Contributing to Legislation: the Drama and the Heartbreak: the Thai Media Reform Experience

Pirongrong Ramasoota
CPR South 5, Xi’an, China, 5 December 2010
Outline

- **On media reform**
  - Goal and strategies
  - Factors determining success

- **Media reform movements in Thailand**
  - Reform of broadcast structure
  - Creation and promotion of independent media
  - Media literacy/criticism

- **Three case studies are evident:**
  - Reform of broadcast structure and redistribution of frequencies: Article 40 of the 1997 People Constitution
  - Creation of independent media: PSB Act 2008:
  - Creation of Broadcasting Fund and promotion of media literacy

Thai Media Policy Center, Chulalongkorn University
Goal of media reform

- Public service role of media, be they
  - mainstream commercial media
  - state media
  - peoples’ or citizens’ media.

- ‘to empower a plurality of citizens who are governed neither by undemocratic states nor by undemocratic market forces.’

(Keane, 1991, xii).
Media and the public interest

Public interest in the media

- Social integration and development
- Diversity
- Freedom from control
- Quality of content
Strategies to achieve media reform

Hackett (2000: 70-71) distinguished four major strands:

- Advocating for reform of government policy/regulation of media in order to change the very structure of media institutions;
- Influencing content and practices of mainstream media such as finding openings for oppositional voices or media monitoring;
- Building independent, democratic and participatory media -- alternative media and support services to give voice to the marginalized;
- Changing the relationship between media and audiences, chiefly by empowering audiences to be more critical of hegemonic media through media education to promote media literacy.
<table>
<thead>
<tr>
<th>Level of democratic development</th>
<th>Countries</th>
<th>Base of reform organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democracy</td>
<td>South Korea, Taiwan, India</td>
<td>National media/information reform movement</td>
</tr>
<tr>
<td>Semi-democracy</td>
<td>Indonesia, Thailand</td>
<td>Media reform group/organization</td>
</tr>
<tr>
<td>Emerging democracy</td>
<td>Nepal</td>
<td>Grassroots participatory media</td>
</tr>
</tbody>
</table>
Main argument

- Siriyuvasak (2009) posits that media reform is conditioned by the political democratization in each society.
- Based on the experience of Thai media reform in the past decade, research-based strategies executed by academics and intellectuals have significantly contributed to change in policy and legislation related to media.
- Three case studies are evident:
  - Reform of broadcast structure and redistribution of frequencies: Article 40 of the 1997 People Constitution
  - Creation of independent media: PSB Act 2008:
  - Creation of Broadcasting Fund and promotion of media literacy:
    - Broadcasting Act 2008
    - Frequency Allocation and Regulation of Broadcasting and Telecommunications Act 2010(?)
    - Safe and Constructive Media Fund Act ....
Social Movement towards media reform in Thailand

- Coup d'état 1991 > Black May 1992

- Political Reform + Media Reform

1997 ‘People’s’ Constitution
Black May
Black May
Structure of the Thai broadcast industry: pre-condition of reform
Structure of broadcasting industry

- Extensive history of state ownership and control
- Long-term privileged concessions to a handful of conglomerates to produce and manage content
- Dual system of state-cum-commercial service
- Entertainment side of industry much stronger and more established than broadcast news production which only became evident after 1992.
Ownership structure in broadcasting

- **Radio**

<table>
<thead>
<tr>
<th>Name of orgs</th>
<th>No. of radio stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRD</td>
<td>145</td>
</tr>
<tr>
<td>Army</td>
<td>128</td>
</tr>
<tr>
<td>Navy</td>
<td>21</td>
</tr>
<tr>
<td>Air Force</td>
<td>36</td>
</tr>
<tr>
<td>Police</td>
<td>44</td>
</tr>
<tr>
<td>MCOT</td>
<td>62</td>
</tr>
<tr>
<td>House of Parliament</td>
<td>16</td>
</tr>
<tr>
<td>Others</td>
<td>71</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>523</strong></td>
</tr>
</tbody>
</table>

Thai Media Policy Center, Chulalongkorn University
Ownership structure in broadcasting

**Television**

<table>
<thead>
<tr>
<th>Name of orgs</th>
<th>No. of TV stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRD</td>
<td>9</td>
</tr>
<tr>
<td>Army</td>
<td>2</td>
</tr>
<tr>
<td>MCOT</td>
<td>5</td>
</tr>
<tr>
<td>Ministry of PM’s Office</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17</strong></td>
</tr>
</tbody>
</table>
Regulation and control

- Restrictive media laws were passed and enforced throughout dictatorial periods and only recently lifted and replaced.
  - Censorship of both content and persona as well as press harassment were rampant under dictatorial regimes.
- Revolutionary decrees 42, 15, and 17 – major controllers of the press -- were lifted during the period of Chatichai Choonhavan (1989-1991), the first civilian government after decades of semi-democracy.
- Emergence of self-regulation of content by individual TV stations after abolishment of TV censorship board in 1992
- Self-regulation by professional associations in infancy stage
Thai Constitution

Frequency Allocation
NBC/NTC Act 2000

Telecommunications Act 2001
Broadcasting Act 2008

PSB Act 2008
NTC Guidelines on Community Radio 2009

1997 version 2007 version

Being replaced by 2010 version
1st case study: Reforming broadcast structure and redistribution of frequencies
1st case study: Section 40 of 1997 Constitution – mandate to reform frequencies

- Led by progressive academics and members of rights-based NGOs, under argument that political reform needs to go in parallel with media reform which should redistribute communication resources to the people more equitably.

- Focus has been on liberalization of radio frequencies and establishing a legal mandate to enable more publically equitable access to the airwaves, and on establishing regulators to oversee the reform process.

- Throughout struggles towards policy change, academics, activists, a research-based book on the political economy of the Thai broadcasting system has been widely referred to. Synthesis of impacts of state monopoly of the airwaves on people’s right to communicate has consistently been used as ground to argue for structural change.
1st wave of media reform: reform of broadcast structure

- Article 40 of the 1997 Constitution – the People’s Charter

  - “The radio frequencies for radio and television transmission, and in radio communications are national resources to be used for public interests

  - Independent state regulatory agencies must be set up to supervise the assignment and licensing of frequencies for radio and television broadcasting and for telecommunications stipulated in clause one of this article
1st wave of media reform: reform of broadcast structure


- 20% of radio frequencies be allocated to the people’s sector – community radio and TV
- New regulators to oversee reform processes: National Broadcast Council for broadcasting and National Telecommunications Council for telecommunications

Thai Media Policy Center, Chulalongkorn University
Proposed vision of the National Broadcasting Commission (NBC)

- Deregulation > Open structure
- Reregulation > Ownership reform

Democratization of Broadcast Media Structure

Thai Media Policy Center, Chulalongkorn University
The drama and the heartbreak

- While constitutional provision and section in law exist that mandate redistribution of frequencies and allocation for civil society, enforcement could not emerge.
- This was due to the failed selection of the broadcast regulator – the National Broadcasting Commission (NBC) in 2001 and 2004 due to conflicts of interest between selection committee and final candidates.

- The post-coup government (September 2006 – February 2008) stalled the third round of selection while the junta-appointed legislature wrote a new constitution which in effect merged broadcast and telecommunications regulator into one single entity. *Convergence* was the *main* rationale
The drama and the heartbreak

- Due to regulatory vacuum in the broadcast industry, media reform and liberalization were halted.
- Same ownership patterns and privileged concession continued in network broadcasting.
- Community radios, novel broadcasters since 1997, in constant dispute with state operator/regulator (the PRD) and periodic harassment of the former by the latter.
2nd case study: creation of independent and diverse media
-- Thai Public Broadcasting Service Law
-- Community radio
Public TV law
- Brainchild of a media reform researcher who took an opportune move to turn the failed iTV concession into a PSB station
- Model for the new PSB was developed in prior research commissioned by the Thai Health Promotion Foundation

the National Legislative Assembly (NLA) passed the Public TV bill with overwhelming votes on October 31, 2007, creating the first PSB in Thai history.

the law was criticized for being hastily passed so that initial setting up of the station would remain under interim government installed by the junta.
About iTV

- In the aftermath of the 1992 political crisis, in which all broadcast media were censored, there was a public outcry for more independent broadcasters. A PSB model was proposed and studied but, eventually, a “regulated private programming in the public interest” model was adopted, giving rise to the creation of Independent Television (iTV) in 1996. But the financial meltdown in 1997 sent iTV on the verge of bankruptcy before it was bought by the well-funded Shin Corporation which drastically changed the orientation of iTV to entertainment. After much legal battle, iTV was found by the Supreme Administrative Court to be breaching concession contract and was finally nationalized. iTV ended and had its frequency turned to Thai Public Broadcasting Service (Thai PBS) after the law was passed in early 2008.
2nd case study: creation of independent media -- Thai Public Broadcasting Service Law

- The structure of the new PSB channel was modeled after its main originator and alliance – the Thai Health Promotion Foundation. No advertising revenues -- funding allocated from earmarked (“sin”) taxes from tobacco, liquor.

- This identical structure was not coincidence but results of series of research by the same group of researchers/policy lobbyists who view media as an expression of societal good health.

- In the new structure, the new channel is led by 9 selected members of the Policy Board to draw up programming policy, editorial guidelines, and code of conduct as well as to pick station director and administrative committee.

- Also, an audience council is created to supervise and control program quality, replacing the "market law“ of audience ratings
Audience council of Thai PBS
Citizen Journalists on Thai PBS
Legal status of community radio

- With input from researchers and academics i.e. translation of UNESCO community radio handbook, commissioners in drafting and reading of the Broadcasting Act 2008 established community radio as a distinct type of broadcasting service.
Broadcasting Act 2008

Three major types of broadcast services to be licensed:

- public service broadcasting services,
  - a) whose main objectives are to promote education, religion, arts and culture, science and technology, agriculture, health, sports, and quality of life
  - 2) type b) whose main objectives are to promote national security and public safety
  - 3) type c) whose main objectives are to promote good understanding between the state and people, to educate the people about democracy, and to provide useful information to the handicapped, the underprivileged, and other information that serve the public interest.

- commercial broadcasting services – national, regional, local

- community broadcasting services
  - Not profit-oriented, no advertising,
  - Strengthening and with participation from community
The drama and the heartbreak

- Interim regulator for community radio – the National Telecommunications Commission (NTC) and the advisory sub-committee on broadcasting are now carrying out licensing of community radio.

- A total of 887 applications have been submitted since January 2010. Most applicants are local commercial radio operators.
  - 195 juristic persons
  - 692 groups of people

- Working group and sub-committee on broadcasting could not reach consensus as to whether commercial background of applicants should be checked ex-ante or ex-post. Final decision will be made by NTC.
Regional breakdown of stations registering as CR in 2009

- In 2009, a total of 6,621 smaller radio stations registered with the National Telecommunications Commission, the interim regulator, to “express their intent to operate.” They were all given a 300 day permission to operate. This permission ended in August 2010 and was renewed for another 300 days, in awaiting a new frequency allocation and communications regulation law that would pave the way for a new convergent regulator.

<table>
<thead>
<tr>
<th>Region</th>
<th># of stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>821</td>
</tr>
<tr>
<td>Norteast</td>
<td>2,233</td>
</tr>
<tr>
<td>Central</td>
<td>1,107</td>
</tr>
<tr>
<td>Bangkok metropolitan</td>
<td>721</td>
</tr>
<tr>
<td>East</td>
<td>636</td>
</tr>
<tr>
<td>West</td>
<td>326</td>
</tr>
<tr>
<td>South</td>
<td>777</td>
</tr>
</tbody>
</table>
A closer look at Community Radio in Thailand in 2010: true colors

Source:
3rd case study: creation of broadcasting fund and promotion of media literacy

- In the Broadcasting Act 2008, a Broadcasting Fund was established:
  - The Broadcasting Fund
    Article 22 of the Act provides that the regulator set aside not more than two per cent of the revenues from license fees to a special fund. The fund may be used as subsidy to support certain services or programming that benefit the public interest or are qualified for promotion – protection and promotion of the rights of the handicapped and the underprivileged (article 52)
  - The Fund was informed by a series of research on media reform carried out since 2004 and spin-off endeavors that are taken up by the media reform section of the Thai Health Promotion Foundation. Among these are the Media Monitor Project, a research unit that examines different social topics related to media presentation, with the aim to promote media literacy.
Media monitor Thailand
Some studies by Media Monitor

- Advertorial Program on free TV in Thailand
- Broadcast news about elections
- Football gambling in mass media and website
- Use of online social media (i.e. facebook, and twitter) during the political crisis (red-shirt unrest)
Currently, efforts by the same group of researchers, organizations, and policy lobbyists have been gearing towards passing a “safe and constructive media fund” law to promote media literacy, subsidize small and independent media, and promote professional standards in media.

The new Frequency Allocation and Regulation of Broadcasting and Telecommunications Law (just passed parliamentary approval in early November) has a section on the Research and Development Fund for Broadcasting and Telecommunications. One of the objectives of this fund is to

- “support the safe and constructive media fund” by allocating financial support for it.”
The drama and the heartbreak

- The highly conservative Ministry of Culture reportedly hijacked the safe and constructive media fund which would likely turn the fund into a politicized tool to support pro-status quo and non-critical media.
Activity for young scholar -- Identify
1) The most immediate media reform issue in your society
2) what topic of research can inform a change in policy and legislation that would pave the way towards the reform?