

# Challenges to Press Freedom of Private News Media in Myanmar

*Ohnmar Nyunt*



Consortium of Development Studies  
in Southeast Asia (CDSSEA)



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# Challenges to Press Freedom of Private News Media in Myanmar

Ohnmar Nyunt



The Regional Center for Social Science  
and Sustainable Development  
**Chiang Mai University**

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## Series Foreword

The Regional Center for Social Science and Sustainable Development (RCSD) at Chiang Mai University has extended its publication program to include Master's dissertations from The Consortium of Development Studies in Southeast Asia (CDSSEA). The CDSSEA series covers mainland Southeast Asia: Myanmar, Thailand, Cambodia, Laos and Vietnam, and regionalization, development encounters and exchanges within the Greater Mekong Sub-region (GMS).

The CDSSEA program brings together resources and expertise from three of Thailand's leading institutions offering Master's degrees in development studies: Chiang Mai University's Master of Arts in Social Science (Development Studies) (MASS); Chulalongkorn University's Master of Arts in International Development Studies (MAIDS); and the Asian Institute of Technology's Master of Science in Gender and Development Studies (MGDS). Although the Consortium's program focuses on the relationship between development studies and social sciences, each of the programs has a different emphasis. The Chiang Mai degree focuses on social sciences and anthropological perspectives, with research interests in environmental and resource management, food security and local livelihoods, labour migration and trans-border issues, ethnicity and development, health, tourism, and agrarian transitions. Chulalongkorn's program concentrates on the political dimension of development, including democratization, human rights, conflict resolution, international and civil society development organizations, community development and globalization. The Asian Institute of Technology focuses on the relationships between gender and development—including women's rights, civil society, and gender dimensions of urbanization and industrialization.

The CDSSEA program has a practical dimension, building leadership capacity in mainland Southeast Asia's regional development, bringing together postgraduate students, encouraging debate, and promoting the rethinking of development alternatives in such areas as social equality, justice and participation, environmental and economic sustainability, and community development. In this regard, a major objective is to develop the knowledge and skills of development practitioners and to enhance the quality and effectiveness of policy-making and its implementation in the region.

The publications in this series—selected from the CDSSEA Master's program—are designed to express this diverse range of interests in development studies and regionalization, and to emphasize the relationships between empirical and theoretical research, policy-making and practice.

*Victor T. King*, Senior Editorial Adviser,  
Critical Perspectives on Regional Integration Series



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## Abbreviations

DDARD	District Department of Agricultural and Rural Development
MJA	Myanmar Journalist Association
MJN	Myanmar Journalist Network
MJU	Myanmar Journalist Union
PSB	Press Scrutiny Board
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council

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*Ohnmar Nyunt*



## Chapter 1

# Introduction

Prior to the current political reformation, Myanmar was ruled by a dictatorial regime for nearly five decades, lasting from 1962 to 2010. Press freedom under the former regime was ruined through the restriction of all sources of information. Strict censorship and the punishment of media personnel during this period was commonplace. After a new quasi-civilian government took charge in 2010, the reforms of the country caught the attention of the public and international community, who wanted to know how transparent the government would be in its transition from authoritarian bureaucracy to democracy. In 2011, the news media in Myanmar began to take on its role as “the fourth pillar”<sup>1</sup> of the country’s reformation process, playing a vital role in the maintenance of the integrity of the legislative, executive and judiciary systems. At this point, the media was functioning as a watchdog to check the government’s performance and make suggestions for future improvements.

According to constitutional law, section 354 (A), everyone in the country, including media, has the right to freedom of expression and opinion. Clause

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1 President Thein Sein mentioned media as “the fourth pillar” during his addresses in first Pyihtaungsu Hluttaw (Union Assembly) second regular session on 22nd Aug, 2011. Legislative, executive and judicial pillars are three sovereignty power stipulated in the constitution. President also mentioned that as the country was ready to coordinate with international community, and media as the fourth pillar would make them see the situation of the country. <http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2011/08/22/id-212> (accessed on 23rd April, 2014)

(a) of section 354 in the 2008 Myanmar constitution states, “*Every citizen shall be at liberty in the exercise of the right to express and publish freely their convictions and opinions*”. In other words, freedom of the press and expression is not just the right of media, but of the whole society: citizens have the right to raise their voice and claim their rights from the government. Society will be better off when people can protect these rights and livelihoods by raising their voice through the media. The right to freedom of expression is an essential element of democratic governance in carrying out development projects. Development has become the recent focus of attention for reformation in Myanmar, so the government is implementing its development tasks by cooperating with the media. “At the heart of how democratic governance contributes to development is the right to freedom of expression which includes press freedom and freedom of information” (Banda, 2013). Under a truly democratic system, the media is supposed to be free, pluralistic and independent.

As the country is in the midst of reform, people in Myanmar are becoming increasingly interested in accessing information from various kinds of newspapers, news focus journals and magazines via print or online media, since the right to such information and the people’s right to know have been denied for so many years. Myanmar’s media significantly changed with the abolition of the censorship board in August 2012. Another major change came on April 1st, 2013, when private newspapers were allowed to publish for the first time in five decades. For the nearly five decades that there was only state-owned media, people in the country had less choice to access everyday information. As a result, most of the information was one sided. In other words, state-owned newspapers only represent the government, and it informs the public of what the government wants the public to know. On the contrary, private newspapers represent the public as a whole, and informs the public of what they want to know.

Media is an important pedestal for the development of a nation. Media freedom has the potential to influence its audiences and to change their mindsets to lead them to the path of positive change. The whole public, including ordinary citizens, politicians, opposition groups, military groups, academics, civil society organizations and business people need to be informed so they can know and assess the opinion of each side. Under the current reformation, media in Myanmar has the chance to provide the required information to the public, which is essential for the exercise of democracy. But in spite of the changes that

have occurred during the reformation period, the media in Myanmar is still facing many challenges, such as difficulty in accessing information, limitations on editorial independence, and capacity requirements in terms of finance and human resources.

This study highlights the changes happening to Myanmar's media in order to examine the situation of press freedom that media personnel in Myanmar have been facing during the transition period from 2011 to 2014. The study does this by assessing the challenges of press freedom towards private media in the Myanmar.

## **Statement of Problem**

Media transformation in Myanmar has become one of the most remarkable transitions after five decades of suppression under the military regime. Censorship has been lifted for the news media; a number of imprisoned bloggers and journalists have been released; private daily papers have been permitted to publish; and some political opinions or comments are allowed in the publications. However, there is still government domination in the media field. It is important to be cognizant of the fact that the government still keeps an eye on all news coverage by private news media outlets.

Although the reformation in Myanmar since 2011 gives a lot of freedom to the press compared to the past, there are still many restrictive laws such as Official Secrets Act, Defamation, Trespassing and so forth that constrain media freedom and the free flow of information. The constitution does provide for freedom of expression and press, but it is still restricted by the conditions related to the central principle of "Union security, prevalence of law and order, and community peace and tranquility." This is a qualification that falls short of international standards.

Most of the media houses in Myanmar are also facing challenges under new changes to the private news media sector. Before the reformation, the Press Scrutiny Board (also known as censorship board) made restrictions on news which was sensitive for the military junta. Since the censorship board was abolished in 2012, the responsibility of scrutinizing was passed on to media professionals themselves. So, the exercising of responsible editorial control could be posed as a challenge for many journalists and editors with little or no

experience in the country during the transition period. Furthermore, editorial independence is a debatable matter between media stakeholders in the private media sector. This study will try to find out and discuss about editorial controls that journalists and editors are coping with.

Accessing information is still one of the main challenges for media personnel in Myanmar, even though changes have been taking place since 2011. The media law drafted by the Press Council does inscribe the right to access to information, but in practice the journalists still have great difficulties accessing information from relevant government departments. This study will observe how information is obstructed and how media personnel in Myanmar are able to obtain information

During the transition period, press freedom is still restricted despite the promised relaxations. The transition period has also been accompanied by the arrests and imprisonments of journalists who are mostly charged under the criminal code. The Official Secrets Act was one of the forms of punishment that journalists have faced of late. These events make media personnel reluctant to take risks because some believe that it could trigger a return to dictatorship. Others have more positive opinions towards the situation of press freedom under the country's current democratic reformation. Overall, media professionals are skeptical about the recent changes to the media, and they are still unsure how to navigate within the new media environment. Under this new era of national level reform, the media is undergoing changes that lead to both some improvements and some challenges. This study will try to reveal whether the situation of press freedom in Myanmar has backslid or made progress during this transition period.

### **Objective of the Study**

The overall objective of this study is to examine the extent of press freedom in Myanmar during the transition period by observing recent changes and assessing the challenges that the private news media is trying to cope with.

The following are the sub-objectives:

1. To ascertain whether the current situation of press freedom has improved since reforms took place in Myanmar in 2011

2. To detail the challenges to press freedom during the ongoing transition period

## **Research Questions**

### *Main Question*

Has transition meant more or less media for the private media in Myanmar?

### *Sub Questions*

- How have the changes in media affect press freedom in Myanmar during this transition period from 2011 to 2014?
- In what way are media personnel coping with the challenges they face during this transition?
- How do media professionals in Myanmar ascertain press freedom?

## **Methodology**

Qualitative research in terms of in-depth interviews (structural and semi-structural interviews), background history, case studies and document research were conducted to study the situation of press freedom in the country during the transition period. Through this research, we will know how media personnel are struggling to fight for press freedom to raise the voice of the voiceless and the voice of opposition. Qualitative research methodology is a process of reporting on observations, blending the experience of others and ourselves through interviews, case study documents, life stories and personal experiences (Denzin & Lincoln, 1998); it is also defined as explanation of the events and phenomena by analyzing collected data and information.

The research location took place in Yangon, Myanmar where most of the publishing houses and media outlets are based. A field visit to Myanmar for data collection was made from June to July 2014. In depth interviews with 20 key informants who are journalists (editors and reporters) from privately owned media, focal personnel and members from several media organizations such as Myanmar Press Council, Myanmar Journalist Association, and

Myanmar Journalist Network, Yangon Journalism School (non-government organization) were carried out for the primary data of the research.

Two editors (deputy chief editors and executive editors) and two reporters from *The Voice Weekly*, three editors (chief editor, executive editor and news editor) and two reporters from *Eleven Media* and two editors (chief editor and news editor) and two reporters from *Mizzima* were interviewed for this study. For media related organizations, one focal person (director) from *Yangon Journalism School*; one trainer from *Myanmar Journalism Institute*; one focal person (secretary) and one member from *Myanmar Journalists Network (MJN)*; one focal person (secretary) and one member from *Myanmar Press Council*; and one focal person (secretary) from *Myanmar Journalists Association (MJA)* were interviewed for this research. It took time to get the appointment to arrange the interview with focal persons of the media houses and media related organizations. Each interview was carried out one time per one person. Most of the interviews took place at the office of the interviewees and each interview lasted from 45 minutes to an hour. Previous research done by other researchers, archived volumes of relevant journals and newspaper, and the relevant laws of sections were utilized to conduct research for background history, case studies and background research. With the perspective of editors from relevant media houses and media trainers, the capacity of the Myanmar media was discussed as one of the main challenges during this transition period. Rights of journalists to access information and editorial independence were discussed with the perspective of reporters and editors of the media houses.

It is of great value for a researcher to obtain pertinent and current information about Myanmar's private news media from various points of view, gathered from different media stakeholders, media houses, and organizations related to the media in order to examine the extent of press freedom that media professionals in Myanmar are enjoying at the moment. Relevant data from a range of documents and articles, printed and online publications, both in English and Myanmar are used as secondary sources to support the findings and add substantiation while conducting the data analysis.

The case studies for this thesis were collected from the archives of the journal houses and interviews with media personnel from relevant media houses and associations. The cases of *The Voice Weekly Journal*, *Elven Media*

and *Unity Weekly Journal* were selected because their cases happened under the period during which press control was relaxed; this would provide the most relevant insight into the real situation of private news media in Myanmar during the current transition period. The case of *The Voice* happened just after the relaxation on press control had taken place, meaning that data analysis could be conducted on this particular case to observe the extent of press freedom. The case of Eleven Media's reporter, for example, shows the challenges that media personnel have in accessing information, in spite of the recent changes. *Unity Weekly Journal's* case is an example of how press freedom seems to be backsliding after three years of relaxation.

## **Research Limitations**

This study focused on private print media houses and relevant media organizations, and the research is mainly based on in-depth interviews, so other kinds of media such as: state-owned media, ethnic media, TV and radio were not included in this research. Since 20 interviewees from three selected private media houses and media relevant organizations, such as Myanmar Press Council, Myanmar Journalists Network and Myanmar Journalists Association were only used to carry out in-depth interviews for primary data collection and analysis, the research may not be comprehensive.

Translation from Burmese language to English language was another limitation. After the interviews were conducted, the transcripts were translated to English, which leaves the possibility of misinterpretation. Similarly, while translating several relevant documents or articles from Burmese to English, some text could be omitted because it failed to capture the original meaning of Burmese.

## **Ethical Considerations**

In spite of recent reforms, journalists are still under threat of prosecution by the government. Therefore, several names of individual sources have been kept confidential as per their requests to protect their privacy.

## Conceptual Framework



Figure 1: Conceptual Framework

The concept of this research is to examine the extent of press freedom that media professionals in Myanmar are enjoying due to the changes towards the media after the country’s reform. Through in-depth interviews and data analysis, we can see how the media in Myanmar adapts as the regime moves from authoritarian military government to quasi-civilian government. The challenges, in terms of the capacity of Myanmar media, the rights of the journalists to access information, and the situation of editorial independence are taken into consideration while observing how media has changed during the transition period. From the perspective of editors and journalism trainers, the research will analyze the challenges to both media human resources and financial resources within the Myanmar context. Also, the rights of journalists to access information and editorial independence from the perspective of the reporters and editors of media houses will be discussed in order to assess the challenges of press freedom to private news media.

During the transition period, the Myanmar media was given more space to investigate and inform the people on social and political issues. Media has been recognized as the fourth pillar of the nation by the current government during this transition period. Jailed journalists and political prisoners were released under the terms of amnesty by this new government. Some exiled media were able to return to the country since three years ago when the country started to reform. Websites once banned by the military regime are now

accessible. Compared to before the reformation, media professionals have more opportunities to cover the news without any major restrictions.

However, the state of media freedom (press freedom) is still ambiguous, as new forms of restrictions, such as various kinds of law suits towards media personnel under criminal codes, are being applied in this new era. Although there are positive developments for media freedom, such as journalistic and editorial freedom and better access to information via the press or online, there are also some restrictions such as low transparency and laws being applied to constrain freedom of press. Also, many media houses are facing capacity deficits in terms of human and financial resources. Accessing information is still difficult for journalists at the moment. Besides, editorial independence is a debatable subject between media stakeholders in private news media sector.

Freedom to receive and impart information, together with the right to freedom of opinion and expression included in Universal Declaration of Human Right (UDHR), is the basis to build a democratic system. The essence of the media is to provide truthful information that all people have the right to know. The media also has the right to investigate the performance of the government on policy making and to highlight the social and political issues which hinder democratization.

## **Expected Contribution**

Media freedom (press freedom) is essential for a country on the path to democracy. The state of democratization in Myanmar can be identified, in part, by assessing press freedom. The Expected Contribution of this research is to support academic and professional purposes of:

- sharing knowledge about the study of media reformation in Myanmar,
- advocating for the importance of media freedom (press freedom) for a country in an ongoing democratization process



## Chapter 2

# Literature Review

### Overview of Print Media in Myanmar

The first newspaper in Myanmar known as Mawlaminn Chronicle was introduced by the British in 1836, ten years after the conquest of the First Anglo-Burma war in 1826. The newspaper was printed in both English and Burmese language in Mawlaminn State (now Mawlamyine State). In 1853, after the Second Anglo-Burma War, when Lower Myanmar was under British administration, the Mawlaminn Chronicle moved to Rangoon (now Yangon), and was renamed as Rangoon Chronicle. (Thu, 2012)

Yadanapon Naypyidaw Thadinsar, known as the Mandalay Gazette was published in 1875 by King Mindon in Mandalay, the main city of Upper Myanmar. Since King Mindon guaranteed press freedom, the paper had great autonomy during that time. The king set guidelines for press freedom, which journalists still refer to today. The famous quote of King Mindon that Myanmar media still uses today is: “If I do wrong, write about me. If the queens do wrong, write about them. If my sons and daughters do wrong, write about them. If the judges and mayors do wrong, write about them. No one shall take action against the newspaper for writing the truth, and the journalists are permitted to access the palace without any restriction.” However, the Mandalay Gazette paper had to stop after Upper Burma was taken over by the British in 1885.(Thu, 2012; M. Zaw, 2006)

During the colonial period, the press played a crucial role in nationalist movements for the country's independence and managed to educate the public in spite of restrictions by the colonial government. General Aung San, known as the father of Burmese independence, also took part as an editor for Oway Magazine (Sound of Peacock) published by the University Student Union in 1936. An article in Oway magazine called "Hell Hound at Large," which Aung San edited, criticized a university official. Aung San got expelled from the university due to his refusal to disclose the identity of the writer of the article, and it aroused a nationwide university student strike. (Anderson & Herr, 2007, p. 202)

Myanmar's media gained freedom in 1948 after the country gained independence from Great Britain. In the 1950s, commonly known as the parliamentary era, Myanmar had the freest press in Asia (Smith, 1991 cited in M. Zaw, 2006). Unfortunately, during that time, the country became fractured by many internal insurgencies and political turmoil. In 1958 the government gave power to the notorious General Ne Win government to settle these problems. In 1960, after the election, General Ne Win handed back the power to the previous government. Myanmar's media freedom was ruined under his socialist system by nationalizing all newspapers under strict censorship leveraged upon all sources of information. After the 1988 democracy movement, many newspapers and publications emerged, but the short period of press freedom ended in September 1988 after another military coup, which lasted until 2011. Media in Myanmar has faced so many ups and downs in different political climates, from 19th century colonialism to the modern transition period. Despite passing through many ups and downs for so many decades, the hope for press freedom in Myanmar has never faded.

Also, regarding the control upon media in Myanmar, we can look back upon history to see how it has evolved and how media personnel have struggled to survive throughout the morass of restrictions by reviewing some literature, reports and research documents. Myanmar media was under strict control by the government under the censorship law from 1962 until the end of 2010. In 1962 after the coup d'état led by General Ne Win, 'Printers and Publishers law' was promulgated, and then the Press Scrutiny Board (PSB) was established.

PSB scrutinized the content of all printed works before publication. Due to the shortage of paper supply during the socialist era, the government limited the number of copies to publish. Therefore private press publishers had to buy the paper on the black market at a high cost to print more copies than legally permitted by the government. Since all printed works had to be submitted to PSB, an incredible amount of pressure was levied upon authors and publisher by the censorship system. If they were ordered to change the text or get rid of a whole article, the publishers had to bear the costs of reprinting. The whole print had to be destroyed or face bans on future publication. In 1975, a new set of guidelines with eleven principals had been laid down by the Ministry of Home and Religious Affairs for printers and publishers to follow in censoring themselves. These principals in the guidelines were written with ambiguous wordings to restrict the press and all kinds of print publications. The censorship system set up was in place until June 2011, and all documents had to be submitted to Press Scrutiny Board (also known as censorship board) before printing.

Things seemed to improve with the 1988 pro-democracy movement. Official newspapers reported accurately and faithfully on the political situation in the country. Unofficial news sheets with detailed information, graphics, photographs, including many expressions and opinions of the people were also being distributed during that period. At the beginning of 1988, there were signs of emerging press freedom (Allott, 1993). However, the honeymoon period for press freedom lasted for less than one month during that period.

In the aftermath of the “1988 pro-democracy movement”<sup>2</sup>, under the military regime known as State Law and Order Restoration Council (SLORC), which was later changed to the State Peace and Development Council (SPDC), the censorship system of PSB was made more complicated than before. ‘The 1962 Printer and Publisher law’ was amended during that year, 1989, and violators of the law would get the maximum punishment of seven years in prison (M. Zaw, 2006). Publication licenses were granted to private press during the SPDC era; however the licenses only went to those who had connections

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2 1988 nationwide pro-democracy movement in Myanmar was started by the students from Yangon University to protest against the Burmese Socialist one-party system led by General Ne Win. Since 1962, the country turned into one of the poorest countries in the world. Aung San Suu Kyi emerged and promoted democracy during the crisis. Her party won 80% of votes, but the military regime seized power and placed Aung San Suu Kyi under house arrest.

with higher authority, and those private papers in 1990s only covered less sensitive areas (Thu, 2012). Then, in the year of 2000, licenses for news-focused weekly journals were granted. Nevertheless, under the rule of the military regime press freedom was completely lost in the country, and the military government was labeled as one of the worst abusers of press freedom in the world.

Under such strict control, many journalists faced jail terms for covering the kinds of news restricted by the regime. Additionally, the writers – including journalists, editors, and cartoonists – were constantly influenced by the fear of whether their work would pass through the Press Scrutiny Board. Most of the news at that time had to be presented indirectly, so journalists could avoid censorship and possible reprisals from the government. Therefore, the journalists could only hope that the implied meaning would be recognized by the readers, but not by the scrutiny board. Using metaphors was the only way for them to address forbidden subjects (Allott, 1993). For instance, instead of mentioning the lack of health-care service in country, the health-care service of a different country was described in the news content to let the readers make comparisons themselves (Larkin, 2011).

Censorship had a huge impact on private media in Myanmar in terms of quality and quantity, because it not only demoralized the journalists, but also took away the people's right to receive information without interference as mentioned in Universal Declaration of Human Right by destroying the impartiality of the news coverage (Thu, 2012). In his research, Kyaw Thu (Thu, 2012) further mentioned that 30% to 40% of the stories submitted to press scrutiny board were rejected every week. It made journalists who devoted their time and energy to a story discouraged to work hard and keep producing quality stories that tell country's real situation. Moreover, the public was not able to keep track of the real. During the censorship period, entire paragraphs got cut by the censorship board, degrading the impartiality of the news reported by the journalists. It not only reduced the confidence level of the journalist but also reduced the trust of the public towards the news media. The lack of press freedom obstructed the public to express their opinion freely. The censorship lessened the public interest on press and weakened the role of media because the public could not find the right space to raise their voice of concern. Nevertheless, Myanmar's private media struggled to survive under the tight period of military rule.

Since the civilian government took power in 2011, there have been noticeable changes within the private media sector in Myanmar. The media has been invited to collaborate with the state by the new regime. In his speech to members of Union Government and heads of union level organizations at the Parliament, President Thein Sein mentioned to “respect the role of media as fourth estate”, and he also said that the government is “required to inform the people about what they should know, and appreciate the positive suggestions from the media” (NLM, 2011 p. 9). The release of censorship control upon private print media started with entertainment news journals. Weekly news journals were also allowed to include political news for a few pages, with some limitations. As a result of the relaxing of government restrictions upon private print media, the circulation of news focused journals increased from 30% to 50% (Thu, 2012). All kinds of print media became free from censorship in August, 2012. However, several types of news contents are still controlled by the Ministry of Information through its Printing & Publishing Enterprise law. If some points of the news content are not in line with their rules, the printer and publisher license can be revoked.

For the next step, daily private newspapers were allowed to publish on the 1st of April, 2013 for the first time in fifty years. Initially, 16 private daily newspapers went into publication in the private print media sector, rising to 26 by the year 2013. 13<sup>3</sup> out of 26 private daily newspapers were left in the market in 2014. According to the data from Myanmar Press Council, 360 privately owned weekly journals and monthly magazines including: 148 news focus journals, 37 entertainment news journals and magazines, 54 business focus journals and magazines, 14 IT journals, 12 education journals and magazines, 15 religious magazines, 12 health journals and magazines, 15 child journals, 4 crime journals and 49 sport journals, play their own role in the market with each having their own focus. All of the local news media houses in Myanmar are registered as companies even though some of them are funded by a donor base.

Currently in Myanmar, five main state-owned daily newspapers such as New Light of Myanmar (English Version), Myanmar Alin (also known as Myanmar Edition of New Light of Myanmar), Kyemon (The Mirror) which

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3 13 private daily newspapers are: The Union Daily, Golden Fresh Land Daily, The Messenger Daily, Myanmar News Week Daily, Mizzima Daily, Emperor Daily, The Daily Elven, Standard Time Daily, The Voice Daily, Kit Thit Daily, 7days daily, the Pyi Myanmar Daily.

are published by Ministry of Information in Yangon, and another two called Yadanapone Daily and Mandalay Daily newspapers are published in Mandalay. From 1965 to 2012, all daily newspapers in Myanmar were owned by the government. In September 2014, state-owned daily newspaper called New Light of Myanmar in English version entered into a joint venture with Global Direct Link Company under the name of Global New Light of Myanmar. 51 percent of the joint venture share will be owned by the Ministry of Information and 49 percent will be owned by Global Direct Link Company. Former minister of Ministry of Information Aung Kyi said that “the aim is to transform the state-run paper into a free and public centered media” and “the change is part of media pluralism” (NLM, 2014, p. 1).

Computer and internet access gave Myanmar’s print media a great boost. Desktop publishing was introduced in the 1990s, which helped the media become better in quality and quicker to print. It was not until 2001 that internet access became available in Myanmar, enlightening the public through global and local news. Media houses in Myanmar learned about their own government’s economic relationship with other countries by using international news website rather than inquiring from government official (M. Zaw, 2006). The reason for media houses utilizing online news service was to avoid censorship (IMS, 2012). They would upload the news onto their websites before they sent it to the Press Scrutiny Board. They could then withdraw the news after they received warning from the government, but the information already reached the public. There were only around 300 users in the year of 2000 (Chua & Rimban, 2007, pp. 23-26), and according to Freedom House, “in 2013, there were approximately 1 million users in Myanmar, even though only with 1% of internet penetration rate”.

Although internet penetration in Myanmar is the lowest in South East Asia, it has become the most preferred public space to share and collect information for urban youth. Until mid-2011, the most popular online social media websites were banned in Myanmar, so people had to go through proxies to access such websites (IMS, 2012). In September 2011, the government lifted the ban on internet. Up to until 2013, Myanmar had only a few internet service providers such as Myanmar Teleport, Yatanarpon Teleport, Red Link Communication, Information Technology Central Services (ITCS) and Myanmar Post & Telecommunication (MPT), all of which are controlled by the government. Apart from that, some publicized news media houses have

their own websites. But up until now, online media are only in limited numbers in Myanmar. In 2014, two foreign communication companies – Telenor and Ooredoo, from Norway and Qatar, respectively, started to provide communication service to the public, so there will be a chance for the development of online media in the near future. But for now, the print media is the most effective outlet for information after television and radio for people in Myanmar, because only urban populations have a chance to use the internet. (Dolan & Gray, 2014)

## **Press freedom**

The meaning of press freedom is derived from the replies of more than one hundred editors and publishers from Britain to the questions “what does free press mean?”, submitted by the ‘Royal Commission on the Press’ in 1949. The components of press freedom in terms of rights, conditions and duties are filtered from the many replies of stakeholders of the press such as editors and publishers since that time. The rights of press freedom are: to start a newspaper; to publish the news and views for sale; to refuse to publish; to attend public meetings and report the results; to collect information; to offer alternative views for the public to hear; to share fair, complete and impartial information to the public. The absence of censorship and licensing, and the absence of the interference by owners/publishers, business advertisers, editors and so forth. And, the duties of the press are: to give the chance to the public to express their opinions; to serve as public goods; to present various points of view to the public; and to act as a trustee by representing the public.(McQuail, 1992)

Freedom House measures the degree of press freedom by focusing on three areas such as: legal environment, political environment and economic environment on disseminating the information. To indicate the legal environment, we can look at the constitutional guarantees on freedom of expression, legal restrictions which punish and penalize the media professionals and media houses, legislation for freedom of information, free from regulatory regimes, and freedom of journalism practice. In regards to political influences, we can look at the political control on reporting and accessing information, censorship, self-censorship, editorial independence (freedom of operation of journalists) and journalists facing extralegal threats or violence. Under economic pressures, factors such as the control of the government; transparency of private ownership; restrictions on editorial production and distribution; influence on content due to payment that journalists received; and the

dependency on powerful political actors – can indicate the level of press freedom (Freedom House, 2014; Puddephatt, 2007)

On the point of press freedom, it is mostly delineated as the absence of censorship or permission or licensing requirements. However, other debatable issues are related to the power which is attributed to the press in the practice of democracy. There are concerns about the responsibility of the press for exercising its power, expectations about its positive uses, fairness and ownership in terms of accessing the benefit from exercising its power (McQuail, 1992). When it comes to ownership, there is one important thing to understand: unlike most other enterprises, the press business is the one which is supposed to promote the truth about public matters. To this end, one of the duties for journalists is to seek out the truth for their audiences (the public) in regards to what the government does not wish them to know. “Freedom of Press is essential for a democratic country, and it is thought to be individual autonomy and self-expressive; a crucial element for democracy and attainment of the truth” (Lichtenberg, 1990).

Regarding freedom, as an obligation of the press, the media should stand up for the interests of the people during the unavoidable pressures given by the government and companies (Martin, 1981 cited in McQuail, 1992). In his book “Truth or Dare”, Ian Hargreaves (Hargreaves, 2003) quoted the third president of United State, Thomas Jefferson’s letter to Colonel Edward Carrington on the importance of press freedom: “It were left to me to decide whether we should have a government without newspapers or newspaper without government, I should not hesitate a moment to prefer the latter.” In many developed countries, press has been treated as a watch-dog or fourth estate of the government. The role of mass media as a watchdog against abuse, misuse of power, and corruption has been a main aspect of journalistic self-perception, press tradition, and Western democratic theory (McQuail, 1992). McQuail further described the watch-dog role of the press as an ‘antithetical role’ with respect to government, big corporations and other authority. Thus, to be able to assess the independence of the media, we must hold the press to this standard.

According to John Stuart Mill, “Liberty (freedom) begins with asserting the needs for freedom of press” (Mill, 1956 cited in Lichtenberg, 1990). Freedom of expression and speech also benefit from freedom of press. Freedom to think for ourselves, to share thoughts with each other is in the fundamental interest

of freedom of expression and speech. Lichtenberg exemplified that we cannot think freely if we cannot speak or listen to others; we develop our thoughts when we are able to communicate with others and hear their thoughts. Defending freedom of press is the same as defending freedom of speech, because the press is a powerful voice for individuals; the arguments for the freedom of press are the same as the general arguments for freedom of expression, because freedom of press generally promotes certain values of freedom of expression. However, supporting freedom of speech is not the same as supporting freedom of press and arguments that support freedom of expression may not necessarily support freedom of press.

The value of freedom of speech is that it promotes a variety of truth that circulates in our society. By restating John Stuart Mill's work on freedom of speech and the truth, Ulf Petäjä argued that no one is infallible, but at least therein may be contained a grain of truth or perhaps more, so freedom of speech is established on the principle that facilitates "the quest for the truth" (Kierulf & Rønning, 2009, p. 26). For instance, if every individual human being is free to speak his or her mind or listen to the expression of opinion, it will improve the intellectual power to promote the development of society. Another important thing about freedom of Speech according to Lee Bollinger's argument is that it can help people tolerate deviating or contradictory opinions, since a plurality of ideas are allowed to circulate - even ones that may be dangerous, deviant, or wrong (Kierulf & Rønning, 2009, p. 28). For instance, if we frequently encounter with the opinions which are different from our own, then we will learn to accept their existence even if we disagree with them.

The idea of freedom of expression as a human right was started from the political philosophical tradition of Western countries, but this doesn't mean the principles of freedom of expression cannot be valid elsewhere; they are valid in any country with a different culture based on the experiences of the struggle for human rights and democratic principles (Kierulf & Rønning, 2009, p. 18). Freedom of expression must be guaranteed by a political order in constitutional democracies as it is considered as human right (Kierulf & Rønning, 2009, p. 35). In other words, every citizen has the right to freedom of expression, and the government is obliged to guarantee the citizen this right.

Societies of democratic countries are fundamentally opposed to prior restrictions on freedom of expression, speech, and publication. "Freedom of

press is essential for the nature of a free state, but it does not consist of prior restrictions on the publication, which doesn't mean that it is free from censure for criminal matter when published" (Blackstone, 1769 cited in Y. N. Win, 2014). In other words, a person should not be punished for trying to write or speak the truth, as long as it was done in good faith. Freedom of expression, speech and publication are included in the constitutions of democratic countries or nations in the process of democratization in line with international standards. Also, it is important that the freedom of expression, speech and publication included in the constitution must not be convoluted with other conditions (especially concerning with prior restrictions).

After fifty years of suppression under the military regime, Myanmar's media is finally starting to gain some freedom with the current democratic transition; however, the government still seems to control the press with legal restrictions. There are unsettled debates concerning media freedom, but those who value the free flow of information and press freedom keep trying to retain their fundamental rights during this transition period.

Norris (2006) states that "the growth of press freedom and the process of democratization are thought to be reciprocal." Firstly, transition from autocracy opens up the private ownership of media, disseminates access and reduces censorship and control of information, giving the public more chances for greater exposure to a variety of thoughts and cultural products through different means of communication, from print media to online media. Then, once media liberalization has started, democratization and good governance are strengthened through the media's role as watch-dog for government performance, a civic forum for raising voices and debates, and agenda-setter to highlight important issues. According to Norris, there is a potential for Myanmar's media freedom to grow in the very near future as it has already begun gaining more rights since the transition to democracy began.

However, in her research on whether the country is forming a genuine democracy or another type of regime, Thiri Zaw (T. Zaw, 2013) mentioned that 'liberalization and democratization' are not the same, so two things cannot happen at the same time by utilizing the concept of O'Donnell and Schmitter (1991). Liberalization means relaxing strict rules, such as freedom from punishment for expressing one's opinions and freedom from censorship. This can happen without democratization. Democratization has a deeper meaning which is "not only providing equal rights but also expanding the participation

of citizens in political choice” (T. Zaw, 2013). According to this point of view, Myanmar’s media is only in a relaxation stage as part of the country’s liberalization; meanwhile, it is impossible to tell when more genuine steps towards press freedom will occur.

## **Freedom of Information (FOI)**

In the age of information, the governments of democratic countries recognize rights of their citizens to be informed of government activities and to participate in the development of the policies that affect them (Banisar, 2006). Banisar further explained the benefits of the right to access information, such as democratic participation and understanding, redress for past tribulations, improvement in decision-making processes, and protection of others’ rights.

Democracy is formed with the citizens’ consensus which makes the government inform them about its activities and recognize their right to participate in policy changes. In a democratic society, people are sufficiently well-informed about the issues to form a wide range of judgments, as the society demands for its members to be able to actively participate in their community affairs (McQuail, 1992). By redressing the past tribulations, the society gets to understand or to learn about what transpired in the past. Regarding freedom of information, Ulf Petäjä also stated that citizens’ interests cannot be best served with only information they desire to access (Kierulf & Rønning, 2009, p. 32). Therefore, the diversity of information is an important weapon to fight against intolerance and conformity in democratic society; and then the society will be healthier when people are not just locked in an “echo chamber”, where their own points of view are constantly reinforced without any opportunities for new impulses and different perspective.

Banisar also mentions that most new constitutions of nations with political transformations include the right to access information as a fundamental civil right. Freedom of information can improve the decision making process of the policymakers, thus enhancing the public good. For example, both the general public and policymakers are advised by economists who can recommend appropriate strategies and policy approaches, often communicated through press releases, opinion pieces, and interviews on the media. Indeed, media is essential in this case, as it interprets and presents highly

technical information in a way that is intelligible by both the general public and policymakers. (Zimmermann, 2004). Also, freedom of information enforces other rights, such as political and economic rights (Banisar, 2006).

During this democratic transition period, Myanmar's media has started to raise the voice of the voiceless with respect to human rights violations, among other topics which the former government tried to keep secret over the past five decades. Compared to the last five decades, Myanmar's transition period has seen a greater efficiency in the flow of information, so people now have more of a chance to access news. A plurality of information reduces the potential for people to be manipulated by those in power, since the public can pick and choose which information they want to consume. Also, information technology such as the internet is becoming increasingly important in supporting media and the free flow of information during this transition period. In a study of online media, Zaw Oo (Oo, 2004) found that the internet has transformed the way those who do not have power fight against an authoritarian regime. For example, the internet, along with devices like smart phones, mobilized people to participate in protests against the authoritarian regime in Myanmar. The same phenomenon could be observed during the Arab Spring, as well. With the help of electronic communication, including the internet, information can spread across national boundaries and undermine censorship.

However, Monroe E. Price (Price, 2004) says that insofar as a state is interested in maintaining power, steps are taken to deflect the threats created by too many channels of information. He also gave example of how States like China, Iraq and Iran responded to the consequences of technological innovation. These States imposed severe restrictions on free flow of information through technological innovation. However, people often find ways to use restricted websites through proxies for receiving or imparting the information. For example: in Myanmar, before 2011, most youth used proxies to access information on websites that were banned by the government.

Freedom of Information, transparency, and openness are increasingly claimed by the 'information society'. Information is demarcated as a feature of power, so that taking away the information restricted by the government is similar to taking away the fundamental bulwark of government's power; this could further reduce an authoritarian government's power by confronting "economic exploitation, abuse of dominant position and the ones who are

beyond effective regulation” (Birkinshaw, 2010). Patrick Birkinshaw (2010) opined that Freedom of Information is the rights of individuals to access the information held by authorities; however, it is customarily limited by exemptions of such things as matters of national security, commercial secrecy, personal privacy, interference in investigation, and lawsuit. The criticism against recent government steps to increase press freedom is that they are merely a strategy designed to soothe international opinion on the reformation of Myanmar. The recent imprisonments of several journalists are good examples of the limitation on Freedom of Information in Myanmar. Transparency, related with freedom of information, involves conducting matters in an open way, and it seeks to fight against those exemptions mentioned above by Birkinshaw (2010).

The right to freedom of information as “fundamental human right and touchstone of all the freedom” was consecrated by The United Nations, according to its first session of the General Assembly in 1946 (UN General Assembly, Resolution 59[1]). It also indicates “the right to gather, transmit and publish the news” everywhere without restraints.

After that, this was incorporated into Article 19 of UN Universal Declaration of Human Rights (UDHR) in 1948. This article also mentioned: “Everyone has to seek, receive and impart information and ideas through any media and regardless of frontiers.” Freedom to receive and impart information gives all the citizens the right to gather, distribute all kinds of truthful information via possible lawful sources (Jørgensen, 2006).

Concerning Freedom of Information (FOI), more than 100 countries adopted the Freedom of Information laws, which are also known as the Right to Information laws (RTI laws). Moreover, many countries are guaranteed Freedom of Information in their constitution (Keim, 2014). Clause (a) of section 354 in the 2008 Myanmar constitution stated, “Every citizen shall be at liberty in the exercise of the right to express and publish freely their convictions and opinions”, so it does uphold freedom of expression and freedom of publication. But it further states that “if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility”, which means freedom of expression and opinion is being controlled by prior restrictions. And it is cognizant that none of the factors concerning with Freedom of Information are included in 2008 Myanmar constitution.

Since Myanmar doesn't have an Information Act, the right to access to information was inscribed in the chapter 3 of News Media Law drafted by

Myanmar Press Council. Article 4 (b) states that “the news media workers shall have the right to investigate, publish, broadcast information and related opinions to which every citizen is entitled in accordance with rules and regulations.”<sup>4</sup> Article 4(d) states that “the news media workers shall have the right to collect information, to be provided with accommodation and to enter into certain offices, departments and organizations in accordance with regulations of relevant departments or organizations.”<sup>5</sup> Conditions such as “in accordance with the rules and regulations” stated in the given sections of the law seem to limit the freedom of information. “The disclosure of information held by public bodies guaranteed under the international law implies not only that states should guarantee the right to information, but also that effective systems be put in place to give practical effect to it” (Mendel & Unesco, 2008). Since there are Sections that inscribe the right to access to information in news media law, the law should come into force to assist the media personnel in actually doing so.

## **The Standard of News Media in Myanmar**

The press code of conduct in many parts of the world covers such ethical areas as: fairness, accuracy, truthfulness, privacy, harassment, confidentiality, intrusion, children, misrepresentation, discrimination and corruption. A study of ethics of journalism in “Truth or Dare” done by Hargreaves (2003) stated that truthfulness and accuracy are the main ethic of journalism; thus without these qualities, journalism cannot inspire trust; and without trust, journalism cannot be worthwhile. When it comes to accuracy, the best approach for a journalist is not to include any inaccurate information in their reports, because it affects the reputation of both journalists and media houses (Thuta, 2009). Hargreaves also quoted the 2002 Reith lectures of Oxford philosopher Onora O’Neill’s, on the theme of the trust: “If the media mislead, or if the readers cannot assess their reporting, the wells of public discourse and public life are poisoned” (O’Neill, 2002 cited in Hargreaves, 2003).

By citing one famous Myanmar veteran journalist and writer, Lu Htu Sein Win, the press has only one responsibility which is to inform the public about what they need to know; and the information imparted by the press must be truthful, accurate and reliable – that is journalists’ most important

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4 Section 4(b) of Media Law

5 Section 4 (d) of Media Law

responsibility (L. H. S. Win, 2008). However, this does not mean that a journalist does not have other responsibilities as well. As members of society, they need to follow social etiquette. As citizens of a relevant nation, they also need to obey the relevant laws of the country. Win further mentioned that, since journalists are also human beings, they have their own emotions and beliefs; but they must leave these out of their reporting as much as possible, in the interest of preserving neutrality and truthfulness. The news must be written and presented accurately and faithfully to how it happened, without any exaggeration, acclamation or embellishment. Journalists do have the right to write their own opinions on news items in feature stories, commentary articles, and opinion columns - but they must take responsibility for any consequences their writings will have. Anyhow, journalists must be free from personal emotions in their news content as much as possible because they represent the whole press.

Another Myanmar veteran journalist, Phoe Thauk Kyar described that Journalists are spectators, but not participants; as such, they must know how to separate between the heart and the mind - that is, between their emotions and the hard facts (Kyar, 2008). As the role of media is part of the country, so the truth must be the standing point of the journalists as media professionals. Therefore, they must constantly pay attention on which kinds of interests - personal, professional, national - that they should prioritize. The profession of journalists is different from other professions. Ethical behavior is an important part of journalism because the mind of the human being has infinite capacity. For instance, because of human nature, personal emotion may become involved when a reporter covers a crime scene. For that point, as an experienced journalist, s/he must know how to balance the influence of their personal emotions with the facts that they are there to report. The more readerships they have, the more the code of press ethics is needed. The higher the prestige they will get, the more the code of ethics must be maintained. The code of ethic is not a law, but all the journalists should uphold it to preserve the credibility of their own reports, as well as that of the news outlet they work for. The code of ethics can also help curb the upsurge of yellow journalism (Kyar, 2008).

The term yellow journalism emerged in early 1897 in The United States. It has been identified as lurid and sensational treatment of news, and it represents a serious violation of the journalist ethics (Campbell, 2001). The purpose of the yellow press is to be able to sell more newspapers. The contents of yellow

journalism are tailored and exaggerated to fit a preconceived story idea and make sure it creates as much interest as possible among the public (Vance, 2004). Biagi also defined yellow journalism as journalism that treats news unprofessionally or unethically (Biagi, 2011). Since media has a code of conduct, journalists should work under it in order to protect their reputation. By working under the media code of conduct, media personnel can protect their own reputations so that the trust of the public towards news media will be sustained. If journalists work beyond the limit of the code of conduct, their reports become yellow journalism that merely serves to mislead the public.

Media as the fourth estate of the nation is responsible not only for the public, but also for all living things and lifeless resources of the state.<sup>6</sup> Avowedly saying, media professionals are the ones who point out the flaws or weak points of the other three pillars, ask questions, give suggestions, and inform the public what is happening and what will happen. The government, civil society and market are the driving forces of the country in this new era, and the development of these three must be kept in check by the media. As mentioned above, the role of media is to point out the flaws of these three driving forces and to inform the public by asking difficult questions to those in power. Today in Myanmar, it is questionable whether media personnel report ethically on such critical matters. The ones who point out the flaws of others must do so ethically, as the media code of conduct is an essential part of journalism.

Standards for the media code of conduct in Myanmar, which was adopted by the Interim Press Council, are mainly based on Article 19 of the United Nations Universal Declaration of Human Right, along with the 11 points of press ethics stated by Burma Press Council in 1962. The code of conduct not only emphasizes on the right to freedom of expression but also the right and responsibilities of the ones who receive and impart the information (Myanmar Interim Press Council, 2014).

The below media ethics relevant to this study are extracted from Media Code of Conduct adopted by Myanmar Press Council:

- Accuracy, balance and fairness
- Politics and elections

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6 Kyaw Min Swe, secretary of Myanmar Press Council discussed about the media laws at a press conference for sharing Media Code of Conduct to NGOs held on 30th June 2014.

- Leaked and restricted contents and protection of sources
- Privacy and the public interest
- Grief, bereavement and distress
- Harassment, pursuit and covert recording
- Subterfuge
- Discrimination
- The involvement of children
- Relations with police and authorities
- Payment in criminal cases
- Personal interest and influence

The media has the responsibility to be accurate, balanced and fair. This implies that reporting and interpreting the news and current affair in an honest way together with prompt corrections. While reporting about politics, the media should reflect the variety of political opinions to enable free and open debate on the matters of public concern. With respect to restricted information, the media is responsible to publish leaked or restricted content when it is advantageous to the public and does not compromise the identity or safety of sources. Also, reporting on private matters should only be done with consent, except when there is a justifiable benefit for the public. Media personnel who approach people suffering grief or shock must do so with sensitivity and discretion. Information should not be sought by intimidation, harassment, or the use of secret recording tools. Unless there is a public interest and no other way to get the consent, the information must not be gained through subterfuge or misrepresentation. The media must avoid any discrimination against people's race, gender, sexual orientation, religion, age or physical or mental disability. These characteristics of individuals should only be identified in the report when they are directly relevant to the story and therefore crucial to the audience's understanding. Children should not be interviewed or approached without the consent of their parents or guardians. Media personnel should not pose as police or other authorities because it jeopardizes both the safety of the journalist as well as editorial independence. Journalists should also maintain neutrality

by not accepting payments, gifts, or other forms of bribery that would influence the way they report on a story. (Myanmar Interim Press Council, 2014)

Irresponsible and unethical conduct can undermine press freedom, so it is essential for media to uphold high professional ethical standards. Media under democratic systems are responsible for accuracy, balance, fairness, respect to others, and assurance of the right of people to receive the information. In addition to the standards described above, the Myanmar media code of ethics contains other guidelines, such as protecting the rights of individuals, fulfilling the right of the public to receive information, and protecting media freedom.

Journalism is essential for all countries. The more the country becomes developed, the healthier a press it needs. During this transition period, many media professionals are needed in Myanmar, since the plurality of media is thriving in the country along with the paradigm shift of news media. Journalism mainly focuses on society (the public), and media professionals are the ones who report the affairs that benefit the society. Therefore, the emergence of ethical media professionals is paramount if the media sector is to contribute towards the further development of a given country.

## Chapter 3

# Private News Media in Myanmar under the Country's Reformation

After nearly five decades of restrictions, freedom is likely to open up for Myanmar's media for the first time in 2011. The entitlement of freedom of expression for every citizen is also stated in the new constitution. Private daily newspapers were granted for the first time in April 2013. Several exiled media organizations have started to come back from abroad over the last three years. According to Freedom House, the Press Freedom score for Myanmar was increased to "70 out of 100 in 2014" from "95 out of 100 in 2010" (Freedom of the Press: Myanmar, 2014, 2010). Compared to the past period under strict control, Myanmar's media now has more space. One remarkable thing for Myanmar's media at the beginning of the reformation is that the president acknowledged the media as the fourth pillar (the fourth estate) of the nation in his speeches since the time he took office (Office of the President of Myanmar, 2011; "Government needs media", n.d.).<sup>7</sup> It signaled to the government ministries that media couldn't be handled strictly as before.

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7 On 22nd Aug 2011 at the first *Pyihtaungsu Hluttaw* (Union Assembly) second regular session, President Thein Sein mentioned that the country was ready to coordinate with the international community, and media as the fourth pillar would make them see the situation of the country. On 21st October 2012 at the first press conference with local media in Nay Pyi Taw, the President mentioned that as the fourth pillar of the state, the media is the eyes and ears of the government to know opinions from all sides. Cooperation between government and media will make the success of the country's endeavors.

This chapter will present the changes of private news media in Myanmar and show how they affect press freedom in the country. The challenge of access to information, the condition of editorial independence and capacity of the private media in Myanmar will also be discussed in this chapter to find out how they are dealing with the challenges that they are facing during transition.

## **Changes of Private News Media in Myanmar**

Abolishing the censorship board, releasing imprisoned journalists, and granting licenses for private daily newspapers for the first time in fifty years were the most noticeable changes to private media in Myanmar. After 2011, the first signs emerged of a burgeoning media pluralism. The news media has a vital role in helping the country move forwards on the path of democratization, since media freedom is one of the key characteristics of a democratic country.

Since the censorship upon news media has changed drastically, media professionals get the chance to cover the news in a more open way. Obviously, the flow of information is getting faster and the way that the media imparts the opinions of the people is improving. However, along with these changes, self-responsibility is a new experience for the media professionals in Myanmar as the country had been under a period of strict censorship for nearly fifty years, therefore it is difficult for the media personnel to predict the consequences of their news content. In the past when the press was under strict control of the censorship board, news content which was unfavorable to the regimes got rejected by the censorship board before it was published.

Nowadays, it's more important for us to take care of what we have covered. I'd rather like to talk about self-responsibility than self-censorship. For instance: whether our writing could defame the relevant personnel or organization and whether we could get sued for this. (Thiri Zaw, *The Voice Weekly*, 18<sup>th</sup> June 2014).

Under tight censorship in the past, media personnel didn't need to decide much, since unfavorable news content was filtered by the press scrutiny board. This made the media personnel out of practice with taking responsibility and being accountable for their own actions. Self-regulation, in terms of taking

responsibility and being held accountable, is a crucial part of media ethics, and it protects the reputation of media personnel while simultaneously protecting them from lawsuits.

Strong editorial direction is needed for the cases like ethnic armed conflicts and religious issues which could exacerbate the tension between two sides. (Zeya Thu, *The Voice Weekly*, 23<sup>rd</sup> June 2014)

Therefore, editorial direction is needed in order to promote self-responsibility; indeed, the media must be fair, balanced and accurate in the news that they cover. For example, in stories that concern armed and religious conflicts, the responsibility of the media is not only to report the voices of both sides but also to find out and analyze the causes of conflicts in order to suggest the possible solutions to reduce tension between two sides.

The ownership, in terms of accessing the benefit from exercising its power, is one of the concerns for the press freedom (McQuial, 1992). According to the commentary of McQuial towards the press business, unlike any other kinds of business, the responsibility of the press is to seek out the truth about public matters. During this transition period, many news-focused journals, magazines and newspapers are coming out in the private news media sector. On one hand, news media in Myanmar finally has the chance to disseminate information that the public needs to know. Unfortunately, some news journals do so without strong sources or evidence, which can harm press credibility and ultimately limit its freedom.

One challenge to press freedom is the growth of yellow journalism. Since the recent changes, news media in Myanmar has several new requirements in terms of taking responsibility and following ethical guidelines. Some mistakes and errors are made because of their capacity requirements - as mentioned above, media personnel are not very familiar with the practice of taking responsibility and being accountable, due to fifty years of oppression of the press by the former regime. However, according to media personnel that were interviewed, some newly-launched news journals are intentionally imparting deceitful information to prolong hatred and to attack particular individuals. Also, it is questionable why the government did not take action against the

unethical behavior or false content of these journals, beyond just sending letters of complaint to the Press Council.

Since there are so many journals and newspapers getting published these days, we will never know which ones are being ethical versus which ones are simply disguised as the media. Audiences might not understand about press ethics, and they might think that this media house doesn't dare to write about relevant issues because it takes sides. (Ko Ko Gyi, *Mizzima*, 26<sup>th</sup> June 2014).

The reason for this is that most of the people lived with hatred and trauma under military regime for fifty years. They were also angry because they were forced to do what they did not want to. Not surprisingly, people enjoy reading bad things about the group of people - that is, the ruling generals and their cronies - who used to oppress them.

When we take a look at those journals, some don't even describe the name of the publishers. Also some news content included in these journals can only be obtained by specific organizations, but not by normal journalists. The information presented by these journals is like rumor or gossip, and also the kind of information with less truth and more deceitful facts. Some intend to prolong hatred and some aim to attack particular personnel (Kyaw Min Swe, *Myanmar Press Council*, 30<sup>th</sup> June 2014).

Since not much action is taken against them, these kinds of news journals are likely backed by specific personnel or political actors. Also, it is possible that the people behind these journals are the ones who did not get any benefit from previous attempts to attack particular people in power. For example, news media houses may criticize some cronies or politicians in their reports, while others are left alone. Logically, those cronies or autocrats who did not get criticized by these news journals are likely to have a friendly relationship with them. Then, they will show this as evidence to mislead the public into believing that the private media cannot be trusted as an accurate source of information. Then, the regime will show this as evidence to deceive the public that the media

as a fourth pillar cannot be trusted. Another reason is that they want to lobby for the press to remain under restriction.

We suspect that some are disguised as media to create a bad image of the news media and to deceive the people that the media in Myanmar doesn't deserve press freedom. (Kyaw Min Swe, *Myanmar Press Council*, 30th June 2014)

The emergence of newly published news journals affects press freedom in the country because the whole private media sector gets the blame for the ethical transgressions of any one news journal that publishes misleading, biased, or inaccurate reports. This affects the reputation of media personnel in Myanmar, eroding their credibility and reducing the public's trust in them.

Under the new changes, on the one hand private media in Myanmar has gotten more freedom compared to what they had prior to the reformation, including the emergence of newly published news journals which cover each trend. But on the other hand, press freedom is being curtailed with several criminal codes such as defamation, trespassing, the official secret act and so forth as new forms of limitations. In 2012, *The Voice Weekly* was sued for defamation by the Ministry of Mining; in 2013 a reporter from *Eleven Media* got charged with three acts of penal code including defamation, trespassing and utterance of obscene language; and in 2014 five media personnel from *Unity Weekly Journal* got charged under the Official Secret Act. The lawsuits, charges, and imprisonments aimed at media personnel and media outlets are meant to obstruct the freedom of press in the country. The above mentioned three cases will be discussed in detail in the next chapter.

### **The Challenge of Access to Information during the Transition Period in Myanmar**

One of the main challenges for media personnel in Myanmar is difficulties to access information in spite of the increased press freedom. The Information Act is not in place yet because most of the people in the country are not aware of the need to have it; since the former regimes monopolized drafting laws, most of the people think that drafting or supporting legislation is beyond their power and lies exclusively in the hands of government officials. Since the

Information Act has not been passed, any information that is not volunteered by the government is basically off limits to journalists.

Most government departments still limit the flow of information and they certainly are not media friendly. Often the lack of transparency varies according to the particular department or official. Journalists should have the right to access information in order to educate the public, but in Myanmar it is always uncertain if their questions will even be answered or not.

“In the past, apart from the statements they proclaimed, we couldn’t ask much. However, nowadays they do answer a few things when they have something to brag about. It also depends on the media personnel or media houses who interviewed them. If they are friendly to the relevant media personnel or media houses, then they will answer your questions.” (Zaw Htaik, *MJN*, 10th June 2014)

Although section 4(d) of Myanmar Media Law states that media personnel have the right to collect information, to be provided with accommodation and to enter into certain offices, departments and organizations, the access to information nowadays in Myanmar depends on the particular media houses. Media personnel are being treated differently according to the size of the media house. For example, accessing information with government departments is easier for larger media houses because they are better publicized. Freedom of information guaranteed under the international law implies that not only the guarantee of the State is required, but also the effective systems be put in place for the right to access information (Mendel & Unesco, 2008). So the right to information as included in news media law, if it is to be an effective system, should come into practice in order to assist the media personnel in accessing information. Also, some media personnel stated in their interviews that most of the ministry departments do provide the contact numbers of personnel from their public relation departments, but most of the time no one is there to answer the phone. This can be considered one new tactic of the government departments to limit the flow of information during the country’s reformation.

Journalists in Myanmar are gaining the right to raise questions to ministers from government ministries compared to before the reform period,

when their attempts to approach and question officials would certainly be rejected. So, on the bright side, this can be considered one small positive effect of the country's democratic reform: the journalists who raise questions which are unfavorable to the ministers do not need to worry about being arrested. As a result, media personnel have more confidence to raise critical questions towards them, even if they do not receive an answer. Compared to the situation before 2010, government departments talk to media much more often now, but it is still not enough. There is still much improvement needed in this respect. Media personnel also have the responsibility to promote this kind of practice.

We encourage them that if you do good things, you must show it off. Good interviewing techniques are also required when dealing with them, for instance: "This kind of news is a pride of your department, so can you tell me more?" It's also concerned with mind-set because most of the government departments are still not media friendly. (Zeya Thu, *The Voice*, 23<sup>rd</sup> June 2014)

Most government officials fear that they would get fired if they say something wrong. Furthermore, it is not only government departments, but the whole public including, non-governmental organizations that are not media-friendly. The reason people in Myanmar are hostile towards the media is that in the past, many people were dragged into cases as conspirators, and even imprisoned, when sharing information. Because of this entrenched fear, people dare not to speak out even though they know about the injustice. Speaking on the subject of fear, "Fear of losing power corrupts those who wield it and fear of the scourge of power corrupts those who are subject to it" (Kyi, 2010). In other words, the fear of losing power and the fear of getting negatively affected by it has been rooted in people's mindsets for many decades. Fear prevents us from sensing what is right and wrong, meaning people are unable to pursue the truth as long as there is fear entrenched in their mindset. While the country is certainly on the path to a democratic system, most of the officials in power are from the former regime, so the dictatorship mindset is still entrenched in the new regime - with or without intention. As such, government officials might worry that media personnel are the ones who would oppose or undermine them. Taking away the information they preserved is similar to taking away their fundamental bulwark of power (Birkinshaw, 2010), so this

would be another reason for limiting information; to prevent them from losing power. Also, people in the country have been out of contact with the essence and purpose of news media for many decades. They dare not talk to the media because they fear that they might be punished for revealing information. As such, it is still difficult for media personnel to access information during this transition period.

Sometimes, some news content seems imbalanced unintentionally due to difficulties in making confirmation for the news coverage. (Naw Ko Ko, *The Voice*, 19th June 2014)

Therefore, in a situation where relevant stakeholders decline to be interviewed for fear of retribution, the news contents seem incomplete due to time constraints on the part of media personnel.

When covering sensitive news, journalists based in the country have been taking risks to fight for their rights since before the reformation took place. Some journalists have taken extreme risks to cover conflicts between armed groups and the Burmese army before the censorship board was abolished.

I went to (Laiza) Kachin conflict zone with another four journalists in 2012 for the first time before the censorship board was abolished. After we came back, we discussed and decided to put the news coverage about the civil war between the Burmese Army and KIA<sup>8</sup>. Because we did an interview with the KIA, we could get charged with section 17(2) of unlawful association law. The peace making process between government and KIA was also starting during that time. So, fortunately we could write the news about the civil war and let the public know for the first time. (Myo Min Htaik, *MJA*, 10th July 2014)

Throughout its short history of independence, Myanmar has been plagued with the world's longest ongoing armed conflicts - between ethnic minority groups and the Burmese military. But access to information on these conflicts just started in 2012. However, according to a journalist who used to

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8 KIA: Kachin Independence Army

cover the armed conflict in Kachin State, it is still necessary to cross in secretly from China in order to access the front lines. According to section 17(1) of the Unlawful Association Act, the one who takes part in meetings of an unlawful association, contributes to such an association, or assists in the operations of such an association, shall be punished with imprisonment for a term between two to three years. This Unlawful Association Act was enacted during British colonial era in 1908. The Act still exists today, acting as an obstacle journalists face while covering armed conflicts in the country. The challenge here is that access to information is criminalized by out of date laws. So, media personnel have to take additional risk to cover armed conflicts: there is no guarantee of their safety in war zones and no guarantee that they will be free from persecution under the Unlawful Association Act, even if they do return safely.

Up to this day, media houses and media personnel have been using their own way of accessing the information. Some have utilized personal connections in order to access information, some cover the news with what limited information they could access, and some take the risk of publishing sensitive information to the public. Unfortunately it is becoming increasingly clear that the chance for journalists to access information hasn't improved much during the country's ongoing reformation.

## **Editorial Independence of Private News Media in Myanmar**

One of the most important factors for media freedom is editorial independence. Only the newsroom (where chief editors, editors and reporters) must decide what and which news content should be released. However, with respect to editorial direction, Myanmar media does not have the same standard of practice as does media from the international community. The journalists from the media houses mentioned that relationships between the publishers and journalists are similar to the relationship between employers and employees. They are trying their best to cover the stories, but do so mainly for the purpose of keeping their jobs - which are in short supply in Myanmar - rather than for the sake of good journalism.

Also the editorial control upon sensitive news depends on the editor's expectation of target audience's reaction. For example, when it comes to sensitive issues like the Rohingya, on which opinions are different between the international community and Myanmar community - as the majority in

Myanmar society recognize them as a group of people who migrated from a neighboring country - editors will inevitably be more cautious with what they publish. In Myanmar's competitive market, the survival of media personnel and media houses also relies on their readership. So media personnel might think, 1). "What will the people say if we write about it? 2). "What will the society say if we write about it?" and 3). "they might think we have prejudice." If they think the news could displease or alienate their audience, they avoid publishing it. But this is often against the most important responsibility of journalism, which is to inform the public about what they need to know (L. H. S. Win, 2008), and the Myanmar media Code of Conduct, which states that information must be accurate, balanced and fair.

With respect to editorial independence, most journalists interviewed said that it depends on the policy set in the relevant media houses and what they stand for. For example: some media houses still refer to the 'military' as 'Tatmadaw Asoe Ya (the military government)' while some still use 'Sit Asoe Ya (military dictatorship)'.<sup>9</sup>

For me, I covered political news, so according to our house policy, we must balance between government and opposition parties in our use the term for military government as Sit Asoe Ya (military dictatorship) and (militray government) Tatmadaw Asoe Ya. By doing that we are paying deference to both sides. Importantly, we avoid extremes. (Naw Ko Ko, *The Voice*, 19<sup>th</sup> June 2014)

Editors and publishers do not control or limit daily operations, but for sensitive news, they might cut it or might not publish it. (Reporter A, *Mizzima*, 27<sup>th</sup> June 2014)

Currently, we have two kinds of sensitive issues in this country, one is religious issues and another one is national security issues. When covering news that concerns national security issues, journalists inevitably have to deal with the military. A case study of *Unity Weekly Journal* regarding national security issues will be discussed in the next chapter. The issues of racial injustice

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9 Current civilian government in Myanmar is changed from former military regime; they prefer the usage *Tatmadaw Asoe Ya* (the military government) rather than *Sit Asoe Ya* (military dictatorship) because the former usage is more polite than the latter one.

and religious conflicts are not only concerned with the government but also with the opinions of some people and religious organization in the country. For instance, on the 'Rohingya' issue, opinions vary wildly between the international community and Myanmar community. The editorial question on covering that kind of news is whether you use Rohingya or Bengali.<sup>10</sup> Most of the local media rarely use the name 'Rohingya' in their reports. In Myanmar society, they have specific opinions on this issue because the majority does not accept the Rohingya as Myanmar citizens. The aspect of Myanmar's growing nationalism must be taken into consideration by local journalists while covering this kind of issue. Ye Naing Moe, director of Yangon Journalism School said that such kinds of critics: "don't harm Buddhism; this report is bias because this media house is backed by religious organization"

Regarding the Rohingya issues, we take public interest into consideration. Since they migrated from a neighboring country, they are not an ethnic group of our country. We also look at this issue as a humanitarianism aspect together with the journalism aspect. On the human right aspect, they can apply for citizenship in accordance with 1982 citizenship law rather than demanding to become ethnic group with specific a state, which could lead to detrimental conflicts. (Wai Phyoo & Nay Htun Naing, *Eleven Media*, 2<sup>nd</sup> July 2014)

Providing alternative views for the public to hear, and sharing fair, complete, and impartial information with the public is certainly core to the concept of a free press. So, in order to maintain credibility as impartial sources of information, media should not stand on only one side.

Throughout the in-depth interviews conducted with different media personnel, it became clear that the stand point of editorial direction is likely to depend on the ones who back the media houses, and that the most influential

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10 The name "Rohingya" was published for the first time by Guardian Daily on 20th August 1951 in an article called "The Sudeten Muslims". "Rohingya" is not an official term of Myanmar because Rohingya are not recognized as indigenous ethnic groups by Myanmar government. The majority of people in Myanmar accept them as a group of people descended from Bangladesh. So, most of the local media houses use the term "Bengali" or "a group of people descended from a race of neighboring country" rather than the term "Rohingya".

people - with respect to news content and editorial direction - are publishers. "The most influential personnel for the news content and editorial direction are publishers, because the editors and publishers are the same person in most media houses" (Zaw Htaik, *MJN*, 10th June 2014). For those media houses, the kinds of news content which could affect their interests are often restricted. Because of the lack of capital, the houses are influenced by the big corporations or political parties, so the journalists cannot write anything that can harm those corporations. However, the press must be free from any kind of influence - be it business or political actors - and the duty of media is to stand up for the interests of the people, even in the face of pressure given by government and corporations (Martin, 1981 cited in McQuail 1992). However, editors from some media houses in Myanmar are finding their rights diminished in regards to their editorial duty, because they need to submit the news content to an agent of the publisher for evaluation before publishing. Recently, all of the editors from Lu Htu Pone Yaik Journal (The Public Image Journal) quit their job when they found out that the journal was backed by the Union Solidarity and Development Party (USDP).

Some media houses do have separate chief editors, but there are always invisible hands behind them to control the news content and editorial direction. According to the interview sources, some of the media houses asked their journalists to tone down stories on powerful political actors and those who have connections to them. This is because of their past relationship with the former regime. Most of the former regime is still in the current, quasi-democratic government. In other words, the system is new, but most people who work within it are from the former regime. In the past, publication licenses were granted to private press by the State Peace and Development Council (SPDC); however the licenses only went to those who held connections with higher authorities. Accordingly, the journalists were asked not to highlight too much on opposition voices towards relevant personnel. Another reason for editorial control is that the media house itself is backed by powerful political actors or big corporations. Currently, there are some publishers who are interested in news media as a professional business; meanwhile, there are some media outlets that are backed by political parties and business cooperations who want to use the publication as a platform to raise their voice and establish more power. Then, obviously the powerful ones overtake the weak ones. If Myanmar's press continues to develop in this direction, media pluralism will

not be achieved and only powerful interests - that is, those with sufficient capital or connections - will be left in the media sector.

### **Capacity of privately owned print media in Myanmar**

Under country's democratic reformation, many journals, magazines and newspaper are coming out with different opinions and voices as the license for private publications can be applied for much more easily than before the reforms. Since private daily newspapers were allowed to publish as of April 2013, media houses publishing daily newspaper are in need of human resources. This has caused weekly journals to face with financial difficulty and a shortage of human resources. Daily newspapers offer high salaries, persuading many journalists to leave weekly publications and join them. Also, daily newspapers command a much larger volume of advertisements (a major source of revenue) than weekly journals, creating an even greater financial imbalance between daily and weekly publications. In this way, small private media houses are shrinking.

Nevertheless, private daily newspapers are also running at a loss because they still cannot compete with state-owned papers. In the state-owned media, necessary expenses like printing machines and infrastructure are financed by public funds. The branches and delivery networks have been established for many years. In contrast, private daily newspapers are running on their own capital, and a large amount of money is needed to pay for the staff, printing machines, and infrastructure necessary to publish the paper. Also, when it comes to coverage of government ministries or statements by the president, private newspapers can only publish after the state-run media has covered the news - thereby creating an unfair advantage in an industry where expediency is critical (Journalists slam state owned newspaper, 2013). The price is also different between state-owned and privately owned newspapers: state-owned newspapers cost 75 kyats per copy while privately owned daily newspapers costs between 150 kyat and 250 kyat per copy.

The principles of press freedom, cited by McQuail (1992), are: to be able to start a newspaper; to publish and sell the news; to refuse to publish; to attend public meetings and report on them; to collect information; to offer alternative views for the public to hear; and to share fair, complete and impartial information with the public. So, it is clear that the rights of press freedom cannot be fulfilled by just allowing media houses to publish private daily

newspapers. Other guarantees, such as the right to publish the news and the ability to collect information are also needed in order to create a truly free press. Currently, media houses in Myanmar do have the right to start a newspaper, but they still cannot compete with the state-owned publications when it comes to reporting on the government. Since stories on the statements and announcements of the government are monopolized by state-owned newspapers, which are sold at a cheaper prices, the privately owned daily newspapers will find it difficult to get the audiences' attention. Some media houses have had to stop publishing, while others, in order to stay afloat, have resorted to patronage by big corporations or business personnel who have connections with the former regime. In this way, the inherent advantages state-run newspapers enjoy can also be seen as one of the tactics of the government to erode and control the private media sector.

Since the transition, media in Myanmar have been eager to begin investigative reporting. Unfortunately, for two main reasons, most of the reports are not in line with investigative reporting standards: financial resource capacity and human resource capacity. On the financial end, this research found that because of budget restraints, media houses in Myanmar would not use more than 30,000ks to 50,000ks (which is about 32 USD to 53 USD) for an important report. Investigative reporting requires considerable amounts of financial support - that is, much more than is currently being allocated. This research found that the time journalists in Myanmar get to report is between three to seven days, and for daily newspapers, they also have to cover one news story per day (at least). The quality of investigate reporting ultimately depends on how much time and money the media house can allocate to the reporting. Financial constraints along with limited reporting time weaken this kind of journalism. As mentioned above, media houses in Myanmar have financial problems because of the losses resulting from publishing daily newspapers - as such, they cannot cover the costs of investigative reporting at the moment.

Regarding human resource capacity, nearly half of the journalists in Myanmar have little or no experience. Mr. Kavi Chongkittavorn, Chairperson of the Southeast Asian Press Alliance, (SEAPA) stated, in May 2013, at the 2nd Conference on Media Development in Myanmar that “the present average age of the junior editors in Myanmar is approximately 23 years old. The majority of the currently more than 2,000 journalists are very young and inexperienced.”

And according to information obtained from the Myanmar Press Council, there are only 4,000 journalists out of a population of over 50 million in Myanmar. The newer journalists have less ability, while senior journalists can only focus within their specific field. For example: experienced journalists on the political beat might not be able to handle a business story. Also, journalists who were interviewed mentioned that the task for paper tracing of public records is still difficult in the country, due to the lack of good resource centers and lack of transparency at relevant departments. When it comes to investigative reporting, public records must be issued by the relevant departments and according to Section 4(d) of the media law, media personnel have the right to investigate the information to which every citizen is entitled. Unfortunately, the law is still not being applied. So, the problem not only lies in capacity requirements of media houses and media personnel but also the limitations of accessing information from government sources - two factors which ultimately discourage a healthy press in Myanmar.

During this ongoing reformation, one of the purposes of media freedom in Myanmar is to obtain an image of political legitimacy among the international community. However, some of the private media houses in Myanmar during this transition period are not in a ready or well prepared position, so for those who cannot adapt to the changes, they might face problems. To be able to ensure the press freedom, the rights of the press should be fulfilled, and to be able to fulfill the rights of the press the attitude of the government towards private news media needs to change.

While the press seems to have gained freedom, the government, former regime officials, and their cronies are still trying to control the press. As mentioned in the above findings, some news journals that have come out since the transition period are publishing information that is only meant to prolong divisions in society or to attack a particular individual. Several of the media personnel who were interviewed believe that this kind of reporting intentionally creates a bad image of the news media in order to undermine the trust of the people in private press. The condition for accessing information in the country has not improved because it is still difficult for journalists to access information from several government departments. For example: even though government offices have public relation departments, there is often no one to receive the calls, making it difficult for journalists to get confirmation for their news coverage. Until today, the journalists have been using their own way to access

the information they need. In any case, editorial direction depends on the political beliefs of those who back the media houses. Since some media houses are under the patronage of business personnel who have connections with the former regimes, the press is still not entirely free of the former regime's control.

This research found that the private media sector is under the influence of politically and economically powerful personnel. Therefore, in spite of minor improvements, we still cannot say that media freedom in Myanmar is in a much better position today than it was at the start of the reforms in 2011. There are also additional restrictions upon the press in the country during this transition period.

## Chapter 4

# Restrictions on Private News Media in Myanmar under Reformation

Although Myanmar's media has more freedom now compared to before 2011, there are still many laws and restrictions constraining media freedom and the free flow of information. Media personnel in Myanmar are still facing several restrictions and challenges while covering sensitive news. Furthermore, freedom of expression and publication are mentioned in Section 354 of the current constitution, stating that "Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order; community peace and tranquility or public order and morality" - which seems to limit the press freedom with further restrictions. According to the commentary of William Blackstone (1769) cited in (Y. N. Win, 2014), "Freedom of press is defined as the right to be free from prior restrictions, and it is essential for the nature of a free state". So, the nature of a democratic state is fundamentally opposed to prior restraints on media freedom. (Y. N. Win, 2014).

Media laws such as the "Printing & Publishing Enterprise Law and News Media Law" were approved by parliament in March 2014. The new 'Printing and Publishing Law' replaced the '1962 printing and publishing law' and still contains several limitations, such as "publishers and printers are not allowed to publish articles which may incite conflicts to harm national security, peace and tranquility; harm the citizens and ethnics; offend religions, cultures and races."<sup>11</sup> Along with the licensing system, this indirectly controls press freedom.

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11 Section 8(a) & (b) of Printing & Publishing Enterprise Law

Due to such limitations, printers and publishers will not run contents if they think they could be affected. As such, printers and publishers are forced to take the place of the scrutiny board themselves, because they will censor their own news content before publishing, rejecting anything that is not in line with the limitations of “Printing & Publishing Enterprise Law”. News media law, a self-regulatory framework for news media personnel, was drafted and submitted by the Myanmar Press Council to parliament. However, some points in the news media law were edited by the Lower House of Parliament.

Only 70% from what we expected included in news media law. On the one hand, we are implementing freedom of expression (freedom of press), but on the other hand the Ministry of Information submitted the ‘printing and publishing enterprise law’ to the parliament without any prior notice of press council.<sup>12</sup> (Zaw Thet Htway, *MJU*, 30<sup>th</sup> June 2014)

We suggested the government to put the ‘printing and publishing enterprise law’ as a chapter of news media law, but unfortunately we didn’t succeed. The government mentioned that the ‘printing and publishing enterprise law’ is enacted for the printer and publisher, and it’s not for media houses and media personnel. However, the law includes several restrictions for printers and publishers, so they might worry that they could get affected by what the journalists write. (Myo Min Htaik, *MJA*, 10<sup>th</sup> July, 2014)

News Media Law drafted by Interim Press Council provides “the objective to guarantee the rights and freedom of the media personnel”<sup>13</sup> while Printing & Publishing Law drafted by Ministry of Information contains several limitations. Along with the licensing system, these are all indirect ways to restrict the publication of news content that is unfavorable to the government. News Media Law prioritizes press freedom, but the Printing and Publishing Enterprise law was set to control the printers and publishers and curtail press

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12 Zaw Thet Htway from Myanmar Journalists Union discussed media laws at the press conference for sharing Media Code of Conduct to NGOs held on 30th June 2014.

13 Chapter 2, 3(c) Objective of Media Law

freedom; so these two media laws contradict each other instead of linking each other in one big picture.

Also, existing laws are being utilized as an effective tool to limit the press' freedom because it makes journalists think twice whether they could get sued under one of the laws. Also, some media personnel believe that news media law cannot fully protect them because, on the one hand, there is a news media law emphasizing the right of the media personnel, on the other hand, there are many criminal statues which can punish journalists.

In the next section, three recent case studies will be explored and discussed to demonstrate further restrictions – such as legal contexts and security threats – that media personnel in Myanmar have experienced during this transition period.

## **Case Studies**

### *The Voice Weekly Case (in 2012)*

#### *Brief background of The Voice Weekly*

The Voice Weekly Journal is a product of Think Tank media group, which mainly focuses on political issues in Myanmar, and started in 2004. Its online news webpage, [www.thevoicemyanmar.com](http://www.thevoicemyanmar.com), started in 2008. Its daily newspaper started in May, 2013. Think Tank media group was founded by Dr. Nay Win Maung who was a medical doctor, businessman and pro-democracy activist. Also, he was a founder of Myanmar Egress non-governmental organization. He believed and argued that “democratization in Myanmar could move forward by working directly with the military regimes rather than confronting them”<sup>1</sup>. Before publishing The Voice Weekly, he set up the Living Color magazine under Living Color Media Group in 1995 with the help of his friend Dr Ye Naing Win, son of the former Prime Minister Khin Nyunt who was also the chief of military intelligence. Living Color and The Voice Weekly continued even though the connection with Dr Ye Naing Win ended after he and his father, former Prime Minister Khin Nyunt were arrested in 2004. Nay Win Maung’s family took over the media house after his death from a heart attack on 1st January, 2012.

On 12th of March 2012, The Voice Weekly published an article concerning the misuse and fraudulence of funds in “six ministry departments”<sup>14</sup>. The story was covered on the 8th of March 2012. The article was based on a 36-page report the Union Auditor-general office submitted to the parliament, as well as information given by members of the lower house of parliament.

### *The case against The Voice Weekly*

On the 14th of March 2012, two Myanmar-language state-run newspapers stated that action would be taken against the responsible persons under existing laws for publishing inaccurate news. “In the statement, it also mentioned that as the fourth pillar of the State, the media must be impartial and must present the news accurately in a positive way based on truthful facts for the sake of public interests. Theoretically that will make the whole public, including the other three pillars (legislative, executive and Judiciary), and relevant organizations and departments respect the checks and balances of the media to perform necessary correctional measures. In the last part of the statement of that state-run newspaper, it said the information stated in The Voice Weekly is not true and it damaged the reputation of the Mining Ministry since there was no such thing as misuse of funds, misstatement of accounts, concealment and misrepresentation, so possible action will be taken against the publishers and the author.”<sup>15</sup>

During the month of March 2012, the Ministry of Mining subsequently filed a lawsuit against The Voice Weekly for defaming the ministry. The chief editor and the publisher of the Voice Weekly Journal were charged with defamation under section 500 of the penal code. After eight months of lawsuit in January 2013, the ministry of mining dropped the case and the court agreed to withdraw the charge against The Voice Weekly. It is known that the Press Council stepped in and helped to resolve the dispute, and The Voice also published an announcement of apology to the ministry for affecting the dignity of the Ministry of Mining and thanking them for dropping the lawsuit.

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14 Six ministry departments were such as: Ministry of Information, Ministry of Cooperatives, Ministry of Agriculture and Irrigation, Ministry of Mining, and Ministries of Industry (1) and (2) mentioned in the audit report.

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The headline of the article is: “The misuse of hundreds of millions of Kyats by several ministries”.

The following are the main points contained in the article of The Voice Weekly:

An elected members of Lower House of Parliament mentioned that the report submitted to lower house of parliament (Pyihtaungsu Hluttaw) by the Union auditor-general office included misused funds and fraudulence of financial statements of several ministries, including: Ministry of Information, Ministry of Cooperatives, Ministry of Agriculture and Irrigation, Ministry of Mining, and Ministries of Industry (1) and (2) mentioned in the audit report.

The Ministry of Information misused 250 million Kyats obtained from the sale of a state-run newspaper. Since Union auditor general office found out about the misuse, the ministry reimbursed 150million Kyats.

In the misuse of funds by ministry of industry (1), more than 200,000 gallons of fuel from Chauk oil refinery for “Ya Thar Cho” instant noodle factory were sold to outsiders.

A member of the lower house of parliament from Shan Nationalities League of Democracy Party mentioned that 50 percent of a copper mine project, which cost USD 100 million was sold to Union of Myanmar Economic Holdings (UMEH) by the Ministry of Mining (1), but the payment was made by a foreign company instead UMEH.

A member of the lower house of parliament from the Union Solidarity and Development Party (USDP) of Ayeyarwady Division told The Voice that the Ministry of Agriculture, Ministry of Irrigation, Ministry of Industry (1) and (2) misrepresented the profit instead of the loss and reduced it in order to describe the amount of the loss.

A committee member of the auditor general office said that the misuse of funds and misstatement of accounts occurred during 2009-2010 fiscal years under the former regime. (Translated from “*The Voice Weekly*”, Vol.8, No.13)

In *The Voice Weekly Journal* case, the article was based on the 36-page report of Union auditor-general office submitted to the Lower House of Parliament’s Public Accounts Committee; it contained the voice of the members of parliament. The article was based on a reliable source (the report of Union auditor general’s office), so the information that *The Voice Weekly* described in the journal cannot be said to be untrue. Even if the information is not true, the ministry should have settled this problem with the original source, which is the Union auditor-general’s office. The article was based on quotes of members of parliament and the facts from Union auditor-general’s office. *The Voice Weekly* did not make any statements of opinion in the article.

According to McQuail (1992), the role of mass media as a watchdog against abuse or corruption is a central aspect of journalistic self-perception, press tradition, and democratic theory. So, the press as a watchdog has the responsibility to find out the activities of government departments and to inform the public when it concerns public interest. People in a democratic society are sufficiently well-informed about the issues of their community affairs to form a wide range of judgments (McQuail, 1992). Also, Freedom of Information can improve the decision making process of the policy maker for the public. For example: the government is being informed by the media for taking any kind of necessary action or making decisions. The responsibility of the media under a democratic system includes accuracy, balance, fairness, respect to others, and assurance of the right of people to receive the information (Myanmar Interim Press Council, 2014). Besides, there are other standards such as – protecting the rights of individuals, and protecting media freedom – contained in Myanmar media code of ethics. Therefore, as a responsible media house, *The Voice Weekly* informed the public about what they needed to know; informed the government body for necessary correctional measures, so there is no way in which *The Voice Weekly* breached the media code of ethics.

In this case, *The Voice Weekly* took the stance that the country is on the track to reformation and thus is not good for reformation process to cause

conflict between the media and government, so they stepped back even though they were not wrong. However, as media professionals, they have the responsibility to point out the flaws or weak points, ask questions, give suggestions, and inform the public about the performance of the government. According to Lichtenberg (1990), press freedom is thought to be a crucial element for democracy and the attainment of the truth. Also, the obligation of the press is to stand up for the interests of the people during the unavoidable pressures given by the government and companies (Martin, 1981 cited in McQuail 1992). So, the press has the responsibility to point out more details for necessary correctional measures instead of retracting it due to the pressure of lawsuits towards it by powerful ministries.

Also, President Thein Sein mentioned in his speech to members of Union Government that “to achieve the goal of building a modern and developed democratic nation, the government must be a clean one with good governance” (NLM, 2011 p. 10). The misuse of funding by a ministry department certainly concerns the public interest, so *The Voice Weekly* has the right to point it out and question the government in order to inform the public about matters that concern them. However, in this case, due to the pressure of a lawsuit by the ministry, the media house had to step back and stop following the case; thus, the public could no longer know about the misuse of funding by ministry departments.

### *Eleven Media’s Reporter Case (in 2013)*

#### *Brief background of Eleven Media Group*

Eleven Media Group was founded in June 2000 by Dr Than Htut Aung who was a medical doctor, pro-democratic activist and businessman turned publisher and editor. As a business man, Dr Than Htut Aung spent a number of years in the timber export business in the 1990s. *Eleven Media* was established in 2000 with the publishing license he borrowed from Military Intelligence of Myanmar. Eleven Media started with two sports journals: First Eleven Sport Journal and Premier Eleven Sports Journal, and both are top selling sport journals in Myanmar. The sport journals of Eleven Media used to also give political messages in its football articles. Weekly Eleven News journal was started in 2005. The online news websites in English and Burmese languages were established in 2009. Its Daily Eleven newspaper began to be

published on 3rd May 2013. Currently, Eleven Media group is comprised of six shareholders. On 4th May 2012, *Eleven Media* signed a Memorandum of Understanding (MOU) with Nation Multimedia Group from Thailand to start a joint venture for English language publications.

### *The case against Eleven Media*

On the night of the 27th of October 2013, Loikaw-based Eleven Media reporter Ma Khine went to plaintiff-side lawyer Aye Aye Physo's house with defendant Than Zaw Win, who was a DVD rental shop owner. He was fined 100,000ks for having a case of pirated movies. Reporter Ma Khine was trying to cover the news about illegal movie rental cases in Loikaw. She could only interview the defendant, but she was unable to meet the plaintiff. As a reporter, she needed information from both sides, so she asked the defendant Than Zaw if she could follow with him to the house of lawyer Aye Aye Physo, to get information from the plaintiff's side, as she thought that the lawyer would know more details about the case. Both of them were allowed to enter that night by the owner of the house, Aye Aye Physo.

The defendant and the lawyer at first discussed financial matters, and the defendant apologized that he could not pay a one-time lump sum amount of money. The lawyer then said that she also needed to pay the judge, legal officials and the police, so the defendant needed to come up with the money. Afterwards, Ma Khine started asked for the permission to interview the lawyer and introduced herself as a reporter from Eleven Media based in Loikaw. Ma Khine told the lawyer that she didn't understand the lawyer fees that they (lawyer and defendant) had just discussed. She also asked the lawyer how much she was charging in legal fees. Then, the lawyer got angry, and called out her family and asked them to leave the house. The family accused Ma Khine of forcefully entering the area and uttering abusive words. An online news report of Eleven Media dated 3<sup>rd</sup> January 2014 mentioned that the lawyer's spouse was an officer from Loikaw Military Affairs Security, and her father was the local chairperson of the National League for Democracy (Eleven Media Reporter, n.d.).

On 29<sup>th</sup> October 2013, the Loikaw Township court summoned her. She was sued with three acts of the penal code: trespassing under section 451, defamation under section 500 and utterance of obscene language under section 294(b). On 17<sup>th</sup> December 2013, Loikaw Township Court sentenced her to

three months of imprisonment for trespassing, defamation and using obscene language. It is known that there are only three lawyers in Loikaw, so the relationship between the judge and lawyers are beyond acquaintances. When management from Eleven Media went to Loikaw and asked Ma Khine's lawyer about the situation, he did not offer much information. On 2nd January 2014, Ma Khine lodged an appeal to Loikaw District Court against her unfair jail term. However, according to the verdict of Loikaw District court given on 27th January 2014, her appeal was turned down by the court. In this way, a media report on corruption was suppressed and the reporter was charged with three acts of penal code and got three months of imprisonment. (Narrated by a journalist from *Eleven Media*)

In this case, the trespassing charge against her was clearly unjust. Even though she forgot to introduce herself as a reporter in the first place, she entered the house with the permission of the house owner. Furthermore, she introduced herself as a reporter from Eleven Media before she started to ask questions to the lawyer, and she left the house immediately when she was asked to do so by the house owner. So, it is clear that the reporter did not actually trespass. Regarding the charge of defamation, it is a well-known common punishment against journalists in Myanmar, with a sentence of up to two years of imprisonment. According to the interviewees in this study, in the past, defamation cases against journalists in Myanmar have been mostly settled with fines. The question about lawyer's fees does not represent a case of defamation under any reasonable interpretation of the term. The manner in which the court gave out the verdict within a short period shows the miscarriage of justice.

Collecting information is included under the rights of press freedom. Also, freedom of information is the right of individuals to access information, but lawsuits are one of the restrictions that limit individuals in actually accessing it (Birkinshaw, 2010). And, according to United Nations, the right to freedom of information adopted by United Nations since its first General Assembly in 1946, indicates "the right to gather, transmit and publish the news" everywhere without restraints. Charging the journalists under various criminal codes is obstructing press freedom. In this case, the charges and sentences were unfair for the reporter. The lawsuit against media personnel who were just doing their job shows that there continues to be undue challenges to media freedom. Jailing media personnel is a threat to freedom of information that will surely discourage other journalists from trying to access information. With the specter of this

case in mind, other reporters could be afraid or lose confidence while they cover the news. This case indicates that during the democratic transition period, the press in Myanmar as the fourth pillar is still weak and far too much under the influence of the judiciary branch.

### *Unity Journal Case (2014)*

#### *Brief background of Unity Weekly Journal*

Unity Weekly Journal was first published on 15th March 2012. The journal was funded by Saw Than Myint and two other financiers. Saw Than Myint and one financier are from the Shan Nationalities Democratic Party (SNDP), also known as White Tiger party - a political party that represents the interests of the Shan ethnic group. The party is closely allied to the National League for Democracy (NLD). Unity mainly focuses on stories concerning politics and ethnic issues. The journal stopped publishing on 29th June, 2014. Financial difficulty was the reason given by the board of editors from the Unity Journal house. This unexpected halt affected the livelihood of the staffs (journalists) of the house.

In January 2014, four journalists from Unity Weekly Journal went inside the Defense Equipment Factory, which was built in 2009 on 3,000 hectares of land that had been confiscated from farmers in Magway Division. They investigated about the factory being connected to over 1,000 feet of underground tunnels and took several pictures at the factory area (Mann & Michaels, 2014). On 25th January 2014, an article about a secret chemical weapons factory with photos, along with the voice of the villagers and factory workers, was published in No.4, Vol 3 of the Unity Weekly Journal. Lu Maw Naing, a reporter based in Magway region, was the first one to be arrested on 31st of January 2014. The others, Sithu Soe, Yazar Oo, Aung Thura, and even CEO San Thintwere were arrested and detained on the 1st of February. Five of them were sued for “disclosing State secrets, trespassing on a restricted area of the factory, taking photographs and the act of abetting under Article 3(1) A/9 of the 1923 “Official Secret Act” (The Republic of The Union Of Myanmar, President’s Office). On July 10, a district court sentenced them to ten years of imprisonment with hard labor for violating the State Secret Act enacted in 1923. After lodging an appeal at the Magway regional court, the court reduced the prison term to seven years

on October 2. The defendants will continue to lodge an appeal at the Supreme Court at the new capital, Nay Pyi Taw (Amnesty International, 2014).

The headline translated into English is: “Secret Chemical Weapon Factory in Pauk Township by Former Senior-General, Chinese Experts and Current Commander in Chief of Incumbent Defense Service”.

The following are the main points contained in the article:

The lead began: “It was reported that the Defense Equipment factory No.24, also likely to be a chemical weapon factory in Pauk Township, Magway Division is being built.”

The report further states:

Fifteen foot long rockets were seen, and another staff from the construction site said “this factory is the biggest one in South East Asia,” claimed an ironworker who worked at the construction site...

After the reporters went inside the factory together with the workers and investigated, they couldn't give any remark; however local people and the factory workers insistently said that it's the biggest factory in South East Asia...

(Local people said that they often saw boilers painted in white and cement bags were loaded in twenty-two wheel trucks...

According to one factory worker, the movement of the factory workers is being controlled by the Tamadaw (army) even outside of working hour...

The villagers said that while constructing the electric power factory in Chaung Kuu village for No. 24 and No.23 factories, 50 acres of land was confiscated from 17 farmers from that village...

(Translated from “*Unity Journal*”, No.4, Vol.3)

The story about the chemical weapons factory could have become a good investigative report if it was able to be written in line with media standards: interviewing all sides of the issue, including experts and relevant stakeholders, to produce strong evidence. In a study of journalism ethics by Hargreaves (2003), it is stated that truthfulness and accuracy are the main ethics of journalism; thus, without these qualities, trust cannot be inspired in the readers and without trust, journalism cannot be worthwhile. However, accessing relevant information from government ministries or officials continues to be difficult for journalists. Also, during Myanmar's transition to democracy, many different kinds of news-focused journals are being established. A publisher and editor who were interviewed mentioned that some news journals run poorly-verified or inaccurate content in order to sell more copies. It has become a challenge for some small journals to survive. As such, some of these small journals and magazines take examples from other publications that have a higher readership but may not be so scrupulous.

Unity journal is no different than other journals that are just trying to survive in a competitive market and generate good sales. There is no indication that they reported with malicious intent; unfortunately they touched on a highly sensitive subject - chemical weapons - without a strong source to back up their report. They only interviewed local villagers and factory workers. Using the quotes of factory workers alone is not sufficient for a proper news report. For example, the articles states that "The factory workers insistently said that it's the biggest factory in South East Asia". However, there is no experience or evidence presented to back up this claim. As a consequence, the journalists who covered the story suffered more than what they deserved. The way they presented the story might not be in line with the media standard, but in media code of ethic adopted by Myanmar Press Council, it supports that media professionals are responsible to publish the leaked and restricted content when it is judicious for the public interest. This story related to 3,000 hectares of land that had been confiscated from the farmers, so it is concerned with the public interest.

Freedom of Information is customarily limited by factors such as national security, commercial secrecy, personal privacy, interference in investigation and lawsuits (Birkinshaw, 2010). The verdict of long term imprisonment of Unity journalists is a clear example of the limitations on Freedom of Information in Myanmar. This case is the worst so far during the country's reform period.

The reporters were charged under Article 3(1) A/9 of the 1923 Official Secret Act, which is related to spying or espionage. According to Article 3 of the Act, the punishment of the person who committed offense in relation to any secret official information may extend to 14 years. However, Unity should not be charged under this act because at worst, their report was inaccurate - but there is no reason to believe it was done in bad faith. So, the case is more concerned with imparting wrongful information. Their punishment is too severe and not only threatens press freedom but also restricts the people's right to know what their government is doing.

The Official Secrets Act act was enacted in Burma (Myanmar) and India by the British in 1923 during the colonial period. Although the two countries had the same law introduced, India seems to have a much stronger judiciary system than Myanmar. We will now look at a similar case in neighboring India to support the analysis for this case.

Iftikhar Gilani, New Delhi bureau chief of The Kashmir Times, based in Jammu, was arrested by Indian police on 9th June 2002, and was charged under the Official Secret Act for possessing classified documentation which included information about the deployment of Indian troops in Indian-held Kashmir and alleged human rights violation by Indian troops in Kashmir. Although this document was classified, it originated in Pakistan and was widely spread through the internet, so possessing the documents by gathering the information from open sources could not be identified as the act of espionage (Deepa, 2005). He was kept in the Tihar jail until January 2003. Since the documents he possessed didn't clearly qualify as an official secret of the Indian government, the government dropped the case and he was released after seven months of imprisonment (Committee to Protect Journalists, 2002).

According to Patrick Birkinshaw, since information is defined as a feature of power, taking away information preserved by the government is similar to taking away the fundamental bulwark of government's power. The Unity case signals to the media that the government will not tolerate real criticism or allow their power to be undermined. If the journalists are being taught a lesson, then they can hope for lighter punishments from the appeals. So, the improvement of press freedom is also still questionable for Myanmar media in 2014.

Since the end of 2013, the press in Myanmar has been pressured again by lawsuits and jail terms. Other punishments towards media personnel in

2014 include: jailing DVB TV journalist Zaw Pe for one year in April 2014 for trespassing under section 448 of penal code and disturbing the public servant under section 353 of penal code, deporting DVB journalist Angus Watson in May 2014, and sentencing five journalists from Bi-Mon Te Nay weekly news journal for two years in October 2014 under penal code section 505(B), for allegedly circulating a report that offends the State and disrupts public tranquility. All these cases can be seen as general threats towards press freedom in the country. Also, in his radio speech about the Mandalay riot between Buddhists and Muslims in the month of July 2014, President Thein Sein warned all media that “the misuse of newfound media freedom was responsible for escalating the tension.” He also said, “Affirmative action will be taken against those who threaten state stability rather than using media freedom for good”. The above mentioned pressures and warnings show that media is still under the influence of the judiciary and executive branches.

By looking closely at these recent punishments and lawsuits against media personnel in Myanmar, it becomes readily apparent that press freedom today is no where near what was promised at the beginning of the country’s reforms. Indeed, it seems that the press freedoms allowed during Myanmar’s transition to democracy are only superficial measures designed to improve the international community’s opinion of ongoing reforms in the country.

## Chapter 5

# Conclusion

### Summary of Findings

Analysis of media transition in Myanmar is widespread since the country's reformation began in 2010. Several positive changes such as the abolition of the censorship board, the emergence of more private news media outlets, the reappearance of private daily newspapers for the first time in fifty years, and the release of jailed journalists have caught more international attention as a country on the path to democratization.

However, acts of constraint upon the private media -- lawsuits to pressure and even imprison journalists -- show that press freedom in Myanmar today is still uncertain. In recent cases, media personnel have been charged under criminal codes and punished with imprisonment. These lawsuits and imprisonment charges towards journalists tend to curb freedom of information by discouraging media personnel from accessing it. Although the news media law has been enacted, preexisting legal acts and criminal codes can still override the recent reforms. In this way, the press in Myanmar is still subject to constraints from the judiciary and executive pillars.

Even though the country is in transition from a military dictatorship to democracy, most people who work in the new system are from the former regimes. They are not accustomed to dealing with the media openly since they are used to the old system of oppressive restrictions on the press. Due to limited

transparency from government departments, accessing information is still difficult for the media. As there is no specific Information Act in the country, the media has no recourse when a government department declines to give information.

As for editorial control, this research found that the most influential people in media outlets are the publishers. In many media houses, publishers and editors in chief are the same person. Each media house has its own policy and standpoint on editorial direction. Editorial independence is important for the development of the independent media. However, the policy and standpoint of some media outlets are tied to the political beliefs or attitudes of the individuals who finance them. Furthermore, many media houses in Myanmar are under the patronage of business personnel because of financial difficulties. These kinds of media houses regulate their own content when it affects the interests of their financial backers.

Also, at this moment in the transition period, many privately owned print media houses are emerging in the private news media sector in Myanmar. On the one hand, it is a good sign for media pluralism, but on the other hand, some of these new journals often resort to yellow journalism, which harms the reputation of all press in the country. Therefore, self-regulation is needed to make sure reporters are responsible and accountable to the media ethical code; needed to protect the reputation of the news media in the country.

Press freedom in Myanmar has seemingly flourished during the first couple of years under the country's democratic reformation. But in spite of positive changes, the media in Myanmar is still facing difficulties and challenges after three years of reformation, making press freedom a continuously uncertain prospect.

## **Conclusion**

According to Pippa Norris' (2006) analysis of the media during the country's transition period, "the growth of the press freedom and the process of democratization are thought to be reciprocal". Firstly, transition out of autocracy opens up the door for privately owned news media, disseminates access, and reduces censorship and control of information; then the public has exposure to a variety of opinions in the media. Once media liberalization has

started, democratization and good governance are strengthened through the media's role as a watchdog of government performance, civic forum for raising voices and debates, and agenda-setting to highlight the issues. Media openness started in Myanmar once the country began its reformation process in 2011. The positive changes to news media occurred at the beginning of this process; they are related to what Norris described as the steps of media openness in a country under transition. Despite several positive changes, the media in Myanmar continues to face many challenges because of the clash of values between the media and the government.

As a watchdog, the media should have the right to monitor the performance of the government. However, the press in Myanmar cannot fully perform their duty as a watchdog since government departments are not media friendly and there is no information act to compel them to divulge information to journalists. The role of the press as a civic forum is to mediate between the government and the public, but the media itself is still in a stage of negotiation with the government. For instance, the parliament has edited some parts of the news media law drafted by the Press Council; they also passed the printing & publishing enterprise law, which the media personnel opposed. As an agenda setter, the media has a responsibility to inform the public of social problems and to channel the public's concerns to the government. However, it depends on the government to listen to these issues and take appropriate action. Lawsuits and imprisonment charges towards media personnel prove that media is still under influence of the judiciary and executive branches. For these reasons, press freedom still has not been realized; the condition of press freedom in Myanmar does not fully conform to Norris' concept – “the growth of press freedom and the process of democratization are reciprocal”.

Also, the concept of O'Donnell and Schmitter (1991) cited in the research of (T. Zaw, 2013) say that ‘liberalization and democratization’ are not interchangeable; so these two things cannot happen at the same time during the transition period. Liberalization means relaxing strict rules, such as freedom from getting punishment for expressing opinions and freedom from censorship; this can happen even without democratization. Under democratization, there is more than just the relaxing of strict rules that used to occur in liberalization. It contains “not only equal rights but also the participation of citizens in political choice” (T. Zaw, 2013).

Although the country is on the path to democratization, the new regime is still largely composed of people from the former regime -- in parliament, 25% are military and about 50% are from the former regime. These people are responsible for ongoing restrictions on press freedom. Under the country's reformation, strict rules on the press have been relaxed, but there are still many limitations on press freedom. Even though the country is on the path to democratization, the judiciary system still functions the way it did under military rule. For instance, journalists have been arrested promptly without any prior notice to the Myanmar Press Council and charged with severe crimes under outdated laws. This is the same method used by the previous regime to suppress the media in Myanmar before the reformation process started. By looking at the above cases, we can see that press freedom in Myanmar is still only in a relaxation stage.

The Myanmar government wants to raise its international profile and change its image from a pariah state to a "must-see" country. Through the media, the international community would be able to see the country has truly reformed. However, there are still some restrictions on press freedom. There is ample evidence of government restrictions specifically meant to limit press freedom. For example, the media is still limited by severe laws like the Official Secret Act and Sections under Penal code. Under the new democratic system, the old judiciary system is still being utilized to suppress press freedom. During the reformation, the political situation has fluctuated rapidly in the country. But the government only wants the media to publish positive reports on the improvements of the country; meanwhile, they want to suppress any news about human right abuses or the unjust treatment of citizens, which make them lose face in the international arena. As a result, additional restrictions have been placed on the media, to make sure this kind of information does not get out.

This research found that the government tried to ease restrictions on the press in the first couple years of the reformation process, but new forms of limitations have recently appeared. The Myanmar Press Council was assigned to draft news media law by the Ministry of Information. This was a good sign-of change, and also the first concession to the press from the regime. However, in 2013 at the end of February, the Ministry of Information took one jump ahead of the Press Council in announcing the Printing and Publishing draft law. As mentioned in the previous chapter, although the 'News Media Law' drafted by the Press Council provides the right to access information and

journalists' rights, 'Printing & Publishing Enterprise Law' drafted by Ministry of Information controls the press indirectly with its license system. News contents depend on the printer and publisher because printers will not run the news if they feel threatened or think it is possible that their license will get revoked.

Furthermore, journalists are being charged with criminal codes even after the news media law has been enacted. This shows that other existing laws override and counter the news media law. In some cases, letters of complaint were sent to Press Council to warn some journals when there was news coverage not in line with press ethics. However, for cases relating to the military, the government's reaction is much more severe. In the Unity journal case, the journalists were arrested and charged immediately without any prior notice to the Press Council. This can be seen as a legal pitfall for media personnel, or a plot to trivialize press freedom by deceiving the public into believing that Myanmar's media is unethical and does not deserve freedom to operate.

Regarding the right to access to information, journalists still have difficulty in accessing the information since most government departments are not transparent. Accessing information from government departments also depends on the relationship between the particular media houses and the relevant department officials. Although the political system of the country changed into democracy from dictatorship, the people in power today are the same ones who held power under the military regime; as such, it is no surprise that they would continue to suppress media freedom the way they did before Myanmar's transition to democracy began. Therefore, they worry that they will be opposed or countered by the media. Publishing information that those in power wish to keep secret is similar to taking away their fundamental bulwark of power (Birkinshaw, 2010). So it is not surprising that these former autocrats try to stifle the release of information as much as they can.

As for the other challenges, the media in Myanmar is facing difficulties concerning in the realm of human and financial resource capacities. In terms of human resources, the private media sector in Myanmar has few experienced journalists. As mentioned in the previous chapter, the reformation of the country has revealed the extent of the lack of highly qualified media personnel accustomed to responsibility and accountability in their reportage. The need for the development of human resources will help ensure further press freedom.

The government also has the responsibility to support the improvement of human resource capacity for the media sector by cooperating with relevant media associations instead of constantly casting aspersions at it.

Financial problems of some media outlets resulted from running private daily newspapers at a loss, which led to some houses stopping publishing and others seeking the patronage of big corporations. These media houses have control upon editorial direction in certain kinds of news coverage. Regarding ownership of responsibility of the press, McQuail (1992) opined that when it comes to ownership, there is one important thing to understand, that unlike any other enterprises, the press business promotes truth about public matters. However, editorial direction of today's private news media in Myanmar is under the influence of the political beliefs and attitudes of the ones who financially back the outlets.

Besides, some news journals in Myanmar have been found to be imparting the kinds of information to attack particular personages, or else reporting information lacking in fact that is aimed at deceiving the public. Biagi (2011) defined the yellow press as the journalism that treats news unprofessionally and unethically. The news from these kinds of journals is exaggerated, mixing fact with fiction. This kind of yellow journalism style utilized by some news journals affects the reputation of media houses and media professionals at a time when they are most in need of a positive reputation. By creating a bad image of the news media, the government is trying to reduce the trust of the public; and this could once again allow the regime to control the press.

Press freedom is essential for the country's reformation process, since different voices and suggestions for the reformation can be publicized through the media. As it stands, the control of press freedom is an impediment to the democratic reformation process because media freedom is one of the key characteristics of democratic countries. Despite two years of initial progress in Myanmar's private media sector, press freedom has recently begun to backslide. First, the former restrictions placed on the press were removed at the start of the reformation process, done so to change the international community's opinion of Myanmar. However, new forms of limitations are now being utilized to oppress the press again.

Although private media outlets are allowed to publish and the censorship board has been abolished, this alone hardly meets the standards for press

freedom. Other conditions such as whether the press could fully perform as a watchdog to monitor the performance of the government must be met. The media must be allowed to act as a civic forum to bridge the gap between the public and the government, and as an agenda setter to inform the government of social problems and public concerns. This research has clearly shown that these conditions are not being met in Myanmar today, and that journalists now face a new set of limitations such as lawsuits, editorial control, difficulty to access information, and resource limitations. Oppression of the press is essentially a way for the military regime to perpetuate its power over the country and stall the democratization process.

The results of this research show that further improvement of press freedom in Myanmar depends on the attitude of the government towards media and media personnel; so unless the government is willing to change their attitude, the press will continue to face debilitating obstacles to their freedom.

I hereby conclude that the role of media is vital for a country on the path to democratization because ideas from various perspectives can be raised on behalf of the whole public. Throughout Myanmar's history, private media has struggled through a multitude of challenges, but always found their own way to move forward towards freedom - so there is still a hope for press freedom in the future.

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## Appendix

### *Media Law (2014)*

#### *Chapter (2), Objectives*

- Section 3(a) To materialize News Media Industries which are offered freedom from censorship to express, publish, or distribute freely as part of rights and privileges granted to every citizen in compliance with regulations stated in the national constitution.
- Section 3(b) To ensure that News Media can stand up firmly as the fourth Estate of our nation
- Section 3(c) To guarantee that News Media workers are fully provided with their entitlements and freedom.
- Section 3(d) To establish and develop responsibilities, ethics, rules and regulations and practices to be adopted within relevant industries and organization
- Section 3(e) To make news accessible to every citizen.
- Section 3(f) To ensure any complaints, arguments regarding publications or broadcasting of a certain media are to be settled and negotiated in a conciliatory manner.

#### *Chapter (3), Entitlements of Media Workers*

- Section 4(a) The News Media workers shall have the right to freely criticize, point out or recommend operating procedures of the legislative, the executive and judiciary in conformity with the constitution
- Section 4(b) The News Media workers shall have the right to investigate, publish, broadcast information and related opinions to which every citizen is entitled in accordance with rules and regulations.
- Section 4(c) The News Media workers shall have the right to reveal issues relating to rights and privileges lost by the citizen.
- Section 4(d) The News Media workers shall have the right to collect information, to be provided with accommodation and to enter into certain offices, departments and organizations in accordance with regulations of relevant departments or organizations.

***Printing & Publishing Enterprise Law (2014)***

***Chapter (3), Rules & Regulation for Printing and Publishing Enterprise to comply***

- Section 8(a) Printers or publishers shall not print or publish the relevant publications which reveal a subject that aggrieves other religious, other similar ethnic groups/minorities or other different ethnic groups/minorities.
- Section 8(b) Printers or publishers shall not print or publish the relevant publications which instigate for violence or jeopardize the tranquility of community; and prevalence of law and order.

***Myanmar Penal Code (1861)***

- Section 294 Whoever, to the annoyance of others, --
- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene songs, ballad or words in or near any public place
- shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.
- Section 353 Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- Section 448 Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.
- Section 451 Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft the term of the imprisonment may be extended to seven years

Section 500    Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Section 505(b)    Whoever makes, publishes or circulates any statement, rumor or report with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility shall be punished with imprisonment which may extend to two years, or with fine, or with both.

***1908 The Unlawful Association Act (Amended in 1957)***

Section 17(1)    Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association, shall be punished with imprisonment for a term [which shall not be less than two years and more than three years and shall also be liable to fine] (1).

Section 17(2)    Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term [which shall not be less than three years and more than five years and shall also be liable to fine]

*List of Interviewees*

<b>No.</b>	<b>Name</b>	<b>Position</b>	<b>Organization</b>
1	Zeya Thu	Deputy Chief Editor	The Voice Weekly
2	Thiri Zaw	Executive Editor	The Voice Weekly
3	Naw Ko Ko	Senior Reporter	The Voice Weekly
4	Le Yee Myint	Reporter	The Voice Weekly
5	Wai Phyo	Chief Editor	Eleven Media
6	Nay Htun Naing	Executive Editor	Eleven Media
7	Nwe Yin Aye	News Editor	Eleven Media
8	Thit Htut	Senior reporter	Eleven Media
9	Than Htike Aung	Reporter	Eleven Media
10	Soe Myint	Managing Editor	Mizzima Media
11	Thinzar Aung	News Editor	Mizzima Media
12	Ko Ko Gyi	Senior Reporter	Mizzima Media
13	Reporter A	Reporter	Mizzima Media
14	Ye Naing Moe	Director/ Trainer	Yangon Journalism School
15	Eaint Khine Oo	Trainer	Myanmar Journalism Institute
16	Myint Kyaw	General Secretary	Myanmar Journalist Network (MJN)
17	Zaw Htaik	Member	Myanmar Journalists Network (MJN)
18	Myo Min Htike	Secretary 1 of (MJA) (Chief Editor/ Publisher of Venus News Journal)	Myanmar Journalist Association (MJA)
19	Kyaw Min Swe	Secretary of MPC (Chief editor of The Voice Weekly)	Myanmar Press Council (MPC)
20	Zaw Thet Htway	Member	Myanmar Press Council (MPC)





# Challenges to Press Freedom of Private News Media in Myanmar

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*Onhmar Nyunt My*

The role of the media as the “fourth pillar” of the nation is important for Myanmar’s political reformation process. Media freedom (freedom of the press) in Myanmar improved when reforms started in 2011. The censorship board was eliminated; a number of imprisoned bloggers and journalists were released; private daily papers were permitted to publish, and some political opinions and comments were allowed in publications.

Although Myanmar’s reformation grants many new freedoms to the press, there are still limitations, such as lawsuits, charges, editorial control and difficulties accessing information. Journalists still face numerous challenges trying to report the truth.

Through qualitative research and in-depth interviews, this book posits that ongoing challenges and constraints facing the press in Myanmar continue to hinder the democratic transition process.



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