

The Struggle for Civil Society in Cambodia

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Abstract. After the killing of 2 million Cambodians by the Khmer Rouge, both the state and civil society had to be rebuilt from “ground zero.” One vital component of civil society is a free press. This paper examines how the free press has fared in Cambodia in the time of the reconstruction of the nation.

Keywords: Free press, Civil- Society, Democratization.

1. Introduction

The genocide carried out in Cambodia by the Khmer Rouge from 1975-1979, killing over 2 million of the 7 million population, left the nation both at “year zero” and “ground zero” as far as civic institutions were concerned. Journalists were specifically targeted and any remnants of a viable press were destroyed. One journalist estimated that only 10 journalists who were working in 1975 were still plying their trade in 1995. However, guided by the United Nations Transition Authority (UNTAC), Cambodia adopted the International Covenant on Civil and Political Rights in 1992 and Article 41 stated that all citizens had “freedom of expression, press and publication and assembly.” (Neumann: 2002)

2. Struggle for Civil Society in Cambodia

Two Western independent papers—The Cambodia Daily and The Phnom Penh Post, were started to serve as models for a nascent free press. At the time, local newspapers flourished but without any foundation of professional practice, the reporting was both shaky and amateurish. Cambodian journalists were going to have to relearn the trade from the ground up. This endeavour was destined to take at least a generation and is still a work in progress. In 1995, Cambodia passed its own comprehensive press law. This law still serves as the basis by which the government imposes both influence and control on the press. LICADHO, a Cambodian human rights NGO, concluded that the safeguards appearing in the law, which protected both journalists and newspapers were violated repeatedly over the years. (Gee:2008)

In 1997, Prime Minister Hun Sen prevailed in an internal power struggle and gained effective control of the levers of governmental power. Subsequently, 3 types of newspapers emerged in Cambodia; those that supported both the government and the ruling Cambodian People's Party, those that supported the opposition parties and those who attempted to be independent and neutral. Since the economy of Cambodia was weak, most Khmer newspapers were dependent on economic subsidies, which came primarily from political parties, rendering them prisoners to political patronage. (Neumann:2002)

From the late 1990s on, Hun Sen often attacked the newspapers for what, under the law, could be loosely construed as violations against the government. He complained that the press lacked professionalism and fairness and often clamped down on them. Other times, he refrained from acting, due to the presence of the UN and hundreds of NGOs, whom he created a counterbalance to his heavy handed ways. Also, since most of the papers in Cambodia were so one sided and corrupt, the only way that the public, NGOs, foreign embassies and ironically, even the government, might know what was really transpiring in the country, was to rely on the independent newspapers.

From 2002-2004 there were over 40 cases either of lawsuits, suspensions or arrests against the press. LICADHO polled 150 journalists and 65% admitted being afraid of violence against them, 62% feared legal action and 54% had actually been threatened by the government. The media got the message and largely

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curbed their criticism. In return, the government curtailed the law suits, trials and imprisonment, but simply responded with by admonishment from the Minister of Information. An apology by the press warranted a continuation of business, although harsh fines were often imposed. (Gee:2008)

In 2004, the watch dog organization Article XIX wrote a report analyzing the strengths and weaknesses of the legal structure pertaining to Cambodian press. It acknowledged that, on paper “freedom of the press” was seemingly protected. However Article 41 provided that” No-one shall exercise this right to infringe upon the rights of others, to affect the good traditions of society to violate *public law and order and national security.*”(Emphasis added) There port concluded that the press laws did not live up to the standards of international law and the wording of many articles was vague, ambiguous and could be interpreted by the government in any way it saw fit. They recommended that many of the provisions in the law be repealed outright or amended to be more in accordance with the standards on international law. Their recommendations were ignored(Article XIX: 2004).

Two years later, the government feeling pressure from the international community, decriminalized defamation and Hun Sen promised “no more journalists would be put in jail.” But dissemination of disinformation could still be prosecuted as a crime resulting in fines, suspension of newspaper business and jail terms. US Ambassador Joseph Mussomeli commended the media for “helping Cambodia to achieve the promise of democracy, (but) the press is often a target of retaliation by those who feel threatened by freedom of expression and transparency in democratic processes...The country needs to end the practice of criminal disinformation lawsuits by high government officials... such lawsuits restrict free speech, inhibit the watchdog role of the media and contribute to a cover-up of misdeeds and corruption. .. Some Cambodian journalists still practice self-censorship.” (Cruvellier:2009)

On July 11, 2008 Cambodia’s policy of government repression of the press reached nadir. Khim Sambor, a journalist, and his son were gunned in broad daylight. He had been writing articles critical of government, of internal political struggles within the Cambodia People’s Party (CCP) and about allegations of kickbacks from Chinese investments in the country. This was the 12th journalists killed since 1992 –none of which resulted in arrest, convictions and/or punishment. (Ear:2008)

Ironically, Cambodia had just passed through a brief period wherein the world recognized some progress in the freedom of the press in the nation. Cambodia rose from 107 (out of 169 nations) in 2006 to 89th in the world with respect to being a free press, allowing the government to boast unapologetically, “that they were the freest press of the ASEAN nations.”(Nariddh:2008)

The increased persecution and prosecution of journalists and newspapers that year lead the Cambodian Association for the Protection of Journalists to conclude that “Cambodia appears to have in place all the laws ensuring media freedom, but the reality is a different matter altogether... Journalists operate in a climate of fear made real by the past occurrences of colleagues being attacked and killed...the sense of danger under the authoritarian leadership of Hun Sen...Government propaganda dominates the national broadcaster, allowing no room for the view of opposition parties”. This cry of pain was reflected when the next year Reporters without Borders lowered Cambodia press freedom ranking from 89 to 126. An ominous repressive shroud had descended over the Cambodian press. The situation was colourfully explained by one journalist that “Cambodians know all too well the Chinese adage ‘kill the chicken to scare the monkey’.”(Ear:2008)

The Cambodian Daily, a western owned paper which previously seemed beyond the government’s machinations editorialized, “as media professionals, we are very disappointed at the continued use of the court by Cambodian officials to sue journalists for defamation and disinformation”. (Mirror: 2010). The Editor and one journalist were fined for defamation. The owner, Bernie Krishner, saw this action as a grave threat to freedom of the press in Cambodia and decided to fight it. He vowed to appeal the conviction, “because Cambodia is unique in shooting the messenger, an action which counters the principle of a free press practiced in civil societies...we plan to take it all the way up to the International Court of Justice.”(Center for Independent Journalism:10/23:2009)

The response to the Cambodian government’s constant attack on the press appeared on several levels. On the national level, OuVirak, director of the Cambodian Center for Human Rights, announced that his

organization was joining forces with Legal Aid of Cambodia, Cambodian Justice Initiative, and Cambodian Center for Independent Media to establish a (media) defense network of lawyers in order to help journalists in court. In 2008, LICADHO released a briefing paper discussing the state of the free press in Cambodia, making several recommendations, among them were; the abolishment of Article 12 of the Press law or amending it to remove the term “political stability”, strictly defining what constituted “national security”, utilizing only the press law and not criminal procedure in addressing alleged violations on the part of the press, limiting the Minister of Information’s power to suspend or confiscate newspapers and ensuring that the press law fully complies with international standards. These recommendations whereas before, ignored by the government. (Cambodian Information Center:2010)

On the regional level, the Southeast Press Alliance (SEPA) wrote an open letter signed by many ASEAN “free expression” advocacy group leaders. They stated that they “were gravely concerned by a palpably deteriorating freedom of expression and civil rights in Cambodia. ...We perceive a systematic attack on the press, parliament and the legal community, all of which—taken especially with the exploitation of a weak and politicized judiciary—have severely compromised the environment of free expression in Cambodia.” They admonished the Prime Minister to live up the spirit and values now expressed in the new ASEAN Charter...the recent actions of the Cambodian leadership threaten the rights of its citizen and undermine the stated values principles and directions of the larger ASEAN community and international Law. (Center for Independent Journalism;2009)

On the international level, the government of Hun Sen was seems to be playing an ongoing game of political cat and mouse. In October, Surya Subedi, Special Rapporteur to the United Nations, voiced concern about the human rights situation in Cambodia. He said some “rights such as freedom of expression and peaceable assembly have been undermined” (UN News:2009)

In 2009, an analysis by Reporters Without Borders on the state of the free press and the Hun Sen government and made specific recommendation to the Cambodian government, in order to help ameliorate the “current state of crisis.”. It concluded that Cambodia was a nation “...in a region fraught with problems for press freedom... and there is still time for Hun Sen’s government to make lasting improvements to respect for(sic) press freedom...Bolstered by the latest elections and China’s support, Hun Sen and his allies are trying to intimidate and deter journalists, opposition politicians and humans rights activists from raising sensitive issues....”(Soket:2009)

Throughout his time in power, Hun Sen has been successful in blunting the emergence of freedom of the press and attendant institutions such as an independent judiciary, open democracy and a strong civil society in Cambodia. He has given in to internal and external pressure when necessary, both as little fear of freedom of the press for several reasons. Cambodia is in large part.. An illiterate society with people having little access to media. The daily circulation rate of the largest paper in Phnom Penh is about 20,000- 30,000, out of a population of two million. Most of the news papers are either totally supportive of the government or the weak political opposition. The independent foreign newspapers largely have only a foreign audience. Both TV and radios stations are licensed by the state and are either controlled by the state or closely monitored by it. Recently there was even suggestion that the internet be regulated. Some websites have indeed been shut down, but only 1% or about 40,000 people of the population even have private access to it.

Hun Sen and the CPP control the main levers of government, the courts, the military and the legislature. The economy was doing well and has been growing at good clip for the last several years, thus tampering down some criticism from the mass populace. When it slowed down recently, Hun Sen was able to lay blame it on the West. While economic corruption is seen as rampant, job sare being created and mouths are being fed. Most of the money flowing into Cambodia is from China and South Korea, nations who are quite comfortable with the level of control the government maintains.

The numerous NGOs with their projects are slowly winding down. Hun Sen has played up to them in the past often to keep the foreign aid flowing. But now, especially with discovery of oil off the coast, he no longer feels he has to rely on them either for economic aid or political legitimacy. He even seemed to parody his critics in stating “from now on we are strengthening democracy and the rule of law. This is not an

anarchic democracy. Democracy must have rule of law”. Hun Sen so plays the rising nationalist populist card well. Hun Sen is indeed a shrewd, effective, popular authoritarian leader.

This last quote is revealing, not only of Hun Sen’s attitude, but perhaps of the prevalent nature of many ASEAN leaders’ disinclination towards liberal democracy in general. One critic concludes that “with respect to embracing the principles and practices of a free press, Cambodian journalists, being ‘among the freest in Asia’ have more in common with their counterparts in Thailand, the Philippines and Indonesia than those from the west. Her media realities, history and culture are so far from Cambodia that the training provided by western trainers, while informative, is sometimes irrelevant.” One human rights activist decries “we have been fearing all along that Cambodia’s government is looking toward China and Vietnam as models” with their strong central governments and intolerance of dissent. (New York Times:2009) In this increasingly globalized world-so goes the world- so goes the nation. Last year Freedom House declared that press freedom, around the world “deteriorated for the first time in every region”. Perhaps the situation in Cambodia is part of bigger disturbing trend. (ABS/CBN News:2009)

3. Conclusion

Is Cambodia going forward or backwards with respect to the status state of freedom of the press? There are many ways to interpret and analyze what has transpired in Cambodia over the last several decades. Is it living up to the democratic promise of the United Nation’s intervention? Is the government developing a “culture of impunity?” Is the struggle for civic space resulting in a “liberalism of restraint” (on the government) or of a “liberalism of imposition” (by the government)? This conference testifies to the fact that there exists an open avenue for freedom of expression in Cambodia at least *about* the press if not necessarily always *by* the press.

Thomas Jefferson wrote that “were it left to me to decide whether we should have a government without newspapers or news papers without a government, I should not hesitate a moment to prefer the latter.” Jefferson was a student of John Locke, one of the architects of modern liberal thought, which is the source of most of ideas about freedom and rights over which there remains an ongoing debate and struggle, not only between ‘the west and the east’, but also within both spheres of existence. Another founder of modern liberal thought, Thomas Hobbes, perhaps better exemplified the ideas, values, philosophy, and most importantly, the ongoing tensions and contradictions of the emerging political experience in Cambodia and Southeast Asia, i.e. the emergence of “liberal values with an Asian face”. Fareed Zakaria somewhat generously, labels these phenomena, the rise of “illiberal democracy”. Others, not so generously, call it “soft authoritarianism.” There is merit to both these views.

Recently Hun Sen, responding to criticism that the proposed Draft Law regulating/controlling NGOs, represented yet another act by the government to curtail the development of civil society in Cambodia, proclaimed “ I guarantee that is not an action to restrict the freedom of NGOs, please believe me.”(Mirror: 21/11:2009).Hobbes wrote “Covenants without swords are mere words.” Eliciting the views of Jefferson and Hobbes, I would conclude that, in the absence of a vibrant free press, along with a weak rule of law, a contested parliament, and the lack of an independent judiciary and a robust, competitive civil society, i.e. the necessary institutional “swords” of a viable democracy, Hun Sen’s promises remain “mere words”.

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