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Access to Information in Southeast Asia and beyond

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Editorial Note

Among the most vital concerns in the world today – both in their own right and as a cornerstone of the efforts to build democracy on all continents – are the questions of access to information and the right to free expression. One of the characteristics of this area is the volatility of the situation and the speed with which it changes. After what in this issue is called a ‘Decade of Openness’, from 1991 to 2001, we are now experiencing, as a result of 11 September and the recent war in Iraq, a climate of constraint, uncertainty and, in some countries, new limitations and controls on information and communication. The conclusion to be drawn from the present situation is that continuous and even increased vigilance has to be devoted to securing and maintaining ‘the right to inform and be informed’, as it was formulated in the 1975 Dag Hammarskjöld Report *What Now: Another Development*.

No battleground for ‘the right to be informed’ is more lively and varied than Southeast Asia, and no other region offers more telling and dramatic examples of how the different interest groups involved are deploying their forces and strategising for the future. Recent years – despite several drawbacks – show that considerable progress has been made, mainly because of strong links between journalists and journalists’ associations in the different countries, united under a regional alliance and well-planned regional training programmes.

Two important organisations in this context are the Southeast Asian Press Alliance (SEAPA) and the Philippine Center for Investigative Journalism (PCIJ). SEAPA brings together journalist associations from the region as a force for advocacy and mutual protection. PCIJ on its part – well established in the Philippines for almost 15 years – is engaged in the debate on essential political and social problems in the country both by building up criteria and methodology for a sound reporting policy and by providing, through books and articles, examples of how a serious press institution may function.

Both the PCIJ and SEAPA were strongly involved in one of the major activities of this ongoing process of creating information ‘openness’, the 2002 conference on ‘Access to Information in Southeast Asia’, held at Hua Hin outside Bangkok on 4–6 March and organised in cooperation with the Dag Hammarskjöld Foundation. The conference brought together 39 journalists, NGO activists and academics, mainly from Southeast Asia but also from South and East Asia, Europe and Southern Africa. As is evident from its list of contents, this issue of *Development Dialogue* is exclusively devoted to material from the conference.

As readers of *Development Dialogue* may recollect, this was the second time the Dag Hammarskjöld Foundation and the Philippine Center for Investigative Journalism cooperated in the field of access to information. The first was at a seminar-workshop at Subic, the Philippines, in October 1998 when the topic was ‘Improving Access to Information in a Time of Crisis: The Challenge to the Southeast Asian Media’. The material from the latter seminar was published in *Development Dialogue* 1998:1 and 1998:2.

Those readers who have been with us for even longer may also recall that the broad theme of the present issue has been the focus of several earlier seminars organised by the Foundation and of succeeding volumes of the journal. In fact, it could certainly be argued that questions of information and communication have been one of the five or six most central themes developed in the history of the Foundation.

Let us refer here to just three early issues of the journal. The first has the heading 'Information and the New International Order' (1976:2) and the next carries the title 'Towards a New World Information and Communication Order' (1981:2). The latter contains some material from the former issue (which rapidly went out of print) but also carries additional material written for that particular issue. These two volumes provided an important basis for the animated debates on the New Information Order carried out in many international institutions in the late 1970s and through the 1980s. A third *Development Dialogue* issue (1989:2) carries material under the heading 'The Right to Inform and Be Informed: Another Development and the Media' and provided a starting point for the discussion of the role of the media in Southern Africa in a period of transition and inspired the setting-up of MISA, the Media Institute for Southern Africa. This material, as well as all other issues of *Development Dialogue*, is now available on the Foundation's website: www.dhf.uu.se.

Let us also in this context, but only in passing, refer to the fact that the first Freedom of the Press Act in the world was passed in Sweden in 1766. Part of this consisted of a list of official documents that should be available to the public. It is interesting to note – almost 250 years later – that one of the main reasons for passing the Act was that the mass of rules and regulations that limited activities in society was considered very unattractive to Swedish citizens and that a series of reforms relating to freer business and trade but also to rights in general were proposed and carried through to create a new political landscape and a more open society. The Freedom of Press Act survived, somewhat impaired, the royal rule between 1772 and 1809 and was re-established as part of the new Swedish Constitution in 1809. With only a few amendments, it is still in use to this day.

Finally, it is a great pleasure and, perhaps, a lucky coincidence to observe that the theme of the present issue gives a special significance to the fact that we celebrate with this issue the 30th anniversary of the publication of *Development Dialogue*. The first journal was produced in 1972. During all these years it has been edited, as a labour of love, by Sven Hamrell and Olle Nordberg and, also for the last few years, by Niclas Hällström, all members or former members of the permanent staff of the Foundation. It may have been delayed at times, but caught up, and has brought new and bold ideas and unexplored knowledge to a readership that has always been concerned about innovative and alternative aspects of development, i.e. 'Another Development'. We believe that it is important to continue to make room in the future for the kind of in-depth analysis and detailed propositions at the crossroads of research and policy-making that *Development Dialogue* has always striven to stand for.

Introduction

By Sheila S. Coronel

NOT TOO long ago, Southeast Asia was known as the land of tigers – affluent societies and robust economies that stood in stark contrast to the stagnation and misery marking so many other regions of the developing world. That image crumbled in 1997, when a financial crisis caused regional currencies and economies to crash. Almost overnight, Southeast Asia was transformed into the land of contagion, shunned by investors, bankers and stock market traders. Then, after a bomb blast killed over 100 tourists in paradisiacal Bali, Indonesia, in October 2002, a different image of Southeast Asia – this time as region of terror and lair of Islamic militants – emerged from the rubble.

The reality on the ground is of course far more complex. Southeast Asia is a diverse region of over 530 million people, representing multiple ethnic, linguistic and religious groups. It defies easy generalisation. The region is home to vigorous democracies and repressive authoritarian regimes, including Burma, which has one of the most despotic governments in the world.

While the focus, especially of the United States after the events of 11 September, has been on the contagion of terrorism in the region, the challenges that face Southeast Asia are multi-faceted, involving not just Islamic extremism, but also, among others, wide income gaps, uneven development, ethnic conflict and bad governance. The good news, however, is that Southeast Asia is one region where democracy has taken root and where citizens have asserted their right to be heard.

The Dag Hammarskjöld Foundation, in cooperation with the Philippine Center for Investigative Journalism (PCIJ), have explored one vital aspect of democratisation in Southeast Asia – access to information – since 1998, when they held a seminar-workshop, ‘Improving Access to Information in a Time of Crisis: The Challenge to the Southeast Asian Media’, in Subic, the Philippines. The seminar took place just months after the Thai baht hit record lows and set off a crisis that shook the region. It was also the year that Soeharto, the long-reigning Indonesian strongman, fell from power, as his government reeled from the impact of the crisis and the outrage on the streets.

The 1998 seminar examined the information landscape in Southeast Asia. It noted the opening up since the second half of the 1980s of information regimes in countries such as Thailand, Indonesia and the Philippines that had ousted authoritarian rulers. At the same time, more affluent countries such as Singapore and Malaysia had resisted liberalising information access even as they opened their economies to global financial flows. In

most of Indochina, neither economic nor information liberalisation took place, although there was some progress in Cambodia, which underwent transition to democracy and a market economy in 1995 supervised by the United Nations. Burma remains a category unto itself, as the military junta continues to tighten its grip on information and free expression. (The material emerging from the seminar was published in *Development Dialogue* 1998:1 and 1998:2.)

In March 2002, a second conference on access to information was jointly organised by the Foundation and the PCIJ in Hua Hin, Thailand. The three-day conference brought together 39 journalists, NGO activists and academics, mainly from Southeast Asia, but also from South and East Asia as well as Europe and Southern Africa.

The conference expanded on some of the themes taken up in the 1998 seminar, although it ventured beyond Southeast Asia and covered new ground, such as information disclosure by multilateral agencies and access to information in conflict areas. This issue of *Development Dialogue* features a selection of the papers presented in Hua Hin.

The conference opened with a global perspective on trends in access to information. As Thomas S. Blanton, executive director of the National Security Archives based in Washington DC, writes in his article in this volume, since the 1990s there has been remarkable progress in opening up information access in many countries. This was due in part to the collapse of socialism and the demise of dictatorships. In addition, new technology made the dissemination of information easier, less costly and less subject to restrictions. Today 45 countries have formal statutes guaranteeing access to government information; many others are considering such laws.

The conference surveyed the trends in openness in three regions: Southern Africa, East Asia and Southeast Asia. In Southern Africa, there is a growing appreciation of information as a tool for ensuring accountability and enriching democracy. South Africa has taken the lead, with the enactment of a liberal freedom-of-information law in 2001. Other countries have access laws, but these are more restrictive, and there is now a growing movement to standardise information laws in the region.

In East Asia, too, there has been progress. Japan enacted an information law in 2001. Hong Kong has an access code but it is restrictive, a combination of both British and Chinese secrecy. China is opening up as never before but the Communist Party still muzzles debate and dissension.

In contrast, Southeast Asia has far more transparent regimes. In the region's democracies, a free press and assertive citizens have prised open previously closed areas of public life. The assets of politicians, the cost of elections and the way in which public funds are being spent have been subjected to unprecedented scrutiny. Unfortunately, transparency does not always guarantee good government. Institutions have to do their work to ensure that laws are enforced and wrongdoers are brought to justice.

Thailand, as the article by Bangkok-based journalist Peter Eng shows, has made perhaps the most dramatic changes in information regimes in the region, although the information revolution in that country remains incomplete, as liberalisation is challenged by entrenched political and business elites.

The role of technology in opening up access is demonstrated by the Philippines. As Filipino TV journalist David Celdran writes, SMS (short messages system) in mobile phones played an important role in raising public awareness and mobilising crowds in the 2001 uprising that ousted corrupt Philippine President Joseph Estrada.

On the other hand, technology has not helped improve information access in Singapore, where the government has used information technology to extract information from its citizens. As Singaporean activist James Gomez writes, technology has merely facilitated state control, rather than liberalised citizen access.

Despite the global trend toward openness, however, many areas of public life remain opaque and unfriendly to scrutiny. Although they are much more open now than in the past and appreciate the need for transparency, multilateral organisations such as the World Bank, the International Monetary Fund, the World Trade Organization and the Asian Development Bank (ADB) are still wary about releasing information. The critics of these organisations say that they are undemocratic and secretive, that information is released to the public only after decisions are made, so what is eventually disclosed makes no impact on decision-making. World Bank and ADB representatives who were in Hua Hin, however, asserted that their organisations have undergone dramatic changes in recent years and have been opened up to the public as never before.

Some retrenchment in the trend toward openness has been apparent since the World Trade Center attack on 11 September. The US government has tightened the lid on some areas of information. Other countries are also

using terrorism as a cover to be less transparent. This is the case in Malaysia and Singapore, where secretive governments have taken advantage of the 'global war against terrorism' to clamp down further.

In the end, it can be said that the struggle for access to information is not over. Far from it. There has to be constant vigilance by citizens and the press. Other areas of public life have to be opened up if governments are to be held more accountable. Innovative ways of getting information – including undercover investigative work by an Indian website – were discussed. New technology – including the Internet and mobile phones, which are relatively free from restrictions in disseminating information – have helped open up access. But as the experience of Singapore shows, technology alone is not sufficient. Citizens have to fight their fear and assert their right to know what governments keep under wraps.

The role of civil society cannot be underestimated. In Thailand, NGOs, the media and academe have worked together to demand information on how public funds are being spent and to ensure that those guilty of malfeasance are punished. In Indonesia, NGOs have taken the lead in drafting an access-to-information law.

In India, the right-to-know movement was initiated by grassroots communities in Rajasthan, one of the country's poorest states, where poor people demanded information on how village funds were being spent. The inspiring story of the grassroots-based access to information movement in Rajasthan is told here by Aruna Roy and Nikhil Dey, activists who have lived in the area and been part of the movement's work.

To sum up, democracy, technology and civil society have helped pry open previously closed societies in Southeast Asia and elsewhere. Despite the restrictions imposed in the aftermath of 11 September, great strides have been made toward more open access. The barriers of secrecy are constantly being chipped away, even those in the once-closely guarded enclaves of international financial institutions.

The Openness Revolution

The Rise of a Global Movement for Freedom of Information

By Thomas S. Blanton

In this overview article Thomas S. Blanton, Executive Director of the National Security Archive at George Washington University, D.C., suggests that history will probably call the 10 years from the collapse of the Soviet Union to the destruction of the World Trade Center twin towers the 'Decade of Openness'. This is the period when social movements around the world used the opportunity to demand more open, democratic, responsive governments. During this decade, countries ranging from Japan to Bulgaria, Ireland to South Africa, and Thailand to the United Kingdom, enacted formal statutes guaranteeing their citizens' right of access to government information. Today, some 45 countries boast formal laws guaranteeing the right to information.

Thomas S. Blanton, a graduate of Harvard University, has been working at the National Security Archive since 1986. He is the author of White House E-Mail: The Top Secret Computer Messages the Reagan-Bush White House Tried to Destroy (1995) and several other books. The Archive has won high awards, among them the George Polk Award in 2000, when it was praised for 'piercing self-serving veils of government secrecy, guiding journalists in search for the truth and informing us all'.



Motivations for having freedom of information have been as varied as the circumstances in each country that has sought it. Often, the momentum towards openness has arisen from scandals, such as the corruption and graft endemic to local government in India, or Watergate and secret surveillance in the United States, or official 'entertainment' expenses and HIV contamination of the blood supply in Japan, or food poisoning in Ireland. Elsewhere, transitional governments seeking distance from, or political points against, their predecessors have agreed to open the earlier files, and been stuck with the precedent for their own files. Environmentalists, human rights advocates and anti-corruption crusaders have also been in the forefront in almost every country that has taken the freedom of information road.

Rarely has the initiative come from government, although the power relationships within governments usually make a crucial difference, as when a congress seeks to restrain executive power, or a reform-oriented executive tries to limit the permanent bureaucracy, or an ombudsperson exercises particular independence and authority.¹ Whatever the motivations, how-

ever, a spectre has been haunting bureaucracies around the world, forcing them to ease access to the wealth of data they have stashed away in cabinets and drawers, vaults and safes.

History will probably call the 10 years from the collapse of the Soviet Union to the collapse of the World Trade Center towers the Decade of Openness. George Soros – multinational money manager turned missionary for the open society – was the poster child for that decade. But at ground level, social movements around the world seized on the demise of communism and the decay of dictatorship to demand more open, democratic, responsive governments. And governments did respond. President Boris Yeltsin opened the Soviet archives, at least partially. President Bill Clinton declassified more US secrets than all his predecessors put together. Truth commissions on three continents exposed disappearances and genocide. Prosecutors hounded state terrorists and courts jailed generals. The Net and the Web subverted censorship and eroded authoritarianism.

Most strikingly of all, in the past decade, countries ranging from Japan to Bulgaria, Ireland to South Africa, and Thailand to Great Britain, enacted formal statutes guaranteeing their citizens' right of access to government information. Today, some 45 countries boast formal laws guaranteeing the right to information. And although complete implementation is a reality in only a few, the response from the public has been overwhelming. The total number of freedom-of-information requests filed with the federal government of the United States – one of the earlier 'Freedom of Information' (FOI) countries – exceed 2 million in 2001. In the week immediately after 2 April 2001, when Japan began to implement its FOI law, citizens there filed more than 4,000 requests.

The Decade of Openness

It can even be said that while 11 September ended the Decade of Openness, it perhaps did so only in the United States. Of course, even before 11 September, the Bush administration had opted for secrecy in several high-profile cases – for example, fighting off congressional requests for the names of private sector advisors on energy policy, and stalling release of documents from the Reagan era under the Presidential Records Act. But the terrorist attacks turned this tendency into a habit, sometimes justifiably (as in details of special operations in Afghanistan).

More reflexively, Bush officials have now granted former presidents' veto power over release of their respective administration's records, have ordered agencies to use the most restrictive and legalistic response pos-

sible to requests under the Freedom of Information Act (FOIA) and have denounced leaks even while mayors and local law enforcement authorities complain about the federal government's failure to share information. But this strategy is likely to fail, since even the career prosecutors and military judge advocate generals have protested against secret tribunals. The media are even reporting that a lack of openness may have played a role in the deaths of two postal workers who were not warned about the threat of anthrax.² Indeed, the openness of the US system will prove the most effective weapon against terrorism – empowering citizens, preventing stupid policies, holding more accountable the despots who are now partners in the war on terrorism, making US ends more congruent with its means.

Ironically, as the United States heightens secrecy, countries such as Romania, Mexico and Peru have passed new laws providing for freedom of information. Congresses and parliaments in India, Nigeria and Indonesia are debating draft freedom-of-information laws. Even the multilateral institutions now face freedom-of-information challenges from their member states (as in the European Union, with Sweden, Denmark and Finland criticising a culture of secrecy led by Germany and France) or from civil society (the World Bank is now fumbling with a largely rhetorical disclosure policy).³

The 11 September attacks have not changed either the pressure from below for more accountable government or the pressure from above from global authorities for more transparent markets. In the middle, empowered by both pressures, are the political and legal reformers with the strikingly relevant idea of freedom of information.

Take the poverty-stricken Indian state of Rajasthan. Six years ago, the Indian freedom-of-information movement began there, in 120-degree heat, when a mostly illiterate village held a public reading of government records. Activists led by a former top civil servant had used their connections in the bureaucracy to get a copy of the local government account books, covering all the money spent on the village that year, and were holding a first-ever public recitation. They had even invited someone from Delhi to come, a professor of public management who had filed some of the first legal actions for environmental information. The professor, envious of the local turbans and loose robes, roasted as the villagers looked around for some shade. There was no town hall, only mud huts, and finally the group sat down alongside three mud-brick walls of an unfinished structure, where, as the afternoon wore on, the walls would at least cast a shadow.

First came the muster roll, the list of names of those paid to work on the various road repair and building projects in the area. Everyone listened solemnly until about the fourth name, when chuckling broke out. The Delhi professor looked puzzled, until someone explained that the person named had died three years before; he would also learn later that other ‘dead souls’ littered the muster roll. Then the reader started on expenditures made: ‘Thirty thousand rupees [about USD 800] to repair the roof of the school.’ The villagers guffawed, and someone said, ‘This is the school building that we’re sitting in!’⁴

Today the state of Rajasthan has a formal freedom-of-information law, guaranteeing its citizens the right of access to state records – as have five other Indian states. The professor from Delhi, Shekhar Singh, co-founded the National People’s Campaign for the Right to Information, intended to combat corruption and strengthen civil rights. The Indian Congress is currently debating a national freedom of information law. India, however, is just the latest example of a phenomenon sweeping through the world, changing the entire governance paradigm for democracies – the international movement for freedom of information.⁵

Pioneer FOI countries

The first freedom-of-information law in the world actually predates both the American and French revolutions. In 1766, Sweden passed the Freedom of the Press Act, which legalised the publication of government documents and provided for public access to them. The reason was not the influence of Rousseau but *realpolitik*: the competition between political parties. Sweden enjoyed an extended period of parliamentary rule from 1718 to 1772, and the new majority party in 1766 wanted to see the documents that the previous government had kept secret. Today, these rights are built into the Swedish constitution as well as various statutes, and the level of routine openness in Swedish government is probably the highest in the world.⁶

Two hundred years after Sweden, the United States passed its Freedom of Information Act, and for very similar reasons. Even though 1966 was the height of President Johnson’s ‘Great Society’ legislation, the FOIA was based on 10 years of hearings in Congress that began with pressure from the Democrats’ legislative majority to open up the deliberations of the Republican executive branch under President Dwight Eisenhower in the 1950s. The US Act we know today, with broad coverage and narrow exemptions and powerful court review of government decisions to withhold information, is actually an amended version of the 1966 Act, passed in

1974 by the Democratic Congress over a veto by the Republican President Gerald Ford. And if there is one word to explain this strong statute, it is Watergate. Here, we see the dramatic and catalyst role of scandal in open government reforms.⁷

Today the FOIA in the US has become a model for reformers and ranks as the most heavily used access law in the world. In 1999, the last year for which complete data are available, the federal government received 1,965,919 FOIA requests from citizens, corporations and foreigners (the law is open to 'any person') and spent almost exactly one dollar per citizen (USD 286 million in total) to administer the law. In 2000, the total number of requests exceeded two million for the first time.

In 2001, FOIA requests made headlines across the United States as the data gathered from various state agencies told gripping stories. Data from the Food and Drug Administration, for example, showed dramatic disparities by county and region in the rate of doctors' prescriptions of Ritalin (taken by three million children in the United States). Those from the State Department revealed that the state's legal adviser considered Peru's policy of shooting down suspect drug planes to be illegal. Data from the Drug Enforcement Administration called into question 280 drug convictions that used a crooked professional informant, while those from the Department of Energy exposed the contamination of more than 100 federal plants, private factories and colleges with recycled uranium that contained deadly plutonium.⁸

A handful of other countries adopted access laws before the end of the Cold War. Finland, with a history influenced in many ways by its neighbour Sweden, enacted a Swedish-style law in 1951; and after the United States took the plunge, France passed a limited access law in 1978, largely the product of a movement of ideas led by jurists and researchers, rather than a political battle or public scandal.⁹ Scandals relating to police surveillance and to government regulation of industry led to Canada's freedom-of-information statute, passed in 1982 in concert with a significant privacy law; and Australia and New Zealand passed freedom-of-information statutes more or less simultaneously in 1982, very much influenced by developments in Canada and the US.¹⁰ In Australia, the Labour Party had been in opposition from 1949 to 1972, and thus lacked any ministerial experience and the concomitant access to official information. Yet, it took a decade before it was finally able to enact Australia's FOI law. One Australian senator commented, just before a new government took power in 1983, 'If we are going to do anything to reform the Freedom of Informa-

tion Act, and if we want to, we had better do it in the first fortnight, before the new government has any secrets to hide.’¹¹

Information access after the Cold War

In the first fortnight after the end of the Cold War, only Hungary took the opportunity to pass a freedom of information act, in 1992. That action, though, marks the beginning of the modern international FOI movement. Administrative reform in other former communist countries had become bogged down in the early 1990s with the frequent changes of government and a corrosive debate about purging (‘lustrating’) former communists. In Hungary, the question of privacy versus openness was the key controversy. The 1992 law was in part the revenge of the new regime against its communist predecessors, opening their files and exposing them to accountability. Yet the names of many of the new rulers were recorded in those files as well – not necessarily as dissidents, but as effective non-communist managers or leaders in previous years. As a result, the 1992 Hungarian law focused primarily on data protection, not access.

In truth, perhaps the most powerful motivation in Hungary was the commercial one, influenced by the desire of foreign investors, especially from Germany, to have certain standards for corporate data protection congruent with those in Germany and the European Union in general. Fortunately, Hungary’s law provided for an ombudsman, the Data Protection and Freedom of Information Commissioner, and the first occupant of that office, Dr Laszlo Majtenyi, turned out to be a capable advocate for openness. In 1998, he even ruled against the Prime Minister and the Interior Minister, saying that a draft agreement with Slovakia on the controversial Danube dam had not been properly classified as ‘secret’ and that therefore a newspaper could not be prosecuted for publishing it. Majtenyi, however, seems to have been much too energetic for the tastes of the current Hungarian government. When his six-year term expired in June 2001, it was not renewed.¹²

A more traditional freedom of information process took place in Ireland, leading to the passing of an FOI law in 1997. Scandals in the Irish meat-packing industry and in the administration of a public blood bank authority generated public outrage and strengthened political will in relation to freedom of information. But the Irish law as currently administered does not cover most non-personal documents pre-dating 1998, and has other weaknesses too. The Irish law does provide the Information Commissioner or ombudsman with the authority to investigate any refusal to provide information. The commissioner, however, must rely on the power of publicity

through media reports, since his recommendations are not binding on the government (in contrast to the case in New Zealand, for example). The Irish law has not repealed the presumption of secrecy established by the Irish Official Secrets Act of 1963, and after the first year of implementation, one legal scholar concluded that the outcome was merely 'some freedom of some information'.¹³

Some of the most far-reaching changes in society arising from a new freedom of information law have occurred in Thailand, which adopted such a law in 1997 as part of a whole new constitutional structure. This was the culmination of a political reform process that began in 1992 with mass demonstrations against the military regime and became even more urgent with the beginning of Thailand's economic crisis in 1997.

Interestingly, Thai journalists had mixed feelings about the freedom of information movement, reluctant as they were to give up their privileged access to politicians and to government information. But ordinary Thais proved more enthusiastic about the Official Information Act. In its first three years, more than half a million Thais used the Act, and one request in particular changed the entire primary and secondary education system in Thailand. Sumalee Limpavart could not believe that her brilliant daughter had failed the first-grade entrance exam for an elite demonstration school at the state-run Kasetsart University, and requested a copy of the examination scores. After a two-and-a-half-year struggle, which went all the way to the Supreme Court, the released admission records revealed that the school actually relied not on the scores, but on financial contributions, sponsorship and kinship arrangements for its admission decisions. As a result, test scores are now public and privileged admissions prohibited. Sumalee's fight has also dramatically raised awareness among Thais of their access rights.¹⁴

The Thais' campaign to ease access to official information took some five long years to complete. Similar efforts in Japan, however, took even longer to have the same effect, and it was not until 1999 that a national access law was passed. This was despite Japan having suffered more than its fair share of scandals, from the Lockheed bribery case in the 1970s to the bureaucracy's cover-up of HIV contamination of the blood supply in the early 1990s, which should have helped prise open the official data vaults. To think, too, that Japan had the US example to emulate; after all, ever since the US occupation of Japan after World War II, following in the footsteps of the United States had been so important in the development of Japanese law, if not Japanese behaviour.

But the key factor in Japan proved to be the local information disclosure movement. Some 20 years of press attention and local activism by Japan's relatively small population of private attorneys produced more than 500 freedom of information ordinances at the local and prefecture levels, beginning in 1982 with Kanayama village in Yamagata Prefecture. The attorneys, or 'citizen ombudsmen', achieved particular success using local access regulations to expose national scandals, such as the billions of yen spent by government officials on food and beverage expenses while entertaining each other. In one famous 1993 case, in Sendai city (part of greater Tokyo), local records revealed that a party of six officials had consumed 30 bottles of beer, 26 decanters of sake and four bottles of chilled sake for what one commentator called 'a rollicking good time' at taxpayers' expense.

Because of revelations such as these, between 1995 and 1997 Japan's 47 prefectures cut their food and beverage budgets by more than half, saving 12 billion yen (about USD 100 million at the time). Even more important, the information disclosure movement demonstrated systematic falsification of government accounts and expense reports, exposed the corruption endemic to the Japanese public works and construction industries (a political bribery system that bulwarked 40 years of one-party rule in Japan), and helped create a new political culture. Not only did Japanese citizens line up in their thousands to file information requests at government offices on 2 April 2001, when the new national law came into effect; political candidates also vied to outdo each other in pledges of openness. In fact, the newly elected governor of Nagano Prefecture moved his office from the third floor to the first, surrounding it with windows and adopting an open-door policy – the personification of the politics of openness in Japan.¹⁵

The FOI newcomers

At exactly the same time that Japan enacted its access law, the freedom of information wave crested in East and Central Europe. Reassured by the successful model in Hungary, pressurised by 'open society' NGOs, and eager to integrate into the European Union and NATO, former communist countries in an area stretching from Stettin on the Baltic to Trieste on the Adriatic (to borrow a ringing phrase from an earlier era) engaged in the freedom of information debate in the late 1990s. New laws were passed in 1998, 1999 and 2000 in Estonia, Lithuania, Latvia, the Czech Republic, Slovakia, Bulgaria and even (in 2001) in Bosnia-Herzegovina, the latter at the behest of the Organization for Security and Co-operation in Europe (OSCE).¹⁶

Like the end of communism, the end of apartheid also spurred the access movement in South Africa. The new constitution under which Nelson Mandela came to power in 1994 included a specific provision in the bill of rights guaranteeing all citizens access to state-held information. In many ways, this is the strongest such guarantee in the world (the US constitution contains such a right only by inference). Yet, because South Africa lacks established administrative procedures, and the judiciary is only beginning to be reformed, the constitutional right has not yet become actual practice. A further complicating factor is literacy – or the lack thereof – among many South Africans, which means the government is accepting oral requests for needed information, and developing ways to render oral responses as well. In January 2000, Parliament passed a formal Access to Information statute, and the government is now in the process of developing administrative regulations to implement the law.

The coverage of the South African law extends beyond government agencies to private corporations, if public rights are at stake in the information request, and it includes a ‘balancing test’ that requires weighing the public interest in disclosure against the damage of release for every category of information, even national security.

In comparison, only certain categories are covered by a balancing test in the new Freedom of Information Law in Great Britain, enacted in November 2000 after a 20-year struggle. Leading British activist Maurice Frankel, of the Campaign for Freedom of Information, calls the new law ‘a peculiar lopsided act’, with both progressive and regressive features.

For example, to withhold information in the areas of national security and law enforcement, the government has to show ‘prejudice’ to those interests and the information commissioner can order release on public interest grounds; yet the security and intelligence services are completely exempted from the act. While ministers can veto release of a wide range of material involved in the ‘formulation of policy’, the government’s attorney-client privilege remains subject to the public interest test.

Ironically, the final bill that the British Parliament passed is weaker in many respects than the voluntary measures implemented by the Tory government of Prime Minister John Major. But the campaign decided it was better to have a weak or lopsided bill on the books than to sink the effort entirely.¹⁷

The role of globalisation

As was the case in Britain, most freedom of information laws in the world today came about not because of any sudden conversions to Enlightenment philosophy but because of specific conditions of competition for political power – between parliaments and administrations, between ruling and opposition parties, between present and prior regimes, between bribe-takers and muck-rakers. But we are entering a new era, in which international standards and expectations of openness play a more important role than particular local political quarrels. In fact, today we are beginning to see an extraordinary interaction between freedom of information and the globalisation phenomenon. The new liberal consensus holds that transparency in governments and markets is essential, not merely to prevent corruption, to prevent globalisation from turning into what the system in Russia has now become – robber capitalism – but also to ensure democratic participation, especially by civil society and interest group ‘stakeholders’. A recent University of Maryland dissertation tested multiple variables to explain different rates of economic growth among 78 ‘democratising’ nations over the past 20 years and found that the ‘individual feature that is most reliably significant in predicting prospering democratisers and growth is information access’.¹⁸

But it is globalisation rather than democratisation that is changing the very concept of freedom of information from the purely moral stance as an indictment of secrecy to one with more value-neutral meanings, which range from being another form of market regulation, to a crucial factor in bringing about more efficient administration of government, to a contributor to economic growth and the development of information industries.

In a 1998 green paper called ‘Public Sector Information: A Key Resource for Europe’, the European Commission gave the United States’ FOIA major credit for the country’s ‘highly developed, efficient public information system at all levels of the administration’. The Commission concluded that this system gives particular benefits to ‘small- and medium-sized enterprises, which have fewer resources to devote to an often difficult search for fragmented information’. The lack of such information, the Commission judged, ‘ultimately ... has a negative bearing on job formation’.

In China, legal reformers are using this argument, as well as the Communist Party’s anti-corruption campaign, to help open the decision-making process in local and provincial government. Reformers may even succeed in promulgating a national freedom of information code, and even though this would not apply to law enforcement, national security or party deliberations, it would be a historic step forward for the People’s Republic.

The reformers' argument, which acquires greater weight as China enters the World Trade Organization, is simply that regulating governments and corporations (especially global ones) may be done more efficiently through transparency, by the disclosure of their activities, rather than by bureaucracy, especially when the latter represents multiple bureaucracies in multiple countries with all the opportunities for corruption in which international business has traditionally engaged.¹⁹

Making good use of both morality and efficiency claims, the international freedom of information movement stands on the verge of changing the very governance paradigm for democracies old and new. The movement is creating a new norm, a new expectation, a new threshold requirement for any government to be considered a democracy, by its own people and by the world at large.

Yet, the movement does not even know it is a movement (it lacks fundamental self-consciousness). Its members are constantly reinventing the wheel and searching for relevant models, even as entrenched state interests are vigorously counterattacking in the United States and elsewhere, using national security claims together with personal privacy and the need for privacy in the deliberative process as counterweights to freedom of information arguments. Such efforts have become so effective that in the United States, only a veto by President Clinton just before the 2000 election prevented the establishment of an official secrets act.²⁰

Threshold access and the five fundamentals

Despite these obstacles, though, the freedom of information movement may actually be succeeding all too quickly. And in the haste to guarantee a citizen's right to ask government for information and receive it – which is what most people mean by freedom of information – reformers are not paying enough attention to threshold access problems that affect every citizen and undermine the individual citizen's transaction.

This is why delegations of reformers visiting the United States are always surprised to see the first section of the US Freedom of Information Law that requires government agencies to publish in the Federal Register descriptions of their organisation, functions, procedures, forms, substantive rules, policies and regulations. The US Privacy Act requires every federal agency to publish in the Federal Register detailed descriptions of every database and records system containing records that are retrievable by personal identifiers; the Pentagon report alone fills two volumes of closely-spaced type. In Sweden, the threshold openness requirement goes even

further: agencies list in public registers almost every document written or received in the course of official business – with very few exceptions – so that requesters know exactly what they are asking for, and also the agency knows exactly what it has.²¹

Too few reformers elsewhere seem to realise that without this duty to publish, without this kind of threshold transparency, no citizen can make an informed and effective request for information and no freedom of information regime can be truly open. Such routine openness also has to extend to each of the major functions of government: executive, legislative and judicial.

The ideal openness regime, of course, would have the government publishing so much that the formal request for specific information (and the resulting administrative and legal process) would become the exception rather than the rule. But until that happens, openness advocates have agreed on five fundamentals for effective freedom of information statutes.

- First, such statutes begin with the presumption of openness. In other words, information is not owned by the state; it belongs to the citizens.
- Second, any exceptions to the presumption must be as narrow as possible and written in statute, not subject to bureaucratic variation and the change of administrations.
- Third, any exceptions to release must be based on identifiable harm to specific state interests, not general categories such as ‘national security’ or ‘foreign relations’.
- Fourth, even where there is identifiable harm, the harm must outweigh the public interest served by releasing the information, such as the general public interest in open and accountable government, and the specific public interest in exposing waste, fraud, abuse, criminal activity and so forth.
- Fifth, a court, an information commissioner, an ombudsperson or another authority that is independent of the original bureaucracy holding the information should resolve any dispute over access.²²

Perhaps the ultimate challenge for the freedom of information movement is the cultural and psychological change that has to take place within government administrations and within citizens before true freedom of information occurs. In colloquial Japanese, for example, the word *okami* (god) is commonly used to refer to government officials. ‘You can’t complain against the gods’, one Japanese activist told a newspaper, summarising the difficulty felt by ordinary people confronting the government. One of

Japan's leading experts on information disclosure, attorney Lawrence Repeta, has thus been prompted to write, 'Imposition of a law mandating that government officials open their files to public examination (and potential criticism) represents a 180-degree reversal of existing practice. This is nothing less than a revolution in the nature of the relationship between citizen and government.'

What this proves, as the Bulgarian activist Gergana Jouleva has pointed out, is that democracy is not an easy task either for the authorities or for citizens.²³

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Democrats and Dictators

Southeast Asia's Uneven Information Landscape

By Yvonne T. Chua

*In 2001, the Philippine Center for Investigative Journalism (PCIJ) and the Southeast Asian Press Alliance (SEAPA) published a study of eight countries in the region, entitled *The Right to Know: Access to Information in Southeast Asia*. The book considers the ways in which the changes that have swept across Southeast Asia during the past 20 years have affected information access. In particular, it examines laws that guarantee or restrict access, the political and social environments in which information is given out or withheld, and the state of the media.*

*Against the background of these dramatic political changes in the region, Yvonne T. Chua examines in this article what the present situation is, country by country. Yvonne Chua has been the training director of PCIJ since 1995 and has trained scores of journalists in the Philippines as well as Indonesia, Cambodia and Nepal. Her book, *Robbed: An Investigation on Corruption in Philippine Education (1999)* won the National Book Award in the same year, when she also received the Jaime V. Ongpin Awards for Investigative Journalism.*



Before the mid-1980s, countries in Southeast Asia were practically in the same boat. They were run by autocratic rulers who paid mere lip service to – or downright repressed – civil and political rights, including freedom of the press and the right to information. Draconian laws ranging from those justifying detention without trial to those outlawing and severely punishing rumour-mongering were the norm across the region that is now home to about 530 million people.

Today the conditions in the authoritarian states of Southeast Asia remain as rigid as ever and reforms from within appear unlikely without a change of regime. But there has been a dramatic sea change elsewhere in the region, with dictatorships tumbling down and democratic reforms introduced. Also helping bring about transformations across Southeast Asia in the last few years have been advances in technology and the integration of regional economies into global trade and finance. These days, even semi-democracies in the region are loosening up restrictions in the economic and financial spheres – albeit slowly and in small measure, and with the significant danger of reversals. The best news, however, is that Southeast Asia has more democratic states than it had two decades ago, and that citizens in these countries enjoy more freedoms than ever before.

Table 1 Accessibility of government-held records: Are records available to the public?

Countries ranked according to YES answers		Countries ranked according to NO answers	
	%		%
Philippines	59	Burma	55
Thailand	56	Singapore	53
Cambodia	44	Vietnam	49
Singapore	42	Cambodia	49
Malaysia	33	Malaysia	42
Indonesia	18	Indonesia	38
Vietnam	18	Philippines	23
Burma	5	Thailand	17

How have the changes that have swept across Southeast Asia affected information access? In 2001, the Philippine Center for Investigative Journalism and the Southeast Asian Press Alliance sought to find the answer to this through a study on the state of access to information in eight countries in the region. The study examined laws that guarantee or restrict access, the political and social environments in which information is given out or withheld, and the state of the media.

A survey of the accessibility of 43 government-held records (Table 1), ranging from macro-economic data and laws and government budgets to information on public officials and private individuals, confirms what is already obvious: democracies are more open than semi-democracies and non-democracies. But the results of the survey also highlight the fact that openness does not happen overnight in countries that have introduced democracy, as is evident in the case of Indonesia, a country in transition.

In other parts of the world, factors leading to a freer information order have been a new government taking office, scandals or grassroots campaigns. In comparison, in Southeast Asia, the collapse of authoritarian regimes in several countries first led to a package of democratic reforms, which in turn made the free flow of information possible. Constitutions that were promulgated in Thailand, the Philippines and Indonesia after the fall of a succession of military dictators, such as Marcos and Soeharto, accorded the public the right to official information.

In addition, controls on the media were loosened and led to the removal of state censors and licensing, among other changes. Ownership of the media

fell increasingly into the hands of the private sector. The resulting media boom created an atmosphere that fostered competition among journalists and led to a more inquisitive press.

The power of an informed citizenry

Thailand and the Philippines best illustrate the benefits of free information flows. Along with its 1997 constitution, Thailand's parliament passed the landmark Official Information Act that guaranteed the right to obtain data and public information under the control of governmental organisations, state enterprises or provincial authorities.

Three years after the Act took effect, about half a million Thais had requested information from the state. Indeed, in a region where citizens are the last to request government-held information, Thailand has become the exception to the rule. Ordinary Thais far outnumbered provincial officials, non-government organisations and journalists in terms of making information requests.

Information obtained through the Act has empowered citizens and has been used by individuals and the media to make the government and its institutions more transparent and accountable. A community leader in one of Thailand's poorest provinces has used the law to obtain details about road contracts in her home town. A newspaper exposé on discrepancies in the statements of assets and liabilities of officials – information now made available to the public – forced the resignation of Sanan Kachoranprasat as Deputy Prime Minister and Interior Minister.

Unlike Thailand, the Philippines has no law on freedom of information. But it is one of the few countries in the world to enshrine in its constitution the right of the people to information on matters of public concern. It also has a law that makes it the duty of officials to provide information to the public.

Filipinos can likewise turn to administrative and judicial remedies if their rights are curtailed. By and large, the courts have consistently ruled in favour of the right to information. A strong, assertive civil society and a free press work in the citizens' favour as well.

The power of information and of an informed citizenry was demonstrated in political developments in the Philippines in late 2000 and early 2001. For three weeks, Filipinos watched in thrall the live and full coverage by radio and television of President Joseph Estrada's impeachment trial at the

Senate. On 16 January 2001, when the majority of the senators sitting as judges in the trial blocked the examination of evidence against Estrada before a live TV audience, Filipinos spontaneously took to the streets in protest and began what was later christened ‘People Power II’.

But despite the constitutional guarantees on information access, both Thailand and the Philippines still suffer from a lack of public information about the right to information and procedures of information access. Both are also plagued by inadequate or undeveloped information infrastructures, such as the lack of photocopiers and the poor state of record-keeping, which hamper information access.

In addition, there remain some restrictions on the release of information. In Thailand, these include ‘information that may jeopardise the Royal Institution’. Working for the removal of these restrictions, however, is no longer as great a concern in Thailand and the Philippines these days as is refining procedures to gain access to official records. Filipinos and Thais continue to battle against a culture of secrecy in the bureaucracy that has become so engrained during the years of the dictatorship. They also have to deal with politicians and government officials who can prevent the release of information detrimental to them. In countries where political patronage is strong – which is the case in both Thailand and the Philippines – the loss of a job is a real disincentive for releasing information against the boss.

**The region’s
youngest
democracy**

Such difficulties, however, are nothing compared to those being encountered by Indonesians, where public protests forced strongman Soeharto to step down in 1998, ending his 32-year rule. Today Indonesia is going through what many of its citizens call a ‘new disorder’, although they hope it is just a temporary phase.

The youngest democracy in Southeast Asia, Indonesia has not had much experience with a free press and information access. Its case illustrates the difficult conditions a new democracy must cope with as it seeks to create an atmosphere that is more hospitable to the free flow of information. Such conditions include the inability of the media to deliver fresh, reliable and relevant news at all times, especially in areas of conflict; the lack of a single depository of data produced by state agencies and the existence of only a handful of institutions that make information available to the public; and the inadequate access to information laws.

One bright spot there is the work of civil society organisations, which have made the legislation of an official information act a top priority. A coalition of 17 NGOs has drafted and is lobbying for the passage of the Freedom to Obtain Information Act that will dismantle repressive laws, replace toothless regulations and amend or repeal provisions in laws that work against the free flow of information.

One old law, for example, allows the government to prosecute and imprison archive custodians for up to 20 years if they disclose documents classified as confidential. There is also the newer Good Governance Act, passed during the 17-month tenure of President B.J. Habibie, Soeharto's immediate successor, which requires state administrators who receive a public request for information to give an answer or explanation in line with their duty and function. But the regulation fails to clarify what information is for public disclosure and what is not. It also lacks an explicit definition of information, and does not specify any penalty for any state administrator who does not fulfil his or her obligation to disclose the requested information.

A new trade secrets act, meanwhile, is potentially in conflict with the proposed information act as data declared confidential by business enterprises and the government may include information that should be disclosed to guard the public interest.

Cambodia's semi-democratic information access

The situation gets even more complicated in Cambodia, which has all the trappings of democracy, but is in fact a semi-democracy in terms of information access. This makes it more akin to communist-ruled Vietnam and Laos than to Thailand and the Philippines, or for that matter, Indonesia. Then again, democracy in Cambodia was not fought for and won in the same way that it was in the latter three countries. Rather, it was implanted by the United Nations, which supervised Cambodia's first free elections in 1993, putting an end to decades of war, civil conflict and international isolation.

To be sure, the amount of information in Cambodia has grown significantly in recent years. Much of this information, however, is hoarded by the rich and powerful. Important information is tightly kept within a small circle around Prime Minister Hun Sen, who runs an authoritarian and secretive bureaucracy. Hun Sen and many of today's government leaders also led the former communist regime, and their attitudes have changed little. In 2000 Hun Sen told reporters they had the right to ask questions, but politicians also had the right not to answer.

Most of the time, getting records requires bribery and fighting the bureaucracy. Business and corporate information is closely guarded, partly because officials often make corrupt deals with business. Off limits is information about the military and defence or high government officials, or anything that reflects badly on the state.

The press law contains Cambodia’s only statutory right to access to information. But among its flaws is its lack of any penalty on officials who refuse to give information or any procedures for appeal. The government information infrastructure, in the meantime, lacks expertise, and even photocopy machines and filing cabinets; computer databases are unheard of. The lack of established procedures makes access dependent upon the whims of haughty government officials.

Moreover, records that are routine elsewhere do not exist in Cambodia. Many of these were destroyed during the conflicts that plagued the Indochinese country from 1970 onwards. The few that remain have been corrupted as well, due to the years of turmoil and to the bribery resorted to by those needing to cover up what they were during the time of conflict or what they had done. Much of the basic financial and other information is not available because Cambodia’s economy and legislative framework are undeveloped.

The government normally requires ordinary citizens to appear in person with a written request for the information they are seeking. Given a history of suppression of freedom of expression from the French colonial era to the Vietnamese occupation, the average Cambodian would never think of asking the government for records. One result is that citizens remain in the dark about their own country.

A complicating matter is the fact that the Cambodian media are almost as hard-pressed as the ordinary citizen to get their hands on official – and accurate – data. The politicisation and corruption of the media also inhibit the information flow. Thus, the information that reaches citizens in Cambodia is obtained mainly through the efforts of foreign countries, lending institutions and local NGOs, which have collected and prepared data on Cambodia’s economic, social, cultural and political conditions.

The NGOs, which are funded largely by foreign governments and institutions, have been particularly successful in prising information from the government, carrying out investigations and disseminating information never before shared widely in Cambodia, such as the appalling state of the

country's prisons. At the same time, they have played a key role in informing people of their democratic rights and encouraging them to exercise their entitlements. Lending institutions and United Nations agencies also produce much new information on economic, social, cultural and other conditions in Cambodia.

An iron grip on information

Malaysia and Singapore, considered the region's most prosperous nations, are not usually mentioned in the same breath as impoverished Cambodia. But the two former British colonies have a few things in common with Cambodia, including their having the semblance of democracy – regular elections, parliaments – although they function more like semi-democracies.

To begin with, neither Malaysia nor Singapore has a guarantee of a free press or of information access. To make matters worse, ownership of media companies in Malaysia is closely aligned either to political godfathers in the ruling coalition or to prominent businesspeople who support the leadership. In Singapore, the media have remained under the monopolistic control of a one-party government since 1965, when the hegemony of the People's Action Party and Lee Kuan Yew was inaugurated. Self-censorship is widely practised in the two countries as well.

Singapore and Malaysia both have an extensive range of statutory provisions that suppress the disclosure, dissemination and public discussion of 'sensitive' information, some of them dating back to colonial times. They also have Official Secrets Acts that give wide-ranging powers to officials to classify information and restrict access. In addition, they have Internal Security Acts that allow the state to ban the printing and distribution of materials 'prejudicial to the national interest, public order or security'. Both also have laws that require the annual licensing of publications, with penalties of closure and fines for printing without a licence. (Malaysia calls its law the Printing Presses and Publications Act, while Singapore has the Newspaper and Printing Presses Act.)

Such restrictions become all the more ironic when one considers that both countries boast of an affluent, literate citizenry and the best information infrastructure in the region.

Still, information access has gradually increased in Malaysia and Singapore. Not surprisingly, the changes in information disclosure policies have been triggered by the growing integration of the two countries into the

world economy and the need to compete globally. Fiscal and corporate disclosures and data of an empirical nature are thus as readily available in Singapore and Malaysia as they are in Thailand and the Philippines.

But the easing-up in official information access stops there and does not spill over into the political sphere, where information remains under tight control. For instance, obtaining information about public officials, including their assets declarations, remains difficult in both Singapore and Malaysia.

Thanks, though, to the first-class infrastructure in the two countries, information and views that have been suppressed have found their way to the Internet. Online newspapers such as *Malaysiakini* are among the most widely read online newspapers in Malaysia today, demonstrating the growing hunger of Malaysians for credible information, especially following the 1997 East Asian financial crisis and the sacking and subsequent arrest of then Deputy Prime Minister Anwar Ibrahim in September 1998. Recently, *Malaysiakini* has encountered harassment from the government and its future is somewhat uncertain.

Singaporeans who are just as information-deprived as their next-door neighbours can turn to four popular websites focused on matters concerning their city-state. Among these is the Singapore Window, which carries reports from all over the world and from different types of news agencies and aims to provide balance to reports that come through from Singapore’s mainstream media.

More restricted access in Vietnam

As one of only five remaining communist countries in the world, Vietnam makes no claims to be a democracy. Fifteen years of market reforms have not resulted in a freer press and more open access. Vietnam still wields the power of the state to restrict citizens’ access to most information. Controls, in fact, were even tightened and a harsh press law came into effect in 1989, shortly after the pro-democracy protests that culminated in the Tiananmen uprising in China.

Even though more information is being made available to the media in Vietnam these days, the press remains under the full control of the state and takes orders from the party. Journalists themselves acknowledge that they have access to more information than they ever used to have, but that, they say, doesn’t mean they can write the stories. Even the data available for publication are barely trusted and often referred to in jest as ‘guesstimates’.

Vietnam's most effective tool to control the media is subtle pressure and self-censorship. The government, for one, appoints newspaper editors. Every Friday morning in all major cities in Vietnam, local officials of the Ministry of Culture and Information and party ideologues meet with newspaper editors to give them cues on what to write or emphasise, or to demand explanations for published stories that may have gone too far.

The government also limits contacts between local journalists and foreign correspondents. Local journalists, for example, are barred from working for foreign reporters without press department approval and clearance. Restrictions also apply to the foreign media. Resident foreign correspondents are required to live in Hanoi and to secure official clearance for any visit outside the capital.

All these contribute to a climate of fear among Vietnamese journalists – especially following the 1997 arrest and imprisonment of a newspaper editor whose paper had run a series on an alleged swindle involving the purchase of four coastal patrol boats from the Ukraine.

Ordinary citizens are even less daring. While freedom of speech was formally enshrined in Vietnam's constitution in line with the state policy of *doi moi* or market reforms, the provision is essentially meaningless in practice. Citizens know that being in a communist state means that there is no way for them to initiate legislation or lobby effectively for open access.

Most Vietnamese have also yet to discover the wonders of the Web, let alone rely on it for information about their own country. Vietnam has few Internet users, as access to it was not legalised until 1997; even today, the infrastructure for Net access is monopolised by the state. Vietnam's firewall against dissident websites and other banned material is also known to be one of the toughest in the world. It comes as little surprise that the public is kept largely clueless about the manoeuvres of its rulers, as well as official decision-making processes and what is going on in much of the country.

Indochina's other communist state

This situation is echoed in Laos, one of Vietnam's neighbours and Indochina's only landlocked country. In recent years, Laos's one-party communist regime has emerged from its decades-old isolation, instituted wide-ranging structural economic reforms and gradually opened up to the region and the world. Yet, it continues to clamp down on civil and political rights.

Citizens come under heavy surveillance. The Lao government limits citizens’ privacy rights, and its surveillance network is vast. Security laws allow the government, through the so-called communication police, to monitor even the private communications of individuals.

Strict controls on information, especially about political imprisonment, and the lack of freedom of expression have prevented adequate international and local monitoring of the human rights situation in Laos. The authoritarian Lao People’s Revolutionary Party (LPRP), which has been in power since 1975, has gained notoriety for refusing requests from international human rights organisations such as Amnesty International and the Red Cross for access to its prisons.

No information can be prised from the government about Laos’s prisoners of conscience, or about the pro-democracy activists who were arrested in 1999 and 2000 for holding demonstrations to call for respect for human rights, the release of political prisoners, a multi-party political system and elections to a new National Assembly. Neither is there much information about the fate of those who are arrested and imprisoned for their Christian beliefs. Letters from officials in Lao embassies to international organisations not only showed a seeming lack of knowledge about individual prisoner cases but also dismissed concerns about human rights violations.

Conditions that promote the free flow of information are non-existent. While the constitution provides for freedom of speech and of the press, the government tolerates no political dissent in practice. It severely limits political speech and writing, and bans most criticism it considers damaging to the state.

The country’s press, tightly controlled by the state through institutions close to the LPRP, remains among the most restricted in Asia. In fact, one of the major activities of the state-sanctioned Lao Journalists Association is to explain government restrictions to visitors, notes the Committee to Protect Journalists. Reporters without Borders has denounced Lao President Khamtay Siphandone as a predator of press freedom.

Journalists are employees of the information ministry and report verbatim dispatches from the official press agency. Each week, editors and ministry officials meet to comment on articles published and carry out collective self-criticism.

In 2001, following terrorist bombings in the previous year, the government adopted more rules that reinforced its control over the media. Among these is one stipulating the training of journalists to cover information in a way that is 'more favourable to the government'. While the rule does not spell out any sanctions for those who do otherwise, current legislation provides for prison sentences of five to 15 years for journalists who write 'unconstructive' articles.

No foreign reporter is permitted to be based in Laos. Persons travelling on journalist visas are restricted in their activities. They are not allowed free access to information sources and they cannot travel without official escort. Foreign news reports appearing in Lao publications are subject to censorship.

Meanwhile, a government plan to permit private ownership of news media has been greeted with scepticism by organisations working for press freedom as it would oblige owners to pledge to uphold the policies of the party. The organisations have also objected to the setting-up of a government-run regulatory media control body, whose tasks include shutting down any newspaper that breaks that rule.

As in Vietnam, the Internet has not as yet made significant inroads in bringing more information to Laotians. Allowed into Laos only of late, the Internet has only about 6,000 users in this country of 5 million people; Internet servers are all under government control. The authorities perceive Internet expansion as a potential threat and have adopted strict regulations, including ones allowing them to block access to external sites, and prohibiting the use of the Internet to protest against the government.

No reform is expected to go beyond the economic realm. True, the Lao constitution provides for a representative National Assembly, which is elected every five years in open, multiple-candidate, fairly monitored elections. The voting is by secret ballot and there is universal adult suffrage. In the end, though, all the hoopla legitimises only a single party each time: the LPRP.

No access in Burma

The Burmese, however, have it even worse. Burma is unique in that it is a country where virtually no reliable information is available to anyone, including official statistics released by the government. Indeed, even the most basic information on such non-political issues as industrial growth, rice production and the literacy rate are treated as state secrets.

Burma today stands out as the most repressive government with the severest censorship in Southeast Asia. It has no law that guarantees access to any information, but has many that restrict access to information and freedom of expression.

Special authorisation is needed to own fax machines, modems and even photocopiers. All books and most newspapers and magazines have to be submitted to the censors not before but after printing. Possession of an ‘unlicensed computer’ is punishable by imprisonment of up to 15 years. Burma’s military rulers also decide who should have access to the Internet and what data is ‘safe’ to be released not only to the public at large but also to journalists, local businessmen and foreign investors.

The junta has jailed scores of citizens, including writers and journalists, supposedly for ‘distributing false information domestically and internationally’. The state of Burma’s press is, indeed, a far cry from the press that was once one of the least restricted in Asia. After all, in 1874, the king of Burma issued an act guaranteeing freedom of the press, which could very well have been one of Southeast Asia’s first indigenous press-freedom laws.

Like Malaysia and Singapore, Burma has used laws from the colonial era, such as the Official Secrets Act, to suppress dissent and stop the free flow of information. A former UN agency worker thus received a two-year jail term for attempting to smuggle abroad what the junta branded as a ‘state secret’: the Burmese translation of *Freedom from Fear*, the book written by opposition leader and Nobel Peace Prize winner Aung San Suu Kyi.

In recent years, the military rulers who refused to hand over power to the victors in the 1988 election have prohibited diffusion by electronic mail of ‘political commentaries and information detrimental to the government’. On top of this, the junta has created a ‘Cyber Warfare Division’ to monitor telecommunications, including domestic and international telephone and facsimile traffic, using equipment supplied by Singapore.

Yet for all these restrictions, Burma’s military government has been unable to stop completely the flow of information in and out of the country. Many foreign journalists get information from a host of underground sources, even ‘leads’ from sympathetic government officials. Lending institutions such as the Asian Development Bank and the World Bank and foreign embassies such as the US embassy have put out information on the prevailing conditions in Burma.

The struggle for democracy is also going on internationally. Burmese turn to rebel broadcasts from the border and the Burmese-language services of the British Broadcasting Corporation, Voice of America and the Democratic Voice of Burma, despite incessant government efforts to jam these transmissions. A lot of information about what is happening in Burma has also been put online. Four Burma news digest services – containing articles from the international media and other information that the government is trying to suppress – are available via email or the Web.

But much remains to be done. As long as their country remains under military rule, the Burmese, like the Lao and the Vietnamese, are unlikely to experience any significant changes in their nation any time soon.

**Access and absolute
monarchy don't
mix**

In Brunei, though, people seemed to have grown used to not seeing much change. Brunei Darussalam, after all, is the only absolute monarchy in Southeast Asia, and has been ruled by the same family for the last 600 years. For the past four decades, constitutional provisions safeguarding fundamental liberties have been suspended under the 1962 state of emergency. If Bruneians have not been complaining much despite this, it is largely because their sultan – who also serves as prime minister, defence minister, finance minister, chancellor of the national university, superintendent general of the Royal Brunei Police Force, and leader of the Islamic faith – has seen to it that even ordinary citizens can benefit from living in a small, oil-rich country.

But the price of financial and social comfort can be steep. It includes significant restrictions on the freedom of speech and of the press. And like Singapore and Malaysia, Brunei has resorted to having an Internal Security Act (ISA), which permits the government to detain suspects without trial for renewable two-year periods, to detain persons suspected of anti-government activity and stifle dissent. Information on the detainees is published only after they are released.

The Act has been used on Muhamad Yasin Abdul Rahman, who played a pivotal role in the abortive 1962 rebellion. He was detained without trial from 1962 to 1973 before he managed to escape from prison to live in exile in Malaysia. He returned to Brunei in 1997 and was immediately arrested and detained once more without trial. In 1999, he was released from detention, but only after swearing an oath of loyalty to the sultan and admitting his political 'crimes'.

In 1998, the authorities briefly detained several other citizens under the ISA for distributing allegedly defamatory letters about the royal family and senior government officials connected with the collapse of the Amedeo Group, a large holding company headed by one of the sultan’s younger brothers, Prince Jefri. The government warned citizens that it would take action against anyone involved in similar activities deemed to be against the monarchy.

In October 2001, Brunei passed its first press law, the Local Newspapers Order, which human rights groups fear could be used to reduce press freedom further and to restrict journalists attached to the country’s only two private publications.

Said to be modelled after the tough statutes on the press in Malaysia, the new law requires local newspapers to obtain operating licences, as well as prior government approval of foreign editorial staff, journalists and printers. It also gives the government the right to bar distribution of foreign publications, and requires distributors of these to obtain a government permit. The new law allows the authorities to close a newspaper without prior notice and without showing cause. Journalists deemed to have published or written ‘false and malicious’ reports are also subject to fines or prison sentences.

Before the new law took effect, there were no laws specifically restricting freedom of speech and freedom of the press. Instead, the government used its authority to protect domestic security, and public safety, morals and health, to restrict these freedoms.

In fact, even before the authorities thought of the new legislation, the government had already banned foreign newspapers and magazines that contained articles it found embarrassing or critical of the sultan, royal family or the government, and routinely censored magazine articles on other faiths, blacking out or removing photographs of crucifixes and other Christian symbols.

The growing use of fax machines, the Internet, and access to satellite transmissions, however, has made it more difficult for the government to keep these materials from entering the country. The government places no apparent restrictions on Internet use, which is widespread, although the country’s primary Internet service provider is state-owned.

In an absolute monarchy without established democratic processes, though, a campaign for the restoration of civil rights appears unlikely to take root and flourish. Citizens generally shun political activity of any kind, which makes the prospects of a more liberal regime in Brunei even bleaker.

Indeed, there are no quick solutions to levelling Southeast Asia's uneven information landscape. But as the study on access to information in the region shows, openness is usually ushered in by democratic reforms. The struggle for more information can be decisively won only if democracy is first achieved.

Opening a Pandora's Box

The Emergence of a Free Press in Southeast Asia

By Sheila S. Coronel

Southeast Asia is arguably the region where the most interesting developments in the field of freedom of expression have taken place over the past 15–20 years. In this article, Sheila S. Coronel, director of the Philippine Center for Investigative Journalism (PCIJ), takes the reader on a trip around the region, concentrating particularly on the dramatic events in Indonesia, the Philippines and Thailand. She deals with the media's disclosure of mismanagement by governments and the latter's attempts to hit back at the press; the dangerous situations this creates for journalists; the buying-off of the free press by powerful commercial groups with political interests; and the responsibility of the press in helping to build up stronger and uncorrupt government institutions. The article gives a panorama of the press situation in the region.

Sheila S. Coronel wrote on politics and social issues for various Philippine newspapers before becoming Executive Director of PCIJ, an independent, non-profit agency specialising in investigative reporting. In 1993, she published a collection of reportage entitled Coups, Cults and Cannibals, and she has edited and co-authored several other books. In 2001, Sheila Coronel was named the Philippines' 'Outstanding Print Journalist of the Year'. She is a member of the Board of Trustees of the Dag Hammarskjöld Foundation.



The mass media in Southeast Asia's democracies have never had it so good. In Thailand, the Philippines and Indonesia, they have emerged as credible, powerful and wealthy institutions. The media as a whole are a viable and robust industry, boasting an expanding market and healthy profits even during hard times.

Today the press in these countries is an important player on the political stage. Journalists are feared by politicians because they have succeeded in uncovering corruption, the abuse of power and assorted malfeasance. They are also relentlessly wooed because a bad press can mean the end of a political career. Policies have been changed, reforms initiated and corrupt officials – including presidents – ousted, partly because of media exposés. An adversarial press is part of the political process and it is hard to imagine how governments in the region's freewheeling democracies would function without it.

The power of the media has been bolstered by new constitutions that pro-

vide broad guarantees of press freedom and the right to information, allowing journalists to report on areas that were previously taboo. In addition, democratically elected legislatures have enacted laws that allow both journalists and ordinary citizens much more access to information on government policy and the actions of politicians than in the past. Thailand, the Philippines and Indonesia now have laws that compel officials to make a full disclosure of their assets and to make such declarations public. In addition, new election laws in all three countries put caps on campaign spending and oblige candidates and political parties to submit lists of their contributors and accounts of their election expenses. In Thailand, an information act prescribes procedures that make it easier for citizens to obtain a range of public records. Similar legislation has been proposed in the Philippines and Indonesia.

All these have enabled journalists and citizens to poke their noses into areas of public life from which they had previously been barred, including what officials own, how much elections cost and who finances campaigns. Never in the history of these countries has so much light been shed on what was, especially in the period of authoritarian rule, kept in the dark. Journalists, for example, have examined the mandatory asset disclosures of top officials, uncovering gaps in the disclosures, which has led to public inquiries about how these officials amassed their wealth.

In the Philippines, journalistic investigation of the assets of President Joseph Estrada in 2000 provided the initial evidence that was used in his impeachment trial, which ended in the ousting of the movie actor-president after a 'people power' uprising in January 2001. In Thailand, dogged enquiry by *Prachachart Turakij*, a Bangkok-based business bi-weekly, into the inaccuracies in the assets declaration of the Minister for the Interior Sanan Kachornprasart caused the resignation in March 2000 of one of Thailand's most powerful politicians. In 2001, the same newspaper revealed how Thai Prime Minister Thaksin Shinawatra hid his assets in the names of, among others, his driver and maid. That exposé nearly caused Thaksin to lose his post, but he was acquitted by the constitutional court in a split vote in August 2001.

Not surprisingly, such aggressive reporting on wrongdoing in high places and the wealth of politicians has sent shivers down the spines of autocrats in the region who have remained impervious to demands for greater transparency and openness. While Southeast Asia's democracies are loosening up and journalists in these countries have not been shy about using their newly won freedoms, the restrictions are being tightened elsewhere in the region.

In Malaysia and Singapore, authorities have used onerous laws and the threat of legal action to clamp down on reporting on politics and politicians.

In August 2002, for example, Mohd Ezam Mohd Noor, head of the youth arm of the Malaysian opposition party Keadilan, was sentenced to two years' imprisonment for violating the Official Secrets Act. His offence: releasing to the press documents from the government's own Anti-Corruption Agency that yielded evidence of malfeasance by two top officials.

In September 2002, Bloomberg News Service, a financial news agency with headquarters in New York, was forced to apologise and to pay nearly USD 350,000 in damages to three top Singaporean officials after a columnist pointed out that the appointment of the Senior Minister Lee Kuan Yew's daughter-in-law to head a powerful state-owned investment firm smacked of nepotism. The columnist wrote that Lee's son, to whom that daughter-in-law was married, was already deputy premier and finance minister. Lee's other son was head of the state telecommunications company and the senior minister himself chaired another powerful government investment firm. The Lees threatened to sue, forcing Bloomberg to retract its story and pay a hefty settlement.

In many countries in Southeast Asia, authorities have taken advantage of the hysteria after 11 September to link even legitimate dissenters to terrorist groups. While the most blatant cases have taken place in Singapore and Malaysia, similar tendencies are apparent in the democracies of the region. In the Philippines, for instance, President Gloria Macapagal-Arroyo has used the 'global war against terrorism' as a justification for cracking down on left-wing political parties and organisations. In Indonesia, President Megawati Sukarnoputri put the squeeze on Islamic radicals and other voices of political dissent. In both the Philippines and Indonesia, proposed anti-terrorism laws will restrict the media, the right to information, and free expression. While these tough laws are likely to face rough sailing in the legislatures of these countries, they nonetheless raise the possibility that more severe restraints on discussion and dissent would be put in place.

Exposing the rot in public life

Such restraints would have consequences for democratic development in the region. Thus far freed from past restrictions, the media in the region's democracies have been like attack dogs unleashed against erring officials and corrupt institutions. Certainly there is much to investigate. Democratic governments have not proved themselves to be more honest than their authoritarian predecessors. All over the region, scandals have hounded freely

elected presidents, prime ministers and parliamentarians. The rot in bureaucracies, now subjected to public scrutiny, is being exposed. The police and the armed forces, once feared and untouchable institutions, are also being opened up, the corruption that lies at their core laid bare. In a clear departure from the past, when the media kept mum about wrongdoing, especially when it involved those in high places, newspapers in Bangkok, Jakarta or Manila today regularly report corruption scandals.

In Thailand, the press has had a heyday in exposing the illicit commissions that officials make from government contracts and the underworld connections of *jao pho* or local godfathers, who either run for public office themselves or bankroll the candidacies of trusted allies. In the Philippines, malfeasance by both bureaucrats and elected politicians – ranging from policemen extorting small payoffs from erring motorists to multimillion-peso bribes paid to high officials in exchange for tax cuts or state-funded infrastructure projects – are the regular fare of newspapers and investigative TV programmes. Journalists have used hidden cameras to show, among other things, wads of cash being dropped into the open drawers of customs employees and tax officials accepting envelopes of bribe money from businesspeople.

In Indonesia, too, journalists have hounded the trail of corrupt officials, including President Abdurrahman Wahid, who came to power in the country's first democratically held elections in October 1999. Wahid was impeached in July 2001 after his rivals in the legislature accused him of being involved in his masseur's unauthorised withdrawal and disbursement of USD 3.5 million from Bulog, the government rice procurement and distribution agency. He was also questioned about a USD 2-million cash gift he received from the Sultan of Brunei as humanitarian aid for strife-torn Aceh province. The rambunctious Indonesian media gave these accusations full play and contributed to the public disaffection with the erratic and impulsive leader, who was once seen as a champion of human rights and democratic ideals.

The Jakarta press has also been hot on the heels of the Speaker of the Parliament Akbar Tandjung, head of the powerful Golkar, the ruling party during the 32-year reign of Indonesian dictator Soeharto. Investigative reports unearthed evidence of Akbar's involvement in the diversion of USD 4 million from Bulog and the possible use of those funds to finance the 1999 Golkar campaign. Media coverage of the scandal helped put pressure on the authorities to file charges against the Speaker of the House, who in September 2002 was sentenced to three years in jail, but is currently appealing against the judgement.

President Megawati, who took over after Wahid was ousted, has also not been spared, as journalists sniffed around, investigating the coterie of influential generals that surround her and the corrupt deals allegedly entered into by her husband, Taufik Kiemas.

The constraints of a free press

Yet, for all their seeming ferocity, the democratic media's capacity to act as an effective watchdog is constrained by the shortcomings, interests and prejudices of the media themselves. In the Philippines, for example, media ownership is concentrated in wealthy business houses that sometimes use their newspapers and broadcast stations to defend and advance their financial and political interests.

The major dailies and broadcast networks in Manila are owned by the giants of Philippine business who operate a wide range of interlocking corporate concerns, including banking, manufacturing, telecommunications and real estate. At the very least, editors tone down or censor negative reporting on their owners' businesses. In the 1990s, two Manila newspapers went to the extent of attacking the results of public biddings in which their owners lost. Reporting is often skewed to favour the business and political allies of media magnates. At other times corruption exposés are used to put down political and business rivals.

Moreover, because business in the Philippines is subject to often-whimsical government regulation, media owners who run business empires are vulnerable to government pressure. In 1999 and 2000, President Estrada threatened tax audits and other government sanctions against the owners of critical media outlets, which then toned down their reporting on the corruption and other wrongdoing of his administration.

In Thailand, where the broadcast industry remains a state monopoly, the sharp edge of news and public affairs programming is blunted. The one TV network whose management is in private hands was taken over in 2000 by a company owned by the family of Prime Minister Thaksin Shinawatra, a telecommunications magnate who is one of Thailand's wealthiest entrepreneurs.

Indeed, both Estrada and Thaksin have found that ownership is the chink in the armour of the powerful media in their countries and have taken advantage of this vulnerability to put the squeeze on recalcitrant segments of the press. Given the constitutional and legal protection that the press in democratic regimes enjoy, leaders have had to resort to underhand methods to

control the media, including taking over the ownership of media companies, pressurising media owners or initiating the withdrawal of advertising from 'uncooperative' news outlets.

The press in both the Philippines and Thailand has so far been able to resist the pressures, in part because of an active citizenry and hardheaded journalists who balked at the restrictions. But these incidents also show that the free press remains under threat and that legal guarantees do not suffice to protect it from harassment.

Journalism as a dangerous profession

Even if authoritarian controls have been dismantled, journalism continues to be a dangerous profession in Southeast Asia's democracies. In the Philippines, which has enjoyed a free press far longer than its neighbours, 39 journalists have been murdered since 1986, the year that strongman Ferdinand Marcos fell. Most of the killings took place outside Manila as there is less tolerance of critical reporting in the provinces, particularly in areas where political bosses or clans have ruled for decades.

The casualties include Ferdinand Reyes, editor of *Press Freedom*, a weekly in Dipolog City, on Mindanao island. Reyes was a crusading journalist who took on local officials, military officers and even a faraway hotel that had mined the white sand out of a local beach. He was shot in his home in 1996, and to this day, his killers remain at large. A similar fate befell Nesino Toling, founder and editor of the *Panguil Bay Monitor*, also on Mindanao island. Toling was gunned down in 1991, just three years after he put up an independent and fighting paper that ran exposés of the abuses of local officials, including a town mayor whom Toling had accused of stealing steel beams intended to repair a local bridge. The mayor is one of the suspects in the journalist's murder, but a decade later the killing remains unsolved.

A similar situation prevails in Thailand, where local political bosses are prickly about critical reports. In April 2000, Amnat Khunyosying, the editor and publisher of *Phak Nua Raiwan* (Northern Daily) in Chiang Mai, the largest city in northern Thailand, was shot and nearly killed, allegedly by soldiers. Amnat believes the murder attempt was linked to his paper's relentless coverage of local corruption, especially of local criminal syndicates believed to have political backing.

Things are not very different in Indonesia, where journalists on the outlying islands of this vast country say that death threats and intimidation are facts of life, especially when their newspapers tackle corruption and criti-

cise local authorities unaccustomed to the free media that has emerged after 32 years of dictatorship. Certainly that was the case for Hoesin Kalhapan, the editor of an independent weekly, *Tabloid Menara*, in Samarinda, the capital of the remote Indonesian province of East Kalimantan on the island of Borneo. In 2000, Hoesin was kidnapped three times by unknown men after he had obtained information that nearly USD 3 million in state reforestation funds was missing. The third kidnapping was the worst – the journalist was kept for a week by men who constantly interrogated him and beat him up.

In June 2001, the body of Wayan Sumariasne, a reporter on the *Poso Post* in Central Sulawesi, was found floating in the river. Until now, his killers are on the loose and the motive for the gruesome murder remains unclear. Wayan's corpse was found tied to two sacks of stones; it bore several knife wounds, the left eye had been gouged out and the nose broken. Poso is a city torn apart by the violent conflict between its Christian and Muslim residents, and violence such as this is not unusual there.

Press freedom advocates in the region believe that the intimidation and murder of journalists do not form a pattern of state repression. Rather, they appear to be isolated incidents that have more to do with the configurations of power and the breakdown of law and order in specific localities. The problem, therefore, is weak states that are unable to enforce the rules and protect their citizens. To be sure, the impunity with which those who would silence journalists can operate contributes to the rising casualty count. The judicial and law-enforcement system in Southeast Asian democracies is weak and prone to pressure from the wealthy and powerful, providing little protection for risk-taking journalists.

Battling against new forms of malfeasance

Corruption and other forms of wrongdoing in the political sphere are always hotly contested issues. As the cases above show, they can even be a matter of literal life and death. This is especially the case when societies break out of the authoritarian mould and previously repressed social forces, including the media, are unleashed. Democracy itself brings forth other changes, such as the decentralisation of government and the privatisation and liberalisation of the economy, which create new opportunities for malfeasance for many more players.

In the past, corruption was centralised – whether in the hands of Marcos and Soeharto and their kin and cronies in the case of the Philippines and Indonesia, or those of a clique of generals during the series of military regimes

that ruled Thailand. The fall of authoritarian rulers and the establishment of democratic institutions – freely elected executives and legislatures, independent judiciaries and bureaucracies that have legislative oversight – mean that the enforcement of law, the crafting of policy and, in general, the running of the affairs of state are shared by various branches of government.

The devolution of powers to local governments that are inevitably part of the package of democratic reforms means that local officials have more power and also more revenues under their control, as the flow of public funds from the centre to the provinces is increased.

Unlike in the past – when whatever Marcos, Soeharto or the leader of the junta said, prevailed – there are now many more hands to grease if laws, policies and decisions on the use of public money are to be skewed in favour of certain interests. In democracies, the various branches of government and the many interests aligned with various political factions compete with each for power and influence – and the perks that come with them. The media are often the arena for their competition, and corruption charges are the ammunition used in the battle.

‘Corruption has become a key variable in the debate on who should rule, and how fast and how far the nation should progress along the road to democracy’, scholars Pasuk Phongpaichit and Singsidh Piriyarangsarn wrote of Thailand, although the insight applies to other democracies in the region as well.

In Thailand, since the late 1980s, corruption has been used as the major justification for unseating governments. In 1988, Chatichai Choonhawan became the first elected MP to become prime minister since Thailand’s brief experiment with democracy from 1973 to 1976 ended in a military coup. Chatichai presided over a booming economy, and his government initiated large-scale infrastructure projects. His administration also saw the rise to political prominence of rich businesspeople and local bosses who used their new wealth to win seats in parliament.

The growing power of civilian officials diminished the clout of the military, which watched from the sidelines as newly elected officials skimmed commissions from infrastructure contracts and otherwise enriched themselves. In 1991, a military junta took over the government, citing how several ministers became ‘unusually rich’ – a phrase Thais commonly use to describe the sudden wealth of officials – after receiving bribes from businesspeople with government contracts and licences.

The coup, said Phongpaichit and Piriyarangsana, took place within the context of 'competition over revenues from corruption', as the military resented the diversion of these revenues to their civilian rivals. Soon after it took power, the military government began investigations aimed at the seizure of the assets of politicians alleged to be corrupt. The junta also went on an arms-purchase spree, commissions from big-ticket military purchases being the traditional way in which generals made money. While the military was far from being squeaky clean, military regimes had always clamped down on the press and the opposition, so that the scale and extent of corruption of the Thai generals were largely hidden from public view.

The last junta, however, was shortlived, ousted by a bloody popular uprising on the streets of Bangkok in 1992. The 'Bloody May' uprising signalled the return of civilian rule and the end of the era of the coups d'état that dominated much of modern Thai history. The democratic government that took over restored popular elections and chaotic parliamentary politics and unshackled the press, which was for the most part a proponent of democratic reforms and good government. The generals, though, also had their allies among publishers, editors and columnists; moreover, state firms linked to the military owned several broadcast stations. All these only too willingly exposed the corruption and other abuses committed by civilian politicians.

**The media as
unreliable
watchdog**

In Indonesia, the free press that emerged after Soeharto enlightened the public on the corruption and other misdeeds of the previous regime. Unrestrained media coverage of the excesses of the Soeharto era helped put the pressure on the new leaders to prosecute those responsible for the crimes of the past. The media also set their sights on the new, popularly elected rulers. As in Thailand, corruption was the ammunition used in the battle for supremacy between rival political forces – in Indonesia's case between the executive and the opposition-dominated legislature. Thus, Golkar, the political party with the second largest number of seats in the House of Representatives or DPR, brought out the corruption charges that led to the impeachment of President Wahid, while putting the lid on investigations of corruption in the state agency Bulog, which would have linked Golkar officials to possibly far more scandalous acts of malfeasance. The media gave prominence to the allegations against Wahid, helping provide legitimacy to his impeachment.

After Wahid was ousted, though, the media spotlight was put on Golkar and its leader, House Speaker Akbar Tandjung. While the initial allegations

against Akbar were made by rival politicians, intrepid investigative reporting, especially by the Indonesian news magazine *Tempo*, helped uncover new evidence that bolstered the charges. *Tempo* also provided circumstantial evidence to show that the funds were used to fund the 1999 Golkar campaign. The media's reporting on the allegations raised popular awareness about the charges and eventually helped mobilise the wheels of justice to move against one of the country's most powerful politicians.

The courts, however, failed to link the fund diversions to Golkar, which could be barred from contesting the 2004 general elections if it is proven that it received illegal campaign contributions. The prosecutors only went so far as to say that the money was not used for what it was intended: to provide free rice to poor Indonesians, harmed by the 1997 Asian financial crisis.

In the wake of the court's decision, the House of Representatives passed on second reading a new broadcasting bill that would ban the airing on local networks of overseas-sourced news programmes and appoint a 'government official inspector' for each broadcasting company, who would have the authority to review programme content and ban the airing of objectionable programmes. While the new law was seen as part of an effort to assuage Islamic sensibilities, especially a distaste for canned foreign programmes like MTV, it has also been interpreted as an attempt by the legislature to clamp down on the media's unrestrained reporting of politics and corruption. The bill, however, has met with such a public outcry that legislators have been forced to agree to amendments.

There are other problems with the media's coverage of corruption as well. In the Philippines, the media's effectiveness as a corruption watchdog is hampered by credibility problems. In part, these stem from the sensationalism and superficiality that often characterise daily reporting. The unhealthy competition among many rival news outlets is partly responsible for stories being blown out of proportion or sometimes even manufactured from scratch in order to justify sensational headlines.

For the same reason – the competitive media market that emerges to satisfy the hunger for news that comes after the fall of authoritarianism – sensationalism is a problem in the local-language press in Thailand and especially Indonesia. Journalists are also generally poorly trained so the reporting on corruption, and on politics and economics in general, often lacks context and depth. Rarely do stories on corruption report who gains and who loses, much less what can be done in terms of institutional or social

reforms. Corruption charges are seldom investigated to the full. Reporters often don't dig deep enough and remain content to write about the allegations that officials make against each other.

Sometimes, even honest officials are unjustly pilloried by the mob mentality of an overzealous press. Moreover, few journalists have the skills to report on more sophisticated forms of corruption that emerge with economic growth and the integration of local economies in the global market. Given the range and depth of corruption that eats at the heart of Southeast Asia's democracies, the media are simply not reporting enough.

Buying a free press

They are also so easily used. Corruption is rampant in the press as well, allowing those with unsavoury motives to buy journalists to defend them or attack their rivals. In 2001, the Jakarta-based Alliance of Independent Journalists did a survey, involving hundreds of reporters, and found that 70 per cent of journalists in East Java and 97 per cent in Jakarta were taking envelopes of cash from their news sources. The Jakarta office of the Southeast Asian Press Alliance also reported that, in 2001, 64 state-owned firms and government departments set aside USD 173 million for *pembinaan wartawan*, or cultivating journalists. Similarly, in 1998, the Philippine Centre for Investigative Journalism polled 100 beat reporters in Metro Manila and found that 71 had been offered money by their sources. Of these, 33 per cent admitted they took the money, with 22 per cent keeping the cash for themselves, and 11 per cent turning it over to their editors.

There are no similar numerical estimates of the extent of the problem in Thailand, but anecdotal evidence suggests that the problem exists, although not as pervasively as in Indonesia or the Philippines. The persistence of 'envelopmental journalism' is often attributed to the generally low salaries journalists receive. Indonesian journalists earn less than USD 200 a month, for example, making it easier to tempt them with cash gifts. But the lack of will on the part of editors and publishers to correct the problem, both by raising benefits and disciplining erring staff, should be blamed as well.

It is sometimes a wonder that the media, hobbled by all these problems, have been able to act as an effective, if not always competent and credible, guardian of the public welfare. But amid the sensationalism and the corruption that prevail in the media, there is a committed and professional corps of journalists in all three countries who are keenly aware of the importance of the press in advancing democracy. In addition, independent

journalists' organisations, press councils and press institutes have attempted to fill up the slack in terms of training, correcting ethical problems and enforcing codes of ethics.

One other corrective to media abuse is the plurality of the media's interests. Press proprietors may have their own agenda, but they also cannot be too partisan. Otherwise their rivals would expose them and they would lose their credibility and their ability to survive in the competitive media market. The need to play up to the market has some advantages, as shown during the Estrada crisis in the Philippines, when the media outlets which had once feared the president found their audience turning to more daring news organisations. Faced with the choice of supporting a presidency in obvious decline and letting go of their market share, these media companies opted to preserve their profits by loosening the controls on their journalists. Media companies, therefore, must constantly balance varied, sometimes contradictory, interests if they are to survive.

Indeed, the media are a hydra – a many-headed beast. Many sectors of the press promote democratic reforms because they genuinely believe in them and know that the news business thrives best in democracies. Yet for various reasons – the interests of their proprietors, the sympathies of individual editors and journalists, or the payoffs and pressures from vested interests – other sectors align themselves with the more retrograde elements of the democratic polity, whether these are racist, extremist, or criminal and corrupt.

Strengthening democratic institutions

In the end, the media are only one among many institutions responsible for building democracy and bringing about good government. Despite the most eagle-eyed press, governments can remain resistant to change. While media exposés have contributed to ousting corrupt officials and raising public awareness about the problems of governance, they have not resulted in long-lasting reforms. A free press and liberal information-access regimes are not a sufficient deterrent to corruption or a guarantee of good government. Other institutions, especially those that enforce the law and bring wrongdoers to justice, must function as well. In addition, citizens must keep vigilant watch.

The media, however, can shed light and show what needs to be done. For the region's democracies, the priorities on the governance agenda are the reform of electoral politics, the establishment of honest, independent and effective judiciaries and bureaucracies, and the provision of mechanisms for greater citizen participation.

In many respects, the corruption that gnaws at democratic polities is rooted in flawed elections. Ironically, elections are supposed to be the heart of democracy as they are the means by which citizens have a direct say on who will rule over them. The persistence of money politics in so-called democratic elections, however, warps citizens' choice and skews the playing field in favour of the wealthy.

Money politics also sets off a chain reaction. 'Parties operate on money,' wrote Phongpaichit and Piriyarangsan. 'To win an election, they must woo locally powerful candidates and that requires money. Once in power, the party or its leaders need to recoup funds by selling political favours to businessmen or stealing from public coffers.'

In Thailand, despite constitutional reforms instituted after the 1997 economic crisis, including the establishment of a powerful Election Commission that prosecutes vote-buying and other offences, money and fraud still dominate during elections. In the 2000 Senate polls, 78 of the top 200 candidates were disqualified for vote-buying and fraud, and six rounds of elections had to be held. In all, 500 cases of fraud were filed. In the House elections the following year, re-elections were scheduled in 62 districts because of fraud. The Thai Farmers Bank also estimated that candidates spent some USD 555 million on buying votes, even though a 1998 law officially limited election spending to just USD 22,000 per candidate.

In the Philippines, it was estimated that a presidential candidate in 1998 needed at least USD 50 million to mount a serious campaign. Vote-buying is rampant, but election laws, including caps on campaign-spending, are ignored more in the breach. The scandals that hounded President Fidel Ramos, who was elected in 1992, had largely to do with the diversion of public funds to finance the campaigns of the ruling party.

The same is true of Indonesia, where both President B. J. Habibie, who was that country's chief executive for 17 months after the fall of Soeharto, and House Speaker Akbar Tandjung were found to have been involved in siphoning off government funds to bankroll the Golkar campaign. In Indonesia, too, legal limits on campaign spending and election contributions are blithely set aside, and hardly anyone is prosecuted. One NGO estimated that the actual cost of campaigns is 100 times more than what is officially declared.

The media can help arrest this impunity. So far, the reporting on the money that flows during elections has not made a dent. Partly, this is because

many citizens see nothing wrong with selling their votes. They take a narrow, instrumentalist view: they accept the money because they don't get much out of the process anyway. Mostly, voters don't think of elections as a democratic exercise. They only see it as a means of exchange and they do not realise the consequences of selling their ballots. Unfortunately, the media as well as NGOs have not succeeded in changing this perspective.

In this and other respects, it can be said that democratic institutions, the media included, have been unable to cope with the democratic explosion. Democracy brings with it new processes and new structures whose workings need to be explained and appreciated. They also have to be watched, although their sheer reach and complexity can be mind-boggling.

Take the case of asset disclosures. In the Philippines, everyone from the president to minor bureaucrats is required to make a list of what they own. That means that hundreds of thousands of disclosures must be monitored. Congress alone has 220 members and keeping track of the assets of each one is already too big a task for a single news organisation to take on.

In Indonesia, the House of Representatives has 500 members while the People's Consultative Assembly or MPR, which deliberates constitutional issues and elects the president and vice president, includes all 500 House members and 200 other representatives. Since 2001, the Audit Commission on State Officials Wealth (KPKPN) was authorised to collect the asset disclosures of officials at various levels. Over 50,000 disclosures were submitted in the first months, way beyond the agency's capacity to check. The KPKPN has had to ask for volunteers to help look into the disclosures.

During elections in these countries, thousands of candidates vie for various posts. Both the media and the electoral bodies can barely keep track of even those contesting national posts. Over 1,000 charges of fraud were filed before Thailand's election commission during the 2001 House elections and the media can hardly be expected to investigate so many cases.

For sure, there is a need to focus. But even then, the task of monitoring public life and public officials is not easy, especially when news organisations are still uncertain about their freedoms and still in the process of defining professional and ethical standards, even while having to survive in a ruthlessly competitive market.

Thailand's Incomplete Information Revolution

By Peter J. Eng

'Thailand's private news media have made remarkable gains in recent years', writes Peter Eng in this study of Thailand's media situation. 'There is no doubt', he continues, 'that barriers and threats remain, and may be used, depending on who is in power. But both citizens seeking information and journalists seeking to spread information have reason to believe that better days lie ahead if they are willing to keep on pushing hard.'

The main reason for this new situation, which Eng calls a 'revolution', although unfinished, is the promulgation in 1997 of the Official Information Act, which guaranteed citizens access to information possessed or controlled by the state. He proceeds to give a number of examples of how the new legislation has worked in the interest of ordinary citizens but also of the ways in which powerful groups in society have managed to delay and even prevent the use of the law.

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Just a few years ago, the authorities could have easily ignored them all: the mother who wanted to know why her daughter was denied entry into a state school, the villager who wanted to know why a road was being built outside her home, the reporter who wanted to know whether the Prime Minister had tried to conceal his wealth. Today, these people and many others are at the vanguard of a revolution in freedom of information and expression in Thailand, a country that for most of its modern history has been under the tight yoke of soldiers and 'mafia' politicians.

Yet it is also very much an unfinished revolution. Many of the old bosses still cling to power. The 'reformist' politicians say new things but use old tactics to try to silence critics. The bureaucrats, guarding their fiefdoms, shut their doors against the new demands by the people. And the people cannot push harder because the laws and regulations are not strong enough.

A main engine of this revolution was the promulgation in 1997 of the Official Information Act, which guaranteed citizens access to information possessed or controlled by the state. This made Thailand one of very few

countries in the developing world – and still the only one in Southeast Asia – with such a law.

The act aimed to end the traditional Thai bureaucratic practice of guarding state information as confidential and for internal use only. It requires state agencies to publish or make available for public inspection basic information about their work. State agencies must also make available any other information that an individual may request, except information in special categories such as that affecting national security. If the individual's request is denied, he or she may appeal to the Official Information Commission, which can order the release of the information. Anyone who does not comply with such an order faces up to three months in prison and/or a fine of up to 5,000 baht (about USD 125).

Using the law, ordinary Thais have achieved solid victories, though these have come with some struggle. Some of these victories have occurred outside Bangkok. Community leader Sa-ieng Tawaisidhu of Roi-Et province in the poor northeast, for instance, used to be stonewalled whenever she tried to seek information from local officials. But after learning about the Act, she was able to use it to get details about local road deals. She told *The Nation* newspaper she would spread the word about the law to other community activists.

But the best-publicised case involved a mother, Sumalee Limpavart, who became something of a role model for citizens wrenching information from the state so as to redress injustice. Sumalee believed something was amiss after her daughter was denied admission to the elite, government-run Kasetsart Demonstration School in the capital. In 1998, she asked the school to show her the graded entrance test papers of her daughter and the other pupils. The school refused, saying that would violate the privacy of the applicants and their families. So Sumalee filed an Official Information Act request and forced the school to show her the test papers. From these, she saw that children who scored lower than her daughter often gained admission to the school. She then filed a petition with the Constitutional Court, claiming that by reserving slots for children of the school's wealthy benefactors and well-connected families, the school had violated the constitution's ban on discrimination on the basis of social or economic status. In 2000, the court ruled in her favour, and ordered all state schools to abolish any special admissions criteria.

Another prominent case involving the information law also took place in 1998. Journalists and NGOs used the law to force the counter-corruption

commission to reveal the results of its investigation into alleged corruption at the Public Health Ministry. The results, released the following year, showed that some ministry officials had participated in a racket in which 1.4 billion baht (USD 35 million) of medicines and medical supplies were sold to government hospitals at inflated prices. The revelations led to the resignation of the health minister and his deputy. In April 2002, the Supreme Court convicted a former advisor to the ex-deputy minister of malfeasance in connection with the scam and sentenced him to six years in jail. Five months later, the counter-corruption commission found the former health minister, Rakkiat Sukthana, guilty of being 'unusually wealthy' and of making a false declaration of his assets while in office. If the Supreme Court upholds the decision, Rakkiat could have 234 million baht (USD 5.9 million) seized from him, and could be barred from holding political office for five years.

In June 2001, the Official Information Commission ordered the central bank – the Bank of Thailand – to disclose information relating to its attempts to support the currency and financial institutions during the country's 1997–98 economic crisis. Many key details of the events at that time had been kept from the public, although the crisis hit many Thais hard and spread to other countries in Asia and beyond. According to *The Nation*, former central bank governor Rerngchai Marakanond had petitioned the Official Information Commission to force the central bank to release the information as part of his defence in a lawsuit. Ironically enough, the central bank is the petitioner in that case, in which it is seeking 180 billion baht (USD 4.5 billion) from Rerngchai in compensation for the failed attempts to support the currency and the financial institutions.

Then in July, the commission ordered the revenue department to disclose whether it would tax Prime Minister Thaksin Shinawatra and his wife for a large amount in shares they had sold to close relatives. The information was requested by a journalist working for a business newspaper.

Problems with information access

The information law has allowed citizens to participate more in decision-making. Through the law, they can get the information they need to express their needs and suggestions directly to the authorities. It has enabled them to monitor the performance of state officials. By making transactions more transparent, it may have reduced corruption by state officials, as well as nepotism.

Recent events in Thailand have also put businesses under greater pressure

to open up. The economic crisis that started in 1997 demonstrated the ease with which – behind closed doors – government officials and business leaders made decisions that impoverished millions of people.

Progress in business transparency, however, has been limited. Of the country's more than 580,000 registered companies, half maintain no tax records or submit financial statements, *The Bangkok Post* reported in January 2002. The Stock Exchange of Thailand has tightened transparency requirements of listed firms. But many companies do only the bare minimum to comply. *The Post* quoted the Exchange chair, Chavalit Thanachanan, as saying: 'The problems come where investors want information which is lacking, incorrect or incomplete. Accounting standards and implementation, while improved, remain poor in practice.'

In the meantime, some of the information release cases have exposed the tensions between freedom of access to information and the protection of privacy. Nakorn Serirak, head of policy and planning at the information commission, wrote in a newspaper article, 'Servants of the state must weigh state responsibility against the public interest and the private interest. The disclosure of school examination papers and results and the revealing of the names of witnesses in investigation reports are examples of areas of potential problems.'

Nakorn and other analysts have identified several other barriers to the wider use of the information law, and recommended ways to overcome them:

- Many Thais still do not know about the law and their right to obtain state-held information. The government and the news media should make the law better known and educate people on how to use it.
- Many civil servants are not familiar with the law and not equipped to make requested information readily available. They need to be educated on the benefits of the law. 'From top to bottom, they lack understanding and an interest in making information public', Nakorn wrote. 'They feel the Act adds to their workload and makes them too answerable to the public... The Official Information Law can help improve the public service so that it becomes part of an "information society" and an "open society". But civil servants are unclear about the benefits and lack a clear perspective of the future of their organisation.'
- Without good reason, many officials try to delay answering requests for information. They should be fined or otherwise punished. The law makes some officials reluctant to give out information. As mentioned earlier, an official who fails to disclose the requested information can be

fined up to 5,000 baht (USD 125) and/or be jailed for up to three months. But an official who by mistake gives out information that he or she is not supposed to give out can be fined up to 20,000 baht (USD 500) and/or receive up to a year in jail.

- There is no law punishing anyone who alters or destroys a record.
- The Official Information Commission is vulnerable to political interference, bureaucratic politics and red tape because it is under the supervision of the Prime Minister's Office. The commission's director was forced out in 1999 after he approved the disclosure of information in the Public Health Ministry drug scam. He said government officials accused him of giving too much information to the media. A more mild-mannered official was chosen to replace him. The commission must become a truly independent agency like other newly created agencies that check the government; examples are the Election Commission, the National Counter-Corruption Commission and the National Human Rights Commission. Yet in October 2001, members of the information commission voted to remain under the Prime Minister's Office; they said this made their work go more smoothly.
- Unlike the experience of other countries with similar laws, few Thai journalists have used the Act. In 2000, the number of government employees who used the Act was ten times more than the number of journalists. 'After some initial excitement and flirtation with the information law, some journalists have now returned to their old habits of using personal connections to obtain information,' senior Thai journalist Kavi Chongkittavorn has written. 'To meet deadlines, journalists have no patience to wait on the long disclosure process now in place.'

Journalists open up the system

The irony is that while Thai journalists have been reluctant to use the law, the local press played a crucial role in bringing about the political reforms that led to its creation. From the start, radio and television have been state-owned and used for propaganda and control of citizens. Most Thai newspapers, however, have been privately owned from the beginning, and some built up a strong tradition of independence despite crackdowns and repressive laws.

In denying information to citizens, Thailand's civil and military bureaucracies have long been motivated by their obsession with safeguarding the image of what have traditionally been considered the three pillars of the country: Nation, Religion and King. For the same reason, they have manipulated or shackled the news media for most of Thailand's modern history. But social revolutions since the 1970s, particularly the growth of the

middle class and its revolt against military rule, have significantly strengthened the media. Today, Thailand, along with the Philippines, has the freest, most powerful media in Southeast Asia.

This was not always so. In a 1932 coup, a group of army officers and liberals transformed the absolute monarchy into a constitutional monarchy. They adopted a constitution that granted freedom of expression. But the military and bureaucratic elites who ruled over the next six decades were much harsher on the media than the 'absolute monarchs'.

In the early 1970s, students and intellectuals who opposed military rule made freedom of expression a national issue for the first time. In October 1973, soldiers shot dead scores of demonstrators. In response, King Bhumibol Adulyadej sent the dictators into exile abroad. During the 1973–1976 democratic interlude, the masses participated in politics for the first time and new progressive newspapers started up.

From 1975 to 1976, Thai rightists used the state TV and radio to whip up mob hatred against 'communists'. On 6 October 1976, rightist groups killed hundreds of student demonstrators. The military seized power again.

In the 1980s, the political system began opening up. Political liberalisation and an economic boom sent the private media industry to new heights. As the young, urban middle class expanded rapidly, so did the thirst for information. Many new titles emerged, especially business publications.

In 1991, the military overthrew the elected government. The coup leader, General Suchinda Kraprayoon, made himself Prime Minister after the March 1992 polls, although he had not been elected.

Two months later, hundreds of thousands of people flooded the streets of Bangkok, demanding that Suchinda resign. They were led by middle-class activists and businesspeople, who used their mobile phones to relay news and coordinate rallies. The authorities declared a state of emergency and threatened to shut down any newspapers that criticised them.

Soldiers opened fire on the demonstrators between 17 and 20 May, killing at least dozens and wounding hundreds. The state TV and radio stations did not report these shootings; only the few Thais with cable and satellite TV saw the truth on CNN and BBC news. But *The Nation*, *Phujat Karn Raiwan* (Manager) and *Naew Na* (Frontline) newspapers published full reports. The coverage drew thousands more enraged people to the streets. On

20 May 1992, King Bhumibol Adulyadej interceded in the crisis and Suchinda resigned.

The news blackout on the state-run stations during the uprising intensified public demands for liberalisation of the media. The interim government of Prime Minister Anand Panyarachun in 1992 began key reforms, among them those concerning the media. It abolished the requirement that all stations relay daily newscasts produced by the government. It also got rid of the state board that controlled content at broadcasting stations. It then began drafting the freedom of information act, even as it authorised the creation of a privately run TV station designed to present news in an independent fashion. This station – Independent Television, or iTV – started broadcasting in 1996.

In 1997, two weeks after the Freedom of Information Act was promulgated, Parliament passed a new, more democratic national constitution. The charter contains some of the strongest guarantees in the developing world on freedom of information and expression. It forbids the government to restrict freedom of expression, communication or the media except by specific legislation in times of crisis. The government cannot shut down any media facility, or ban printing, publishing or broadcasts except when a court judge so orders. It cannot censor the media except in wartime.

The constitution also mandates the breakup of the state monopoly over the broadcast media, and says that the frequency bands for radio and TV broadcasts and telecommunications are to be assigned to the public by an independent organisation. The constitution also says that all journalists, including those working for the state-owned media, shall be free to present news or express their opinions uncontrolled by media owners. Moreover, it says citizens are entitled to have access to information in the possession of state agencies, and to receive explanations about state activities that may affect their environment, health or quality of life.

Modifying the culture, checking the bigwigs

Most Thais greatly respect authority. But many of the newer generation of newspaper journalists see themselves as crusaders who guard against human rights abuses and champion the rule of law and accountable government. Since the 1992 uprising and the 1997 economic crisis, the major newspapers have significantly expanded coverage of politics and business as well as 'middle-class issues' including corruption, the environment and human rights. They now shape much of the political agenda and bring the full pressure of public opinion to bear on politicians.

Newspaper coverage of a land reform scandal forced Prime Minister Chuan Leekpai's first government to resign in 1995. Exposures of high-level scams helped upend the next government, of Prime Minister Banharn Silapa-Archa, in 1996. By crusading against the politicians who opposed it, the newspapers helped ensure the passage of the new constitution in 1997. Press criticism of economic mismanagement helped overturn the government of Prime Minister Chavalit Yongchaiyudh in 1997. Press criticism of Chuan's second government helped bring about the landslide victory of Thaksin Shinawatra's party in the January 2001 election.

A new trend emerged: investigative reporting, some of it made possible by records obtained under the Official Information Act. In 2000, the newspaper *Prachachart Turakij* (National Business) reported that Deputy Prime Minister Sanan Kachornprasart falsified figures in the declaration of assets and liabilities that ministers are required by law to make. Sanan resigned. The National Counter-Corruption Commission indicted him and the Constitutional Court banned him from public office for five years. In another investigation, *Prachachart Turakij* reported that Thaksin had tried to hide his assets by transferring millions of dollars' worth of stocks to his maids, security guards and driver. The counter-corruption agency indicted him. But the court, in a controversial decision, ruled him innocent.

In the meantime, iTV provided independent and critical reporting, unprecedented in the Thai broadcast media in the late 1990s. When six drug suspects were shot dead in police custody, and the police claimed to have fired in self-defence, iTV sought witnesses, who said the killings were summary executions. A police investigation later confirmed this. iTV cameras have also caught traffic policemen extorting money from motorists, a practice common in Thailand but never before filmed. As a result, several senior officers have been fired. iTV filmed ballot-box stuffing in a local election. The footage was used as evidence in court and the election was annulled.

For all these, media exposures of wrongdoing often have limited impact because many of Thailand's political and legal institutions remain weak. In addition, even the boldest newspapers still censor themselves. The new constitution kept in place laws prohibiting criticism of the royal family, threats to national security, or speech that may incite disturbances or insult Buddhism. The Official Information Act itself bars the release of any information 'that may jeopardise the Royal Institution'.

Threats remain strong

Members of the media also have to contend with the fact that while conditions in general have improved in recent years, local mafia and state big-wigs are still a threat. In 2001, two Thais were among the 37 journalists killed worldwide as a direct result of their work, according to the New York-based Committee to Protect Journalists. One was a radio journalist who reported on irregularities involving a real estate deal for a city garbage dump. One of the suspects arrested for the shooting was a city official implicated in the garbage dump scandal. The other slain journalist was a stringer for the mass-circulation newspaper *Thai Rath* (Thai State) who had reported on drug gangs linked to politicians and police officers.

Prime Minister Thaksin's administration, which began in February 2001, was the first government elected under the new constitution. But the government coalition includes big business, former military men and 'god-fathers' from the provinces. It has used the same tactics as previous governments to try to muzzle the media. And it has invoked the old nationalistic rhetoric – journalists should tone down their reports, Thaksin has said, 'for the sake of the country'.

The Thaksin administration has used the state-owned media extensively for propaganda, and cancelled shows that aired criticism of the government. Invoking the Press Act of 1941, the police issued warnings to two newspapers for reporting on a scandal involving Thaksin.

The most ominous moves came early in 2002. News programmes produced by the Nation Multimedia Group were taken off a state-owned radio station after an interview with a leading critic of Thaksin was broadcast. The police moved to expel two foreign correspondents for the *Far Eastern Economic Review*, a Hong Kong-based regional news weekly, citing an article that reported tension between the Prime Minister and the royal palace. The order was rescinded after the magazine apologised for any misunderstanding.

But more was to come for media members who were deemed too nosy and noisy. In an apparent attempt at intimidation, the Anti-Money Laundering Office launched an investigation into the assets of senior journalists and news organisations known to be critical of the government: the Nation Multimedia Group and the newspapers *Thai Post* and *Naew Na*. In June, a court ruled the investigation illegal, but in September, a government-appointed panel cleared two key officials at the Anti-Money Laundering Office of any wrongdoing. The probe of the journalists 'had political influence written all over it', said the Nation Multimedia Group's Editor-in-Chief, Suthichai Yoon.

The editor of *Naew Na*, for his part, said Thaksin asked him to cancel a column by a critic of the government. Thaksin denied that he or his government was behind the moves against the local and foreign media, but few people believed him.

One of the most worrying developments, however, has been the weakening of iTV. Among iTV's original shareholders was the Nation Multimedia Group, whose crusading journalists had developed the station's news programmes. Financial losses forced the station into debt restructuring and, in 2000, Shin Corp., the telecommunications firm that Thaksin founded (and which is still run by his family), bought a large stake in the station. After the iTV news director opposed the sale as a threat to the station's editorial independence, the new management removed him. When Thaksin's party contested the January 2001 election, iTV management ordered its journalists to stop broadcasting bad news about Thaksin. A group of 23 journalists who dissented were fired. In September 2001, the Central Labour Court ruled that the journalists had been unfairly dismissed and ordered iTV to reinstate them with back pay. iTV has since become noticeably tamer in its news coverage and has focused more on entertainment programmes, to bring in more revenue.

Another major barrier to broadcast reform has been the controversy over the establishment of two commissions that were supposed to deregulate the markets and transfer to the public frequencies controlled by the state. The creation of the National Broadcasting Commission and the National Telecommunications Commission had been mandated by no less than the new constitution. But journalists and other critics complained that military and civil bureaucrats and media entrepreneurs, seeking to guard their own interests, interfered in the process of selecting members of the two bodies. Early in 2002, a court nullified the nominations for both commissions after a complaint was filed that they were not chosen in a fair and transparent manner. And so the long delay in creating the commissions continues.

Thus, 10 years after the 1992 uprising, the state still owns all six major terrestrial free TV stations broadcasting nationwide as well as the country's more than 500 radio stations. (Many of the stations are operated by a few large private corporations, which used their connections with government officials to obtain operating licences.) Some military officers have publicly insisted on keeping the military's broadcast frequencies, arguing that these were vital to national security. But critics have retorted that the officers simply do not want to lose the huge profits they get from the stations.

Still, reason for optimism

Thailand's private news media have made remarkable gains in recent years. Thailand itself has rejected the ideological justifications for press controls of its Southeast Asian neighbours – communism in Vietnam and Laos, militarism in Burma, the 'Asian values' argument in Singapore and Malaysia. Indeed, the Thai government has been a leading proponent of greater openness in the Association of Southeast Asian Nations. The economic crisis, which was blamed on the lack of transparency and accountability in government and business, has increased public demands for a freer flow of information.

There is no doubt that barriers and threats remain, and may be used, depending on who is in power. But both citizens seeking information and journalists seeking to spread information have reason to believe that better days lie ahead if they are willing to keep on pushing hard.

Information Technology as a Tool for Control in Singapore

By James Gomez

Singapore has often been mentioned as a successful model of industrial and technological development, which over a relatively short space of time has resulted in a considerable improvement in the standard of living of the population. This has not, however, happened without a price being paid, as many commentators have observed. Amongst other concerns are the restrictions that have been placed on civil liberties, particularly on rights to freedom of speech and access to government information. In this area, the situation in Singapore – and, to a lesser degree, Malaysia – presents a stark contrast to that of the Philippines, Thailand and Indonesia.

In his contribution, James Gomez shows that in Singapore, contrary to the norm, a highly developed IT and telecommunications network has not led to greater freedom of information. The government has managed to limit the opportunities that the Internet offers for exchange of views and information nationally and internationally, and has also created various difficulties for individuals trying to create personal websites.

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There is perhaps no arena more suited to freewheeling discussions and unfettered discourse than the Internet. In many countries, the Net has been used to provide information that would otherwise be unavailable to the locals and has even contributed to the downfall of some repressive governments. In Singapore, which has the most extensive information infrastructure in Southeast Asia – if not the world – many people have revelled in the wealth of data that can be found on the Net and the usefulness of such in their daily lives. Yet unlike in other countries, the Internet has yet to become a tool to help bring about political reforms in the tiny city-state of Singapore. More than anything, in fact, the People's Action Party (PAP), which has ruled Singapore for more than 40 years now, has turned information technology into a tool for control.

This has become more so since 11 September, which triggered calls by re-

gimes around the world for greater surveillance of the Internet as part of global counter-terrorist measures. International authorities believe those behind the 9-11 attacks in the United States had successfully used the Net to help plan and coordinate their activities, as well as to propagate their cause. Southeast Asian governments thus speak even more frequently of cybersecurity and cyberthreats even as they enact new national security laws that allow the state to intrude in many areas of privacy.

That the PAP put the Net under tighter control after 11 September did not come as a surprise to Singaporeans. A month before, the government had already begun imposing added restrictions on Net usage as part of its preparations for the general elections. And years before that, the PAP government had already been quick to suppress any use of information technology (IT) for political ends. Thus, even though the government has provided the infrastructure for widespread Internet use, Singaporeans remain nervous and wary of using the Net to widen their democratic space, thereby limiting its potential for political liberalisation. To be sure, technology's democratic features come alive only when people are willing to use it for such purposes, and only when they are able to believe that any gains they make far outweigh the risks they will have to face in doing so. In Singapore, however, years of strict regulations and punitive actions taken by the PAP against political opponents and critics, including members of civil society and academics, have made self-censorship almost a reflex reaction.

This is the issue that observers and commentators must grapple with when they evaluate new communication technologies and politics in Singapore where advances in IT, infrastructural reach and a highly literate population have not been matched by expansion of political participation. Here is a country that prides itself on being technologically savvy but continues to be governed by a hegemonic regime that places restrictions on technology for use in communication whenever it feels its political position threatened. The ruling party claims it wants to run a government in which the people contribute to policy formulation, but it has made this hard to achieve, partly by its tightening grip on what could be a powerful democratic tool.

**Centralising power
and increasing
control**

Singapore used to be part of the Federation of Malaysia. Yet even when the PAP under Lee Kuan Yew managed self-government in 1959 and began to take political action against its opponents, there was free flow of information and no sign of any move towards centralised control.

When independence was achieved in 1965, the Barisan Socialis, a pro-communist party, split from the PAP, abandoned Parliament and took its struggle to the streets. This move paved the way for the PAP to take effective control of the country and clean up the political landscape through arrests and detentions and consolidation of power.

The mid-1960s to the 1990s saw the government under the PAP encroaching into every sector. In politics, it brought the grassroots organisations under its ambit and consolidated the political elite. A PAP MP or party member is at the apex of such grassroots structures, thus cementing the link between the party and mass-based organisations.

Similarly, trade unions were brought under the control of the government through arrests, intimidation, legislation and politicking. The party was thus able to penetrate every workplace and maintain effective control over the workers and their grievances, and prevent any kind of political mobilisation. By introducing legislation and penalties, the party has also reduced the ability of local and foreign press to comment freely on local politics. Controls have effectively been placed on all aspects of information flow.

Within Parliament, freedom of speech was eroded by amendments to the Parliamentary Act of 1986. Using libel laws, the ruling government has brought numerous lawsuits against its political opponents, who have been detained without trial. Invariably, it is the 'moral angle', i.e. questioning of their moral character, that is used to put them down.

Legislation and rhetoric have also been used to keep distinct religious, social and cultural groups out of politics. This is to stop any alternative grassroots base from forming outside the government's controlled network. There have been attempts as well to foster a certain kind of political culture through ideological means. The idea of 'Asian values' was widely promoted to advocate non-adversarial politics and denounce liberal democracy as alien to Eastern culture.

What Singapore has then is an overarching regime that watches everything and overwhelms those who want to experiment. One result has been a prevalence of self-censorship, with people modifying their political opinions or refraining from expressing them altogether, especially when these are against the PAP. Self-censorship also operates through the censorship of others. Someone, for example, may call attention to another person or group expressing alternative political remarks or actions. Then follow alerts to colleagues, friends and family that something is amiss.

Still, in 1999, it seemed that measures towards central control were starting to take a different turn. This was when the government published the Singapore 21 Report as the codification of the people's aspirations for the millennium. Essentially, the theme was that everyone mattered. Yet while the Report proposed development and openness in many areas of the economy and society, it made no clear statement on politics. It also soon became apparent that attempts to liberalise structurally were almost simultaneously negated by the enactment of restraining measures.

So when the PAP government announced in 2002 that it was setting up the 'Remaking Singapore' and Economic Review Committees to review strategies in the 21st century, sceptics were many, and even included some members of these bodies. After all, experience has shown that changes that may eventually affect the PAP's stranglehold on power would always be rejected.

The intelligent island

There is no denying, however, that the PAP government has pulled out all the stops to wire up the entire country as a response to the IT revolution. Under the Singapore IT2000 Master Plan, the ruling party aims to transform the country into 'an intelligent island where IT is exploited to the fullest to enhance the quality of life of the population at home, work and play'. The PAP government's Singapore ONE network is nothing less than a national initiative to deliver 'a new level of interactive, multimedia applications and services to homes, businesses and schools throughout Singapore' (www.s-one.gov.sg).

In 1994, a new company called Singapore Cable Vision (SCV) took up the government's challenge to help transform the nation into an intelligent city and usher in a whole new information age. It built a hybrid-fibre coaxial network that made possible a convergence of the broadcast, IT and telecommunications industries. Today SCV offers high-speed Internet access through TV, PC, telecommuting, videoconferencing and telephony, among other services.

As a result of all these, the 1990s saw an explosion in the number of Internet users in the country. Despite the economic slowdown in the region following the Asian Crisis in 1997 and then the events of 11 September in 2001, Singapore continues to see a healthy Net growth. From 1988 to 2000, computer ownership among Singaporeans grew from 11 to 66.1 per cent. Half of Singaporean households now have Internet access (www.ida.gov.sg).

The National Internet Advisory Committee placed the number of Web users in 1999 at 800,000, but by the next year, the figure had risen to 2.2 million. There has also been a significant growth in the number of websites registered with the Singapore Network Information Centre, which administers the Internet domain name space for .sg top-level domain – from 900 sites in 1996 to more than 17,200 in early 2001 (www.sba.gov.sg). Broadband growth has been particularly robust, with the number of broadband users reaching 450,000 in 2001 (www.sba.gov.sg).

Aiding the rapid development of the information highway in Singapore is its high literacy rate. Most citizens hold average or above-average educational qualifications, which means they receive secondary or both secondary and tertiary education.

Singaporean Net users tend to fall within the age bracket of 20–40 years and are educated to post-secondary level. Often they live in the larger public housing units (flats with four or more rooms) or in private apartments, indicating their middle-class status (Survey on Infocomm Usage in Households 2000, www.ida.gov.sg).

But there is among most Singaporeans an unmistakable culture of and desire for continual education, which is supported by state policies aimed at technology training and bridging the digital divide. Community centres and other outreach institutions, for instance, offer cheap computer courses for adults.

All wired up

Apart from Internet connectivity, there is the high penetration of mobile phones and pagers. By late 2001, the number of mobile-phone users stood at 2.8 million (www.ida.gov.sg). The mobile phone penetration rate rose from 13.6 percent (400,000 subscribers) in 1997, when tracking of subscribers first commenced, to 69 percent (2.8 million subscribers) in November 2001 (Statistics for Telecom Services, www.ida.gov.sg).

This has resulted in a corresponding increase in the use of Short Messaging Services (SMS) or text messaging. Phone firms use SMS to send product and service promotions. Other businesses engage the services of broadcasting agents to do the same, while small firms use text to communicate directly with their customers. This increase in the usage of SMS is in part dictated by the lower mobile phone charges. It has also placed the country second only to the Philippines in terms of text usage, although SMS have not been used for political causes in Singapore as they have in the Philippines.

Taken together, the Internet, high connectivity, new telecommunication devices and enviable IT literacy have given people-to-people communication in Singapore a new momentum. At the same time, the development of the Internet into the choice medium for information dissemination has led to talk of e-government. In a report titled 'The Singapore e-government Action Plan', the government spelled out its objectives and budgeted '\$1.5 billion for infocomm initiatives in the public sector over the next three years'. Through this initiative, it stated, 'citizens will be able to access more and more public services, delivered online, any time, anywhere'. The report added: 'Systems and services must be delivered at "Internet speed" and continuously fine-tuned to respond to customer needs and feedback.'

Of several strategic programmes to achieve this vision, two aspects are relevant to access to information: the Electronic Services Delivery (ESD) and the Operational Efficiency Improvement (OEI). ESD is designed to gear all 'public services which are suitable for electronic delivery or can tap electronic channels to improve service delivery' to be re-engineered accordingly, while OEI is supposed to ensure that 'up-to-date hardware, work engines and data processing form the backbone of an efficient and effective public sector' (www.egov.gov.sg). So far, Singaporeans have been able to pay taxes online and download general data from the respective websites of government bodies.

But this wiring-up of government institutions and the bureaucracy has a two-tiered outcome. At one level, it allows information-sharing among state agencies and departments. Such sharing is done internally or within the ministries and departments themselves, as well as externally or between two or more agencies or departments.

At another level, IT has allowed such a coordinated approach to track citizens with greater efficiency and scrutiny. It can be said, for example, that a Singaporean is 'monitored' from birth, since each birth certificate comes with a number on it that is used eventually as the number on an Identification Card (IC). These ICs have bar codes, and all relevant information about the individual is stored on it, such as health records, driving offences and even records of checking books out of the library. With IT's arrival, the ICs have also become more integrated in the various state agencies. For example, if someone changes the residential address recorded on his or her IC, all major government agencies can be notified about the change simultaneously.

But to expect that IT would allow citizens similar ease in extracting infor-

mation – other than general data – from the government is not realistic in a nation without a law guaranteeing a free press and free expression. And much like its other legislation, Singapore’s laws regarding the Net only hinder public access to information and promote a culture of non-disclosure.

These Internet laws came into force as early as 1996, under the Singapore Broadcasting Authority (SBA) Act (Cap. 297). Section 3–4, for instance, states: ‘An Internet Content Provider shall deny access to material considered by the Authority to be prohibited material if directed to do so by the Authority.’ Definitions of prohibited materials are mostly in the sphere of sexually explicit content. But Section 1(g) of prohibited materials also states that the tone of the factors to be taken account is ‘whether the material glorifies, incites or endorses ethnic, racial or religious hatred, strife or intolerance’. These and the Act’s other aspects thus require websites to register with the authorities if they contain material on sensitive subjects such as religion and politics.

Of course, though, in a country where most professionals, intellectuals and academics are linked closely to the state in one way or another, many find it hard to break out of the self-censorship mode and contribute actively and openly to supporting political pluralism through the use of IT. Only a few do, and they are usually independently employed. But even they find their attempts to use email or SMS to send out alternative political information thwarted, usually eliciting responses like ‘Take me off your mailing list’ or ‘Don’t send me any more messages’.

Going solo on the Net

The author’s own experience in setting up a personal website is illustrative of the seeming omnipresence of the country’s authorities, even in cyberspace. In August 2001, the author decided to set up an individual website and an accompanying mailing list. To this end, a personal database of about 2,000 addresses that arose from the author’s first year as sole proprietor of the Think Centre – an NGO dedicated to promoting political awareness and freedom of expression – was set up with Yahoo eGroup as JamesGomezNews. After some technical adjustments, a single test and welcome message was sent to the list. Next, a personalised domain name, www.jamesgomeznews.com, was acquired.

Personal websites are at a very low stage of development in Singapore, with the few maintained by Singaporeans usually found at free web host servers and belonging to young people who post information about them-

selves and upload pictures of friends. A handful set up by more mature individuals may include some data regarding their respective families. But individual websites belonging to writers, artists and politicians are almost non-existent. The author's aim in setting up a personal website was to pioneer communications in this direction.

Within days of the author's acquisition of a domain name, however, the Minister of Home Affairs was bringing up in Parliament the matter of how this author was setting up a new website. This prompted the author to send an email to the ministry, seeking clarification on what the minister had meant by a 'new website', since there had yet to be a public announcement of any plans by the author to set up a website. At the time, only two other people had known of such plans: the author's publicist and a website designer, neither of whom had any contact with each other. All the author had done at that stage was to set up the mailing list at yahoogroups and send out a welcome message. In effect, the mailing list was yet to be put to use.

The response from the Ministry of Home Affairs to the author's email query was quite interesting. The reply came in the form of a statement, which said that what the minister was referring to was the mailing list. It said the list showed why legislation was needed to control it. The statement, signed by a civil servant, also suggested that the mailing list had somehow been misappropriated from the Think Centre, hinting at some kind of wrongdoing. The civil servant referred to numbers, noting, 'JamesGomezNews, for instance, was only created on 2 Aug 2001 but almost immediately claimed a mailing list of 2,251 members'.

The author's publicist replied, 'It seems interesting to note that the desk officers of the Ministry of Home Affairs are keeping abreast of James Gomez's activities. Could it be possible that this new law be called the "James Gomez' law"?'

Details of this exchange were reported in the local press and had the bonus outcome of more people signing up for the JamesGomezNews mailing list!

In the meantime, the author offered ministry officials full access to the mailing list so that they could dissect and examine what they thought was wrong. He also invited them to discuss the issue of the mailing list and the accompanying legislation that the government was at that time introducing to control it. The Ministry of Home Affairs, however, did not take up the offer.

But the mailing list would be withdrawn from public domain later, when the PAP introduced regulations for mass emailing. Keeping it there would have left the author vulnerable to attack, given the ambiguity in what were then the latest in Singapore's regulations for the Net.

It is still not clear to what extent the PAP government will legislate to include individual and private communication as political campaign tools. But it is almost predictable that the civil servants given the task of policing the Net would be the first to appropriate information on personal websites to determine the boundaries of usage. And they would be likely once again to make a clinical distinction between communication and political communication. That would be the telling-point in the development of people-to-people communication in Singapore.

Electing to shut up

Despite all the obstacles put in its way, though, the Internet has managed to sow the seed of transparency in Singapore and has been used to highlight several kinds of issues. A new space has become available where government discrepancies and lapses, complaints against it and alternative viewpoints can be made public. These have not, to say the least, amused the authorities, who have made their displeasure known in various ways to those deemed to be crossing the line. Citizens are also constantly reminded that the Ministry of Home Affairs has the capacity to scan email accounts and polices every area of space for political expression.

By the time terrorists were crashing planes into the Pentagon and the World Trade Towers an ocean away, the PAP, as part of its preparations for a sure-fire victory at an upcoming general election, had already introduced even more legislation to curb political activities on the Internet. The events of 11 September, however, apparently provided a good excuse for an even stronger clampdown.

In August 2001, Parliament had legislated amendments to the Parliamentary Elections Act (PEA) to regulate political parties, candidates and groups hosting websites that discuss local politics and requiring them to register with the SBA. The amendments regulate any material thought to promote any candidate or party, even if it does not mention them by name. The producer of any election advertising in print or online is required to be identified, as well as the person for whom the advertising is being done. Moreover, opinion polls in the days leading up to elections and exit polls before the release of election results cannot be published. The penalties

awaiting those violating these regulations include a fine and a jail term of up to a year.

The latest Net regulations also hold website owners and editors accountable for what surfers post on the online fora. Given the nature of the Net, most postings cannot be controlled. In Singapore, these are also often anonymous. But these considerations were apparently lost on those who drew up the PEA amendments. In truth, there is no guarantee of freedom from prosecution even if, in an entire year, there was only one posting that contravened the law.

In addition, non-party political websites are now effectively prevented from monitoring the campaign or covering the election. This is because of the extremely broad rule in the PEA amendments that such websites are prohibited from carrying information that ‘constitute campaigning for any political party or candidate’. Also covered by this prohibition are mailing lists and SMS. According to the Parliamentary Elections Act, “publish” means make available to the general public, or any section thereof, in whatever form and by whatever means, including broadcasting (by wireless telegraphy or otherwise) and transmitting on what is commonly known as the Internet....’ (Parliamentary Elections Act, Chapter 218)

In the run-up to passing the amendments, one website, Sintercom, was asked to register; it refused, and instead decided to cease operations. After the passage of the PEA additions, the Think Centre, which maintains a website, withdrew its online forum in protest. It said it disagreed with the amendments, which had been brought before Parliament without consulting all groups concerned.

But that may have made the Centre a more noticeable blip in the election department’s radar. The ambiguity and restrictiveness of the legislation had resulted in non-party political sites like the Think Centre having to guess which articles the department would frown on. The Centre chose to remove hyperlinks to sites campaigning for a political candidate or party. But later the elections department threatened the Centre and several opposition political parties with legal action if they did not remove articles that could be construed as ‘election advertising’ from their respective websites. And days after receiving its first faxed admonition from the department, the Think Centre received another letter threatening prosecution for the non-removal of an article written by a Singapore Democratic Party youth wing member.

The second letter at the very least shows the amount of resources and the level of scrutiny that the PAP directs, through the civil service, towards website monitoring. Yet it should be noted as well that in many countries, putting up election watch reports, analysis and general reportage by web portals are the norm. In Singapore, this has been made illegal.

The case of the 'madman'

Just how serious the PAP was in ensuring a decisive victory in the 3 November 2001 polls, or how it dealt with those that got in its way, could not have escaped Robert Ho Chong, a retired journalist. But the 51-year-old, who used to work for the Singapore Press Holdings, somehow still thought it was worth posting on the Net the allegation that ruling party stalwarts led by Premier Goh Chok Tong and Deputy Premier Lee Hsien Loong had broken the law in the 1997 elections by visiting polling places without authority. 'Thus', wrote Ho, 'I would encourage all good Singaporeans, who feel indignant about this breach of the law and the subsequent obstruction of justice, to break the same law'.

The police found Ho's opinion piece on 24 October 2001, five days after he had posted it from home at an Internet newsgroup (soc.culture.singapore) and a website (Singaporeans for Democracy). On 16 November, they arrested Ho for allegedly posting inflammatory articles online during the election period. The authorities said what Ho had done could be classified as an attempt to incite violence or disobedience to the law that could lead to a breach of peace. He was then remanded to the Singapore Institute of Mental Health. The next month, Ho was acquitted after a psychiatric report said he was suffering from paranoia and would need long-term treatment.

Ho's case was a very public demonstration of how psychiatric facilities could be used to detain suspects. It also marked the first time Singapore had someone charged criminally for sending an email and posting a story at a website.

Muslims lose a cybervoice

The 'madman' incident, however, would not be the last time someone would get into trouble in Singapore because of something he or she had said online. Since then, in fact, there has been even stricter policing of the Net, with authorities pointing to 11 September and the terrorist threat in Southeast Asia as the primary reason. After 9–11, members of Singapore's Muslim community also felt themselves being more closely scrutinised. By early 2002, 13 Muslim activists found themselves in detention without trial; as of the time of writing, 21 more have been hauled in by the Internal

Security Department, which alleges that the activists actually belong to the Jemaah Islamiah, a militant network that is said to be connected with Osama bin Laden's Al-Qaeda.

Following the first batch of arrests in December 2001, the local media used words such as 'terrorists', 'militants' and 'extremists' to describe those being held by the authorities. The Singaporean media reported everything that so-called 'intelligence sources' revealed without ever questioning such information. Until now, there has been no attempt by the PAP administration or the local media to try to understand the motives of those detained and review the necessary policies.

As it is, Muslims in Singapore often feel that their concerns are not given due consideration. They have also been told repeatedly that they are not trustworthy, and are slow and backward. It was thus almost expected that Fateha.com would step forward to give a voice to the island republic's Muslims who were feeling more and more under siege. At the time, the Fateha website was not even a year old, having been started only in June 2001 in response to the mainstream media's seeming lack of interest in Muslim concerns and issues.

Fateha.com, however, traces its origins to an email discussion group known as Cyber Ummah set up by the Muslim Scholars and Teachers Association of Singapore (also known as PERGAS). Apart from participating in the discussion group on various issues such as the Compulsory Education Act and its impact on *madrrasah* (Islamic schools), Fateha members were also campaigning actively for the use of headscarves by Muslim girls in national schools. This had been prohibited by the education ministry, the authorities arguing that for girls to wear the *hijab* in national schools would impede national integration. Such an argument interprets a parent's desire to send a daughter to school wearing a *hijab* as a deliberate act that threatens racial and religious harmony by placing a particular community's interests above national interests.

By early 2002, Fateha.com was tackling more controversial issues. For one, it asked that the detained Muslim activists be given their day in court once and for all. But it also expressed sympathy for bin Laden and opposed Singapore's support for the US-led war against terrorism.

It was only a short time before Fateha and its head, Zulfikar Mohamad Shariff, were being roundly criticised by the ruling PAP and its supporters, specifically for questioning the government's support for the US-led war.

Soon after, it was announced that Fateha's homepage was to be registered as a political website. It was also made public that the authorities had been closely monitoring Fateha for quite a while.

Seven Fateha members then made a noisy exit from the group (reportedly as a result of some pressure). They claimed that statements made by Zulfikar were political in nature and that they wanted no part of these. Zulfikar came under more heat, prompting him to resign as Fateha chief.

As these events were taking place, three Muslim Singaporean schoolgirls were suspended while another was withdrawn by her parents from her school. The issue for all four: their schools' refusal to let them wear their headscarves. The local media reported that Zulfikar was supporting the decision of the girls' parents to take the matter to court and that he was trying to engage a well-known Malaysian constitutional lawyer, Karpal Singh, as lead counsel to represent the parents and the students. PAP leaders reacted by saying foreigners should not be involved in the matter.

Karpal Singh applied to work as a 'lawyer and consultant on constitutional matters' in a Singapore law firm that had been handling the families' case. But the Ministry of Manpower rejected his applications for a work permit, saying it had 'grounds to conclude that his motive [was] to intervene in Singapore's internal affairs'. Some reports also maintained that the girls' parents were being intimidated to force them to withdraw their suit; one family has already moved to Australia.

While this was unfolding, the attorney general last June initiated a criminal defamation investigation against Fateha and Zulfikar over three articles posted on the Fateha website. Two of these were on Muslim affairs, one article entitled 'Is Yaacob Ibrahim a hypocrite?', to the Muslim affairs minister. The other was called, 'The real reason for forcing girls to remove *hijab*'. The third was a piece about the appointment of Ho Ching, wife of Deputy Premier Lee Hsien Loong, as head of the powerful state investment arm, Temasek Holdings.

The authorities seized a computer from Zulfikar's home and questioned him at the police station. Zulfikar then filed a countersuit for criminal defamation against Premier Goh, Deputy Premier Lee and Senior Parliamentary Secretary Yatiman Yusof.

Singapore laws say that those found guilty of criminal defamation stand to serve a maximum jail term of two years, a fine or both. According to the

police, though, Zulfikar's complaint against the three PAP politicians 'does not contain sufficient facts on which police can act'.

In contrast, investigations of Zulfikar are still in progress. The ex-Fateha chief has since fled to Australia. He was reported as saying, 'Looking at the history of the Singapore courts and the court chambers, I do not have that confidence that they are independent or can act fairly.'

Busting Bloomberg

Police have been mum on Zulfikar's case since he left Singapore. But the authorities remain relentless about going after perceived troublemakers in cyberspace.

In August 2002, for instance, news and information provider Bloomberg LP agreed to pay libel damages and costs totalling S\$595,000 (US\$340,000) to Singapore's top three government officials – Premier Goh, Senior Minister Lee Kuan Yew and his son Deputy Premier Lee Hsien Loong – for a column that appeared in its online service. Bloomberg, a New York-based company that grew from an investment service to a global provider of financial news, had also apologised earlier for the piece written by part-time columnist Patrick Smith.

Much like Fateha, Smith had taken note of the appointment of Ho Ching as executive director of the state investment agency Temasek, highlighting her being the wife of the deputy premier – who also happened to be the finance minister and central bank head. In fact, Smith was merely echoing the sentiment on the ground, which leaned towards a more open process of appointment. Such sentiments, though, were absent in the mainstream media, which appear addicted to PAP-aligned journalism. Some journalists have also admitted in private that they have been given directions to portray issues from the ruling party's viewpoint, and that editors are usually swift in killing stories that authorities may deem offensive or questionable.

By publishing Smith's pieces on Ho Ching, Bloomberg brought the issue out in the open and made it a subject for public debate. That Bloomberg fell into the libel trap for doing so is typical of how Singapore's media, even the online media, can be 'unfree'. That it paid to get out of the trap is also an example of the electronic media's willingness to compromise the practice of journalism for global access.

Indeed, *The Australian* reported that Bloomberg Chief Editor Matthew Winkler wrote in a memo to his staff after the settlement that the furore

over the column put 'at risk' the welfare of Bloomberg's 180 employees in Singapore, its regional headquarters. He also expressed concern about losing Bloomberg's 3,000-odd Singapore customers.

PAP goes the Net

Singapore's ruling party has raised the stakes for those who wish to use the Net for the purposes for which it was envisaged: to champion free speech and free expression. And by making the operators of sites such as Think Centre and Fateha.com liable for political speech contained within their chat rooms and mailing lists, the government has essentially made equals of major media organs and smaller operators. Thus, those who do not have large corporate resources must now assume risks that are more at the level of groups or firms with such resources. This restricts the capacity of operators like Think Centre or Fateha to function freely. Unfortunately, even major players such as Bloomberg have proved to be unwilling to take on the PAP regime.

Personal websites remain an area of outreach that will take the use of communication technology in Singapore one step further. But recent developments only show the high levels of risks that individual operators of such sites would have to face and overcome. This has perpetrated a situation in which any free speech on the Net is almost always anonymous and restricted mainly to email discussion groups and at websites hosted overseas. By creating such an environment, Singapore runs the risks of pushing undesirable elements even further into cyberspace, as in the case of the Harimau organisation, which shares some of the objectives of the militant Jemaah Islamiah.

Consider what Harimau has posted on its website: an ad for young men to sign up for training as 'field operatives'. It wants physically fit men aged 19–35 for nine months of basic training before being 'assigned to Harimau linked groups located in various countries'. Agence France-Presse reported that Harimau.org has a registered address in Johor, the southern Malaysian state close to Singapore, but its email address is Indonesian.

Given the PAP's history of policy-making, the stage has been set for the restriction of cyberliberties. It is yet another chapter in the saga of Singapore as a police state, but this time with possibly disastrous consequences for Singaporeans.

Fighting for the Right to Know in India

By Aruna Roy and Nikhil Dey

The struggle for access to information is not just happening through negotiations with the upper echelons of government, in academic debates and in the columns of newspapers largely read by urban populations. It is also being fought by numerous citizens' groups in rural areas and smaller towns. In this essay, Aruna Roy and Nikhil Dey draw on their experience in Rajasthan, including a march to Beawar in April 1996, as a starting point for their discussion on right to information laws in India. Since the march in 1996, which, in their own words, 'was a tool to force open the doors of participation in governance', Rajasthan and seven other states have passed Right to Information laws, and at least three more states are considering introducing them, as is the national parliament.

Aruna Roy and Nikhil Dey have both been members since its inception of the Mazdoor Kisan Shakti Sangathan (MKSS) and the related National Campaign for People's Right to Information (NCPRI) and have been closely involved in their activities. They have also written extensively on the right to information and other related matters.



It was April 1996, and summer had just begun. The citizens of Beawar in central Rajasthan were going about their daily chores when they heard sounds of protest in the distance. It didn't take long, however, before the sounds became more recognisable and the source of them visible: a thousand-strong group of men and women bearing banners was marching towards Beawar, shouting slogans and singing songs.

The marchers were from the rural hinterlands. The women, who made up more than half of the group, were dressed in colourful *lahengas* (long skirts) and most of the men wore traditional peasant dress. As the Beawar residents watched with growing curiosity, the long procession snaked its way through the town, stopping for a moment to hand a sheaf of papers to a representative of the state government. Then the visitors made their way to the market centre, where they began setting up tents of flimsy material and making preparations for what would turn out to be a long *dharna* (sit-in). While Beawar was no stranger to agitations, this was unfolding into a rather extraordinary one.

In fact, what made it really unusual was the demand of the motley and fairly bedraggled group that arrived in Beawar. Instead of asking for the cus-

tomary *roti, kapda* or *makan* (food, clothing or shelter), what the visitors wanted was, of all things, the right to information! What they had handed Beawar's sub-divisional officer was a memorandum asserting the people's right to information (RTI), with the specific demand for the right to obtain certified copies of details of development expenditure.

This demand had first been made in the surrounding villages a few years before. But for Beawar – and the rest of India – it was a surprising addition to the list of demands of rural people. Few could have also imagined that what they were witnessing that hot summer's day would grow into a nationwide movement for the right to information.

It took a while for the people of Beawar to understand that what the protesters were asking for was nothing less than an effective tool to force open the doors of participation in governance. In time, the connection between asking questions and demanding accountability was slowly but surely worked out. It would help villagers sift through the layers of deceit, hypocrisy and half-truths that had become a part of governance throughout India. More importantly, the Beawar experience proved that informed citizens would assert their rights and break out of the prevailing sense of apathy and helplessness.

Today, Rajasthan has a Right to Information Law, as do seven other states in India. Similar legislation is also under consideration in at least three more states and even in the national parliament. The struggle in Rajasthan led to the birth of the National Campaign for the People's Right to Information (NCPRI) in 1997. And even though the resulting laws have been far from perfect, many still recognise these as solid achievements by the people of India, especially its enlightened poor.

It is often said that the poor do not need esoteric things such as freedom and democracy – they need food. That everyone needs food and other basics for survival is something the poor know better than anyone else. But they have also long been aware that equally they need a platform on which they can protest about the lack of these basics. In fact, it is the poor who really know and understand the critical importance of even the crude form of democracy we practise. They realise that the once-in-five-years vote gives them more political power than they have had for centuries. They are the ones who have fought for every freedom enshrined in the Constitution and have taken to the streets to fight against the repeated threats to democratic rights. They realise that while the elite may have a voice under any system, it is democracy that has allowed the poor and marginalised such as themselves the little space they have at least to express their distress.

Any understanding of India's condition today will have to begin with a recognition of this strong will to keep the democratic system alive. But as a reflection of the extraordinary complexity of the texture of Indian democracy, the people's faith in the democratic system is also accompanied by dismay, fear and a sense of hopelessness. Many despair of ever finding a way to sort out the contradictions, the corruption and the complete lack of ethics that appear to have taken root in public life in India.

A people's response

Most often, ordinary people stretch their ethics to make the system work for themselves. Or as they say in rural Rajasthan, '*Ya tho jack ho, ya cheque ho* (You must have contacts to use, or money for bribes).' It is in the context of cynicism, apathy and despair that the story of the efforts for change of ordinary people in a small part of Rajasthan becomes remarkable and significant.

The right to information demand formulated initially by members of the Mazdoor Kisan Shakti Sangathan (MKSS) is indeed a story of the extraordinary efforts of ordinary people. A combination of their clarity of thought and purpose and their instinctive understanding of the problems they faced in their lives has led to simple and straightforward translations of their ideas into practice. The MKSS is a non-party political organisation of poor farmers and workers, men and women alike, many of whom have never been to school. Yet, their organisation has not only raised the issue of RTI in such a potent manner, it has also changed the discourse on what had been seen for many years largely as an academic issue.

When the MKSS was formed in 1990, its stated objective was to use modes of struggle and constructive action to change the lives of its primary constituents, the rural poor. In the period leading up to the formulation of this objective, the group had taken up issues of land redistribution and minimum wages. These are seen traditionally as the two basic issues of the rural landless poor, and it was only natural that an organisation of peasants and workers would initiate struggles on minimum wages and land.

The MKSS staged two hunger strikes – one in 1990 and the other the following year – to push for payment of the legal minimum wage. But it was also in this fight for the payment of the statutory minimum wage under government-sponsored public works programmes that the group first understood the significance of transparency and the right to information. Every time the workers asked to be paid the minimum wage, they were told

that they had not done the work, a claim that, they were also told, was based on records. When the MKSS demanded to see the records, the reply was that these were government accounts and therefore secret.

And so it was that a simple demand for minimum wages became a fight for the right to information. Those who descended upon Beawar in April 1996 were even astute enough to time the *dharna* with the campaign period of that year's national parliamentary election. Citizens were offered a small glimmer of hope to break out of the vicious cycle that was Indian politics, which forced them to choose among undeserving candidates. For a change, during that election campaign in Beawar, democracy was being debated and redefined. Those taking part in the *dharna* began to drive home the point that by using the right collectively and individually to ask questions and demand answers, citizens could begin to shift the control from the ruling elite to the people. It was a first step towards participatory governance, where the disadvantaged and the dispossessed could establish their right to livelihood and, in a democracy, effectively to govern themselves. The poor started to see that they had to be involved in the RTI campaign because it was an issue connected intrinsically to their livelihood and survival. One of the slogans born during the struggle is self-explanatory: 'The Right to Know, The Right to Live.'

Journalist Nikhil Chakravarty, who came to Beawar during the *dharna*, said in a speech that the struggle was like a second battle for independence. Leaders of the independence movement, he said, exposed how the riches of the people were looted by foreign rulers. This struggle, said Chakravarty, showed the way to uncover how the people's own homegrown rulers were now robbing them. These were dramatic words, especially for a small struggle in such a huge country. But what had apparently drawn Chakravarty's attention was the movement's potential to allow ordinary citizens to address many of the fundamental shortcomings of parliamentary democracy as practised in India. The demand was not to do away with democracy but to create opportunities for more meaningful and appropriate democratic practice.

Parliamentary democracy in India

At the time of independence in 1947, parliamentary democracy was not the ideal system for every group struggling for change. It was, however, the one most acceptable to all of India's peoples. For the country's ruling elite, it represented a means of retaining the economic control they enjoyed as they looked for legitimate means to step into the shoes of the former British colonial masters. The transfer of political power into their hands was by

then a *fait accompli*. The Indian Civil Service became the Indian Administrative Service, and the only real change in Lutyens'^a New Delhi was the remarkable ease with which it made room for its new occupants. For an outside observer, it would seem as if nothing had changed except the colour of the skin of the people in power.

And yet, even for the most oppressed in India, this was a historic moment. For the subjects in rural Rajasthan, even the limited right to vote every five years wiped out in a single stroke the stranglehold of centuries of pre-ordained feudal values: a network of kings and lords, from the rulers of princely states to village 'Jagirdars'^b who headed and enforced the most oppressive of socio-political orders – the permanent hierarchy of caste. The Indian parliamentary system did not do away with caste, but it did provide an opportunity to break the hierarchies it had been designed to perpetuate. For the Dalits,^c the vote – and the strength of their numbers – was one opening. Another was the provision for 'job reservation' and other special benefits made by the Constituent Assembly under Part XVI of the Constitution, which for the first time allowed Dalits to gain entry to the centres of power.

Still, even that early, democracy was being hijacked in India. Most critical to this development has been the continued separation of the rulers from the people. Much like the British, elected representatives in democratic India soon revealed their narrow and self-centred approach to governance. Today, more than half a century later, it has become all the more clear that elected representatives at all levels from Parliament to the Panchayat,^d represent first and foremost themselves and the club they have gained entry to, and only after that – and only when forced to – the people. To make matters worse, the systems of accountability vis-à-vis the people of both elected representatives and the bureaucracy have proved so woefully inadequate that the ruling elite can continue to ignore the needs of an increasingly vocal and strident constituency. If any factors are able to influence policy decisions these days, these would be limited to the requirements of an international economic order willing to let its agents have their

a. The British architect and planner who designed the colonial capital of New Delhi.

b. The official term for feudal landlords under a king, whose fiefdom extended to an area called a *jagir*.

c. People from the oppressed castes at the lower end of the caste hierarchy. *Dalit* is a term oppressed communities have chosen to use to describe themselves.

d. A Panchayat is an official unit of rural local government, usually consisting of a village council of a few villages.

share of the pie as long as they can ensure a 'liberal economic regime' with an economic environment free of disruptive activities.

Internal accountability in India, meanwhile, is only of the rulers to each other. For decades, regular sops have been handed out in the form of half-hearted land reform, 'poverty alleviation', public distribution measures, reservations, statehood, lip service to education and health – the list is endless. The present demands of India's citizens, however, are no longer for a particular concession, but for a share of governance itself.

The first steps toward self-governance

The 1996 *dharna* in Beawar put forward an immediate demand for an amendment in the Panchayati Raj^a law to allow citizens to obtain certified photocopies of any document in local government offices. Particular focus was placed on records of expenditure such as bills, vouchers and muster rolls.^b Simultaneously, a demand was made for a comprehensive law for the People's Right to Information in all spheres of governance. This calibrated approach has characterised the right to information campaign, where partial success has been used as a wedge to extract greater and greater openness.

Resistance to the people's efforts to ease access to public records has been strong. For example, it took over two years before the amendments to the Panchayati Raj rules were made. But the resistance to providing a legal entitlement only served to highlight the importance of such a provision and helped more people understand its great potential. In addition to agitational activities such as *dharnas* and rallies, the use of the mode of public hearings helped apply these concepts, even while the struggle was on.

It took another couple of years for the state of Rajasthan to pass a right to information law, albeit one that was toothless and full of loopholes. Yet its passage alone should be considered a victory for the people. After all, the same establishment that had repeatedly pronounced that acceding to the limited demand for information on public works was 'impossible, impractical and inconceivable' now accepted a comprehensive legal entitlement as inevitable.

a. Local Government Act and rules.

b. Worker lists that are maintained at the government work sites and in which the rates to be paid to the labourer for each day of work put in are entered. Usually, these lists are for 15 days of work put in by each labourer, after which a new set of workers is employed.

But there has been another aspect to the RTI struggle that has allowed for its organic growth. To be sure, the right to access government records was an assertion of many democratic principles and a claim on a share of governance. There was, however, a simultaneous search for a platform that could demonstrate its efficacy and help compel the process of institutionalising modes of self-governance. And what made it more of a wonder was that these were ordinary people struggling against sophisticated forms of systemic control. Yet they came up with solutions that questioned the exclusive logic and indispensability of representation and its institutional structures.

One such solution was the public hearing or *Jan Sunwai*.^a Being an open platform where anyone could come and have their say on matters being examined, it acquired a kind of popular acceptance that agitations did not have. These *Jan Sunwais* were dramatic affairs where ‘information’ and its analysis revealed the who, how and why of various misdeeds and gave courage to the exploited to bring their predicament out into the open. The records provided the proof and revealed the details, on a platform that saw new alignments take place. The RTI on its own caused a change in the power balance. The *Jan Sunwais* had a multiplier effect. The mode of the *Jan Sunwai* proved to be a complementary force in breaching the walls of control and exclusion. As a result, the conceptual, legal and practical search has continued along these multiple paths.

In Rajasthan, such *Jan Sunwais* not only demonstrated the importance of being able to access information but also the critical need to have a platform controlled by citizens, where the information could be put to use. Thus, along with the institutionalisation of the right to information through a law, there was also the successful struggle for the institutionalisation of public hearings. This was done through the legal sanctity provided to public audits (termed ‘social audit’ in the Panchayat Raj Act). Implicit in this legal provision is the principle of the citizens’ right to audit all the activities of their (local) government.

It is therefore not a coincidence that Rajasthan’s RTI law was passed on the same day as the amendments were made to the Panchayat Raj Act, giving the Ward Sabha (a group of 50 to 80 homes) legal status and the right to conduct social audits of works carried out in its area. This was an ideal size

a. Translates literally into people’s hearing.

for planning, monitoring, implementing and auditing development efforts in a small community. The right to information struggle and its persistent use of the fast developing mode of public hearings has in fact provided a critical impetus to the wider struggle for participatory democracy. In concrete terms, at a local level, it has helped demonstrate the conceptual difference between decentralisation and self-governance.

The rhetoric and action of implementation

As mentioned above, however, existing RTI laws leave much to be desired, making their implementation difficult and subject to individual interpretation. Rajasthan's groundbreaking law, for instance, does not have penalty provisions. At the very least, this has meant that action against errant officials is still dependent on the already discredited and cumbersome procedures of the civil service conduct rules.

Other important shortcomings in Rajasthan's RTI law include its many exemption provisions that have given the authorities ample scope to deny all kinds of information, even if doing so would be against the spirit of the law. The provisions for *suo moto* disclosures are also so weak and vague that it is left to the discretion of the bureaucracy to decide what its 'duty to disclose' is. Moreover, the final appellant authority, the Rajasthan Civil Services Tribunal, is still not a truly 'independent appeal mechanism'.

The other RTI laws passed elsewhere in India have their own comparative areas of strengths and weaknesses. For instance, those of Delhi, Goa and Karnataka have better penalty provisions, while those in Maharashtra and Tamil Nadu are so weak that they are considered fundamentally flawed by the RTI campaign. Sadly, not one of the laws – including Rajasthan's – meets the standards of the model bill prepared by the campaign.

That implementation of such laws has been tardy and poor can only be expected, so much so that in Rajasthan there are no government figures available on how many people have sought information from which office. There are no known cases of any formal legal appeals having been filed due to the authorities' denial of information, although there have been several documented cases of officials and even Panchayats refusing to provide information on completely arbitrary grounds – even through written resolutions and decisions. This is partly because the legal regime has not been detailed or publicised in Rajasthan. In the State of Delhi, however, which passed an RTI law much later, there have already been several cases of appeals being filed and favourably decided by the appellate authority.

Still, while the right to information is part of the Rajasthan government's rhetoric, what has been absent is a proactive campaign or effort to change the prevalent culture of opaqueness and arbitrariness. This is not to say that the rhetoric has not played its part in propagating the issue. But it should be emphasised that it has been the sustained pressure by a growing list of groups and individuals – including many who are not formally associated with the movement – that has extracted the visible action to implement the right to information law.

It was because of such efforts that some officials have been publicly reprimanded by Rajasthan's chief minister for not providing information applied for by citizens. Orders have also been issued to hold officials responsible for not providing information by transferring them out. 'Social audit' has become a mandatory part of all development and drought relief works, and the state government has been forced to take some action on some of the prominent cases of corruption unearthed through this exercise. Thus, although the Rajasthan government has not moved forward enough proactively to ensure implementation, it should be pointed out that it has also been firm and unequivocal in not succumbing to pressure from elected village council heads and other powerful lobbies to roll back any of these measures.

The results so far

Throughout India, the impact of the right to information campaign has gone far beyond its immediate context. The public hearings, the institutionalisation of RTI through social audit, exemplary action taken in certain cases, the fact that the right to information gives any citizen even at a future point an opportunity to check the (mis)deeds of any authority by personally examining details – these have all had a dramatic and salutary effect on the prevalent modes of brazen corruption. For example, it has been universally acknowledged that the RTI campaign has contributed to significantly bringing down the levels of corruption in the Rs. 600 crores said to have been spent on drought relief in Rajasthan in 2001–2002.

The infamous case of Janawad Panchayat^a is another good illustration of the potential – as well as challenges – faced by the movement. It had taken the MKSS more than a year to obtain copies of this Panchayat's records in Rajsamand District, even after an RTI law had been passed there. But the

a. Janawad Panchayat is located near Gomti Churaha on the National Highway 8, between Jaipur and Udaipur in Rajsamand District, where the MKSS and the people of the village jointly organised a public hearing on the 3 April 2001.

information was worth the wait. The public hearing was followed by a government report showing more than Rs.70 lakhs^a of fraud in a six-year period in one single Panchayat. The report also revealed a complete breakdown of all supervisory and monitoring systems.

The report and public pressure led to a series of suspensions, arrests, recoveries and other actions, which in turn have had a serious impact on the Panchayats and their functionaries all over the state. The fraud in Janawad takes on new proportions when multiplied by the 9,000 Panchayats in the state. Even a conservative assessment of the impact of this high-profile case on Panchayat leaders and officials would probably translate into massive savings made because of the numerous leakages and fraud that could have happened, but did not.

The movement has also led to some serious introspection about the development establishment and its priorities. For the first time, policy anomalies in rural development and Panchayati Raj institutions are being addressed in a manner that can only result in their elimination, rather than making them a convenient excuse for corruption. For instance, the law requires that at least 60 per cent of the funds for rural development works should go to employment, with no more than 40 per cent being spent on materials. The unreasonable manner in which this has been implemented has meant that Panchayat officials have had to fudge records just to maintain the ratio. At the same time, it has become an open secret that much more was being fudged so that money could be siphoned off.

Now that the public has access to the rural works records, however, the magnitude of this double scam has come out, and with concrete proof to boot. It has been revealed as well that not only were policy objectives of using money for labour being flouted, but those very objectives were being used as a screen for corrupt practices. The right to information has thus taken away the protection provided by secrecy to carry out such misdeeds in the name of development. These days, the Sarpanches^b are doing what they should have done long ago: making it clear that they will not fudge any records. At the same time, the government has been forced to adopt a more pragmatic and committed approach to meet policy objectives. And as more citizens and civic groups strain to get copies of reports of investigations, audits and other data that were so hard to obtain before, national

a. A lakh is a hundred thousand rupees or approximately US\$2,000.

b. The Sarpanche is the elected head of the Panchayat or village council.

government agencies are beginning to face questions similar to the ones Panchayat Raj institutions faced six years ago.

The right to information, however, forces equal standards of transparency and accountability on the users of information. As the RTI siege intensified in Rajasthan, the political establishment through various spokespersons turned around to ask NGOs and citizens' groups to disclose their own accounts, thus setting in motion a very healthy trend: the holding of transparency meetings, in which some NGOs have begun to place details of their accounts before the people of the area where they work. In the future, this could lead to NGOs being accountable to a wider community, through the Gram Sabhas^a and Ward Sabhas. The transparency meetings could also prompt the community to get more involved in the planning, implementation and monitoring of all activities of funded and non-funded organisations.

**Campaigns,
crusades and the
right to
information**

The RTI campaign has consistently recognised that its strength lies in its integral relationship with other movements. This symbiotic relationship will continue to provide it with creativity and strength.

Today, many other civic groups are using the right to information much like a weapon in their respective battles. The women's movement in Rajasthan, for example, has used it to track the progress on cases of atrocities against women, demanding that the women concerned be informed of the progress on their cases and the contents of various important medico-legal and forensic reports. Many civil liberties and human rights groups across the country are now also using RTI principles to ensure transparency and the accountability of the police and custodial institutions.

People displaced by dams and factories, those denied their rights by the ration shop dealer, communities suffering from the effects of a polluting industrial unit, forest dwellers being evicted from their fields and homes – all these are examples of various people's movements wielding RTI provisions in order to secure their rights. In most cases, the information is still not being provided in the manner or time frame that it should be. In some cases, it is not being provided at all. But it has now become almost impossible to deny the people outright the information they seek. As movements

a. The general assembly, consisting of all the voters of a village, or group of villages in a Panchayat.

and groups sharpen their questions and the establishment is forced to part with information, it can be expected that more and more citizens will use the right to know as a means of moulding democratic structures to make democracy meaningful for themselves.

There have already been several cases of individuals using the right to information as a means to ensure accountability from the power structures they have to deal with. These include a college lecturer in Bhilwara who was in charge of the women's study unit and wanted to see accounts of money spent by the principal from unit funds. Applicants aggrieved by the manner of selecting primary school teachers in Jawaja also used their right to information to demand copies of the interview sheets and records on the basis for selection of other candidates. Even an independent member of the Rajasthan Legislative Assembly has followed the example set by the former leader of the opposition (now the chief minister) in Goa to use the RTI Act rather than assembly questions to seek information.

Clearly, the right to information has been established in the socio-political lexicon of the state, even as the contours of RTI are still being defined through the actions of people's movements and citizens' groups. It is thus only fair to say that the potential of the right to information is just beginning to be seen. The irony is that the solution to the problems now facing the movement lies in fighting for even more information.

Challenges and dilemmas of the campaign

As it is, the campaign itself has already thrown up in the air several contentious issues. Some of them present a moral dilemma. Others, meanwhile, will always be a cause for debate as society tries to come to terms with the changes that a transparent regime is likely to bring about. And some will relate to questions of prioritising and strategising to achieve that goal.

The first challenge is how to deal with – or to be more precise, how to remove – the shortcomings in the present laws and their implementation. A corollary to this is what to do with the persistent lack of action by the authorities even after relevant information is obtained and presented. Obviously, the criminal justice system – which has been twisted to protect the powerful and frustrate those working for change – has to be made redundant or replaced altogether.

In early 1998, during the first set of public hearings in the MKSS area, held after the Panchayat Raj rules were amended in Rajasthan, Sarpanches and

officials faced with incontrovertible evidence of fraud offered to, and did make, public apologies. They also returned the defrauded funds to the Panchayat coffers. Government officials, however, raised questions about the legitimacy of public hearings sponsored by 'civil society organisations' and their right to negotiate the liability of offenders. These were legitimate questions and the campaign responded by demanding an institutionalisation of public audits in Gram Sabhas and Ward Sabhas. Yet even since more amendments have been made in the Panchayat Raj Act, pertinent questions remain. For instance, to what extent can quasi-judicial decisions be left to a body where vested interests may dominate and influence decision-making? And how does one find a practical way of coming to terms with, and reconciling the ills of, past actions, while working to establish a new democratic culture?

Another factor that fundamentally threatens the process of bringing information into the public domain is the authorities' apparent lack of intent that it should prosper. The willingness to pass radical measures, with no intention of implementation, is the kind of sophisticated subterfuge that has repeatedly been used by the ruling establishment in India. Of the resolutions passed in the many meetings in the over 100,000 Ward Sabhas across Rajasthan, for instance, very few have been looked at or acted upon by the government machinery. In effect, these resolutions are under serious threat of losing credibility. Interest in them could well wane, giving the authorities the opportunity to blame the public for neglecting a people's platform.

Today, transparency and accountability are terms in vogue, used liberally by people on both sides of the fence. In both the anti-corruption and transparency debate, however, it must be recognised that the one who frames the questions determines the parameters of the answers. When the language of people on all sides of the spectrum is the same, then only action can determine true intent. That is why the RTI campaign must continue to stress public action by the poor and the marginalised, so that their basic questions of survival cannot be brushed under the carpet in a sham debate on transparency and accountability.

The right to information movement in Rajasthan has offered hope to people striving to generate the culture, institutions and principles necessary for a participatory democracy. The RTI is, finally, a demand for an equal share of power. But it is also a fetter on the arbitrary exercise of power by anyone. Its legitimacy in a democratic set-up gives it the potential to keep widening the horizons of struggles for empowerment and change. This legitimacy is strengthened further by its capacity to make the user of the right

accountable, and their actions transparent, as much as the power centre being held accountable. As a campaign issue with theoretical, ethical and practical connotations, it will reveal new layers and raise new questions as it makes progress. This presents a potential and a challenge.

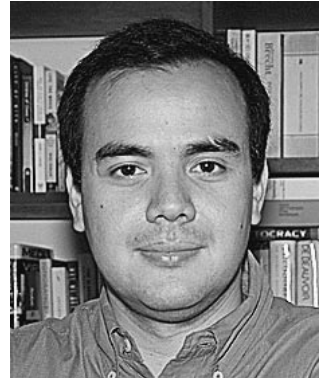
So far, by taking the lead in defining the contours of the debate, organisations of the poor and citizens' groups in Rajasthan have made it crucially relevant to the marginalised and disadvantaged, even as they have found ways to use it to make an impact on the mainstream. Continuing to push back its boundaries while using it creatively is going to be the greatest challenge for such groups in the days ahead.

The Philippines: SMS and Citizenship

By David Celdran

In less than 10 years the use of the Short Message Service (SMS) – or text messaging – on the country’s mobile phone network has changed the personal and political lives of the citizens of the Philippines. ‘The characteristics of connectivity, speed, cost-effectiveness, mobility and confidentiality of text messaging and its adaptability to Filipino culture has made SMS the most popular form of private communication technology in the country’, writes David Celdran in this thought-provoking essay. He outlines the development of this new technology and the way in which direct communication among large sections of the population is, in turn, leading to a more interactive and democratic society. An exciting example given is how former president Estrada was forced to step down from his position in January 2001, partly because of the mass campaign organised through millions of text messages.

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The Philippines is called the text capital of the world for a reason. Every day, over 120 million text messages or Short Message Service (SMS) texts sweep across the country’s mobile phone network, reorganising the personal and restructuring the political. Since its introduction in 1994, SMS has crept into every imaginable aspect of the Filipino way of life. For business or for pleasure, personal entertainment or public debate, *texters* – the collective term used to describe SMS users in the country – have turned to tapping messages on their mobile phone keypads as a new and faster way of broadcasting everything from private thoughts to political commentary. And as the events leading to the January 2001 uprising that forced President Joseph ‘Erap’ Estrada to step down from power illustrate, text messaging has altered the traditional rules of political communication and mobilisation with far-reaching implications for the nature of citizenship in an age characterised by rapid innovations in information technology.

Modern communication technologies are changing the patterns by which political information is processed and disseminated among citizens. Prior to the availability of technologies like the Internet and mobile telecommu-

nication, the communication of political ideas was largely the monopoly of traditional gatekeepers who exercised hegemony over the nation's public space – the politicians, preachers and pundits – those who owned, controlled or at least had access to state and private institutions of mass dissemination such as print and broadcast media, schools and churches.

These gatekeepers used their access to frame social policy and determine the content of public debate. But while marginalised groups such as labour and political dissidents found access to these instruments of dissemination prohibited, they too were able to use their experience and skill in political mobilisation to claim a place in the public sphere. It was the unorganised majority that had its voice largely excluded in public debate, its political participation at best illusory, except for the electoral exercise. Who would have thought that a keypad the size of a matchbox would be crucial to the instrument that would upset that set-up?

**The power of
rumours in the
'silent' years**

The experience of martial law in the Philippines from 1972 to 1981 was that all those who crossed the political line imposed by President Ferdinand Marcos's dictatorial regime were silenced. Under the censorship and propaganda agencies of the state, broadcasting, print and other means of informing the public were either closed down or tightly regulated. With open protest and political organising restricted, dissent was expressed underground, crudely printed and poorly circulated clandestine publications filling the void of news and information in the 'New Society' of Marcos.

Along the road to reclaiming access to public space many political activists would be arrested and much blood shed during the martial law years. To reach a wider public, mobile demonstrations and street theatre companies travelled through populated urban districts as alternative forms of political communication were tried and tested. But like underground publications, street demonstrations, teach-ins and experimental forms of media were unable to reach critical mass under the surveillance of security forces. In the restricted environment, political gossip and rumours flourished. Enemies of the regime used rumours of Marcos's hidden wealth and ailing health as weapons to combat the legitimacy of the dictatorship.

The rumours that circulated widely across coffee shops and street corners everywhere so alarmed the regime that rumour-mongering was criminalised and those caught spreading them charged with subversion. Like the

phenomenon of text messaging two decades later, rumours had the ability to travel speedily and elusively across networks of people, over boundaries of class and geographical location. And because of the anonymity of a rumour's source and the privacy of its network, they were difficult to control or refute openly. When restrictions on the press were relaxed after the lifting of martial law in 1981, rumours would continue to frame the content of opposition news publications – a phenomenon that, decades later, would emerge once more in the movement to oust President Estrada.

If the fast-emerging alternative press provided an outlet for information and opinions previously hidden from the public, street protests or what was called the Parliament of the Streets provided the venue for political action. Again, like the movement that would later topple President Estrada, the combination of media coverage and political mobilisation systematically stripped away the legitimacy of the Marcos regime.

The emergence of new gatekeepers

As the democratic space in the final years of the Marcos regime widened, voices of the old elite – silenced or sidelined by Marcos and his cronies – re-emerged in the public arena and mixed with the new voices of the politicised middle class and the organised Left. This alliance would constitute the new gatekeepers of political information whose management of the interpretation and coverage of events during and after the fall of the dictatorship – in the first People Power uprising at EDSA (the national highway where Filipinos congregated) – would ensure its hegemony over public space in the post-Marcos order.

The first traces of this hegemony would be seen in the 1986 People Power revolution itself. The take-over of radio and television stations by military rebel forces and activists aligned with Corazon Aquino, then opposition leader (and later president), gave them control over the interpretation of events and the definition of the post-Marcos order. With the instruments of mass dissemination in the hands of the new elite, the framing of issues in post-revolutionary society – agrarian reform, system of government, social justice and the like – would likewise reflect the attitudes and interests of the new gatekeepers of information. But the unorganised, unaffiliated, ordinary citizen would remain excluded from the intense, sometimes violent, debate over the future direction of the country.

With the new administration securely in place after attempts from both the right and the left failed to destabilise it, discourse in the media moved away from the themes of democracy and social order to those dictated by the

market. In the competitive media environment that thrived under the stable political environment, ideology gave way to marketability and the pre-eminence of the *masa* (masses) – the majority poor of the country – as the reference point for future programming.

Whether the adoption of the *masa*'s point of view reflected a genuine effort to draw in the previously silent majority or merely to increase audience share and advertising revenue, the sound bites, letters and opinions that appeared onscreen and in print were deemed less valuable than those of experts, authorities, interest groups and the generally powerful. The freedom of the press enjoyed since Marcos was ousted in 1986 may have opened up space for pluralist thoughts to be heard, but with ownership of and access to the media remaining in the hands of the traditional gatekeepers, the participation of the unorganised citizen in the public sphere was limited. This assumption, however, would be challenged by the growth of information technology products such as mobile phones and the rise of text messaging as a medium of mass communication.

The high cost of acquiring technology and producing and distributing content is the obvious reason why the mass media – the broadcast networks and publishing empires – continue to be the monopoly of elites. Still, advances in information communication technology, particularly the advent of personal computers and mobile communication devices, would challenge traditional networks of information gathering, production and distribution. The drop in the prices of computer hardware and software (often cheap pirated copies) and the growth of Internet service providers (ISPs) in the Philippines in the mid-1990s allowed users to create their own content and distribute it over the World Wide Web. Whether in the form of email, web pages, or ICQ messages, users could communicate with each other, join polls or vote on line from the privacy of their homes and under the protection of network nicknames.

The digital gurus of the day were quick to point out the implications of communicating across boundaries of class, race, ethnicity and location for the future of democracy. In the Philippines, however, the prohibitive cost of membership to online networks frustrated whatever promise virtual democracy could infuse into a society burdened by the poverty and the powerlessness of the majority. The average household simply couldn't afford a computer and subscription to an ISP, and even if they saved up for it, the low penetration of landlines in the country and poor quality of phone signals made communicating via the Internet a privilege of the patient minority.

Few expected that mobile phones, at one point the exclusive gadget of the rich and tech-savvy, would later on help restructure political communication in the country. In fact, it was a little-known function of GSM standard mobile phones called Short Message Service that would drive sales of handsets and subscription to cellular networks – the very application that would radicalise political communication and influence historical events at the turn of the century. But before that, *texting*, as Filipinos call SMS, would first reorganise other, more personal aspects of community life.

The pre-paid phenomenon

When the first generation of GSM handsets was introduced in the country in 1994, text messaging was initially seen as a novel way of communicating with the few others on the GSM (digital) network standard (mobile telephony had been in the Philippines since the early 1990s but operated on analogue networks that did not support the SMS function). With the majority of mobile phones at the time running on analogue systems, there was little incentive for exploring the benefits of SMS despite the service being offered free. As proof of the novel appeal of texting to narrow niche markets, the first TV ads pushing SMS portrayed a deaf and mute couple enjoying the benefits of text messaging. It would take a few more years of aggressive marketing and a price war among carriers and phone manufacturers for GSM mobile handsets to reach critical mass, and thus, for texting to gain widespread mass appeal.

That moment came when pre-paid phone cards were introduced in 1998. The reason for ownership of mobile handsets taking longer to reach the lower income classes was not just the cost of a phone itself but, more so, the cost of connecting and maintaining a line through monthly subscription fees. With a pre-paid account, a subscriber pays a flat rate for a one-time connection fee for an allotted number of voice calls plus an unlimited number of text messages. This provided young and lower income subscribers, as well as those who depend less on voice calls, an opportunity to communicate through text for free. By the end of 1999, about 10 million GSM cell phone users would be connected to the network¹ – over 77 per cent of them young texters on pre-paid accounts.²

Apart from the obvious convenience of communicating via text to a growing population of cellular phone owners, price drops, smoother interconnection between competing networks, SMS-oriented innovations in mobile handsets, plus new and appealing text applications such as ring tones, logos, images and text-based television programming, would make the text experience an integral part of popular Philippine culture. In 2002,

the universe of cell phone users climbed to 12 million, with over 120 million text messages circulating every day, or a monthly average of two billion text messages circulating the network.³

Texting to stay connected

Yet to explain away the texting phenomenon as a function of marketing hype or price-point efficiency would be to miss the whole point of its popularity in the Philippines. For even when the network carriers started charging for text messages in excess of the allotted amount per account, the volume of text messages was only momentarily affected. Texting had by then become an indispensable part of the modern Filipino way of life. In the book *Text-ing Selves*, the authors, studying the complex relationship respondents have with their mobile phones, show how the value of connectedness in the lives of Filipinos make texting a natural extension of the culture.⁴

In the tight-knit communities of Philippine society, disconnection from the network of texters is tantamount to isolation and exclusion from community life itself. Not at all surprising since the single most popular application of SMS is keeping in touch with family and friends. As migration, urbanisation and the phenomenon of the two-income household restructured the Filipino family and community, remaking bonds loosened by modernity became paramount to survival and security. The ability to connect privately, instantaneously and rather cheaply across short and long distances makes text messaging well-suited to Filipino communities and for new modes of political communication as well.

When compared to other modes of private or mass communication the most impressive characteristic of text-messaging is network connectivity. Unlike a voice call, which is a transaction between two parties over a single line, a text message can be sent out, or broadcast to a group either in succession or through a function called group messaging. These messages in turn, can just as easily be forwarded to larger networks *ad infinitum*. Text messaging is different from other broadcasting media such as radio and television because communicating by text is an interactive process. Messages are subject to collaboration and negotiation within the loop of common texters. In a sense, communication is consensual, similar to group-think methods where decisions are made collectively. From which pair of shoes to buy to what movie to watch, text messages often go through a process of evaluation and negotiation within the network of co-workers, family, neighbours and *barkada* (peer group) before final affirmation.

A typical string of text messages:

Texter A: Wana wtch a movi 2nite?
Texter B: wat movi? Wil ask othrs abt it.
Texter C: Hary Potr luks gd.
Texter A: ok.
Texter B: watchd it lst nite, wat abt new Bond movi?
Texter C: ok.
Texter A: c u at SM l8r
Texter B: 7pm show?
Texter C: k
Texter A,B, C: c u ☺

Communicating these thoughts and decisions instantaneously is another advantage of SMS. One's network is informed simultaneously and updated regularly. And because sending a text is cost-effective, the process of interacting continuously over hours or a day is inexpensive.

The mobility of this process leaves communication free from dependency on electricity supply and the availability of fixed telecommunication cables. The texter's need to change location does not break the chain of communication.

The privacy of the texting experience likewise allows intimate communication otherwise considered embarrassing, presumptuous or aggressive by Filipino cultural standards. What cannot be expressed orally is better communicated confidentially by text.

From personal to political

The characteristics of connectivity, speed, cost-effectiveness, mobility and confidentiality of text messaging, plus its adaptability to Filipino culture has made SMS the most popular form of private communication technology in the country. These same characteristics, when in tandem with external social forces, also make it a potential tool for mediating political information and accelerating the process of political change.

The fall of the Estrada presidency was the result of the confluence of political and technological factors that began with the dramatic exposé of the President's involvement in the country's illegal numbers game, *jueteng*. This, in turn, unleashed a series of media reports on Estrada's lavish lifestyle, hidden wealth and alleged connections with the underworld. These, together with an unprecedented live coverage of the subsequent investiga-

tions, set in motion a protest movement that would culminate in the urban uprising known as EDSA 2. Politically speaking, it was the withdrawal of support of key sectors of Philippine society – the military, big business, factions of the government bureaucracy, trade unions and eventually the Supreme Court – that would bring Estrada down. In technological terms, the mass media, particularly the electronic media, hastened that process with live and comprehensive coverage of the congressional investigation, the impeachment trial and the assembling of the masses at EDSA. Other media such as special edition magazines and tabloids played a part as well, as did the deluge of anti-Estrada text messages, jokes and calls to EDSA.

Admittedly, there is the danger of exaggerating the importance of text messaging in the downfall of President Estrada (with Estrada himself saying he was ousted by a *coup de text!*), for with or without SMS in the equation, the end of the administration would have nevertheless been ensured by the withdrawal of support by key sectors of society. What cannot be ignored or downplayed, however, is how text as a tool for disseminating information and mobilising protest accelerated the political crisis that spelled the end of Joseph Estrada.

How text helped topple a president

Anti-Estrada text messages had hounded the President since the beginning of his administration in July 1998. At first, they circulated as jokes about real and imagined presidential faux pas and paramours. Over time, text messages exposed Estrada's involvement in incidents of scandal, so that even before the eruption of *Juetengate* in the mainstream media, networks of Filipinos were already primed by anonymous texts linking him to mansions, mistresses, business cronies and underworld figures. If rumours raised questions about the legitimacy of the Marcos regime, text messages did the same to Estrada's presidency. Political rumours sent orally or by text thrive under conditions of anonymity and privacy – making them difficult to trace, monitor and suppress. But unlike rumours passing from person to person, text messaging speeds up transmission across networks of mobile phone users, bypassing barriers of space and personal contact. Through the use of text, suspicions are spread instantaneously across the network to be reworked, embellished, verified and updated within minutes in a collaborative process unique to the texting experience.

Texting also provided a tool for the public to exchange details that filled in gaps in news coverage and the Malacañang Palace spin. And while journalists and pundits had their hands tied by expectations of objectivity and

the burden of proof, not to mention the risks of political backlash from Malacañang and its allies in Congress, texters – and their immunity to censorship and libel – provided the information that could neither be aired nor printed in public. With an alternative form of mass media in their hands, texters bypassed journalists, politicians, and commentators, the traditional gatekeepers that until then had monopolised the public sphere. ‘Virtual citizens’ were making themselves heard and this time the gatekeepers were listening and opening their radio and television programmes to them.

Programmers responded with interactive news formats where viewer sentiments were integrated into the broadcasts through text message boards and text polls on screen. The public wasn’t only making itself heard by text, it was producing content on air and on print. Investigative journalists and columnists kept their eyes on text messages for new leads and material to work on. The public, having found a way to break through the walls of bureaucracy and, in some cases, the indifference of newsrooms, found itself increasingly framing political coverage as well.

In the network at least, ordinary citizens have discovered they have the same voice as the powerful. Peasant or president, 160 characters per message is all one gets. And herein lies the promise of text messaging: Regardless of class, ethnicity, location, age or gender, all have equal access to the network, one text/one vote, one message sent out across the network of 12 million potential viewers. And in the context of political mobilisation, a potential 12 million citizens gathered in physical space.

The reality of a people’s revolt

That virtual communities can be translated into physical ones was proven with the demonstrations that immediately followed the emotional climax of the Estrada impeachment trial. When TV images on the night of 16 January 2001 broadcast the tearful vote to keep evidence from the court, text messages inundated the network with calls for a noise barrage and protests in the streets.

At first, the instant protesters turned up on street corners and in major thoroughfares – blaring car horns and hoisting homemade banners, then followed suggestions to converge at the EDSA shrine where the 1986 People Power uprising against Marcos had been staged. In the collaborative spirit of the network, the protesters followed the trail of texts to EDSA where for the next four days hundreds of thousands would ebb and flow from the shrine until news of Estrada’s fall was announced.

For sure, traditional media and ward leaders played a key role in mobilising the public. If it hadn't been for live television footage of the lively crowds gathering at EDSA, few would have felt the urge to go at all. Political parties, labour unions and cause-oriented organisations likewise mobilised their members. One should note, however, that alongside seasoned activists and partisans, there also stood and cheered the unorganised, unaffiliated and previously uninvolved. They came as neighbours, classmates, co-workers, extended families, *barkadas*, and of course, text mates – personal networks connected by shared address book entries encoded in their mobile phones. An appeal sent exclusively through text on the third and critical day of the protest illustrates the increasing dependence of the anti-Estrada forces on SMS for mobilising protesters at EDSA. The message read:

'Military/PNP nids 2 c 1 million critical mass n EDSA 2 moro, Jan. 19, 2 make decision against Erap, pls join, pas on'.

By the time EDSA 2 was over, each individual had sent an average of 29 text messages across the network. This translated into a total of 1.16 billion text messages in a span of four days, the highest ever volume recorded since the introduction of SMS in the country in 1994.⁵

The public as part revolt-planner

What makes EDSA 2 peculiar compared to previous upheavals in Philippine political history is the participation of the public, or to be more accurate, the involvement of networks of individuals, in the discourse of change. In the first uprising at EDSA, the crowds that gathered followed a script – rough as it was – written by elite actors in the military, the Roman Catholic Church, traditional opposition parties and organised political groups. In that script, the public was mobilised as a buffer to protect military rebels sympathetic to the opposition. People Power would eventually be used as a lever to convince forces loyal to Marcos to defect.

At EDSA 2, it was the public – communicating over virtual and physical networks – that took over portions of the script. At EDSA 1, politicians and their organisers mobilised the public. At EDSA 2, however, it was the network that mobilised the politicians and later on the military officers. Instead of ward leaders, the network mobilised through connectors, or those individuals with vast and interlocking networks capable of reaching across different groups of people from different social backgrounds and political tendencies.

No surprise then that unlike the polemic that accompanied the overthrow of Marcos in 1986, it is difficult to isolate the political line carried by EDSA 2. ‘Erap Resign’ or ‘Resign All!’ – the absence of a central command was evident. That it was more carnival than protest rally – a political free-for-all – is a characteristic of the network of communities at EDSA and those connected in virtual space from homes across the country and around the globe. The network is nebulous and accessible to all, its basis of unity negotiable, collaborative and often spontaneous. In the first hour of EDSA 2, previously unfamiliar networks found themselves standing opposite each other at the foot of the shrine. Leaderless and inexperienced in the craft of organising protest, they sang the national anthem instead. Slowly, naturally, a programme evolved until organised groups came to provide a semblance of organisation and purpose to the unfolding scene. Over the next four days, the network would gather enough strength to overthrow a president unable to reconnect.

Surely, much of the credit should be given to political leaders for giving form and direction to an otherwise nebulous mass. But even leaders of EDSA 2 concede that mobile phones, and texting in particular, were crucial to speeding up communication, coordinating logistics, and keeping the crowds updated on fast-moving political developments. Wireless technology and the application called SMS accelerated what could have been a protracted battle to oust Estrada.

**Democracy,
technology and
a networked
citizenry**

Despite the growing reliance of society on texting, traditional media such as television and print will continue to mediate politics in the Philippines. Nevertheless, the role of mobile telephony and SMS at EDSA 2 gives us a glimpse of the future of political communication and how new communication technologies and interactive applications can hasten political mobilisation and influence discourse. Below are some of the changes that interactive and wireless communication technology could bring to the future of citizenship and governance:

- Citizens will be bound to their networks. Social identity will increasingly be determined by membership of networks of like-minded people rather than political alliances or proximity in geographical location. As more human activity, including political activity, moves to the network, the authority and power of the nation state will diminish while that of the network will increase.
- Linear communication will be overtaken by interactivity. The experience of citizens with interactive technologies and applications will give

them a desire to control, or at least participate in, the content of political discourse. The boundary between the production and the consumption of information will fade, as more and more citizens will have access to ubiquitous tools of mass communication.

- The process of direct democracy will be accelerated. Interactive communication technology provides electronic feedback mechanisms for gathering political opinions instantaneously. It opens political communication between policy makers and dispersed constituencies (including citizens overseas) – eliminating political go-betweens and various *cordons sanitaires*.
- Hierarchies will flatten as access to information increases. The democratisation of access to information will hasten the demise of traditional gatekeepers and empower individuals connected to networks. Power-brokers and ward leaders will lose power to connectors who link networks with each other.

The alternatives offered by information communication technologies to Philippine society look promising, in contrast to the current reality of class division and patronage politics. To be sure, even in its most liberating form, technology alone cannot dismantle deeply entrenched socio-political structures. But by linking technology closer to democratic movements and nurturing a policy environment that encourages the empowering qualities of the network, positive change becomes possible.

Both the state and its citizens will need to confront the sensitive issue of government regulation of the network. Advocates of privacy argue that the anonymity and confidentiality of identities and communication is crucial for free speech within the network. Regulators meanwhile fear that privacy makes the network a viable communication system for criminals and terrorists.

Yet, full deregulation of the network is equally fraught with danger. Information networks of the future will be used not only by individuals for private and commercial transactions, but increasingly for civic functions as well. The monopoly of private telecommunication corporations over the gateways to these networks raises concerns over their accountability to the public and the cost of access to consumers.

As more of civic life moves to the network, providing access to citizens should be a priority of both government and civil society. Despite the drop in the cost of entry in recent years, the poorest sectors of society and those living outside the service areas of mobile telecommunication companies

will find themselves excluded from the benefits of socio-civic communication. The government therefore must begin to view access of the majority as a responsibility of the state. Likewise, the public must rethink and claim access to the network as a fundamental right of citizens.

A strong and healthy democracy is built on citizens being connected to each other in civic life. Regardless of the promise they hold, SMS and the emerging generation of new communication technologies will not replace the importance of social capital and traditional bonds of trust and connectivity within Filipino communities. Communication technology however, as proven in the political events of recent years, can enhance political communication in society and develop an informed and connected citizenry.

Notes

1. Globe Telecom, Philippines, www.globe.com.ph. The official website of Globe Telecom, Philippines, 2002.
2. Quest Research for ABS-CBN Interactive, 'A Usages, Attitudes and Image Study on the Cellphone and Landline Markets', June 2002.
3. *Ibid.*
4. Pertiera, R., Ugarte, E., Pingol, A., Hernandez, J., and Dacanay, N., *Text-ing Selves: Cellphones and Philippine Modernity*, De La Salle University Press, Metro Manila, 2002.
5. Merryll Lynch & Co., 'Will Wireless Messaging be the Next Killer Application in Asia?', *Regional Analysis: Mobile Data in Asia*, No. 5, August 2001.

Disclosure or Deception

Information Access in the World Bank and the Asian Development Bank

By Shalmali Guttal

In the fairly successful move towards better access to information and increased freedom of speech around the world, national governments have been pressurised to reform their right to information policies and to legislate in this field. Multilateral institutions, however, have been less susceptible than governments to these pressures, although they have often congratulated themselves for making what they describe as substantial and positive changes. In this article, special attention is given to the policies of the World Bank and the Asian Development Bank (ADB), neither of which has a record of exemplary conduct in this area. The claim is often made that multilateral institutions are responsible solely to the governments that constitute their clientele rather than to the general public; but, writes Shalmali Guttal, it should be remembered that 'the ADB and the World Bank are public institutions'. It is true that 'their financing base comes from capital subscriptions by member countries [and that] their financial credentials are guaranteed by governments', but it is taxpayers in the various member countries who foot the bill and therefore have the right to expect transparency from these institutions and full access to information about their decision-making processes.

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Multilateral institutions such as the Asian Development Bank (ADB) and the World Bank pride themselves on their information disclosure policies. Especially since the Asian economic crisis, they have held up their policies as evidence of their commitment to transparency, accountability and participation.

Information disclosure policies and practices, however, need to be located in the larger context of rights and governance. Not only must they provide full access to information, they must also facilitate timely and informed action by concerned actors. Meaningful public participation in contemporary democratic processes requires informed discussion and debate. Unless a public is fully empowered with all the relevant and required knowledge

within a relevant time frame, its participation in a given situation is cosmetic at best.

Today, the public's right to know is considered indisputable by most proponents of democracy, and articulated in the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. By 'governance', I refer to a comprehensive and transparent system of rules, processes and procedures that ensure the protection of peoples' rights to knowledge and decision-making, as well as accountability for decisions made and actions taken. Policy and programme decisions have economic, social and political consequences, and it is crucial to examine whether those who bear the greatest costs of such decisions have been adequately and sufficiently involved in making these decisions.

Based on the above standards, both the ADB and the World Bank fail in their practices on information disclosure and access to information. As this article will show, both institutions are completely unaccountable to the public, highly non-transparent in their policy-programme formulation and decision-making, and irresponsible in their stated commitments to promote public participation and equitable and fair access to information.

Indeed, their information disclosure practices neither provide the public with complete, accurate and reliable data, nor do they facilitate public participation in the development of their respective policies and programmes. More often than not, the primary aim of these practices appears to be to keep the public occupied with sometimes interesting, but largely irrelevant, information while the institutions go on with business as usual. This is not information disclosure in any meaningful sense. This is deception.

The politics of information disclosure

Access to information is primarily a political issue that is embedded in power relations and the exercise of power. It involves not only the ability to access information that already exists but also the very generation of information that could enhance the public's ability to participate in making decisions about their future. The capacity to generate information and to enshrine this information in social and institutional memory as 'knowledge' is indeed a powerful one.

The World Bank and the ADB have this capacity and have used it to their full advantage in the name of information disclosure. The information disclosure policies of these two public institutions, although different in form and articulation, have similar fundamental shortcomings.

**Irrelevance to
decision-making**

The most obvious flaw in both institutions' information disclosure policies is that these have little to do with influencing the key policy and programme decisions made by them. It does not matter how much paper or how many megabytes they make available. The fact remains that the most important decisions are made according to the economic and political interests of their more powerful members and not according to broad-based public interests.

Equally important here is the issue of *how* decisions within the two banks are made. Again, public debates or public interest priorities have little meaning here. Government representatives from the member countries of the two institutions do not have equal weight in negotiations and discussions. It is widely acknowledged that a significant reason why developing countries have been disadvantaged by multilateral institutions is that they have been marginalised from the formal decision-making systems of these bodies.

In the World Bank, formal decision-making power is based on the size of capital subscriptions. The United States, with a hefty 17.6 per cent voting power, has the formal clout to veto decisions not to its liking. It has also managed to limit the capital share and voting power of Japan – the only possible contender for its powerful position in the institution – to 8 per cent.

Formal power is further supplemented by informal mechanisms. The World Bank president is always a US citizen and the Bank's location in Washington DC has helped to ensure that (US Treasury-approved) US citizens account for a quarter of senior management and higher-level professional staff. According to a US congressional research service analysis, the advantage of the World Bank and multilateral development banks to the United States (and other rich lenders) is that they are able to demand performance standards of their borrowers that Washington and other creditors may be reluctant to impose on a bilateral basis.

What Japan has lost in the World Bank, it has claimed in the ADB. According to a number of ADB insiders, this bank operates by the rules of 'Japanese culture'. Decision-making is 'consensus-driven' (Japanese style) and takes place through informal discussions in hallways among select members of senior management and the Board. The ADB also has key senior positions reserved for the nationals of its more powerful capital subscribers. Sole and final authority on all decisions rests with the bank's President, who also chairs the Board of Directors and, most important, is

always Japanese. The position of ADB General Counsel, however, has been cornered by the US.

Although ADB board members are expected to consult with the national capitals they represent for major policy decisions, senior management officials have no such cumbersome requirements. Their primary concern is to ensure that no policy or issue goes to the Board unless they are confident that it will receive majority approval. And if this approval is not possible through informal ‘consensus-building’, senior management is likely to delay the process by bringing additional steps into the formal decision-making process. According to a senior staff member, the ADB is ‘one of the most non-accountable, non-participatory and non-transparent institutions around’.

Decision-making in the ADB and the World Bank is thus controlled by exclusive, closed circles of top leadership and senior management and guided by multiple levels of self-interest. The present information disclosure policies of the two banks are certainly not going to change this situation.

Selective disclosure

Another fundamental flaw in the institutions’ information disclosure policies is that they only make public what is convenient to them and when it advances their institutional interests. What they do *not* disclose always turns out to be more important than what they let the public see.

For instance, the World Bank’s recently revised information disclosure policy continues to focus on providing people with information about decisions already taken, rather than making available the information needed for the public to participate in decision-making. In the new policy, key documents such as tranche release memoranda, the president’s reports, drafts of Country Assistance Strategies (CAS) for most countries, and the draft and final documents for most structural adjustment lending will not be made available to the public.

The Board was apparently divided on the question of transparency in structural adjustment lending. These divisions are reflected in the complicated agreement that was eventually reached. For instance, final versions of some documents for low-income borrowers will be made available, while documents pertaining to middle-income borrowers will be left to the ‘discretion’ of borrowing governments to disclose.

According to the Bank Information Centre (BIC), a US-based policy research organisation that has exhaustively monitored the World Bank's information disclosure process, the World Bank under its new information disclosure policy has essentially abdicated responsibility for its own transparency by pushing such disclosure decisions onto borrowing governments. It has thus clearly chosen to deny the public its right to access key documents regarding structural adjustment lending.

The new policy has also ensured that the World Bank's Board of Directors will continue to govern in total secrecy. Again according to BIC, the Board has yet to acknowledge that the public has a right to know how they are being represented within the Bank. Also, almost no progress has been made regarding timely disclosure of information about project lending. While the World Bank claims that it is interested in including project-affected communities in decision-making, it refuses to make available to the public important documents about project design, implementation and financing until after decisions have already been made.

The ADB, for its part, proudly touts its website and the number of reports it has made available as evidence of its commitment to information disclosure. But a source close to the ADB says what is *not* on paper is the real issue. In fact, what is available on the website or in published form is not pertinent to the ADB's decision-making processes. Too many decisions are made through closed, informal discussions that should in actuality be open to the public.

At the same time, much of this information, as well as access to such discussions, is not equally shared within the institution. Delegates from poorer and less powerful nations are as likely to be kept out of the loop as the general public in the ADB's borrowing countries.

The ADB brand of secrecy is amply demonstrated in how it has handled Thailand's Samut Prakarn Wastewater Management Project (SMWMP), in which it is providing more than 30 per cent of the total financing. The project entails channelling wastewater through pipes from some 3,600 factories in Samut Prakarn province in Thailand to a site, some 20 kilometres away, that happens to be in a residential area. Effluents discharged from the plant will damage the surrounding marine environment on which more than 50,000 village residents depend for their livelihoods. Despite repeated requests by the affected residents and some Thai legislators, the ADB did not disclose the project profile and procurement documents, or even the initial environmental and social impact assessments.

Affected communities and supporting non-governmental organisations (NGOs) then presented to the ADB substantial data regarding the project's potential negative impacts. They also noted how the project may have violated both Thai laws and many of the ADB's own operational policies, such as those covering supplementary financing for cost-overruns, anti-corruption, governance, confidentiality and disclosure of information, and environmental assessment requirements. The ADB's response was that it saw no evidence of wrongdoing or negative impacts. It did not, however, disclose the evidence on which it based this assessment.

After a prolonged debate, the ADB acceded to the affected communities' request to have the SMWMP inspected. In October 2001, the project went through the ADB's official inspection channels. But this process also was racked with non-transparency, conflicts of interest and antagonism among the senior management and staff, Inspection Committee, Inspection Panel, and the Thai Government. Eventually, the Inspection Panel submitted a report to the Inspection Committee without the Panel ever visiting the project site or having direct consultations with the affected communities. Even so, the inspection report found that the ADB was in non-compliance with a number of its most important policies and procedures and that the project should have been completely re-appraised at a much earlier stage, well before a supplementary financing loan for the project was made.

It took the ADB several months to make this and other related documents available to the general public. Even those who had requested the inspection in the first place were not contacted by the ADB about the inspection report until several months after it was submitted. Moreover, to date, all the ADB has made public is a summary of its conclusions about the Inspection Committee's recommendations. The nature of deliberations within the ADB Board regarding its responsibility and liability remains secret, even as work on the project continues.

Dubious quality

Given the high degree of secrecy that governs the information disclosure policies of the World Bank and the ADB, it is difficult to trust the quality and integrity of the information they make available to the public.

In the case of the World Bank, a clear example of its doublespeak can be found in the debate about the Chad–Cameroon pipeline in West Africa. Backed by the World Bank, the project entails extracting one billion barrels of oil in Southern Chad and transporting it through 660 miles of pipeline to a facility in Cameroon. Based in two of the world's poorest coun-

tries, the pipeline will cost approximately USD 4 billion and will be built by a consortium of private companies led by Exxon-Mobil.

The project has been sharply criticised by a number of local and international NGOs, who claim that the social and environmental impacts of the project outweigh its benefits, and that the project is likely to exacerbate human rights abuses in the region. But the World Bank maintains that the project will bring in revenues for poverty reduction, catalyse greater democracy and facilitate civil society participation in policy debates.

Interestingly, a confidential report by its own independent inspection panel has noted that Chad will get only 5 per cent of the royalties from the project and that the local population will not get a fair share of the project's profits. The panel also found that the environmental impact assessment undertaken by the World Bank made a 'serious omission' by not taking into account the pipeline's cumulative environmental impacts.

Not deterred from its support for the project, the World Bank has rejected the panel's findings, saying the suggested approach to environmental assessment would have been 'cumbersome and ineffective'. It also insists that regardless of the low royalties for oil extraction that Chad might receive, the region would still benefit from the revenues earmarked for health, education and infrastructure.

The World Bank's past record, however, does not inspire confidence in such claims. One of its own internal reports in 1999 even indicated that it legitimised false statistics and tolerated corrupt regimes in many of its borrowing countries. Many World Bank financed infrastructure projects have also been marked with scandals of corruption and bribery, which occurred even as senior staff reported that all was well. This includes the recent Lesotho Highlands Water Project in Lesotho and the Bujagali dam in Uganda. Moreover, according to the 2000 Meltzer Commission Report, the World Bank's project failure rate is 65–70 per cent in the poorest countries and 55–60 per cent in all countries. In fact, the Meltzer Commission openly challenges the Bank's grandiose claims about its efforts in alleviating poverty.

The ADB has not had much success with quality or integrity either. The information it provides about its own policies is in fact out of date with developments within the institution. For example, long-pending reviews of its information disclosure policy and its inspection policy have yet to be conducted. Preliminary problems with both policies thus far have been

kept secret, as have debates between senior management and the Board about the quality of ADB programmes and projects. The ADB's lawyers have advised Board members and management not to make public statements about the status of project inspection policies and processes (as in the case of Thailand and Sri Lanka) since there is such a lack of clarity within the institution about its most current positions.

There is also the matter of the outdated Operations Manual for ADB staff. Operational policies and procedures that should have been reviewed years ago are still unchanged, while other policies approved five years ago have still not been included in the Manual – at least not in the version that is usable by the staff or is publicly available. As a result, there has been a great deal of confusion among the staff as to which policies they should follow – those on paper (but outdated), or those agreed by the Board (but not yet included in the Operations Manual).

**Governance:
a morass of
contradictions**

That their information policies and practices are inherently flawed and useless to the public are not the only reasons why we should doubt the ADB's and World Bank's commitment and competence in the area of governance. Equally important is the fact that internal and external governance in both banks is in complete disarray, and they would do well to take a critical look at themselves before they tell others what to do.

Take the World Bank's attempts to bolster its image by engaging the public in at least two global initiatives: the Structural Adjustment Programme Review Initiative (SAPRI) and the World Commission on Dams (WCD). In both these initiatives, civil society organisations – which included many long-time critics of the World Bank – entered into what they hoped would be good faith processes of research and dialogue with a variety of opposing interest groups. And despite challenges and compromises, they stayed with the initiatives.

In contrast, the World Bank started to backpedal as soon as it became clear that the two reviews were generating information that contradicted its self-created scorecards of success in structural adjustment programmes and support for large dams. In the case of SAPRI, the World Bank produced a separate report, which ignored the findings of the research that its own staff were involved in and which (not surprisingly) arrived at conclusions opposite to those of the SAPRI research. By so doing, it effectively closed off any substantive or meaningful discussion with the public about its structural adjustment programmes. As for the WCD, the Bank more or less

rejected the commission's findings and is taking refuge behind opposition to the report by some country governments as an excuse not to implement the WCD recommendations.

In the meantime, the World Bank continues to impose structural adjustment through a new programme – the Poverty Reduction Strategy Papers (PRSP), which it claims are nationally owned and participatory. Investigations by civil society groups into the PRSP process, however, reveal that it is plagued with the same flaws of policy and conditionality impositions, inaccessibility of information and absence of any serious learning from past reform programmes imposed by the World Bank and the International Monetary Fund. Participation is restricted to selected, well-placed NGOs offering comments on pre-prepared documents rather than being able to effect any substantive change in the lending programmes.

And to maintain its charade of openness, the World Bank has entered into yet another global review process, this time of the mining and extractive industry. It has shown some institutional learning here, but this is not good news. The process is far more closed and exclusive than the WCD, and there are attempts to exercise greater control than before over the review structure and process.

On another front – despite its rhetoric about good governance – the World Bank has actively undermined fights against corruption through its own practices. A good example here is the Lesotho Highlands Water Project (LHWP), which was financially coordinated and supervised by the World Bank, and could set a precedent for the prosecution under national laws of corruption and malpractice in large infrastructure projects.

Since 2001, the Lesotho High Court has been investigating charges of bribery against major international dam-building companies and public officials in connection with the project. But instead of supporting a nationally accountable legal process, the World Bank in early 2002 quietly conducted its own internal investigation of three companies charged with paying bribes. Its conclusion: there is insufficient evidence to punish these companies for corruption. This is despite its acknowledgement that the companies paid 'commercial fees' to a middleman who *has* been found guilty of paying bribes to Lesotho officials with the fees paid by the companies.

The World Bank's conduct has drawn outrage from government and non-government actors alike and has led many to conclude that it is not serious about rooting out corruption in its projects. First, it did not investigate all

the companies involved in the project, but only those that it directly financed, ignoring the fact that the companies got involved in the project *because* it was backed by the World Bank. Second, by concluding its internal investigations while the Lesotho Court proceedings were still going on, it effectively allows the companies to use its findings to contradict the Court. And third, it did not release any information about its investigations or findings.

In a welcome turn of events, the Lesotho High Court recently found Acres International, a Canadian firm that the World Bank cleared in its internal investigation, guilty of paying nearly USD 266,000 to the former Chief Executive of the LHWP. Unlike the World Bank, the Lesotho High Court did not buy the ‘middleman’ defence. Acres International is a long-term ally and pet contractor of the World Bank in infrastructure projects worldwide. It remains to be seen whether the World Bank will put its money where its mouth is and bar Acres from future contracts, as instructed in its anti-corruption policy.

Sources close to the World Bank have indicated that the institution may well be on a path of ‘downward harmonisation’ of project and programme standards to ensure that it does not lose its borrowing and infrastructure clientele.

The ADB’s share of struggles

The ADB has its own problems of internal governance, non-transparency and lack of participation. To be sure, the ADB has yet to show how it puts good governance into operation in its own institutional conduct. The only concrete examples it can offer of bank facilities for good governance are its corruption ‘hotline’ and its inspection function. The corruption hotline does not provide the public much by way of access into the ADB since, despite agreement that phone calls to the hotline can be anonymous, there is little clarity about what happens next once it receives a tip-off about corruption or malpractice in an ADB-supported programme or project.

In addition, the ADB’s inspection function is already proving to be an avenue to evade responsibility for poor performance, wrong decisions and involvement in harmful projects. The SMWMP was the first project to go through the bank’s inspection process and opened a can of worms within the ADB, highlighting problems of poor leadership, staff confusion and lack of responsibility and accountability. It revealed the inconsistencies among the ADB’s stated policies, what is recorded on paper and actual implementation.

But one particularly alarming internal by-product of the SMWMP inspection process appears to be a rush within the ADB to update the staff operations manual so that there can be some sort of protection for bank management from future inspection processes. According to sources close to the ADB, it is trying arbitrarily to decide which of its policies and even *which parts* of its policies should be subject to inspection, and which should not. In the future, therefore, project managers are likely to be in a bind about whether they should focus their efforts on faithfully meeting project/programme objectives, or on implementing ‘inspectable’ policies and thereby protecting themselves from the risks of future inspection processes.

Like the World Bank, the ADB appears to be moving towards a general lowering of programme and project standards by arbitrarily deciding which of its policies and procedures are ‘inspectable’ and which are simply ‘good practice’. The thinking appears to be that the less the ADB opens itself for investigation, the less responsibility it needs to assume for problems in its projects.

Yet whatever is deemed ‘inspectable’ would still be shielded from external accountability by the ADB’s immunity to local and national laws, as guaranteed by its Charter. A memo from the ADB secretary to the directors and alternate directors (6 March 2002) and the ADB counsel’s legal opinion on the bank’s potential liability under the inspection function (26 December 2001) show that by virtue of the immunity provided by its Charter, the ADB is not liable for any findings of wrongdoing through the inspection function and that it is protected from any legal action that may arise from such findings.

Internal documents indicate that the rationale for the ADB’s inspection function is quite clearly based on the immunity it enjoys and that the function serves as the public face of good governance. But this function falls severely short of universally accepted standards and systems of good governance. As things stand, final decisions about the ADB’s compliance with policies and procedures, and assessment of institutional and staff conduct, rest with the Board of Directors on the advice of senior bank management. The ADB, then, is its own investigator, jury and judge, with no obligations of external, public accountability.

The ADB is currently engaged in a review of its inspection policy and process. It remains to be seen whether there is sufficient political will and commitment within the bank to shape the inspection process so that it be-

comes a genuine avenue of redress for those negatively affected by its operations.

Ever-shrinking accountability and transparency

Secrecy in the policies and practice of information disclosure to the public is a violation of the social and political compacts between a people and their government. Governments are – at least in theory – expected to be accountable to their citizens for the decisions they make. Going by the principles of transparency and participation, their decision-making processes are also expected to be open to public scrutiny and debate.

Multilateral institutions argue that they are directly responsible to the governments that constitute their clientele and not to the general public. This is a significant reason why decision-making and democratic oversight in the World Bank and the ADB are becoming increasingly remote from the public. But there is still a sham of openness. Very probably, as the World Bank and the ADB decrease their external accountability, they will ‘disclose’ a lot more irrelevant information through paper and megabytes.

It should be remembered, however, that the ADB and the World Bank are public institutions: their financing base comes from capital subscriptions by member countries, their financial credentials are guaranteed by governments, and their governing boards are made up of officials at ministerial level from member countries. Moreover, their policies and operations have severe and long-term consequences that are not borne by governments, but by the populations in client countries. And the less directly accountable a public institution is to the public, the more open and transparent it needs to be in order to uphold and prove its stated commitments to democracy, good governance and social responsibility.

Unless they can set their own house in order, the ADB and the World Bank are in no position to sermonise to the world about transparency, accountability, participation and good governance.

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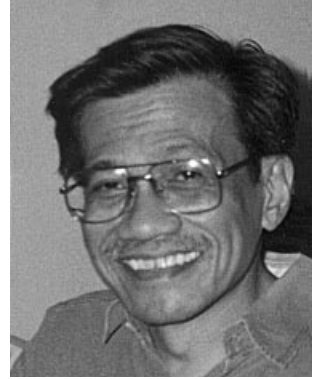
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Lack of Transparency in the WTO

By Walden Bello

In this short but explosive piece Walden Bello puts the spotlight on the World Trade Organization, an institution that seems to have as many problems with its internal information system as with its external information provision; as Bello phrases it, 'the WTO remains the non-transparent and feudal institution par excellence'. He devotes one part of his article to scrutinising the decision-making processes of the institution and the shifting definition of consensus, while another part describes the surprising indulgence with which the journalists attending WTO meetings treat the information given by spokespersons for EU and US trade departments and for the WTO secretariat. 'Is there an assumption here that economic institutions should not be measured by the same gauge of transparency and democracy as political institutions', Walden Bello asks, and continues, 'Is there a feeling that economics is best left to the economic experts?'

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A not so funny thing happened at the World Trade Organization (WTO) ministerial meeting in Seattle in December 1999. As the stories later went, ministers from developing countries complained of being lost at the Seattle Convention Centre. The Third World ministers were all in search of a so-called 'Green Room', where key decisions would be made. What they didn't realise was that the Green Room referred not to some cavernous space in the convention centre but to an exclusive process of decision-making. And they were, of course, not supposed to be part of that.

The absence of transparent decision-making was one of the main reasons for the collapse of that Seattle meeting. But the WTO – along with other multilateral organisations – has yet to learn its lesson or to display any interest in doing so. Instead, it seems to be content to believe in its own claims of greater transparency, despite evidence showing the opposite.

To be sure, multilateral organisations are not known for being democratic. At the International Monetary Fund (IMF), for instance, the managing director must be European and his key deputy a US national. A formal vote, either in the Board of Directors or Board of Governors, is also a relatively rare occurrence. It took a congressional hearing to force the US executive director during the Clinton administration to reveal that the Executive Board actually had votes on approximately a dozen out of 2,000 decisions during her tenure. Instead of votes being counted, differences are rendered invisible by a process of consensus pushed by the biggest quota holders.

Consensus as practised by the Fund has non-democratic implications. For one, it only serves to cover up the unequal power relations that would reveal themselves, were a formal vote taken. For another, governments and NGOs not present during the proceedings find it hard to figure out what actually transpired, thus undermining transparency and accountability.

As for the World Bank, one only has to recall what happened after one bank official tried to exercise maximum transparency and elicit maximum public engagement in drafting the World Bank's key document, the *World Development Report*. That official, Dr Ravi Kanbur, was forced to resign. And when the chief economist, Joseph Stiglitz, challenged the paradigm of a sister institution, the IMF, he was eased out by his boss, James Wolfensohn, at the prodding of Larry Summers, then Secretary of the Treasury.

Maximum non-transparency was the policy of the World Bank when it came to its relations with the Soeharto dictatorship in Indonesia, to which it funnelled over USD 30 billion in 30 years. According to several reports, including a World Bank internal report that came out in 1999, it tolerated corruption, accorded factual status to false government statistics, legitimised the dictatorship by passing it off as a model for other countries, and was complacent about the state of human rights and the monopolistic control of the economy. This close embrace of the Soeharto regime continued well into the Wolfensohn era, and was something that the World Bank president has never apologised for.

The World Bank's information disclosure policy, meanwhile, can be said to mirror those of other multilateral institutions. That is, it only discloses what does not hurt it. My colleagues and I would never have been able to write *Development Debacle: The World Bank in the Philippines* from the kind of documents that it makes public. About 85 per cent of the documents we used to write that book were confidential documents, and to get them, we had to break into its building and steal them.

Redefining consensus

For all this, the WTO remains the non-transparent and feudal institution *par excellence*, beating the other multilaterals hands down. In truth, the WTO is not governed democratically via a one country/one vote system like the UN General Assembly or through a system of weighted voting like the World Bank or the IMF. This is despite its constitution, which says it operates a one country/one vote system. During the WTO ratification process in 1994, partisans of the new trade organisation also portrayed it as a one country/one vote organisation where the United States would actually have the same vote as Rwanda. The reality, however, is that the process that reigns in the WTO is ‘consensus’, a process that it took over from the old GATT (General Agreement on Tariffs and Trade), where the last time a vote was taken was in 1959.

‘Consensus’, WTO style, means the big trading countries impose their consensus on the less powerful countries. As C. Fred Bergsten, a prominent partisan of globalisation who heads the Institute of International Economics, put it during US Senate hearings on the ratification of the GATT-WTO Agreement in 1994, the WTO ‘does not work by voting. It works by a consensus arrangement which, to tell the truth, is managed by four – the Quads: the United States, Japan, European Union and Canada.... Those countries have to agree if any major steps are going to be made. But no votes.’

Although the Ministerial and the General Council are theoretically the highest decision-making bodies of the WTO, decisions are arrived at not in formal plenaries but in non-transparent backroom sessions known as the ‘Green Room’, after the colour of the director-general’s room at the WTO headquarters in Geneva. With surprising frankness, then US trade representative Charlene Barshefsky described the dynamics and consequences of the Green Room, at a press conference in Seattle, shortly after the collapse of the Ministerial: ‘The process, including even at Singapore as recently as three years ago, was a rather exclusionary one. All the meetings were held between 20 and 30 key countries.... And this meant 100 countries, 100, were never in the room.... [T]his led to extraordinarily bad feeling that they were left out of the process and that the results even at Singapore had been dictated to them by the 25 to 30 countries who were in the room.’

Barshefsky admitted: ‘[T]he WTO has outgrown the processes appropriate to an earlier time. An increasing and necessary view, generally shared among the members, was that we needed a process which had a greater degree of internal transparency and inclusion to accommodate a larger and

more diverse membership.’ This was backed up by UK Secretary of State Stephen Byers who stated: ‘The WTO will not be able to continue in its present form. There has to be fundamental and radical change in order for it to meet the needs and aspirations of all 134 of its members.’

The Doha debacle

The same non-transparency and lack of any modicum of democratic decision-making remained in the lead-up to the fourth Ministerial in Doha, Qatar, in 2001. Indeed, the proposed draft declaration for the ministerial meeting was an example of the sort of non-transparent tactics that the big trading powers resorted to. In the lead-up to Doha, most of the developing countries were pretty much united around the position that the ministerial would have to focus on implementation issues and on reviews of key WTO agreements, not on launching a new round of trade liberalisation. Yet, when the draft declaration came out a few weeks before Doha, the emphasis was not on dealing with implementation issues but on an alleged consensus on opening up negotiations on the issues of competition, investment policy, government procurement and trade facilitation, which were the priorities of the minority, composed of rich and powerful trading countries. ‘Despite clearly stated positions that the developing countries are unwilling to go into a new round until past implementation and decision-making are addressed,’ noted Aileen Kwa, who followed the process closely, ‘the draft declaration favourably positioned the launching of a comprehensive new round with an open agenda.’

The draft, which was authored by the chair of the General Council, was a product of consultations conducted mainly among an inner circle of about 20 to 25 participants – the so-called Green Room process that effectively excludes most of the members of the WTO. In the lead-up to Qatar, this exclusive process involved two ‘mini-ministerials’, one in Mexico at the end of August and another in Singapore on 13–14 October 2001. How one got invited to these meetings was very murky. Kwa cites the case of one ambassador from a transition economy who was promised an invitation to a Green Room meeting by the WTO Secretariat but never got one. There was also the experience of an African ambassador who had wanted to attend the Singapore mini-ministerial: when he approached the Secretariat for an invitation, he was told that it was not hosting the meeting. He then tried the Singapore mission in Geneva, and the the response was that it was simply coordinating the meeting and was not in a position to send out invitations.

The Doha Ministerial from 9 to 14 November 2001 took place amid conditions that were already unfavourable from the point of view of developing

country interests. The 11 September events provided a heaven-sent opportunity for US trade representative Robert Zoellick and European Union (EU) trade commissioner Pascal Lamy to step up the pressure on developing countries to agree to the launching of a new trade round, invoking the rationale that it was necessary to counter a global downturn that had been worsened by the terrorist actions. The location was also unfavourable, Qatar being a monarchy where dissent could be easily controlled. The WTO Secretariat's authority over who would be granted visas to enter Qatar for the ministerial allowed it radically to limit the number of legitimate NGOs that could be present, thus preventing that explosive interaction of developing country resentment and massive street protest that took place in Seattle.

Outmanoeuvred and outplayed

Still, these factors would not have been sufficient to bring about an unfavourable outcome. Tactics mattered, and here the developing countries were clearly outmanoeuvred in Doha. Among these tactics, the following must be highlighted:

- Pushing the highly unbalanced draft declaration and presenting it to the ministerial as a 'clean text' on which there allegedly was consensus, thus restricting the arena of substantive discussion and making it difficult for developing countries to register fundamental objections without seeming 'obstructionist'.
- Pitting officials from the capitals against their negotiators based in Geneva, with the latter being characterised as 'recalcitrant' or 'narrow'.
- Employing direct threats, as the United States did when it warned Haiti and the Dominican Republic to cease opposition to its position on government procurement or risk cancellation of their preferential trade arrangements.
- Buying off countries with goodies, as the EU did when, in return for their agreeing to the final declaration, it assured countries in the ACP (Africa-Caribbean-Pacific) group that the WTO would respect the so-called 'ACP Waiver' that would allow them to export their agricultural commodities to Europe at preferential terms relative to other developing countries. Pakistan, a stalwart among developing countries in Geneva, was notably quiet at Doha. Apparently, this had something to do with Washington's granting Pakistan a massive aid package of grants, loans, and debt reduction owing to its special status in the US war against terrorism. Nigeria had taken the step of issuing an official communiqué denouncing the draft declaration before Doha, but came out loudly supporting it on 14 November – a flip-flop that is difficult to separate from

the US promise of a big economic and military aid package in the interim.

- Reinstating the infamous ‘Green Room’ on 13 and 14 November, when some 20 handpicked countries were isolated from the rest and ‘delegated’ by the WTO Secretariat and the big powers to come up with the final declaration. These countries were not picked by a democratic process, and efforts by some developing country representatives to insert themselves into this select group were rebuffed, some gently, others quite explicitly, as was the case with a delegate from Uganda.
- Finally, putting pressure on developing countries by telling them that they would be responsible for causing the collapse of another ministerial, the collapse of the WTO and the deepening of the global recession that would allegedly be the consequence of these two events.

Doha was a low point in the GATT-WTO’s history of backroom intimidation, threats, bribery and non-transparency. But take it from the horse’s mouth itself: no less a person than the EU’s trade commissioner, Pascal Lamy, described the Doha process as ‘medieval’. Surprisingly, at a recent speech in Geneva, WTO director-general Mike Moore endorsed this view.

The press and the multilaterals

There are no records of the actual decision-making process in Doha because the formal sessions of the ministerial – which is where decision-making is made in a democratic system – were, as in Seattle, reserved for speeches, and the real decisions took place in informal groupings whose meeting places kept shifting and were not known to all. There being no records, there is little accountability and the principals in any deals can deny that they engaged in questionable behaviour.

But what is surprising is the way that very few of the hundreds of press people present in Doha tried to unravel this non-transparent process. For the most part, the press parroted the view of the EU, the United States and the WTO Secretariat that the results of Doha were a compromise that benefited both developed and developing countries. The sad fact is, however, that Doha was a devastating defeat for the South. The only thing that could possibly be seen as a gain there was the declaration that there was nothing in the TRIPs Agreement that would prevent countries from taking steps to protect public health. But even this gain is fragile, since it is a political statement, and there is nothing in the declaration itself that requires a change in the text of TRIPs, which remains draconian in its protection of drug patents.

Even more alarming is much of the press's acceptance of the non-transparency that marks the WTO process from beginning to end. Is there an assumption here that economic institutions should not be measured by the same gauge of transparency and democracy as political institutions? Is there a feeling that economics is best left to the economic experts? Is it a case of being intimidated by a labyrinthine process? Or is it a case of not wanting to risk the ire of the monopolistic managements that now dominate the global media?

Transnational corporations have been tackled by investigative journalists in the populist tradition. Yet it has been left up to NGO activists and advocacy groups to expose the multilateral institutions and their workings. Here the work of Paul Blustein of the *Washington Post* on the IMF seems to be an exception.

This state of affairs is not good. Because much of the press accepts the mystique of these organisations, there is a strong tendency to repeat the shibboleths of these institutions about the anti-globalisation movement, about our so-called lack of analysis, our emotionalism, our Luddism. It has taken massive actions on the streets by this movement finally to get the press to see that there is something to our side of the story. Politics and scandals and political corruption make great copy. The WTO, World Bank and IMF could also make great copy, if we had investigative journalists willing to take on the gargantuan task of understanding and unravelling them.

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