. Third, even if some of the challenged statements were considered to be assertions of fact, the statement notes that international and many national courts would still free the defendants of guilt as long as they made the statements having a good-faith belief in their accuracy (Article 19).

International and national courts, including those in countries in the region, have ruled out criminal liability for publication of even inaccurate statements on matters of public concern where the defendant honestly believed the statements to be true at the time they were made. A strict liability rule that does not allow for a defence of good faith will exert a threat on freedom of expression, undermining the public interest in free discussion of matters of public concern (Ibid). The statement also argued that these principles are, for the most part, consistent with Thai defamation law, which protects good-faith statements by way of fair comment on matters of public concern. The Human Rights Committee, for example, in a case involving a criminal defamation conviction, held to violate Article 19, emphasised the "paramount importance, in a democratic society, of the right to freedom of expression and of a free and uncensored press or other media." Moreover, given that it is the promotion of public debate on matters of public concern, which is the touchstone here, everyone who furthers such debate should receive the same enhanced protection, including advocates like Supinya (Ibid).

International bodies have repeatedly stressed the potential for abuse of these laws, in some cases calling for their repeal while in other cases simply holding them to be unjustified in the circumstances of a particular case. At a minimum, criminal defamation provisions – if they are to be retained at all – should be construed very narrowly and precisely, lest their employment lead to self-censorship by those who would speak and

write on matters of public concern. The *UN Human Rights Committee* has often commented on criminal defamation laws on the fundamental of Article 19 of UN's *Universal Declaration of Human Rights* which states that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." They call for the abolition where this has occurred, calling for "review and reform of laws relating to criminal defamation," and expressing serious concerns about the potential for abuse of criminal defamation laws, particularly where expression on matters of public concern is at stake. In an individual Communication, the Committee made it clear that criminal convictions for defamation tend to be disproportionate to any damage caused (Article 19).

Finally, on 16 March 2006 the Criminal Court ruled out criminal lawsuit against Supinya on the ground that her article was presented in good faith and in the public's best interest. The court also dismissed the case against Thai Post, which published the comments, saying the daily had reported them without alterations (Bangprapa and Charoenpa, 2006).

Threats for the Civil Society

The concept of *civil society* differs from one country to another, but NGOs are usually the most active groups in the civil society (Ekins, 1992). Also in Thailand, NGOs operate in the form of several nationwide networks focusing on issues such as environment, women, human rights, etc (Phongpaichit, 2002). In this regard NGOs are regarded as the 'third sector', different from the government and the private sector (Wheeler, 1997, p. 222). The retired history professor from Chiang Mai University, Nidhi Aeusrivonse (2004, pp. 18-22), distinguishes the organizations and institutions in the Thai Civil Society sector between the mass media ("the mass media are both an important source of information and a central arena of society in which political, economic, social and cultural opinions are built"), knowledge organizations (universities, research institutes, and organizations in certain vocational fields), and organizations in the people's sector. Though a fellow-traveller, Aeusrivonse remains rather pessimistic about the civil society's potential for

sustainable change, especially when it comes to the contributions from knowledge organizations: "As long as knowledge organizations do not produce new and relevant information, Thai civil society will remain weak. Participation must proceed without academic bargaining power, and it will be difficult for all parties to sit down to reasoned discussion. In many cases participation has led to violence because conflicting parties lacked information to back up their arguments" (2004, p. 21).

The coming to power of the Thai Rak Thai party marked a setback in the country's vibrant civil society. Most independent institutions, especially the media, have fallen into Thaksin's manipulative hands. Non-governmental organisations tried to organise alternative media in order to fill the void as political watchdog. The NGO sector as a whole has found itself struggling to maintain a political space with the emergence of this populist government that enjoys a firm grip on the legislative power. In response to civil society's criticism on several issues, especially its political policies, the government has mounted an attack on NGOs over their sources of funding by insinuating that they were serving a foreign agenda and lambasted their advocacy methods as violent (Daorueng, 2004, p. 410).

The major attack by the government was launched in October 2001, when the Anti-Money-Laundering Office (AMLO) wrote to banks requesting financial information on a group of individuals, 20 of whom were NGO workers from different parts of the country. When the request was leaked to the press, it quickly turned into a controversy and led to an internal investigation of two AMLO senior officials responsible for the request. The two later testified that the investigation on the NGO workers was launched after AMLO received an anonymous letter earlier in the month. The letter accused the NGO workers of receiving foreign funds to work against the interest of the country. AMLO, however, failed to reveal the result of its NGO probe. The case died down shortly after (www.ifex.org).

Mobilisation of the Thai People

The time bomb exploded when the government shut down the television program *Muang Thai Rai Supdah* (Weekly Thailand) run by the media tycoon, Sondhi Limthongkul, after he criticized Thaksin. Sondhi also owns the *Phujadkarn* (The Manager) newspaper. The closing down of the *Muang Thai Rai Supdah* (Weekly Thailand) program resulted in an open-aired program in the Lumbini Park in Bangkok. Thousands of people rallied demanding the resignation of Prime Minister Thaksin Shinawatra. The demonstration was the biggest since the political movement that led to the collapse of the Suchinda military regime in 1992. It also led to the formation of the People's Alliance for Democracy (PAD), which today is the main group of active demonstrators against Mr. Thaksin's administration.

The formation of PAD out of different intellectual and elite groups symbolizes the new concept of participatory democracy. Mr. Yudhaporn Isarachai (2006), a Political Science lecturer at Sukhothai Thammathirat Open University stated in Matichon Daily of 20 July 2006, that "the representative democracy cannot answer the society anymore because the claim of having to gain the majority votes is to justify the politician to enter the power circle." Sondhi was joined on the platform by former Bangkok governor Chamlong Srimuang, one of the key backers behind Thaksin's initial push for office in 2001. Chamlong warned of continuing protests if Thaksin failed to step down. Several ministers resigned from the government and quit Thaksin's Thai Rak Thai party. The defection of political powerbrokers such as Chamlong and Sondhi from the Thaksin camp was a clear sign that the Prime Minister's support in the country's ruling elite was declining. The decision by *Thaksin* to dissolve the national parliament and call a snap election for 2 April 2006 only intensified the political difficulties his government was confronting. The main parliamentary opposition parties announced a boycott of the poll, calling into question the legitimacy of any result (available online at: http://www.timesonline.co.uk/article/0,,25689-2118645,00.html).

Rights to Freedom of Speech Confiscated

In traditional liberal thought, the press has been advanced as public watchdog over the state. It occupies the *fourth estate* which is separate from the Crown, Parliament, and the Judiciary. Therefore, it may reveal authorities' abuses to maintain a mature democracy. It should be lightly regulated, subject only to libel and obscenity laws and the doctrine of taste and decency. Political rights allow individuals to participate in the diffusion of political power through exercising their franchise, while freedom of speech is the citizen's fundamental right to exercise their political rights. Mass media should secure the citizen's civil, political, and social rights. Within the boundary of liberal idea, media should act as the watchdog of society (Wheeler, 1997, p. 125). Within this conceptual frame, it is clear why the political situation in Thailand has turned into turmoil. Freedom of speech has been confiscated.

These rights indicate that the communication and information systems have two key responsibilities. At the production level, they should be able to utilize the possible diversity of provision and the mechanisms for expression. At the level of consumption, they should ensure universal access to services that can guarantee the exercise of citizenship regardless of income or area of residence. Therefore, the citizens' access to the centre of ideas has been understood to be an obligation of national governments. Such rights have been established through a variety of laws, policies and regulations (Ibid).

The media should facilitate citizenship through the provision of free and accurate information in three important ways. First, individuals must have *access* to knowledge and information that will allow them to pursue their rights. Second, they should be provided with the *broadest range and variety* of information, interpretation and debate over public and political choices. Third, citizens should be able to *utilize* communications facilities (Wheeler, 1997, p. 128). The Thai government has obstructed the Thai people from all these necessities that they need in order to exercise their rights. Through banning and official cover-ups, the Thai people have been ripped of their right to know. Besides, the government also has been able to generate a blockade of information by the removal of critically out-spoken journalists and political commentators.

Self-Regulation of the Media: For or Against the Thai People?

Liberals claim that if the press were regulated it would become a servant of the state. Moreover, its political liberty is guaranteed, as it has privately-owned media competing in a free market, which can ensure complete independence from the government. This argument has been justified for several reasons, among which consumer representation. The fourth estate is ensured by the market relationship between the press and its audience, and so the market enables its readers to register their preference as consumers of a product. Therefore, ideally, through their buying power, consumers, not the government, act as the controllers of press output (Wheeler, 1997, p.129).

Unfortunately, the privately owned media in Thailand do not operate in this ideal way. As these media rely largely on advertisement revenues; it is hard to keep them away from the external political and economic pressures. So far, it is still difficult to stop the nature of *corruption* in Thailand as journalists chose their careers and media increase income by censoring themselves, and for the most part they reliably transmit the message of the rulers to the people. They should realize that it is actually a greater loss for themselves and the citizens when they cannot exercise their political rights and be taken advantage of by the ruling elites.

The Role of the Media in Strengthening Democracy

The current political turmoil has divided Thai people roughly into two groups. The first group consists of the grass roots that are happy with Thaksin's populist policy and those advocating globalization and a total neo-liberalism. The second group consists of the suburban middle class and intellectuals who advocate the King's sufficient economy concept. (Likhitsomboon, 2006: 25). Each group claims to promote a more sufficient economy and civic and just society (Praves Wasi, 2003, p. 136). Since its inception in 1932 the Thai democracy has always been an oligarchy, governed by an ever-changing coalition of elites. In this sense, the Thaksin government is not different from past governments. Appointments of cronies and family members in important political and

bureaucratic posts attest to this statement. Therefore, no matter whether Thais opt for total liberalization or a sufficient economy or a mixture of both, the Thai democracy definition of a civic society will always remain different from a Western perspective.

Free media are important to every democratic society, especially in countries where political institutions operate freely. Media should be able to report and reflect popular discontent with the course of national policy or with the government of the moment, so that it can warn or identify the early signs of problems that demand solution if political stability is at risk (Ungar, 1990, p. 369). As in November 2003 during the bird-flu epidemic, many people believe that if the government would have chosen to inform and educate people through the mass media, the situation could have been better. Fearing that it would affect Thailand's economy – as frozen chicken is one of the main export products –, and that the image of the country might be damaged, the government preferred to cover-up instead.

By Way of Conclusion

Every democracy needs space for a public forum; free media can serve as the place to discuss controversial issues, as a mechanism for two-way communication between people and leaders. However, as the Thaksin government chastised the media that dared to report about the wrongdoings and secrecy of the administration, it has prevented democracy to function at its best. It is obvious that the more it controlled the media, the more corruption increased (Phongpaichit & Priryarangsan, 1994, p. 136). Free media may be more effective than an opposition party in pursuing democratic objectives (Ungar, 1990, p. 371). However, in the case of Thailand, as the mainstream media were silenced or not willing to perform their democratic role, the urban civil society moved in to safeguard the principles of Thai democracy.

Collective popular representation stood against secrecy, it questioned the government's performance, initially in a civic and restrained way. As the so-called free and mainstream media was not willing or capable of stabilizing the precarious balance between the state

rulers and the public, the urban civic society moved in. There is an urgent need for a global ethics, which starts from a global cultural perspective. Therefore, the Commission on Culture and Development (De Cuellar, 1995: 168) suggests that the following principal ideas should form the core of a new global ethics: (a) human rights and responsibilities; (b) democracy and the elements of civil society; (c) the protection of minorities; (d) commitment to peaceful conflict-resolution and fair negotiation; and (e) equity within and between generations. The report observes that many elements of a global ethics are now absent from governance. The challenge is to mobilize the energies of people everywhere in recognition of the new cultural and political challenges of today.

In sum, we would like to join the 387 academics, who signed an open letter to Mr. Thaksin Shinawatra on 7 March 2002 (originally published in *Thai Post*, 15 March 2002, p. 2, and reproduced in Nelson, 2004, pp. 587-589), and pleaded: "We thereby greatly hope that Your Excellency the Prime Minister will stop using power to threaten and reduce the mass media's and the people's rights and freedoms, and instead turn to sincerely and seriously bringing about stability of the democratic regime by promoting faith in rights and freedom of speech, expression of different opinions, and various forms of criticism, with an open mind".

Notes
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