REPORTING CORRUPTION: HOW JOURNALISTS MANAGE CHALLENGES

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ABSTRACT

This thesis examines the ways journalists manage challenges when they try to uncover corruption threatening the country economically, politically and socially. The research questions were: 1) What are the challenges of investigating corruption in the Thai media? 2) How do journalists deal with the challenges? The objectives of the research were to analyse the challenges and difficulties of reporting corruption, including access to the truth, access to information, business and legal constraints, to evaluate how journalists manage the challenges, and to determine how the context of changing media impacts on corruption reporting. A sample of 14 journalists with diverse experiences were interviewed for the research, which for comprehensiveness also reached out to two media executives, a scholar, a lawyer and a corruption expert. The journalists were asked to respond to 10 hypothetical questions, many of which were based on real cases. Many were interviewed a second time to triangulate information that emerged during the first round. From the interviews, the researcher found that most journalists have become verifiers rather than seekers of information given the extensive availability of information in present-day media conditions. The researcher also found that access to the truth was more problematic than access to information, that journalists preferred to use personal connections due to the cumbersome procedures of obtaining information about the State through the Official Information Act. However, given that access to information about State spending is vital to counter-corruption work and corruption reporting, many journalists agreed on the need to amend the OIA. The research also found that the military and Buddhist clergy posed the strongest obstacles to verification efforts and that the patron-client system ingrained in Thai society was both a cause of corruption and an obstruction to the work of journalists needing to cultivate sources, while keeping a distance from the issue at hand. The plurality of corruption forms, lack of understanding about the forms, and narrowness of corruption perceptions posed other challenges. A long history of military regimes imposing restrictions has obstructed reporting in general with the coup d'état on May 22, 2014 curbing media freedoms.

KEY WORDS : REPORTING/JOURNALISTS/ CHALLENGES/ CORRUPTION/ INFORMATION

91 pages

การรายงานข่าวคอร์รัปชั่น : ผู้สื่อข่าวจัดการกับอุปสรรคอย่างไร

REPORTING CORRUPTION: HOW JOURNALISTS MANAGE CHALLENGES

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ศศ.ม. (สิทธิมนุษยชน)

คณะกรรมการที่ปรึกษาวิทยานิพนธ์ : ไม๊เคิล จอร์ช เฮเยส, Ph.D., แมทธิว โคพลันด์, Ph.D., เชลี แบร์รี่, Ph.D.

บทคัดย่อ

วิทยานิพนธ์ฉบับนี้ศึกษาวิธีการที่ผู้สื่อข่าวจัดการกับอุปสรรคในการทำข่าวคอร์รัปชันซึ่งบั่นทอนประเทศชาติทั้งด้านเศรษฐกิจ การเมืองและสังคม คำถามวิจัยคือ ๑) อะไรคืออุปสรรคสำหรับสื่อไทยในการสืบสวนกรณีคอร์รัปชัน? ๒) สื่อไทยจัดการกับอุปสรรคเหล่านี้อย่างไร? การวิจัยมุ่งหมายที่จะวิเคราะห์อุปสรรคและความยากลำบากในการรายงานข่าวการทุจริต ซึ่งรวมถึงการเข้าถึงข้อเท็จจริง การเข้าถึงข้อมูลข่าวสาร ข้อจำกัดทางด้านธุรกิจและกฎหมาย ประเมินการจัดการกับอุปสรรค และบ่งชี้ว่าสถานการสื่อที่กำลังเปลี่ยนแปลงมีผลต่อการรายงานข่าวการทุจริตคอร์รัปชั่นอย่างไร ผู้วิจัยได้สัมภาษณ์กลุ่มตัวอย่างผู้สื่อข่าว ๑๔ คน ที่มีประสบการณ์แตกต่างหลากหลาย และเพื่อความความสมบูรณ์ครบถ้วน ยังครอบคลุมถึงผู้บริหารสื่อ นักวิชาการ นักกฎหมายและผู้เชี่ยวชาญในเรื่องคอร์รัปชั่น โดยให้ผู้สื่อข่าวตอบคำถามสมมติ ๑๐ ข้อ ซึ่งหลายข้อมาจากกรณีที่เป็นเรื่องจริง หลังจากนั้น มีการสัมภาษณ์ผู้สื่อข่าวอีกครั้ง เพื่อยืนยันข้อมูลที่ได้รับในรอบแรก จากการสัมภาษณ์ผู้วิจัยพบว่า ในสถานการณ์สื่อปัจจุบันที่ข้อมูลจำนวนมากหาได้ง่าย ทำให้ผู้สื่อข่าวส่วนใหญ่กลายเป็นผู้ตรวจสอบข้อมูลมากกว่าผู้เสาะหาข้อมูล ขณะเดียวกันผู้วิจัยพบว่าการเข้าถึงข้อเท็จจริงเป็นเรื่องยากกว่าการเข้าถึงข้อมูลข่าวสารและผู้สื่อข่าวชอบใช้ช่องทางการหาข้อมูลผ่านความสัมพันธ์ส่วนตัว มากกว่าช่องทางผ่านพระราชบัญญัติข้อมูลข่าวสารราชการซึ่งมีขั้นตอนที่ยุ่งยากซับซ้อน อย่างไรก็ตามเนื่องจากการเข้าถึงข้อมูลเกี่ยวกับการใช้จ่ายของรัฐมีความจำเป็นต่อการปราบปรามคอร์รัปชันและการรายงานข่าวคอร์รัปชัน ผู้สื่อข่าวหลายคนเห็นด้วยว่าควรมีการปรับปรุงพ.ร.บ.ข้อมูลข่าวสารราชการ การวิจัยยังพบว่าสถาบันทหารและสถาบันสงฆ์มีอุปสรรคมากที่สุดสำหรับผู้สื่อข่าวในการตรวจสอบความไม่ชอบมาพากล นอกจากนี้ ระบบอุปถัมภ์ซึ่งฝังรากลึกในสังคมไทยเป็นทั้งเหตุแห่งคอร์รัปชั่น และอุปสรรคต่อการทำงานของนักข่าวซึ่งจำเป็นต้องสร้างแหล่งข่าวแต่ในเวลาเดียวกันก็ต้องรักษาระยะห่างจากเรื่องที่เป็นข่าว อุปสรรคอื่นๆ ได้แก่ รูปแบบที่หลากหลายของคอร์รัปชัน การขาดความเข้าใจที่เพียงพอในรูปแบบเหล่านี้ และมุมมองที่คับแคบเกี่ยวกับคอร์รัปชัน ประวัติศาสตร์อันยาวนานที่มีการปกครองโดยรัฐบาลทหารซึ่งจำกัดขอบเขตของเสรีภาพ เป็นอุปสรรคต่อการรายงานข่าวโดยทั่วไป ดังเช่นการรัฐประหารเมื่อวันที่ ๒๒ พฤษภาคม ๒๕๕๗ ซึ่งจำกัดเสรีภาพของสื่อมวลชน

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CHAPTER I
INTRODUCTION

This research examines challenges in the path of journalists when they pursue allegations of corruption that adversely affect Thailand's development in three areas: economically, politically and socially. Taking as the yardstick the World Bank's definition of corruption as "abuse of public office for private gain", the research discusses the difficulties for journalists when they investigate perceived abuses in the three areas, and how they have managed them. In the process, the research examines the nature of the challenges, which include limits to access to information, legal, political and economic constraints, and the ways in which journalists have managed these by applying practices that have proven effective.

Media is recognized to be essential to curbing corruption. The literature is ample on limits to media freedom, traditional forms of government interference, new shades of media capture, and media's potential to influence politics, economics and society. Also prolific are studies on corruption that have elaborated on matters of scope, methods, purposes, and costs to society and the political economy. Notable however, is the scarcity of inquiry into the challenges journalists face when covering corruption in present-day media.

This research makes this inquiry in order to add knowledge about the difficulties of keeping in check a problem undermining the country's well-being. The research found that access to the truth was a main obstruction to corruption reporting, with access to information less problematic. As part of the inquiry, the research looks into the right to information, which increasingly is recognized as an intrinsic right although international law and enforcement of domestic laws remain weak on the matter. The right is seen as implied in Article 19 of International Covenant on Civil and Political Rights, which provides for freedom to "seek, receive and impart information", albeit with substantive restrictions . These include provisions by law for "respect of the rights and duties of others" and for the "protection of national security or of public order (ordre public), or of public health or morals". Maeve McDonagh,

however, notes that General Comment 34, made in 1995, calls for parties to the ICCPR to make possible by law the wherewithal necessary to access information as protected under Article 19 of the covenant.

> General Comment No 34 fleshes out the requirements necessary to give effect to the right of access to information protected under Article 19 of the ICCPR. Parties to the Covenant should both proactively publish government information of public interest and "enact the necessary procedures, whereby one may gain access to information, such as by means of freedom of information legislation. (McDonagh, 2013)

In keeping with Article 19 of the ICCPR, which Thailand ratified in 1996, and General Comment 34, Thailand promulgated an Official Information Act in 1997, which the research discusses in terms of its shortcomings with regard to ensuring access to information, its provisions for discretionary powers to state agencies and application by them, contrary to new thinking on the right to know.

1.1 Research questions/Research objectives

The research raises two questions:

1) What are the challenges of investigating corruption in Thai newspaper media?

2) How do journalists deal with the challenges?

The objectives of the research are to:

- analyse the challenges and difficulties of reporting corruption, including access to information, business and legal constraints;
- evaluate how journalists manage the challenges;
- determine how the context of changing media impacts on corruption reporting.

1.2 Background

The research discusses instances of corruption from 1992 to 2013 and the legal context of corruption reporting from the time of amendments to defamation laws in 1992. The irregularities discussed span governments led by Gen. Chatichai Choonhavan, Anand Punyarachun, Pol. Lt.-Col. Thaksin Shinawatra, Abhisit Vejjajiva and Yingluck Shinawatra.

Scholars Pasuk Pongpaichit and Sungsidh Piriyarangsan, who studied corruption from the 1970's to 1990's, argue in their book (1996, p.21) that the sudden upsurge of corruption as a major political issue during the late 1980s and early 1990s demand study of the political and economic background of corruption "rather than drawing universal conclusions based on cultural analyses." The authors find that both bureaucrats and politicians engaged in large-scale subtraction from the expenditure side of the budget in order to buy positions that would enable them to further extract from this source. They note that a lucrative provincial police post could cost up to a million baht (1996, p. 125). Both bureaucrats and politicians raised at least some of the funds for buying positions and building their power base by engaging in the illegal economy, including drug trafficking, trading in contraband arms, smuggling of diesel oil, trafficking of labour, prostitution, and illegal gambling (Pasuk, Sungsidh, and Nuolnoi, 1998). In their earlier work Pasuk and Sungsidh found a common pattern of corruption among bureaucrats from the 1950s to 1990s: subtractions from expenditure flows through collusion with contractors (1996, p.53), notably by overpricing in the purchase of materials, improper advance payment for construction work, use of substandard materials, and faking receipts (p.33-35). They cited cracks in the building of an office of the government mint and a school in Bangkok, due to use of substandard materials, as costly to the public purse. Irregularities also have social costs, those involving the issuance of building permits proving fatal in the earthquake in Turkey in 1999 when 11,000 people died as a result of the collapse of buildings (Kenny, 2007). In 2008, 70,000 people died in Sichuan, China when schools and other buildings collapsed due to "shoddy workmanship" and the use of substandard materials attributed to collusion between local officials and construction firms (Divjak, 2008).

For political leaders, Pasuk and Sungsidh found a difference in methods used by those who came into power by force, such as field marshals Sarit Thanarat, Thanom Kittikachorn and Praphat Charusathien, and through the ballot box such as Gen. Chatichai. (p.52). While Sarit amassed wealth by income diversion, cuts on expenditure, fees for services and assets seizure, Chatichai and his ministers were only charged with cuts on expenditure and fees for services, the other two methods having become more difficult "because of the countervailing forces in a more democratic system." About 10 years after Gen Chatichai was overthrown by a coup in 1991, politicians were said to be engaging in "policy corruption" or legal "robbery on a grand scale" by issuing laws or regulations to legalise such activities (Prawase, cited by Somkiat, 2004, p. 62). Somkiat cited the excise tax on telecommunications imposed in 2003 which "obstructed competition" because it compelled new operators to pay the tax while existing operators shouldered no extra burden since the tax was deducted from their concession fees to the state. The day the Cabinet made a ruling in support of this, shares in the telecommunications sector shot up "because investors could see who would benefit," (Somkiat, 2004, p. 63). Nine years after this instance of making corruption seem legal, Thailand was thrown into political turmoil that initially began with public rejection of an amnesty law and subsequently grew to include public refusal to accept large-scale manipulation of the public purse.

The researcher initially intended to focus mainly on the print media because of her own background as a newspaper journalist and because newspapers leave documentation that is relatively easily accessible for later pursuit by academics, anti-corruption agencies or by civil society. However, because the financial crises in 1997 and 2008 compelled media owners to diversify, and the arrival of the internet changed consumer behaviour, the research also examines the consequences on journalists of major newspapers going online, and of media groups embracing digital television. The research weighs the strengths of reporters going online, that is the offer of unlimited space, and speed of delivery, against the weaknesses, namely omission of editing which means risks of inaccuracies, and the temptation to drop checking of data readily available on the internet in order to beat the competition (Tangkitvanich and Wongkitrungruang, 2010). At the same time, the research examines the impact on other media of digital television's leaning towards more investigative reporting.

The research analyses journalists who are trained as observers to act as watchdogs for society and safeguard the public good. Touching on Duncan McCargo's concept of Thai journalists as "tricksters" with a plurality of loyalties, the research questions the adoption of an idea originally developed in the context of the Japanese media. The researcher believes the majority of journalists, certainly those working for the English-language media and the serious Thai newspapers read by educated Thai and government officials, see themselves as watchdogs for society and minders of the taxpayer's interests. Though some newspapers have been seen to defer to governments during the Cold War and still do so today, hence suggesting they have no solid stand as do some newspapers in the West, the stance arguably could be seen as pragmatism rather than trickery at work. Moreover time has shown that newspapers have been critical of the government when there has been reason for it regardless of the dictates of the political economy. Such was the case, discussed in Chapter 4, of the *Matichon Group* which agreed to promote the Yingluck government's controversial infrastructure development projects but still used all its daily newspapers to condemn the amnesty law which would have absolved the prime minister's brother and enabled him to return to Thailand a free man (Thakoon Boonparn, interviewed March 2014) although he faces charges of abuse of position.,

The corruption cases discussed in the research include five high profile cases that captured headlines: tenders for the laying of three million telephone lines approved by the Chatichai government that were called again after irregularities were suspected by the Anand Punyarachun government in 1992; the concealment of assets by Pol. Lt.-Col. Thaksin in the names of his domestic staff and relatives that captured headlines in 2000; the Thai Strength stimulus package of the Abhisit government that (left scores of police stations unbuilt) and provided inappropriate equipment for vocational colleges; the 2.2 trillion baht infrastructure development projects and the rice pledging scheme approved by the Yingluck government in 2013. The research also discusses irregularities in the purchase by the army in 2009 of an airship that turned out to be inoperable only three years after that of bomb detecting equipment that were found to be bogus, in the placing of students at the *Sathit Kasetsart* Demonstration School in 1998 and in the commercial ventures of the Buddhist clergy.

Self-censorship is discussed in Chapter 3 with regard to a television station which only briefly reported the conviction of a former executive on charges related to the steep overpricing of fire trucks bought by city authorities when he was the deputy minister responsible.

1.3 Analysis

The thesis saw six challenges obstructing journalists' attempt to establish the truth about corruption. Technical were challenges of access to the truth and access to information, the latter being less problematic given extensive availability of information in present-day media, the former being more so because it is more difficult to verify the truth of what people say is happening. The latter requires the establishment of a source's trustworthiness which comes from the journalist's experience and knowledge of the subject at hand. Four other challenges are political: access to institutions that have ever been quasi untouchable like the military and the Buddhist clergy; plurality of corruption forms that require journalists to understand the breadth and depth of the phenomenon; the patron-client system which complicates journalists' relationships with sources; a long history of military regimes imposing restrictions that has muzzled news reporting and freedom of expression. The latter was drawn largely from the literature review although a coup d'état on May 22, 2014, coinciding with the last stage of field work, curbed press freedoms.

1.4 Research methods

The researcher conducted expert interviews in two stages. For the first stage, the researcher sent in advance by electronic mail a list of 10 hypothetical questions listed in the Appendix. Most of the questions are based on true events but some incorporated degrees of invention. The questions were catalysts for discussing the challenges of investigative reporting and journalism practices in general. A sample of 14 journalists was asked to answer as many as they could. Only four answered most of the questions by electronic mail. Three of these journalists subsequently were interviewed in person, all more or less elaborating on their written answers, as well as

discussing other issues related to investigative and general news reporting. Nine journalists were interviewed in person and a tenth by telephone. In all, four journalists answered nine questions, three answered eight, two-seven, two-six, two-five and one answered only two questions. The reasons for the differences in the numbers of responses were partly due to a time frame of 40 minutes set for the interviews and the differences in aptitudes of the journalists. The journalist who answered only two questions had a background in business reporting and preferred to talk about general issues concerning investigative reporting. The second round of interviews, conducted between March and July, aimed to triangulate information that emerged during the first round, conducted between December 2013 and February 2014. Most of the interviews took place within the time frame of 40 minutes, in respect for the time constraints of the interviewees as well as in keeping with the researcher's wish to obtain concise answers. About four interviews however overstepped the time limit, albeit for good reason as new perspectives and issues came up.

The sample was made up of journalists with experience ranging from 10 to 28 years in different fields of reporting, running the gamut from diplomacy to security affairs, business, political and social development. Three were experienced in investigative reporting, one specializing in corrupt practices by the public sector. Seven were males and seven females.

1.5 Methodology

The plan was to gather data about investigating corruption from a diverse range of reporters with enough experience to discuss how situations that have captured headlines during their working lives had been managed. Hence the sample featured journalists with specialties covering a wide range of issues. Since journalists were the main unit of analysis, the structure and framework of the interviews provided for them to speak their minds about areas of their specialty as well as those not in their parameter but well-known enough for journalists of their respective strengths to discuss substantively. In order to obtain a well-rounded picture of the constraints on journalists, however, the researcher also interviewed two media executives for illumination of the constraints on them politically and economically, and in terms of

content as a matter of keeping up or racing ahead of competitors. Also for comprehensiveness, the structure provided for a media lawyer to explain the legal constraints on journalists, for a media academic to contribute the perspective of a scholar in this field, and for a corruption expert to give his theories on abuses of power taking place in Thailand.

The selection of questions was inspired by real cases that had captured headlines, as well as intended to cover economic, political and social matters. Briefly, the cases discussed with journalists include the annual payment of extra fees to secondary schools by parents at the beginning of the school year. Previously known as *pae jia*, or eating for free, these fees are now presented as donations to causes that do not always materialize, for instance a building that stays on the drawing board for years. Other questions concern a monk who has misspent donations, a television station that only reports in passing the conviction of a former executive for the purchase of overpriced fire trucks for the city when he was in government; a journalist who helps through his writing a candidate win a seat on a village council in return for information about human trafficking; a government agency that invites to a public hearing only those villagers who are in favour of the construction of a dam; a cabinet minister and friends who buy up large tracts of land along a future mass transit railway line; vote buying and increasingly elaborate forms it takes; a minister who colludes with state officials and contractors in a low-cost housing project; a government's stimulus package that provides overpriced and inappropriate material, and is alleged to have enabled bid rigging for the construction of police stations; a senior official who receives bribes in return for a contractor winning a bid to transform a bus terminal into a commercial hub**.**

Through the answers given, the researcher was able to establish similarities in challenges to journalists. For example, some journalists remarked that the question about ministers and friends buying up large tracts of land along a route planned for a future mass rapid railway was similar to the real investigation into assets concealment by former Prime Minister Thaksin in the names of his domestic staff, relatives, and associates. They pointed out that similar tracing of connections between the ministers, friends, and buyers was necessary since there was a strong chance that ministers and friends would use proxies or nominees to make the purchases. Suppose

the land was bought by nominees, and reporters wanted to verify this, documentary evidence from local land authorities or the Commerce Ministry could help. The verification of such connections would throw light on how the ministers and friends were planning to profit from the inside knowledge of the project before it had even received the seal of approval from the Cabinet. The question about vote buying stirred lively debate, with journalists close to the grass roots protesting the tendency of observers to look down on voters in rural areas as naïve. The reality, these journalists pointed out, was rural people had wised up, taking money from political rivals and then making their own decision based on whether they thought policy promised was feasible and could help better their lives.

The research found that content and quality of media matter to business, that corruption perceptions are narrow in Thailand, and that there is a trend in the law that increasingly is leaving journalists to fend for themselves. The first finding was drawn from interviews with media executives who otherwise differed more or less. In a nutshell, *The Nation Multimedia Group* diversified to all platforms in order to adjust to changes in consumer behaviour and trends in advertising which was adjusting to digitization. The *Matichon Group* was aware of the imperatives of technology but was concerned about the uncertainties therein, and therefore was taking a wait-and-see strategy with regard to digital television. The second finding stems from interviews with a media academic and a corruption expert. The third finding emerged in an interview with a media lawyer.

The strategy of the research was inductive, with intent to find from many perspectives a common pattern or series of themes that would answer the research questions. A literature review drafted in advance provided for possibilities of adjustment as the research proceeded.

1.6 Ethics

Ethical issues in this research concern journalists' fear for adverse repercussions of disclosing information which may threaten their lives or their careers, as well as those of their sources, hence the researcher approached and interviewed them with all due respect. Fortunately for the researcher, most journalists and other

informants were glad to be quoted provided care was taken with regard to accuracy and context. With the same respect, the researcher complied with rare calls from journalists for anonymity and found helpful these same journalists' approval for the content of their viewpoints to be used where and when appropriate. Be that as it may, there was no question of the journalists' lives being under threat as most of the issues discussed had been closed and those still open to question were treated as cases under allegation of irregularity by the public at large or investigation by authorities. The researcher made no attempt to approach instigators as they were not within the parameter of the research design. Normally, journalists are under threat from wrongdoers whose scheme or malpractice is exposed, who are in positions of power to command violent responses to protect their interests, which grow with the tightening of a web of connections between political and business elites in tandem with the increase of "money politics" since the late 1990's.

The research is considerate of how journalists exercise care to protect the lives and livelihoods of his or her sources of information who are usually persons of principle in middle level positions with middle level incomes and working or doing business in the midst of malpractitioners.

1.7 Summary

The thesis begins with a literature review in Chapter 2 of what has been written that is related to the subject, including the role of the media and the history of corruption reporting. Chapter 3 examines the challenges of reporting corruption and the journalists' methodology for establishing the truth. Of note, is the finding that journalists in present-day media circumstances are verifying rather than seeking information. Chapter 4 speaks of the challenges of the political economy, including regime change and business realities, on media owners and journalists, and their impacts on corruption reporting. Towards the end of this chapter is a section that categorises the responses to the 10 hypothetical questions that were posed to the sample of journalists as catalysts for discussion about difficulties of reporting in general and corruption reporting in particular. Chapter 5 draws conclusions.

CHAPTER II
THE HISTORY AND CONTEXT
LITERATURE REVIEW

Introduction

Media is recognized to be essential to curbing corruption. The literature is ample on limits to media freedom, traditional forms of government interference, new shades of media capture, and media's potential to influence politics, economics and society. Also prolific are studies on corruption that have elaborated on matters of scope, methods, purposes, and costs to society and the political economy. Notable however, is the scarcity of inquiry into the challenges journalists face when covering corruption. This chapter begins by discussing the role and history of the Thai media. Then it considers the definitions, forms and history of corruption. Subsequently it reviews the history of corruption reporting and the professional code of conduct. Thereafter it examines the challenges for journalists and costs of not addressing them.

2.1 Role and history of media

Media is important to the task of curbing corruption because it is ideally considered to be a "fourth estate" with a duty to keep in check the political process, the economy, and society, and to inform the public, but commercial and political realities have made this not always possible. In addition, contemporary thinkers have mixed opinions towards the media**.**

McCargo is not being entirely fair when he characterises the Thai language press as "tricksters" serving no particular group, being frequently captive of various interests, and a plurality of obligations (2002, p.30). McCargo also exaggerates when he says it would be "far fetched" to represent the Thai press as a mirror of society given its historically partisan nature because the serious Thai newspapers do make a point of presenting society as it is, adhere to neutrality and let readers draw their own

conclusions. The trickster and mirror of society are two of four concepts McCargo discusses, the others being watchdog for public interest, and agenda setter. Also questionable is his suggestion that the concept of media as watchdog for public interest conflicts with the reality that newspapers are primarily loyal to owners and shareholders, relegating advertisers and readers to second place. The emphasis of media executives on content and quality, as Chapter 4 will show, weakens this claim. Perceptively, McCargo is equivocal about the concept of media as agenda setter: he sees this concept as at the same time positive because it is often linked to the watchdog role, and questionable because media depend on sources who leak news selectively.

By contrast, Pasuk and Sungsidh, in the preface to the second edition of *Corruption and Democracy in Thailand* (1996), acknowledge the "important and growing role" of the press in investigating and exposing political corruption. So too does National Anti-Corruption Commissioner Vicha Mahakhun, who cites Daily News' work on irregularities in the purchase of firetrucks by the Bangkok Metropolitan Authority as a lead that helped the NACC throw light on the matter, and obtain a guilty verdict for the former interior minister. Pasuk and Sungsidh draw extensively on Thai and English-language press reports over 20 years from the early 1970's which expose a wide range of corrupt practices. They also affirm that media are "important checks on politicians" (1996, p.183) . In addition, the authors recognize a role for the press in accelerating the process of reducing the influence of provincial *jao pho* (godfather) on the political system (1996, p.104). Provincial businessmen with business interests extending over legitimate and criminal activities, the *jao pho* do not only enjoy wealth and power "but also an abilitity to operate above the law" (1996, p. 57). Influential regionally since the 1960's, the *jao pho* built connections with the military and political parties from the mid-1970's, and eventually entered national politics themselves to protect their activities and explore new business opportunities. In the 1990's, big business in Bangkok and the middle class became "concerned" about the rise of the *jao pho* in national politics and their "corrupting impact on institutions of government and politics" (1996, p. 102) . A major effort by the Bangkok middle class in the elections of March and September 1992 succeeded to unseat some "notorious *jao pho*" from Parliament (1996, p. 103) A three-pronged

strategy suggested by the authors to speed up the reduction of the influence of the *jao pho* on the political system, and thereby curb their freedom to build wealth on the basis of criminal activity includes the development of public opinion critical of these individuals, a process which requires support of the press, non-governmental organisations and pressure groups (1996, p. 104).

The history of the Thai press is rich in details**.** McCargo says it originated as a tool used by elites to advance their own interests and undermine the standing of others (2002, p.10). Created under absolute monarchy, the press operated within limits but resisted domination from the court. The *Bangkok Recorder*, the first newspaper published in Thailand in 1844 (Kachorn, 1965), was an attempt by the American founder-editor, Dr. Dan Bradley, to influence then monarch King Mongkut (Rama IV) and broaden political impact on the country (McCargo, 2002, p.10). McCargo draws extensively on M.P. Copeland's work, *Contested nationalism and the 1932 overthrow of the absolute monarchy in Siam*, to illustrate how the court opposed Bradley's attempts and how the king and his successors responded. Bradley's paper folded within a year of its launch. King Mongkut published his own *Royal Gazette* in 1858, and when that sunk, he tried to curb journalists' work in Thailand. His successor King Chulalongkorn (Rama V) relaunched the *Royal Gazette*, and supported semi-official broadsheets and foreign language papers. King Vajiralongkorn (Rama VI) wrote columns in newspapers under pseudonyms, and subsidized some Thai and foreign language press. From 1912-1920, the press proved difficult for the court to manage at a time when debate was extensive on the political system the country should adopt. The birth of a large number of newspapers critical of the Sixth Reign during the 1920s "reflected the declining popularity of the monarch" and the growth of a newspaper market to feed "a new class of educated, literate, and underemployed Bangkokians," (McCargo, 2002, p.10). "What began as an elite medium nevertheless had the effect of breaking down barriers, increasing the size of the politically engaged and informed class," (McCargo, 2002, p.11). The tradition of a partisan press continued after absolute monarchy was replaced by constitutional monarchy in 1932, with both leading figures in the bloodless coup, Pridi Banomyong and Field Marshal Pibulsongkhram, associated with particular newspapers (McCargo, 2002, p.11). Field Marshal Sarit Thanarat ushered in a period of repression for the press, closing a

number of newspapers. Field Marshal Thanom Kittikachorn hardened his stand against the press when they became critical. After his government was overthrown by a student-led uprising in October 1973, the press flourished in a time of political liberalisation until a right-wing backlash in October 1976 brought in an ultra rightist prime minister Thanin Kraivichien, who closed down 20 newspapers, (Wasant, cited in McCargo, 2002). The governments of Gen. Kriangsak Chomanan and Gen. Prem Tinsulanonda kept an "uneasy truce" with the press, the former closing down some publications, the latter taking no action against legislation that undermined press freedom. Under heavy pressure from the media, the government of Gen. Chatichai Choonhavan repealed Decree 42 in early 1991 (McCargo, 2002, p.17). During the 1990's, the press enjoyed a heyday which coincided with an economic boom. In league with other elements of civil society, the press brought down the governments of Suchinda Kraprayoon in 1992, Chuan Leekpai in 1995, Banharn Silpa-acha in 1996 and Chavalit in 1997 (McCargo, 2002, p.241). This contrasted sharply with the media's dark age under the government of Prime Minister Thaksin Shinawatra (2001-2006) who withdrew advertising, threatened to unleash the anti-money laundering law against critical journalists, and bought majority shares in a television station with a reputation for independence (Ubonrat, 2004). Famous for being harshest against the media, Field Marshal Sarit and Pol. Lt. Col. Thaksin are also renowned to have been the most corrupt.

2.2 Definitions, forms and history of corruption

The definitions and forms of corruption are multiple and the history of the activity in Thailand and neighbouring countries long and complex. Abuse of some form of power however, is central to the concepts and instances of corruption discussed below. This section reviews definitions of corruption before discussing the forms it takes, and the history of instances in Southeast Asia and Thailand.

The World Bank has defined corruption as "abuse of public office for private gain" arguing that the definition is "both simple and sufficiently broad" to cover most of the irregularities the bank meets

> Public office is abused for private gain when an official accepts, solicits, or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit even if no bribery occurs, through patronage and nepotism, the theft of state assets, or the diversion of state revenue. (World Bank, 1997)

Transparency International defines corruption “operationally” as “the abuse of entrusted power for private gain”, differentiating between "according to rule" corruption and "against the rule" corruption, the former constituting “facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do,” the latter“ a bribe paid to obtain services the bribe receiver is prohibited from providing” (Transparency International archive, 2014)

In Thailand, an organic law on counter corruption in 1999 defines corruption as “the exercise of power in office or in the course of official duty with a view to acquiring undue benefits for his or her own or for other persons”. Pasuk and Sungsidh (1996, p.166-169) who conducted interviews, focus groups and workshops involving a cross section of people in1992 and 1993 found that respondents distinguished between *sin nam jai,* or good will from the heart, which the authors described as an attribute “viewed positively in Thai culture”, and outright corruption. The main difference lay in intention, *sin nam jai* given in return for a service rendered without any expectation from the recipient, and corruption the result of a prior request. The value of the gift also made a difference, with *sin nam jai* comprising things of small value, and corruption involving a large quantity of money or things of considerable value.

Forms of corruption familiar to Thailand feature in a survey conducted by the United Nations Office for Drugs and Crime which listed bribery, extortion, embezzlement, theft and fraud, nepotism and conflict of interest as among the “common forms” (Anti-Corruption Tool Kit, 2002). The survey defines bribery as “the giving of some form of benefit to unduly influence some action or decision on the part of the recipient or beneficiary”, and extortion as the “negative equivalent of bribery”, or the use of coercion to induce cooperation. Embezzlement, theft and fraud “involve

the taking or conversion of money, property or other things of value by someone who is not entitled to them, but who has access or opportunities created by virtue of his or her position or employment." Nepotism is the hiring of a relative to advance the interests of the family or specific relative concerned. Most forms of corruption, says the survey, involve a conflict of interest "between the official or professional responsibilities of a corrupt individual and his or her individual interests."

In terms of history, corruption in Asia is widely believed to have flourished with trade in the mid-19th century although Joe Studwell, writing in *Asian Godfathers: Money and Power in Hong Kong and Southeast Asia* (New York, 2007), says the second world war brought a boom in corrupt practices as opportunities for smuggling and trading proliferated. In Thailand**,** by the mid-19th century, a system was established whereby officials were permitted to remunerate themselves by charging up to 10% for the performance of their duties, and tax farmers subcontracted by the king up to 30% of the taxes they collected (Pasuk and Sungsidh, 1996, p.7).

> Within this system, concepts of corruption referred to attempts by officials to extract amounts and shares which exceeded the conventional limits. From the point of view of the king, *chor rat bang luang* (literally 'cheating the citizens and hiding from the king') occurred when an official was seen to be diverting too large a share into his own pocket. From the point of view of the people, *gin muang* (literally 'eating the state') occurred when an official (or the king himself) was perceived to be enriching himself abnormally by exploiting the powers of his office, (Pasuk and Sungsidh, 1996, p.7)

Studwell (p.18, 2007) emphasizes that the second world war, which in Southeast Asia was marked by the Japanese invasion of 1941, was a turning point, bringing the "end of the imperial game" amid an absence of British, Dutch, and American administrators. The latter, Studwell notes, "gave a major boost to nationalist politics" on the one hand and, "on the other, the situation provided fertile ground for aggressive businessmen." Though Singapore and Hong Kong were the places where "a new generation of tycoons made early fortunes from the opportunities for

smuggling and speculation thrown up by the conflict and its aftermath," Thailand benefited from what Studwell called a "seismic shift in the business landscape in south-east Asia, because it displaced European and American interests for an extended period".

> Asian businessmen, typically the ethnic Chinese who were fitted by colonial structures into an intermediate role between local agrarian economies and Western big business, were presented with opportunities to change their status. In Thailand, for instance, fourteen banks and twenty-five insurance companies were set up between 1943 and 1952, most of them run by ethnic Chinese businessmen and fronted by senior Thai bureaucrats as chairmen and board members. (Studwell, 2007, p.23)

Pasuk and Sungsidh, who are more sensitive to the political economy of corruption, question the attempts of earlier literature to explain the pervasiveness of corruption in Thailand in cultural terms, notably by citing the framework of patron-client relationships. Such relationships are observed by historians and sociologists to be ingrained in the highly structured feudal system, and inculcated in children who are brought up to defer to elders in the family, to teachers who are dedicated a special day in the school calendar, and to persons of importance in society at large. In an interview with this researcher on June 11, Sungsidh said patron-client relationships do not always work negatively, such as in collusion to cheat, but have been shown to operate for positive ends such as in Thailand's anti-smoking campaign over the past 30 years. As part of the campaign, doctors had used their connections with senior officials in the Public Health Ministry to move for warnings on cigarette packets and laws against smoking in public places that had made Thailand one of the most successful campaigners against the habit .

2.3 History of corruption reporting

Though opportunities for undue gain abounded for European builders and engineers involved in Thailand's modernization during the 19th century, readers today

remember corruption reporting reaching a zenith after the death of Field Marshal Sarit in 1963 sparked a battle for his estate between the children of his first wife and his second wife. Characteristic of the times, the source most quoted on the story was a pseudonym (Thak, 2007, p. 234). Journalists were also busy pursuing allegations of abuse of secret funds under the time of his successors Field Marshal Thanom and Field Marshal Praphat Charusathiara but in the absence of evidence reports of corruption were not published until their assets were confiscated following their ouster in October 1973 (Pasuk and Sungsidh, 1996). Corruption reporting peaked again during the government of Gen. Chatichai, which was unseated by the National Peacekeeping Council that seized power in February 1991 citing rampant corruption. Journalists admitted becoming more cautious after amendment to the penal code in 1992 by then Prime Minister Anand Punyarachun considerably increased the penalty for defamation (Sinfah, 2009). A fourth peak in corruption reporting came shortly before Pol. Lt.-Col. Thaksin came to power and while he was in power from 2001-2006.

As part of a general wave of reform in the country, the Press Council of Thailand in 1997 issued a code of ethics that has helped keep in line corruption reporting. Most appropriate is item 6 which calls on newspapers to “be fair to all parties mentioned in the news stories”. A logical follow-up to this is item 11 which requires newspapers to give the potentially damaged party the right to have his or her say. In its own words, the item states “when making references that could damage the reputation of an individual, newspapers must give that party the opportunity to state his case.” Also relevant are item 13 which protects the confidentiality of the source of information and item 14 which attends to the safety of the source.

2.4 Challenges for journalists

Thai journalists are challenged by the Official Information Act of 1997 which inhibits their right to information in contrary motion to new international thinking. As this thesis will discuss, there are many challenges in using the OIA.

Maeve McDonagh (2013) argues for an intrinsic right to know that is delinked from the enjoyment of other rights, calling instrumentalist the widespread

recognition that Article 19.2 of the ICCPR implies this right through its provision for freedom of expression to "include freedom to seek, receive and impart information." She says such an instrumentalist approach to the right to information is potentially adverse to both this right and the right to freedom of expression on which it is based and extends her argument to linkages with other rights:

> The right to information has been most commonly recognised by international human rights treaty bodies as coming within the scope of the right to freedom of expression though such bodies have, on occasion, based their recognition of a right to information on the enjoyment of other rights such as: the right to respect for private life; the right to a fair trial; the right to life; social and economic rights; and the right to take part in public affairs...basing the recognition of a right to information on the futherance of other rights may operate to limit the development of the right to information and may even have negative connotations in terms of the enjoyment of such other rights. (McDonagh, 2013, p.2)

Under the 10 principles of the right to know drawn up by the Open Society Initiative and partner organisations, everyone has a right to know regardless of nationality or profession, and without need to justify why the information is being sought. Access is the rule, secrecy the exception, the right applying to all public bodies, officials duty-bound to assist requesters of information. Refusals must be justified and clearly specified by law. Public interests take precedence over secrecy, information about threats to the environment, human rights, health or about corruption to be released. Everyone has a right to appeal, requesters of information entitled to a prompt review of a public body's refusal or failure to disclose information. Every public body should make readily available information about its functions and responsibilities, without need for such information to be requested. The right to information should be guaranteed by an independent agency which should review refusals, promote awareness, and advance the right to access to information. The principles were recognized by 63 countries around the world in September 2005, on

the third anniversary of the International Right to Know Day, the figure marking more than a five fold increase compared to 1990 when only 12 countries had such laws.

Beyond legal constraints on their right to know, Thai journalists have as much freedom as their governments and employers allow. Unfortunately for Thai journalists, military leaders have been far more long-lasting than elected governments (PRD, 2011), with the late Field Marshal Sarit leaving a legacy of partial democracy that was influential through governments up till that of Pol. Lt.-Col. Thaksin (Thak, 2007, p. xiv). Field Marshal Sarit, who ruled from 1958-1963, imposed heavy censorship on news media after seizing power (Thak, 2007, p.83). Gen. Kriangsak, prime minister from 1977-1980, closed a number of publications and withdrew 50 inactive licenses in order to increase the government's bargaining power (Wasant, 1992 cited in McCargo, p.16). Gen Prem took no steps to revoke legislation which muzzled media, moreover applying arbitrary powers to punish dissenters (McCargo, p.17). Gen Chatichai revoked Decree 42 shortly before he was ousted by the coup in February 1991 which cited corruption as one of the major reasons for the move (Pasuk and Sungsidh, 1996). Thaksin kept media in line by threatening some of the most critical journalists with the anti-money laundering law, and by withdrawing advertising. (Ubonrat, 2004). Under Thaksin, two Thai-language dailies, *Naew Na* and *Thai Post* lost advertising when they refused to drop critical writers while the Manager Media Group, then friendly to the government, was rewarded with a contract to broadcast a talk show on state television and significant reductions of its debts with the state-owned Krung Thai Bank (Somkiat and Worapoj, 2010). Subsequently, Prime Minister Abhisit Vejajiva, whose government earmarked large budgets for advertising on television, radio and in newspapers, censored all forms of "red-shirt" or pro-Thaksin media, including "thousands of websites", satellite television, community radios and newspapers, under an emergency decree declared in April 2010 when the country was in political turmoil. There was no doubt that the emergency decree was lawful but its legitimacy was questioned.

The challenges to journalists reporting corruption are inherent in the application of the OIA by state agencies, discretionary powers given to governments, exclusion of critical media from access to news sources, and the concern of media owners for survival, which is well known in the industry to have peaked after the

financial crisis of 1997. The rise of policy corruption in the early 2000's added a new dimension to the media's difficulties because it makes corruption seem legal, with unfair competition and privileges to those with connections to the power elite protected by law.

2.5 Costs of not addressing challenges facing journalists

Failure to address challenges besetting journalists would undermine a watchdog for the public interest, deprive taxpayers' rights to their dues, and leave democracy "manipulated" in a situation where business interests "gain so close a control of the political system that they are almost unaffected by the changes of government that do occur" (Studwell, 2007). To a significant extent, press reports from the 1970's to 1990's gave Pasuk and Sungsidh the clues to pursue figures at the then Counter Corruption Commission and the Office of the Auditor-General on the basis of which they came up with formulae for estimating the costs of corruption squeezing the public purse regularly replenished by taxpayers' money. The two scholars found an overlap in the corrupt practices of bureaucrats and politicians under the governments of Field Marshal Sarit, Field Marshal Thanom and Field Marshal Praphat, and of Gen Chatichai. The activities of bureaucrats, who mainly took commission fees from construction projects and purchase of materials, were most costly to the state under the Thanom-Praphat regime (1964-73) at 0.90% of GDP, by comparison with 0.84% under the governments of Sanya Dhammasak and Gen Kriangsak Chomanan (1974-1981), 0.66% under that of Gen Chatichai (1988-1991), and 0.44% under Field Marshal Sarit (1960-63) (Pasuk and Sungsidh, 1996, p. 39-41). By contrast, politicians were most actively engaged in corrupt practices under Field Marshal Sarit amounting to 0.67% of GDP, by comparison with 0.05% under the Thanom-Praphat regime, and 0.04 % under Gen Chatichai. Field Marshal Sarit and his men amassed wealth from development projects, while the field marshal himself grew rich on the diversion of government funds to invest in private businesses, and through charging fees for licensing. The corrupt practices of leading politicians under Field Marshals Thanom and Prapat were similar. Gen. Chatichai could not legally divert government income or seize assets as Field Sarit did, but he and his ministers had

other opportunities, with the cabinet empowered to decide on large projects without need for debate in parliament, and individual ministers to approve projects without referring to the cabinet or parliament. Hence leading politicians were “widely believed” to have received commissions from large infrastructure projects (Pasuk and Sungsidh, 1996, p. 44-45) . Under Thaksin, the net profits of the telecommunications firm run by his family tripled within one year after he assumed the prime ministership from 5.6 billion baht in 2001 to 15.2 billion baht in 2002 (Campaign for Media Reform cited by Ubonrat, 2004, p.175) although evidence is yet spare on how much of the profits derived from corruption.

The cost to democracy is less obvious for Thai voters go to the polls periodically and the structure of this system is in place with an executive, legislative and judiciary. But, with journalists ever tested by a plurality of factors, the process of “democrasubjection”, whereby elites have tried to subject people to imaginary forms of their own rule in order to wrest control over them, as Connors (2003) suggests, may be allowed to develop. Studying moments of democracy from the overthrow of absolute monarchy in 1932 to the1990s, Connors says democrasubjection:

> ..or ‘people in subjection’ refers to the potentially oppressive dimension of democracy, the never-succeeding project of subjecting people to new institutional and ideological forms of power in the construction of democratic subjects. (Connors, 2003, p.21)

For a democracy to function in the interests of the public rather than the elites, journalists need to be able to operate freely, unconstrained in their work as watchdogs for society.

2.6 Summary

This chapter has examined the role and history of the media, the definitions, forms and history of corruption, the history of corruption reporting, the professional code of conduct, the challenges for journalists, including limitations on the right to know, and the costs of not addressing these challenges. The next chapter

will investigate in more detail the challenges journalists face when they go about reporting corruption and how they manage them**.**

CHAPTER III
INVESTIGATING JOURNALISTS

Introduction

Amid a criss-crossing of allegations occasioned by fierce competition for business and political power in Thailand, many journalists have become verifiers rather than seekers of information. This chapter argues that competition in these two areas has led to irregularities that pose major obstructions to the work of journalists on the beat as well as their investigative counterparts. The chapter discusses the extent of information journalists have to check because of the competition, how much the political crisis from November 2013-May 2014 doubled their workload, and how they have managed the verification challenge under circumstances less politically contentious. Moreover, the chapter discusses how the Official Information Act is in itself a challenge to society's watchdogs, and how far journalism practices help corruption reporting

3.1 Journalists verifying rather than seeking information

Journalists have become verifiers rather than seekers of information in the face of fierce competition in business and politics, where losers seek media exposure of what they see as uneven playing fields in contests such as bids for big state projects, and general elections for seats in the House of Representatives. The phenomenon means journalists are being drawn into the competition in order to keep up with their own competition in the media profession, and compelled to establish the truth about stories that might otherwise not be on their minds. This availability and indeed overflow of information, though a rich source to work with, indirectly militates against journalists' freedom of choice, and expression. Conversely however, the competition to verify the stories by journalists does mean that consumers have more choice of versions to believe, which directly benefits their right to information. The political

crisis of six months, which turned from a protest against the abuse of majority rule in Parliament into a contest for political power, heaped pressure on journalists to verify allegations from both sides of the political divide, one linked to a former prime minister who introduced a subtle form of corruption and living in self imposed exile after a military putsch, another related to a former opposition party seen as representing the elite.

Supalak Ganchanakundee, regional editor of *The Nation* daily, said the quantity of information available during the crisis was a challenge that had changed the nature of journalists' work, transforming many of them from seekers to verifiers of information although he did note that investigative journalists continue to work differently.

> Today there's a lot of information around. Our job is rarely that of seeking information but that of verifying information. Even the crazy letter from a (US) congressman (Michael Turner) the other day about something going on in Thailand, I don't know from where it came but I had to check. Luckily I had his email so could ask him personally. That's our work by and large. Individual journalists may still be investigating corruption on a grand scale. For the most, we hardly start from scratch. By and large, we are doing follow-up work. (Supalak, interviewed January 23, 2014)

Two journalists, both ex-print media people now running online news agencies offering corruption investigation, spelled out these differences in interviews on July 24th. Prasong Lertratanawisute, executive director of *Isra News Agency*, and the journalist who uncovered how an ex-prime minister hid his assets before taking the plunge into politics admitted that part of the work of investigative reporters was to check out tips, but he was adamant that another part of the work is discovery by the individual reporter. "The truth is all out there but it takes a reporter to make it news, or we would all be writing fiction," said Prasong. Boonlarp Poosuwan, executive director of *ThaiPublica*, cited her news agency's exposure of bill boards by ministries of education and labour to point out that investigative reporting is about "raising your

own point" and pursuing it to the end of the trail. The coverage found that both ministries had spent huge sums erecting bill boards more like those for electoral campaigning, i.e. with disproportionately large images of the ministers concerned, and policies only in small print.

Security affairs veteran Sermsuk Kasitpradit who through his long career has done beat and investigative reporting said verification was an important part of the work, noting "every story has to originate somewhere". Losers of bids for arms purchases, for example, had been willing to give information, which then must be cross checked with security officials, and arms dealers. But some tips, such as the 2009 purchase of an airship that turned out to be inoperable, could not be developed because security sources simply would not talk. Though the purchase and maintenance amounted to 350 million baht, "no one could be taken to task because no-one talked." Spelling out the importance of pursuing tips, Saritdet Marukatat, digital media news editor of the *Bangkok Post*, who covered irregularities in the purchase in 2005 of luggage scanners for Suvarnabhumi airport and in the provisions for the public health ministry under the Thai Strength Programme in 2009, said: "we get nothing from just sitting at the desk. We get tips about something irregular, which prompts us to check". Be that as it may, the motivation to check out a tip lies in the way it is conveyed, with a senior business reporter noting that a phone call about an irregularity "does not hold as much weight as a person who comes to tell you face to face." The same went for parents who were disappointed in their attempts to obtain places in famous schools for their children (Kasetsart Demonstration School in 1998), and monks who were compelled to engage in schemes they thought irregular, as happened in 2012 when the provincial administrative organization of Samut Prakarn told temples in the province to engage a particular contractor for building work, a case for which Channel 7 reporter Sompoch Toruksa was initially sued.

The political crisis from November 2013 to mid-May 2014 doubled the workload for journalists due to deep polarization of long-standing which sparked an information war, with instant sharing of information through the social media that was misleading. The sharing without wariness led to mismatching, deliberately or unwittingly, said the online newspaper *Prachathai*. Memorable was the mismatching of a photograph by *Thai Rath*, which published on its front page what it presented as a

picture of the clash at Ramkamhaeng in December 2013 that was later found to have been an image of an incident in 2010. The speed with which information was shared unverified by social media, and left largely indelible marks, galvanized *Prachathai* to set up a centre for monitoring information that was not only raw but potentially explosive. One case cited was a Facebook post under the headline "crooked till the last minute" that alleged then Prime Minister Yingluck Shinawatra had approved 557,717 million baht during the last cabinet meeting before dissolving the House of Representatives on Dec. 9, 2013. Quoting the mass vernacular daily *Thai Rath* , the centre said the details, including text and graphics, published with the post in fact referred to the last cabinet meeting chaired by former Prime Minister Abhisit Vejjajiva before he dissolved the House of Representatives on May 4, 2011. Another mismatch was the doctoring of information about a popularity poll on Abhisit and Yingluck that showed the opposite of what was actually found, leading pollsters to issue a denial. Thewarit Maneechai, a *Prachathai* reporter interviewed by Voice T.V., described the *khao ngerb* phenomenon as an attempt by one side to build up its own legitimacy while degrading the legitimacy of the other side. (Voice T.V. 2014). In an interview with this researcher, *Prachathai* News Editor Pinpaka Ngarmsom, said "a lot of rumours and allegations" raced through social media during the political conflict. Though information technology had been helpful in the verifying of photographs, checking texts had taken more time.

Arguably, the political conflict put greater pressure on online reporters than their counterparts working for print or broadcast media because their workspace is online. However, print and broadcast media were also compelled to monitor social media, as Supalak of *The Nation* did with US congressman Turner (Republican-Ohio) a report that he had called on US President Barrack Obama to let his views be known in writing to protagonists in the conflict in Thailand, a report that drew an astute response, that was extensively shared on social media in late January 2014, from US-trained lawyer Veena Sucharitkul.

Though mismatching and doctoring of information during the political crisis heaped pressure on journalists, their work was made easier on the matter of the government's rice pledging scheme because farmers descended on Bangkok and related their tales of woe to anti-government protesters. Before the farmers' arrival in

Bangkok, the government kept a tight lid on the scheme, releasing information piecemeal, notably misrepresenting a Memorandum of Understanding between China and Thailand as an agreement by China to buy Thai rice.

> ..ministries have doctored information before releasing it. Sometimes terms are changed and information is released piecemeal to prove a point..Like the MOU [on rice] between Thailand and China, it is just an MOU. But the government claims it's a contract. (Supalak interviewed)

Such misrepresentation challenged journalists' news judgement and skill in checking all possible sources to establish the truth, as well as to present it as such.

3.2 Verifying the military and the Buddhist clergy

In non-critical times, verification of irregularities has been imperative and difficult at times of business and political competition. For cultural and institutional reasons however, journalists have found it hardest to verify allegations involving the military and the Buddhist clergy. These difficulties suggest that trust is at issue, demanding journalists not only to listen to losers who normally would be willing to speak but also to reach traders involved, members of the establishments concerned, and obtain as much documentary evidence as possible. With regard to the military's irregularities, a case in point was the Thai Army's purchase in 2009 of an airship for seeking insurgents in the south as the Sky Dragon bought from the US has failed to function and remains stalled at a depot in Pattani five years on, with journalists still trying to find out what happened). The army spent 350 million baht on purchasing the airship fitted with two surveillance cameras and another three cameras for support helicopters, and another 50 million baht for maintenance (Manager Daily, 2012). "We can not obtain any clarification, nor can we see the airship," said Sermsuk, the security affairs reporter. Normally, he recalls, tips about arms purchasing would come from the loser of the bid, which would then have to be cross-checked with military sources, and arms traders. The case of the airship showed how hard it is to obtain information from the military "because the kickbacks already have been pocketed" but over time

reporters do succeed to build a relationship of trust with the security establishment, with retired officers in particular willing to talk (Sermsuk, interviewed 2014). The culture of secrecy dates back at least to the time of the late Field Marshal Sarit Thanarat six decades ago when a senior reporter remembers being greeted with a sign reading “no interviews” when she went to an army officer’s work place to try and verify a question over arms purchasing. Sermsuk emphasized that a pre-condition to coverage of military purchasing was the cultivation of a relationship of trust with the military authorities as well as arms merchants.

> You have to have a relationship of trust. In military purchasing of weapons, news will come from the loser of the bid. Then we have to see if the information is credible. If it’s true, you can pursue the story. You have to ask military authorities. You have to check the price of weapons. If the information is substantiated, you can use it. Cross checking is necessary. Usually some people are ready to give information. (Sermsuk, interviewed January 13, 2014)\

The military as an institution traditionally has cited reasons of national security for withholding information in what is a legacy from the Cold War when secrecy of information and spending was a norm that passed unquestioned. Building a relationship of trust with the military establishment, more than others, takes time and proven performance on the part of the journalist, as most in the profession have found.

With regard to monks, irregularities have passed unchecked in part because the Buddhist clergy enjoys independence with a separate governing structure and laws. Less tangibly, questions of belief come into play so that monks may raise funds from the faithful without the latter suspecting abuse of their donations. A discussion of a hypothetical situation where a monk misspent donations drew mixed opinions from journalists. Some journalists said believers tended to contribute to causes espoused by monks in order to make merit, and hence expected nothing in return, therefore tending not to pursue irregularities. Others said monks who solicited donations and then misspent it were effectively engaged in corruption and this could be taken up with the monks’ higher-ups first locally then with responsible authorities

in Bangkok. A third group deplored the lack of institutional oversight over monks' spending. A senior reporter attributed this to improper implementation by the clergy of the Sangkha Act, which was first promulgated under the government of the late Field Marshal Sarit in 1962, and amended in 1992. Relevant are two provisions: Article 40 which states there are two kinds of temple property, that belonging to an individual temple or *sassanasomba*t, meaning religious property, and that belonging to all temples or *sassanasombat klang*, meaning central religious property. An Education Ministry regulation allows for the Religious affairs department to maintain and manage the latter, while the individual temple maintains manages the former. Under article 41 of the Sangkha Act, the Education Ministry sets the annual budget of the central religious property (*sassanasombat klang*), with the approval of the Ecclesiastical Council and the budget can be allocated after it is announced in the Royal Gazette. However, despite the legal provisions for separating property of individual temples from central property, Prasong Lertratanawisute of *Isra News Agency* says there is "no system for auditing temples", with no reporting of donations, and journalists would be hard put to verify any irregularities if local monks and villagers do not co-operate. "Thai villagers rarely speak out if what is done is not intolerable. Monks usually are expelled because they engage in obvious misbehavior, like sleeping with women or drinking," (Prasong, interviewed 2013). Pinpaka of the online newspaper *Prachathai* observed that temples engaged in "a lot of business", and the fact that they "make a lot of money without having to pay tax," has made it impossible to monitor them.

> Temples have a lot of land from which businesses grow. There is also the business of praying. In Bangkok, there is a whole movement and we can see things are done in a package. The income doesn't go into the system and cannot be touched. Temples constitute space we cannot access. Are temples a place for money laundering? This is what the case of *Nen Kham* raised. How can he have so much property: cars, houses, a private jet. (Pinpaka, interviewed February 11, 2014)

Influential people are behind *Buddhapanich*, or the commercial ventures of the clergy, she added. Pinpaka referred to a Buddhist monk who left the monkhood 13 days after being dismissed by the Sangkha Council in Sisaket for having sexual intercourse (*Krungthep Turakij* and *Manager* daily, 2013). That the 35-year-old man was reported to be asking for US citizenship thereafter showed that an escape route exists for rogue monks. More recently, another expelled monk returned to Thailand from 20 years' asylum in the US after the statute of limitations expired on his cases, including charges of rape of a 14 year-old girl and defamation of the Supreme Patriarch (Thai PBS, April 23, 2014). However, both cases show that reporting on individual monks is possible but reporting on the clergy as a political issue is challenging because the Sangkha Council is protected by its own governing structure.

3.3 Politics another obstruction

Less challenging than the verification of irregularities involving the military and monks is that of checking allegations concerning politicians seeking seats in the House of Representatives at the time of general elections. Irregularities in recent general elections however, have presented journalists with new challenges as it is no longer the case that vote-buying leads to other forms of corruption, says Supalak of *The Nation*, who thought it was best to consider each case individually. Subhatra Bhumiprapas , project manager and web editor of *Media Inside Out*, says the system has changed, relegating to the past the *khuen mah horn*, or the night when dogs barked, when candidates went knocking on the doors of voters on the eve of polling day with offers of cash in return for votes.

> I'm not sure if the term vote buying applies. Politics have become a matter of bargaining for interests. Some parties use policies to sell. Every party gives money. Villagers, who are cleverer than before, choose on the basis of party policy. For politicians, work has become a social matter, involving a lot of social taxes. Ultimately, vote selling, is not a challenge. (Subhatra, interviewed January 30, 2014)

Pimpaka of *Prachathai*, agrees, noting that although vote buying "was a very important factor 20-30 years ago", recent research found that vote buying had a success rate of "only 5 %". "*Prachathai* learned from interviews with villagers that the deciding factor is party policy. They receive from all sides. Rate is not decisive. Policy is what matters," she said. Also at play, she suggested, is the patron-client system ingrained in Thai society, where MPs, as people perceived as higher up on the social rung, are expected to respond to the social needs of constituents, for instance, by helping to ensure admission of their children into school. But many journalists, including Prasong of *Isra News Agency*, Rungmanee Mekhasobhon, freelance writer, Saritdet of the *Bangkok Post*, and Supalak of *The Nation* maintained that vote buying remained substantial and constituted a form of corruption but was difficult to verify. Supalak insisted on journalists waiting for word from election authorities, rather than depending on political rivals who would tend to spread allegations and counter allegations.

> It is not that easy to verify allegations of vote buying in a general election because the buyer and the seller do not talk. This means journalists have to rely on officials who are entrusted with this task. Any attempt to verify the phenomenon by listening to information or opinion from political adversaries would obtain only accusations and counter accusations. As reporters, we cannot suggest vote buying has taken place based on allegations by politicians or political canvassers. We have to wait for the matter to enter the [official] complaints and verification process. (Supalak, interviewed 23 January, 2014)

Saritdet agreed that word from election authorities was final but believed journalists could also draw on a variety of sources in the process of verification: political rivals, non-governmental poll watchers like P-Net, and local community leaders. Information technology could also be helpful. But Pinpaka maintains that taking pictures of money changing hands or of a feast hosted by an election candidate "does not prove that paying [cash] is the deciding factor. "

Elections-aside, the verification of irregularities in politically inspired projects like low-cost housing demand on-site trips by journalists as well as access to officials and documents. Clearly populist, the *Ban Uea Arthorn* (Mercy Housing) project was supposed to produce 600,000 units of housing for low-income earners over a period of four years from 2006-2010. As it turned out, relatives of cabinet ministers in the then Thaksin government featured among investors and some firms involved in the scheme had no experience in construction work. Suspicious was what the *Prachachart Turakij* team found at a site in Bang Pli: not only had the National Housing Authority paid the contractor a large sum in advance, but the NHA also had effectively bought a plot of land it originally owned through an elaborate scheme involving a private company that dealt in orchids, and was at the same time an affiliate of the firm that won the contract to build 5,640 units of low cost housing there. In another project in Lopburi, land prices were grossly inflated, from 250,000 baht per *rai* sold by villagers to 600,000 baht per *rai* declared by the company that won the turnkey contract (*Prachachart Turakij*, 2007).

Finding the truth about the legitimacy of public hearings required before the launching of major projects deemed propelled by political objectives also requires journalists to make on-site trips for independent observation of procedures, and inquiry with local leaders and residents. But journalists interviewed on the subject held differences in matters of detail, some considering non-governmental organisations close to the grass roots as useful, and others believing in the need to corroborate findings on-site with available scientific data. Each project needs the approval of 75% of the local community and, given that the projects are designed by the government and usually involve large sums of money, irregularities in the process of seeking local approval are deemed part and parcel of policy corruption. In the case of a project to build a dam in Samut Songkhram, which was part of a planned flood way in the Yingluck Shinawatra government's 350 billion baht water management scheme, media attention was drawn to irregularities in the public hearing last year after villagers protested that only those who stood to gain were encouraged to attend, noted Saritdet. In this case, the strength of the villagers and non-governmental organisations won the day. In all, public hearings were to be held in 36 provinces across the country to ensure local approval for the water management scheme. Previously, in 2012, a

project to produce electricity from solid waste in Tambon Na Mua of Petchabun Province was shelved because villagers were not given enough information before a public hearing was held and complained to central authorities, broadcast journalist Sompoch Toruksa noted.

> Villagers were invited to a "*prachakom*" (public meeting) to agree or not whether the municipality should draw on its budget to seek a loan for the private sector to set up an electricity plant to produce electricity for sale to the Provincial Electricity Authority. The hearing was a set-up. Not enough information was given. They [authorities] said something like they were going to organize a boxing match and based on this [vague] information, villagers were asked to answer a questionnaire. It was dishonest: there was a hidden agenda. Villagers should have been given information that would have enabled them to ponder the repercussions. Villagers complained to the senate commission on environmental affairs. I interviewed the senate commission, provincial authorities, and representatives of villagers, and a private firm. Most villagers didn't agree. They had voted on the basis of not enough information and not 75% of the local community took part. There was no Environmental Impact Study, there was no economy guarantee for a project worth almost 100 million baht. (Sompoch, interviewed January 22, 2014)

Moreover, said Sompoch, the solid waste available locally would not have been enough to produce electricity, and the municipality would have had to bring solid waste from another place, a move that would have been against environmental law. In addition, the electricity produced would not have been enough for sale to PEA. If the project went ahead, the municipality, not the private entity, would have been in debt. A complaint about the project was submitted to central authorities, the Interior Ministry vetoed the project and the State saved a great deal of money. "The opposition to the project was successful because villagers saw irregularities, and complained to central authorities. If villagers did not complain we would not have known," Sompoch said in the interview. The villagers' outspokenness helped ease the challenge for

reporters seeking irregularities into such rigged hearings for legal compliance, enabling a journalist like Sompoch to manage the challenge**.** Noting that local stringers sometimes are constrained by threats, Sompoch remembered taking a monitoring agency representative with his team on spot. “We asked to see all sides. And collated this data with scientific data..to establish the impacts from smoke and ash of producing electricity from solid wasate,” he added. Verifying irregularities politically edged but not necessarily well-documented demand journalists to go on-spot to talk to local residents and leaders. In such cases, locally-based stringers normally are hamstrung by linkages of close-knit communities and verification was best carried out by journalists from Bangkok.

3.4 Irregularities in contest for business

Up till the 2.2 trillion baht infrastructure development project, the 350 billion baht water management scheme and the rice pledging scheme challenged reporters because they drew on extra-budgetary funds and were clothed in layers of secrecy, irregularities in competition for business with the government had been relatively straightforward to verify. When a major government project is up for bidding, for instance housing for low income earners, usually the loser will come forward with information, and a journalist can follow the issue at every juncture, without fear of repercussions, says Subhatra of *Media InsideOut*:

> We would dig from cabinet approval for the project, to the bidding process. [the questions are:] Is the process just and open? Is there any locking of specifications in favour of a particular product. If a bidder loses, he or she is ready to give information. If after the bid is won, the project fails to materialize, we can interview the minister in charge and the firm that won the bid. There is a clear pattern to follow [for an issue like this] and we could check at every stage without risk of life. (Subhatra, interviewed January 30, 2014)

According to another senior journalist experienced in business reporting, journalists could check their doubts about any bidders for government projects by going to the Commerce Ministry's Business Development Department. "If for instance, a firm registers at the department today and joins the bid tomorrow, there is something fishy about that," said the journalist.

Though the controversy was protracted over the purchase of luggage scanners for Suvarnabhumi Airport by the Thaksin government in 2005, the establishment of bribery in the transaction was relatively simple for journalists after the US Department of Justice confirmed the fact, and the opposition Democrat Party spoke up to media.

> .. the Democrat Party's Kiat Sittheeamorn said the OAG [Office of the Auditor-General] sought information from the US on June 21 and soon after received documents containing incriminating evidence against executives of GE InVision Technology, maker of the CTX explosives-detecting scanners, as well as [against] Thai entities, including Airports of Thailand Plc (AoT); the ITO Consortium, a main contractor in the construction of the airport; and Patriot Business Consultants, whose status as subcontractor to install the baggage-scanning machines was questionable. (*The Nation*, 2006)

After the scanners, there was an operational irregularity related to the airport's cooling system which was likewise simple to check. The *Bangkok Post* team received a tip from an engineer about a flaw in the system, and verified the tip by going on-site to see it. As a "precaution" however, the team took photographs of the flaw so that they would have "something" to produce in court "if anything came up" later (Saritdet, interviewed January 15, 2014).

But the Yingluck government's rice pledging scheme, a major case of policy corruption, posed enormous challenges to journalists because access to information was blocked at every stage. The challenge proved beyond management by media until distressed farmers descended on Bangkok to tell their tales of woe during the political crisis and after a military junta took the matter in hand following the coup

d'état in May 2014. The case showed that access to the truth was difficult when the data was in the hands of the State because it used all means to put the lid on the matter.

3.5 Challenge of the Official Information Act

If the military, the Buddhist clergy, politicians, and businessmen challenged journalists in their pursuit of the truth, the Official Information Act in itself posed obstructions that tested patience and mettle. Confirming that access to information is vital to investigative reporting, journalists lamented the slow and complex procedures of the OIA, and the lack of independence of the Official Information Commission which comes under the umbrella of the prime minister's office. Thailand Development Research Institute researchers Duenden Nikomborirak and Tippatrai Saelawong criticized the OIA for being more conducive to concealment rather than disclosure of information.

> Analysis of Section 15 of the Official Information Act found that it lends more importance to the concealment rather than the disclosure of information because it allows for extensive exceptions against disclosure, with official agencies in possession of the information given discretion over whether the information requested should be disclosed. (TDRI draft report, 2014)

Moreover, this provision had led to the tendency of officials to wait for instruction from the Official Information Tribunal "so that they don't have to bear responsibility for any problems that may arise later."

To improve access to information, Kavi Chongkittavorn, regional affairs specialist and former assistant manager of *The Nation Multimedia Group,* called for a supporting mechanism along the lines of that in Canada which helps journalists plan the steps towards securing the information they need. Kavi was among the first to use the OIA after its publication in 1997. He said the Foreign Ministry then was "not ready" to give him information he sought on the Khmer Rouge but the ministry did give him access to information about the late prime minister Kukrit Pramoj's landmark visit to China in 1975, when the two countries established formal diplomatic relations.

The TDRI researchers found that journalists were by far among the minority seeking information through the OIA compared with state officials and the public at large. Media academic Ubolrat Siriyuvasuk, in an interview with this researcher in October 2013, attributed this to journalists' preference for using their own sources to access information. For many journalists, not least those engaged in investigative work, simplicity and speed are major considerations. Both Kavi and Prasong say the flaw lies in the constraints on the Official Information Commission, the authority entrusted with disclosure of information, which has to report to the Prime Minister's Office, by nature essentially a political entity beholden to the prime minister. "The OIC has to be reformed," Prasong told a seminar on March 10, 2014, adding this meant "releasing it from the Prime Minister's Office." Prasong's called for a central website equipped with a "good search engine" that would contain information about all firms that have won bids with State agencies.

Boonlarp of *ThaiPublica* pointed to the complexities involved in obtaining information under the OIA, and suggested a standardisation of disclosure practices across all ministries..

> Access to information is difficult for every issue. For instance, on the State's use of the media budget, they don't close the door [but] the process is complex. The website discloses some information but not all. Each ministry discloses differently. We can use the OIA but it's [the procedure is] very slow. We have to be patient..For instance we did so when investigating the foreign trips of [parliamentary] commissions. Initially [they] gave [information on] only nine commissions..Is it intentional that ministries disclose differently? The government should have a policy on this. (Boonlarp, interviewed January 16, 2014)

Vicha Mahakhun, of the National Anti-Corruption Commission, commended the Singaporean model of information access. In the island republic, Mr Vicha told a dinner talk at the Thai Journalists Association on March 5, 2014, "there is no secret that [Singaporean] citizens cannot access. With one ID card, Singaporeans

can “see everything,” he said. “If people can access information…there would be less corruption. Dracula fears the light,” he added.

On the same occasion, Mr Vicha commended the work of the private anti-corruption agency, ACT , or Anti-Corruption Organisation Thailand, and suggested the setting up of many more, attributing South Korea’s success in beating corruption to the existence of thousands of private anti-corruption groups there. Korea places 46th on Transparency International’s corruption perceptions index in 2013, against Thailand, which placed 102nd out of 177 countries, a substantial slide from 2012 when it placed 88th.

TDRI researchers Duenden Nikomborirak and Tippatrai Saelawong were emphatic that access to information is crucial to the battle against corruption in which civil society, not least the media, plays a key role.

> Experience in corruption suppression in several countries, including in South Korea and Hong Kong, has shown that the endeavour has succeeded with the aid of pressure from public rejection of corruption, which has compelled the political sector to respond in order to secure votes in general elections..If Thai people are to succeed in taking serious action against corruption, as counterparts have done in foreign countries, Thai people must have access to information on corrupt practices and the damages incurred in monetary and non-monetary terms. For this reason, access to information held by state agencies is an important key for civil society, including academics, media, the private sector and NGOs, to keep checks on corruption by the political sector. (Duenden and Tippatrai draft report, 2014)

The researchers were also critical that the OIA set no clear practical procedures for the public to access information, supporting earlier analysis by media lawyer Sinfah Tunsarawuth in a paper published on the occasion of the 15th anniversary in 2012 of the OIA.

> The OIA does not specify the period of time a state agency shall provide the information requested. It simply says it shall be provided "within a reasonable period of time", (Sinfah, 2012).

Sinfah however, notes that a cabinet resolution in December 2004 did set a guideline for the timing of disclosure but because a cabinet resolution "is not seen as law", there was "no strict enforcement". The guideline specified that if a state agency has the information in hand, "it shall provide to the person making the request promptly or within the day receiving the request," Sinfah writes.

> If the information requested is in large amount and cannot be ready in 15 days, the state agency shall inform the person making the request within 15 days and tell such a person the day the information shall be ready for picking up. (Sinfah, 2012)

Like other critics before them, including Sinfah and working journalists, the TDRI researchers also expressed reservations to the fact that the OIB, the unit overseeing information access, lacks independence.

However, whereas working journalists and media lawyer Sinfah pointed out that the OIB is led by a minister attached to the Prime Minister's Office, that its members include mainly senior government officials, and that the OIB's secretariat is under the supervision of the permanent secretary of the Prime Minister's Office, the TDRI researchers pointed to the OIB's lack of independence in terms of budget, saying this had adversely affected the Board's efficiency. The report said there had been a significant decrease in budgetary allocations to the OIB from 2546-2556, especially to public relations activities, for which the Board had only received about 8 million baht a year.

> In sum, from our analysis of relations between the Thai state and the OIA, we found that the government lends importance to the law with regard to policy..However, the government still has not fully empowered the OIB to enforce the law, letting it function only as an agency for co-

> ordinating and informing state agencies on enforcement of the law. Moreover, the OIB still has a limited budget by comparison with the work it has to do to co-ordinate with almost 8,300 state agencies across the country. (TDRI draft report, 2014)

In tracing media interest in and use of the OIA from 1998 to 2013, the TDRI researchers noted three peak periods. The first, in 2002, coinciding with the second year of the Thaksin government, saw media expose state evasion of information disclosure to media or interagency reluctance to disclose information to each other due to suspicion of political intervention in the matter. A second peak came between 2006-2008, coinciding with the aftermath of the September 2006 coup, and a time of doubt in the workings of the Securities Exchange of Thailand, the Election Commission and the national flag carrier Thai International Co. (Plc). The third peak came between 2011-2013, during the Yingluck government, when there was a marked increase in the use of the OIA by the media and non-governmental organisations to fight corruption. The period saw consistent debate about state reluctance to disclose information to media, and inter-agency refusal to disclose information to each other, for example the foreign trade department's refusal to disclose information on the rice pledging scheme to the parliamentary commission monitoring corruption and promoting governance. The three peak periods of media interest in the OIA illustrate that access to official information was necessary to the verification of irregularities of a complex nature and that the same information could not be obtained from other sources

3.6 Journalism practices: from Investigation to Verification

If the Official Information Act is a challenge in itself, journalism practices well tested over time have helped advance the task of corruption reporting which has moved from a process of investigating doubts and anomalies prevalent before the 1990's to a process more marked by the verification of tip-offs or allegations that has become dominant since the early 2000's. Though investigation involves verification,

the spark that sets off investigative reporting lies in the journalist's instinct for what is odd and deserves further pursuit.

Emphatic on the importance of instinct was Prasong, the former chief reporter of *Prachachat Turakij* currently supremo at *Isra News Agency*, cited his exposure of Pol. Lt-Col Thaksin's concealment of assets . In an interview in April 2013, Prasong said he began looking into the possibility after noticing that the then businessman had transferred assets to his children and questioned the reason for this.

> Two things came to my mind: 1) He was doing something dubious. 2) He was transferring shares in his businesses in order to play politics…To start with you have to follow your instinct. (Prasong, interviewed April 15, 2013)

Thereafter, Prasong discovered that a cook, a driver, a gardener, a maid, a housekeeper and a security guard were holding a large amount of assets in Thaksin's name from 1989-1992, when he was deputy foreign minister in the government of Chuan Leekpai. The blow for Thaksin's critics is though Prasong's report won the annual prize of the Thai Journalists Association in 2000, the prime minister survived a verdict passed down by the Constitution Court by a vote of 8-7 in August 2001. Prasong subsequently pointed to details in the judgement process which showed that in fact Thaksin lost because the eight votes in his favour were split into two groups of four, while the seven against him were united in their stand that Thaksin intentionally made a false declaration about his assets. Prasong made the point in an article for a weekly that featured in a collection of his writings on corruption published in a book called the *Art of Corruption* in 2006. Corruption specialist Sungsidh Piriyarangsan hailed Prasong's revelations about Thaksin's assets concealment as a red-ribbon contribution by media to society in that it drew so much attention that the case went all the way up to the constitution court. Sungsidh said the miscarriage of judgement by the constitution court laid the germ of division in society that persists today. Prasong began with the observation that unknown people were holding shares in Shin Corps that amounted to tens of thousands of million baht, Sungsidh noted. The academic said he used the case of assets concealment when he was forming his own theory of

systemic corruption, which he described as corruption according to the system where instigators use loopholes in existing laws for personal benefit legally.

Agreeing with Prasong on the importance of instinct is Saritdet of the *Bangkok Post* who covered the controversy over the purchase of CTX luggage scanners for Suvarnabhumi airport in 2005 during the government led by Pol. Lt-Col Thaksin and irregularities in the construction projects supported by the Public Health Ministry in 2009 under the government led by the Democrat Party. Saritdet said the *Bangkok Post* had received tips on both cases, and that the sources were credible, but emphasized that news sense was of primary importance. In the case of the luggage scanners, the US government was willing to co-operate because it stood to lose; in the public health ministry's construction projects, rural doctors well known for their credibility came forward with information.

> In general, the challenge begins with a sense that something wrong is going on.. Then you have to check backwards. Not everyone can do this. Not every investigation starts with someone passing you a tip. (Saritdet, interviewed January 15, 2014)

News instinct led a reporter from *Matichon* to investigate irregularities in the bid for the laying of three million telephone lines that contributed to the decision by the Anand Punyarachun government to invite new tenders in 1992, after splitting the project into two parts, according to Saovarose Ronnakiat of *Post Today*.

> The reporter had seen something odd in a small news item in another newspaper He expanded on it, eventually producing an investigative report. After the coup d'état [of 1991], the government held another bid.(Saovarose, interviewed January 23, 2014)

Prof. Malee, the media academic currently on the policy board of Thai Public Broadcasting Service (Thai PBS), agreed that investigative reporting begins with a sense of doubt but warned journalists against forming any pre-conceptions before taking the plunge.

> The concept of doubt extends to many things..for instance you may suspect something is not right in the issue of exams for the position of assistant teacher..You can question [it], you can observe [it]. But you must exercise judgement correctly. (Malee, interviewed April 24, 2014)

Journalists pursuing an investigation need technique for prising out information from suspects and their associates who would not want to speak. This technique requires not just taking suspects or others at their word but observing the body language, which may be more telling.

Beyond instinct or news sense, journalists investigating corruption also need reliable sources, news judgement, objectivity, general knowledge of the subject they are pursuing as well as a firm grounding in basic laws. The cultivation of reliable sources who will point the way to irregularities requires time, experience and proven performance by the journalists. Sermsuk, the security affairs journalist, said the cultivation of a "relationship of trust" was vital to coverage of these developments. "When they talk, then we can go forward," he said in an interview, noting that state security officials were difficult to reach, due to the culture of secrecy strongly at work in an institution with a tradition of receiving kick-backs though journalists could look to some retired officers who were willing to come forward. Additionally, the reporter's own performance engenders trust, said Prasong, who remembered receiving a phone-call from an incumbent finance minister on the strength of his previous work. No less important than the cultivation of sources is the protection on of sources. Emphatic on the matter of source protection is the Code of Ethics promulgated by the Press Council of Thailand in 1997. Newspapers "must not present news in such a way that the source of the stories could be revealed," and "take into the consideration that the well being of the source could be at stake if the identity of that source is revealed." Prof. Malee the media academic however, cautioned against journalists becoming too close to their sources as this could adversely affect their independence. "The biggest cheaters are police..but reporters hit a block when investigating.. The more reporters are close to police, the harder it will be for them to investigate corruption," she said in an interview with this researcher

On the matter of news judgement, Supalak of *The Nation* said reporters must see information for what it is, and be astute enough to detect information that has been released with certain terms changed to prove a point. A case of relevance was the Memorandum of Understanding on rice between Thailand and China that the Yingluck government publicized to show it was trying to solve the rice pledging scheme.

> What journalists have to do is prove that this is just an MOU. Journalists can do this because it's not only a matter between two people. We can ask the Chinese government. China says it's just an MOU, not an agreement for buying rice. It amounts to just an intention. You are lying and society knows. (Supalak, interviewed January 23, 2014)

Kavi says daily beat reporters had failed to present an overall picture of events because the government had been skillful in cutting up information.

> [The information] is disconnected because the government is clever, cutting the news into pieces. Previously this was not the case; one piece of news led to another. For instance the [issue of the] origin of senator should be seen as Thaksin wanting the parliamentary system to succumb to him. It's tyranny, No-one raises this issue. No-one understands. (Kavi, interviewed January 9, 2014)

Kavi attributed beat reporters' weakness in news judgement to lack of knowledge of the issue at hand. "Reporters find themselves in a dilemma because they don't have the knowledge they need" to understand the issue and make that judgement. Political reporters' lack of knowledge of Thai law, in particular the country's constitution, for instance had weakened their coverage of domestic politics, he noted. As a regional affairs specialist, Kavi said he had to keep abreast of regional and international laws, or risk denouncing himself. Saritdet agreed that reporters should be well versed in the law, to the extent of being able to interpret correctly the terms of reference in agreements relevant to the issue they were pursuing. A corruption specialist like Prasong had been successful because he went on to study

law, according to many journalists interviewed. Academic Malee emphasized emphasised the need for journalists to have general knowledge about the issue they are pursuing as well as specialist knowledge of the law, notably defamation laws which are in the penal and civil codes, she said. Rungmanee, the freelance writer, maintains that news judgement comes with experience .

> You always have to check whether the information is accurate. How: by checking information from more than one source of different origins. If possible, (for additional backup), see if there are documents, and check the date and origin of the document. And you have to be sure that there is no more up-to-date information. Giving weight to information, whether from a source or document requires consideration of the experience on the part of the reporter, [his or her] background of the source and the organisation. (Rungmanee, interviewed by email, 2013)

Experienced in investigative reporting, Rungmanee emphasised that every journalistic pursuit required the journalist to be curious, and eager to find out the truth.

> Curiosity is the basic [characteristic] of being a journalist. Whenever you have news issues on your mind, you want to find out more hidden information behind [them] that bit by bit makes you feel happy. It's a kind of challenge [anyway]. And then when you can solve the puzzle, that makes you feel triumphant. A triumph is a well-earned victory for an investigative journalist. (Rungmanee, interviewed by email December 2014)

Beyond news judgement, Kavi said journalists had to articulate the news, an ability which also was linked to lack of knowledge. He attributed the survival through many months of the political crisis of Thaksin's sister Yingluck as prime minister to a popular television anchor's adoption of a story-telling style of reporting rather than spelling out the points of the news. But Kavi, who was president of the Thai Journalists Association for two terms 1999 to 2003, was hopeful that journalism

practices would improve with reform in the profession. For starters, reporters needed additional training through the course of their careers, in the way that doctors do, he said.

Through the processes of investigation, and at times when rivalry is acute, journalists have to abide by the cardinal rule of objectivity or run the risk of being discredited for biased reporting.

> What you report will adversely affect one side who will suspect you obtained the information from other side and discredit you for failure to be objective. (Supalak, interviewed January 23, 2014)

But not all journalists agreed that objectivity means giving all sides, notably the suspect, a chance to have a say. One senior journalist described this strategy as "playing safe" and as such "confusing" to readers. "We have to be fair but the most important thing is to bring out the truth," the journalist added. For media academic, Tharm Chueasathapanasiri, neutrality means "being neutral towards the issue in question."

> Whether the journalist is right or wrong, let the law, social and ethical standards lead to judgement whether he or she has verified the issue from all sides, comprehensively and allowed space equally for all sides to debate. (Tharm, 2014)

Relevant to this is the call by media academic Malee for journalists to refrain from having "pre-conceptions" before embarking on an investigation.

3.7 Challenges to journalism practice

If objectivity is important to good journalism practice, the forgery of documents and doctoring of information by sources of information present real challenges to journalists, whether they are just following the daily beat or investigating a complex issue. Supalak of *The Nation* made the point in the context of politicians

who no longer could make secret deals because the tradition of censure debates in the House of Representatives had opened the way to effective exposures.

> Today, politicians compete to show up the wickedness of rivals. This practice of exposing the other side is very good because it means politicians cannot hide anything. Within not more than three months, the matter is in the open whereas before, when politicians colluded, there was no way you could get to know these malpractices..But you have to be careful and this is another challenge, the challenge of how you verify that what is released is true. There is a lot of forgery.. . Even information from ministries may have been doctored before release. (Supalak, interviewed January 23, 2014)

While sources of information challenge reporters with forgery or doctored documents, reporters themselves have to be circumspect in the way they access information, adhering to the demands of the law in the process, and refraining from temptations to steal or hack information. Amid the industry of hackers who have made headlines internationally, Supalak emphasised it was critical to the legitimacy of the information and the journalists' own credibility that they access information legally.

> How you obtain information is important. From the perspective of the law, you must obtain it honestly. You cannot steal documents. You cannot hack information. Even if the information is true, it is illegal. (Supalak, interviewed January 23, 2014)

The credibility of the journalist, the editor and the publisher is at risk if information that has been obtained dishonestly or illegally is published as cases in Europe have shown.

Though the challenges to establishing the truth about irregularities are multiple depending on the culture of institutions concerned, beliefs of individuals, political and bureaucratic constraints, journalists have found a methodology that is effective for a variety of cases across the board. First and foremost, give the suspect a

chance to have his or her say on the allegation. If the suspect refuses to talk, which often is the case, turn to his or her opponent for a clue, then cross-check with other concerned sources such as local community leaders, residents, the respective state authority or traders in the private sector. Ultimately, documentary evidence relevant to the irregularity in question is imperative. Rivals in general elections for seats in the House of Representatives or losers of bids for business with the government, from purchasing of materials to construction and operation, could not be trusted to tell the whole truth because they are partisan and, over the years, journalists have found a way of checking them out. Journalists have received documents, phone calls and information in person, all of which they have to independently verify. Though more comforting than information given by word of mouth, a document has to be understood and correctly interpreted, sometimes with the help of an expert, journalists emphasized. Professionally, journalists are bound to verify allegations or risk losing their credibility as professionals as well as opportunity for news. The duty to verify is implied in the calls by the Press Council of Thailand for fairness to all parties concerned, and for the right of parties who stand to be damaged by publication of the story to have their say. Item 6 of section II states "Newspapers must be fair to all parties mentioned in the news stories." Item 11 states " When making references that could damage the reputation of an individual, newspapers must give that party the opportunity to state his case." The code of ethics was published in 1997 by the self-regulatory body to ensure professionalism, accountability, and responsibility.

The challenges to reporting corruption do not only lie in journalism practices, but also in the reporter's correct understanding of the concepts of corruption. Corruption specialist Sungsidh sees two concepts as explanatory of the cases in Thailand: systemic corruption and systematic corruption. In an interview with this researcher, he defined systemic corruption as corruption according to the system, and systematic corruption as corruption by system.

> Systemic corruption uses existing law as a loophole to find benefit legally. For example, if [there's a rule of PM Office] that bidders can not hold cross shares of more than 25%, then one person will submit three lots of 25% in the same name, address, at different prices. Hence no

> matter who chooses it will be that person who wins. If [there's a rule that] bidders cannot tender exceeding 10% of the mean price, then bidders will collude to submit tenders at not more than 8% or 9 %. (Sungsith, interviewed June 11, 2014)

Systematic corruption, by contrast, happens when politicians don't find a law that suits their purposes, he added.

> When politicians don't find a law that fits, they will issue a new law, for example for 350 billion baht water management or 2.2 trillion infrastructure project. There's a budget law that can be used to include such projects but it provides for checks and balances and they don't want that. This is systematic corruption ..It is corruption even if it is lawful. That is it's corruption if it's unethical, constitutes conflict of interest and goes against the expectations of the majority of people. (Sungsidh, interviewed June 11, 2014)

Prof. Malee however, calls reporters to look at more everyday behaviour as she sees corruption as part of the wider concept of dishonesty. "Corruption does not just mean cutting down forests," or other large-scale cheating, she says.

> ..it means what happens in daily life such as jumping the queue, or consenting to do what it takes to get your children into good schools..Thai people talk about the ugliness of corruption..but do you talk about what you do at work for instance [pinching] pencils from work for your children..We tend to focus on big cases. (Malee, interviewed April 24, 2014).

As Prof. Malee says, everyday behaviour that is dishonest also amounts to corruption.

3.8 Social and cultural constraints

The eagerness of parents to secure seats for their children in schools deemed best is a social problem that has to be seen in the context of unequal education opportunities, say Kavi of *The Nation* and Chutima Buranachada of *Daily News*. This view is supported by a United Nations Development Programme report, released in April 2014, that expressed concern about " a lingering problem of inequity in access to and quality of education." Though research by Dilaka Lattapipat had established that inequality in access to secondary level had "strikingly reduced", the report says, a World Bank survey had noted a persistence of inequality at college level.

> In the late 1980's, a youth from a household in the top income quartile had a six times better chance of enrolling at the upper secondary level compared to a youth from the bottom income quartile. Today that difference has been reduced to one-and-a-half times. (UNDP, 2014)

Of access to college level, inequality remains severe:

> Today 60 per cent of youths from the top income quartile enroll at college, but only 10 per cent of youths from the bottom quartile, a gap of six times. Moreover, since the mid 1990s, this gap has widened, with youths from the top quartile showing the most gains. (UNDP, 2014)

Though the inequities in access to secondary education have been found to have narrowed, journalists say the race for schools deemed best has raised controversy about irregularities annually that no-one has been able to trace. Well-remembered is the case of parents from the who sought to check the exam results of their child under the Official Information Act when their child was not admitted into the famous *Sathit Kaset* Demonstration school in 1998. The Official Information Commission approved disclosure of the information they sought but Kasetsart University, as the parent organization of the school, was still using other administrative regulations to resist disclosure a year later (Manager Magazine, 1999). It was not till the year 2000 that the Juridical Council ruled that the school had acted unconstitutionally, against the

charter's call for equal educational opportunity, by allowing a quota for admitting 38 children without making a public announcement (*Prachachat Turakij*, 2000).

Though cheating on public spending is hard to verify, varying in degree depending on the sums and agencies involved, issues of a social nature are an area where the truth seems most difficult for journalists to establish. This was seen in the responses of journalists on the payment of extra fees by parents seeking places in famous schools for their children, or the misspending of donations given to monks. In the case of tea money (or *pae jia*) for schools, again it would be losers, that is parents who paid but still could not secure a place for their children , who would come forward with information, albeit anonymously. Boonlarp, of *Thai Publica*, said verification could be possible through a survey but the anonymity condition might adversely affect the credibility of the report.

> We could design a survey, talk to parents and teachers. Damaged parties would give information. But when the survey is published our credibility would be questioned because we were unable to name any of the informants…We could verify only up to a point because the testimonies would be only verbal.(Boonlarp, interviewed 2014)

By and large, journalists interviewed opposed the *pae jia* system, literally meaning "eating for free", which enabled individuals to pocket cash without any commitment to deliver the parents' wish. "Pae jia is not right. It's about the perpetuation of the patron-client system in Thai society," said Sompoch of channel 7. But journalists were more flexible about "donations', especially those that were managed by alumni or parent associations, with Chutima of *Daily News* pointing out that parents see such expenses as an investment in the future of their child.

> It's a matter of consent. Those who want their children in school, they don't call it *pae jia*. They use the term *udnoon*, or support for the school to obtain computers or sports equipment for example..It's a matter of parents wanting their children to get into good schools, acquiring good

> society, eventually getting into good [universities]. It's a much wider issue of the social system. (Chutima, interviewed January 21, 2014)

The consent of parents, says Chutima, to contribute to a school project had made it difficult to catch any culprits red-handed. Instead of outright payment, increasingly people with status, such as politicians or even reporters, had been asked to use their respective positions to place children in school. The case of the Juridical Council ruling against *Sathit Kaset* Demonstration school was exceptional, and came after the parents of the child, who were legal professionals and had tutored the child themselves, pursued and persisted with the matter for two years. While journalists largely rejected the *pae jia* system, they found acceptable the extra fees schools demanded for bilingual Thai-English programmes or for tuition in special skills such as computer literacy. "But the school has to announce it formally " and payment has to be "within the system," noted Prasong, of *Isra News Agency*. Supalak of *The Nation* agreed, saying such fees were normal. What was not normal, and an opportunity for corruption was when schools allowed an admission quota of 4-5% for patrons, or *poomee uppakarakhun* .

Though social media increasingly is being used by politicians and academics, some sources continue to pressure beat reporters through daily contact, journalists affirm. Suggesting that the patron-client system is at work in such situations, two respondents, including Kavi of *The Nation*, pointed to such a relationship between source and beat reporter as one that sometimes becomes counter-productive.

The biggest cultural constraint journalists cited was the deference to seniority ingrained in a cross section of Thai society especially if the source is one who beat reporters see on a daily basis. Politicians in particular seized on this culture to inspire fear in reporters that failure to pass on their message would mean losing their patronage as a source of information. Kavi said this "culture of *krengjai puyai*" , or a feeling that they need to oblige elders, amounted to significant pressure on beat reporters. This cultural impediment obstructed correspondents working in the provinces as well as beat reporters, observed Prof. Malee, who insisted on journalists keeping "a certain distance" from their sources, and refraining from involvement in the

issue they are investigating. She cited the difficulties of reporters on the police beat establishing irregularities. The same applies to reporters in the provinces who may come across irregularities but be obstructed from pursuing further because provincial society is more close-knit than that in Bangkok, enabling local influential people to be potentially intimidating to these journalists. In such a case, it would be best for the media organization concerned to assign journalists from Bangkok to pursue the matter. For similar reasons, it is wiser to assign reporters from Bangkok to cover pubic hearings on mega-projects in the provinces

3.9 Summary

This chapter has discussed the importance of verifying allegations or tips , identified the military and the clergy as posing the greatest challenges, more so than politicians and businessmen. The chapter also has examined the challenges of the OIA, the methodology journalists have used to establish the truth, and the social and cultural constraints of verifying irregularities. The next chapter looks into the impacts of the political economy on the media industry and corruption reporting, as well as the legal constraints on journalists.

CHAPTER IV
CONSTRAINTS OF THE POLITICAL ECONOMY AND LAWS

Introduction

Journalists are constrained by the policies of their organisations which operate businesses that are dictated by the demands of the markets, where readers and advertising revenue are decisive. The market, for its part, operates within a financial environment and the realities of the economy, where costs and competition matter. Concurrently, journalists are constrained by laws that have become more restrictive on freedom of expression and mete out heavier penalties. This chapter argues that journalists working on corruption are constrained by the business aspirations of media owners, and laws that curb journalists' freedom to establish the truth. The chapter starts with a discussion of the limits of business on journalists, and the impacts on media owners of political, financial and technological realities. Subsequently, the chapter assesses legal constraints such as defamation laws, the Press Regulation Act, and the computer crimes act before discussing the Official Information Act's defiance of international perceptions of the right to know, impacts on investigative reporting, and the narrowness of corruption perceptions in Thailand. The last section points to categories of irregularities found in hypothetical questions posed to journalists**.**

4.1 Journalists and media owners

The growth of competition in the media business, tightening of laws against defamation, extensive discretion given to authorities, and the lack of a supportive structure for access to information have constrained reporting on corruption in a country where corruption is endemic and allegations of corruption occasionally exacerbate political division. While journalists say media executives are more concerned about advertising revenue than editorial content, media executives insist that the quality of content is vital to their success in securing advertising revenue.

Prasong Lertratanawisute, executive editor of the on-line *Isra News Agency*, cited the glossy advertising that wrap around newspapers as an example of advertising revenue displacing the importance of editorial content.

> Times have changed. Look at how newspapers are now wrapped in glossy advertising. That means they produce newspapers primarily to secure advertising revenue rather than to sell content. If you had a good product, would you show the content or wrap it up? (Prasong, interviewed October 2013)

But both Suthichai Yoon, chairman of *The Nation Multimedia Group*, and Thakoon Boonparn, executive editor of the *Matichon Group*, contested the view that the race for advertising revenue had come at the expense of editorial content, both arguing that, on the contrary, improving editorial content had become even more important in the face of stiffer competition for advertising.

> Stiffer competition for advertising has no real impact on editorial content. Our executives believe "good journalism is good business." Therefore, the improvement of editorial content is even more important to compete for advertising revenue (Suthichai, interviewed March 24, 2014).

For Thakoon, the accuracy of editorial content is essential to media's growth in the long run, with development of human resources more compelling than intervention in editorial work.

> If you want media to grow in the long term, content, what is right and accurate remain most important. People will read and advertise because of the quality of the media. Rather than intervene we must develop [the quality of] human resources, not just those on the editorial side, but also those on the commercial side. (Thakoon, interviewed April 22, 2014)

Both the journalists and business executives advance arguments that are hard to contest. From the perspective of journalists, glossy wraps advertising consumer products do militate against the hard work the news room as a team puts in to make the front page compelling. From the standpoint of business, wraps bring in revenue to keep the paper going, appear with the brand of the paper and only come occasionally.

4.2 Financial crisis and pressures of regime change

When Pol. Lt.-Col. Thaksin Shinawatra was in power from 2001-2006, coinciding with the media's struggle with the financial crisis, controversy abounded over his use of the state media budget to reward media who were non-critical and punish media who were critical. For example, the *Manager Media Group*, during its honeymoon with Thaksin, obtained a contract from the Mass Communications Organisation of Thailand to run a weekly talk show on prime time television and saw the group's debt to the state-owned Krung Thai Bank reduced from 1.8 billion baht to 200 million baht (*The Nation*, Nov 30, 2005). By contrast the daily *Naew Na* lost advertising revenue from state enterprises after it refused to remove the column of a government critic (*The Nation* December 1, 2005). At about the same time, owners at the *Manager Daily* asked editors to downplay the controversy over the partial listing on the Stock Exchange of Thailand of PTT because the state-owned oil and gas company was a major advertiser and a certain sense of obligation was felt, an informant noted. Governments since the time of Thaksin used business associates to pressure print media in full knowledge that influential newspapers, which had diversified to broadcast and digital media, had powerful armoury to hit back if they were to exert direct pressure, another informant added.

Suthichai Yoon, Chairman and senior journalist of The Nation Multimedia Group, admitted that regime change had been influential.. The group had been under pressure during the governments of Thaksin and Yingluck Shinawatra, but none under that of Abhisit Vejajiva which was in power between the two, from 2006-2011.

> Under Thaksin, we came under severe pressure and state advertising disappeared almost entirely. But we continued to abide by our principles

> and refused to yield to pressure. While our revenue from state advertising may have declined, our overall income didn't suffer. Sales of newspaper and extra efforts to sell more advertising from private companies compensated for that loss. Under Abhisit [Vejjajiva] political pressure was not felt and state agencies were free to advertise as they saw fit, without any special political favour to us. Under Yingluck, political pressure is back but uneven. Most state agencies make their own decisions on whether to advertise with us although some of them do come under direct instructions from certain Cabinet members not to do business with us. (Suthichai, interviewed March 24, 2014)

Suthichai however noted that advertising from the state was not a major part of the group's revenue "representing no more than 20% of our income". After Pol. Lt.-Col. Thaksin was ousted by a coup in September 2006, the issue became the amounts of money involved. Somkiat Tangkitvanich and Worapoj Wongkitrungruang, in research for the Open Society Foundation published in December 2010 , noted remarkable spending for radio and television in 2009 and 2010, when the Democrat Party was in power .

> In 2009, the government's advertising spend [sic] on television reached THB 2.77 billion (US$85.5 million) or about 5.3 percent of the total advertising spending on television. In a single month, January 2010, he government spent THB 74 million (US$2.28 million) on newspaper advertisements, making it one of the top five buyers. Government spending on radio advertising during the same period was even more pronounced as it was the biggest spender, with a budget of THB 64 million (US$1.97 million). (Somkiat and Worapoj, December 2010, p. 70-71)

The picture became clearer in research by the Thailand Development Research Institute published in April 2014 which pointed out that government spending on media had been "higher than reported" since 2007. For 2007-2013, the

government had set its annual budget for advertising and public relations activities at between 1.5 billion to 2.2 billion baht, said the report titled “Suggested Regulations for Controlling Government Advertising and Public Relations”, by TDRI researcher Itsakul Unahakate. In 2013, the biggest portion of about 677 million baht went to the Prime Minister’s Office, followed by the Ministry of Tourism and Sports with 237 million baht and the Ministry of Agriculture and Cooperatives with 136 million baht.

> The [reported] information regarding the government’s annual advertising and public relations expenditures may be lower than actual spending. This is because many government agencies have allocated such expenditures from other sources, such as central and other support budgets.(Itsakul, 2014)

In support of his observation, Itsakul quoted a report by the Media Agency Association of Thailand that the government spent up to 6.33 billion on advertising and public relations last year, representing the fifth-largest spender after the automobile, skincare, telecommunications and entertainment sectors. The Budget Bureau however, put the amount spent at only 1.94 billion baht.

The increase in government spending on advertising and public relations reflect the government’s acceptance of the importance of media and media’s acceptance of realities. Whether this amounts to complicity in corruption on the part of media demands a review of the concept of corruption and the activity being promoted. Neither advertising or promotion amount to abuse of public position for private gain, according to the widely accepted World Bank definition of corruption, and narrower Thai perceptions of corruption as bribery or collusion. While transparency was missing from the extra-budgetary allocation of 2.2 trillion baht for overhaul of the country’s communications infrastructure, and details of some related projects such as the high-speed train were questionable, it can hardly be contested that the country’s transportation system does need an overhaul. As for media owners passing down to the editorial department messages from major advertisers to play down a controversy, this is pragmatism for survival that challenges the journalists’ art of presentation.

4.3 Financial crisis and survival strategies

The financial crisis in 1997 sapped the financial resources of newspapers, constraining their freedom to set the direction of news coverage, says Kavi Chongkittavorn, a former assistant group editor of *The Nation Multimedia Group*. "The owner is a big problem after 1997.. The financial crisis suddenly weakened the financial strength of newspapers hence the freedom to determine the direction." Affirming the importance of the owners' policy, Chavarong Limpattamapanee of *Thai Rath*, the vernacular daily with by far the largest circulation in the country, said any decision to engage in investigative reporting was "up to the organization". A second financial crisis in 2008 due to the collapse of banks in the United States and Europe dealt another blow, and patchy performances at home and abroad squeezed media in general, according to many journalists interviewed. Saritdet Marukatat, digital media news editor of the *Bangkok Post*, believed media executives had been hesitant to approve investigative reporting because the pursuit demands time, commitment of human resources to the project, and extra budgeting. Hence beat reporters are discouraged from engaging in investigative reporting though these are the people who can access valuable documents vital to any attempt to expose alleged malpractices (Saritdet, interviewed January 15, 2014). Another senior reporter preferring non-attribution agreed, saying a proposal to investigate an alleged malpractice in Bangkok or surrounding provinces was more likely to win approval from the editorial board than one that involved travel to a province more distant.

From the perspective of newspaper owners, the financial crisis of 1997 forced them to lay off staff and change strategy. An estimated 3,000 journalists and other media workers in Thailand lost jobs in the 18 months after the financial crisis (Schidlovsky, 1999). By 2000, most major newspapers had invested in technology to set up online versions but *The Nation Multimedia Group* went much further and profited from new media as part of venturing into all available platforms, as researchers Somkiat and Worapoj noted.

> Some media organizations employ new business models to survive competition in the age of convergence. The first involves the expansion of delivery channels to new media to reap the benefits from economies of

> scale by selling the same services on multiple platforms. For instance, *The Nation Multimedia Group* distributes its news for newspapers, radio, satellite television, mobile television, SMS, websites, blogs, and social media. Owning many delivery platforms also allows it to offer integrated services to advertisers. While some platforms, such as mobile television and social media, are not profitable by themselves, they help attract audiences to other profitable platforms. While *The Nation Multimedia Group* as a whole is still loss-making, *Nation Broadcasting Corporation*, its new media subsidiary, announced that its profit for the third quarter of 2010 was THB 28.3 million, a 19 percent increase over the previous year. (Somkiat and Worapoj, 2010)

Suthichai confirmed the analysis of researchers, responding in an email interview "our diversification into all platforms reflect our adjustments to suit the new consumer behavior and the changing trends in advertising that is adapting to the digital changes." He added that management of the transition from print to other platforms was of critical importance.

> The biggest challenges for our business executives: How to manage the transition from print-based business to online and broadcasting activities without a hitch in terms of revenue, content and platforms. (Suthichai, interviewed 2014)

While *The Nation Multimedia Group* diversified across the board after the financial crisis, others reacted differently. Post Publishing Co. Ltd, introduced publications with more advertorial content, first a glossy lifestyle periodical, called *The Magazine*, to subscribers of the *Bangkok Post* free of charge every two weeks, more recently extending the interval to every two months and selling this thicker version of it to non-subscribers on news stands. The same group's Thai-language daily, *Post Today*, in 2011 issued free of charge a tabloid called *M2F* that is tailored for city commuters who snap it up as a medium for light reading on up-and-coming professionals, and urban entertainment. Both publications carry considerably more

advertising than editorial content. Due to other business interests of their owners, both the *Bangkok Post* and *Post Today* have been seen to "compromise their professional integrity for commercial reasons", according to Somkiat and Worapoj. "For example, the *Bangkok Post* and *Post Today* often print 'news' and pictures about Central Department Stores, which belong to its major shareholders," the researchers added.

The *Matichon Group* has drawn more criticism by organizing "events" to promote government policies, notably the the 2.2 trillion baht project to overhaul infrastructure nation-wide that is seen as part of the Yingluck government's policy corruption, through use of extra budgetary funds to evade parliamentary checks for example. Thakoon said the *Matichon Group* was organizing promotional events for government agencies because the group needed an income to finance expenses which continued to rise while revenue from advertising was slow, and because the group believed in the projects.

> We agree to organize events. We do what ever brings in an honest income. Advertising grows slowly but expenses grow normally. Salaries go up, [the price of] raw materials go up. You have to seek income from other sources to compensate. We don't organize events for entertainment value. We organize events that are substantive (Thakoon, interviewed 2014)

He added that belief in the need for the country to overhaul the transportation infrastructure, notably roads and railways, had convinced the *Matichon Group* to engage in the events promoting infrastructure development in seven provinces across the country, including Nong Khai, Ubon Ratchathani, Nakhon Ratchasima, Khon Kaen, Ayuthaya, Nakhon Sawan and Chiang Mai.

> The point is we believe the country needs a complete overhaul of the transportation infrastructure whether or not there is an ASEAN Economic Community. We cannot avoid [it] in terms of geographic position, regional realities.. We cannot leave Thailand the way it is. This is the meaning of the lost decade; it means loss of opportunities…Therefore

> because we believe [in the project], we agree to organize the events and we do so wholeheartedly. (Thakoon, interviewed 2014)

Thakoon however, was emphatic that the *Matichon Group*'s engagement in public relations events for government projects had not curbed its criticism of the government when the situation warranted it, pointing out that all three papers, *Matichon*, *Khao Sod* and *Prachachart Turakij*, ran front page comments against the amnesty law, which would have absolved former Prime Minister Thaksin, who faces charges of abuse of power among others, and enabled him to return to the country a free man. "We were the first to declare that we didn't want the amnesty bill," Thakoon emphasized. For Post Publishing, the new business models grew alongside daily reporting of high-profile cases of alleged corruption, for instance the rice pledging scheme, the 2.2 trillion baht infrastructure development project, and the 350 billion baht water management scheme that forms part of that. At the same time, independent observation by this researcher found that *Spectrum*, the investigative section of the *Bangkok Post*, continued to cover irregularities, notably running an extensive piece in August 2013 on the GT-200 "bomb detectors"that turned out to be bogus and the sale of the device by a British vault security engineer an international hoax in which Thailand and Mexico were buyers.

4.3 (a)Structures of Media Organisations

The structures of the media organisations discussed show differences in business and political control. Post Publishing seems to have significant foreign shareholding, with the Hong Kong-based South China Morning Post and Post Publishing together holding 20.28% of the shares. But an individual whose family is engaged in retail trading is also dominant, with 19.22 % of the shares. *The Nation Multimedia Group* features Dow Jones of New York among its shareholders but it represents only 3.63%, while the Thai chairman holds 9.20 % of the shares, in a structure that is split into smaller units than the other two groups, the top three shareholders owning only 9.20%, 9.08% and 4.99% of the shares respectively. By comparison, Post Publishing's top three shareholders own 20.28%, 19.22% and

11.20% of the shares. The *Matichon Group* features an individual indirectly connected to the former Thaksin government as the second largest shareholder, owning 19.71% of the shares, after the founder's 34.93%. The third largest shareholder of this group owns only 5.50% of the shares. The differences in business and political control show that Post Publishing is vulnerable to conflict of business interest and *Matichon* to political regime change. *The Nation Multimedia Group* on paper emerges as most independent, though the holding by Dow Jones does suggest potential for foreign influence.

4.4 Imperatives of technology

Advances in information technology which changed consumers' behaviour and the need to keep the *Bangkok Post* brand in the online news market forced the paper to join the march of major newspapers online, according to Saritdet, the English-language daily's digital media news editor.

> The first breakthrough was the internet which showed consumers what they could access online. After this came the convenience of smart phones and tablets which enabled consumers to keep up with the news without having to log in to desktop or lap top computers. (Saritdet, interviewed July 10, 2014)

But the move online coincided with a decline in readership of newspapers, from 26.3 million in 2007 to 18.9 million in 2009, or 14% year on year between 2007-2009, according to a survey by AGB Nielsen Media Research quoted by Somkiat and Worapoj. The researchers pointed to the shift in consumption to new media as a likely cause.

> There are two possible explanations for the reduction in newspaper readership. The first is that some groups of people, e.g. the young, may consume less news from any sources. The second is they do not consume less news but shift their consumption to new media. While lack of data

> makes it impossible to distinguish between the two explanations, the second explanation appears more likely. (Somkiat and Worapoj, 2010)

The same researchers observed that advertising spending on newspapers contracted from 22.5 billion baht in 2008 to 19.5 billion baht in 2009, or by 13.3% in a single year. They noted that advertising on the internet had risen by 30% in 2009 "albeit from a very low base".

Saritdet confirmed that online readers were younger, mostly in the 25-35 age group and noted that advertising on the *Bangkok Post* news website had grown slowly since the web was launched in 1996. The print media, he said, remained the preference of advertisers, estimating that online advertising accounted for only 15% of Post Publishing company's advertising revenue in 2014. What had grown faster was readership, from hundreds of page views per day 18 years ago to around 300,000 per day as of mid-July 2014. A peak of 4.7 million page views was recorded on May 20, 2014, the day Army Chief Gen Prayuth Chan-ocha declared martial law.

While the major newspaper's web versions provided general news at speed, it was not till 2011 that investigative reporting went online with *Isra News Agency*, *ThaiPublica* and the Thailand Information Centre for Civil Rights and Investigative Journalism (TCIJ). The investigative arm of *Isra News Agency* is famous for its exposure of malpractices by elites in business, politics and the bureaucracy, its publication of documents to illustrate irregularities lending credibility. *ThaiPublica* offers more variety, presenting reports on the environment as well as corrupt practices by the state and private sectors. *ThaiPublica's* executive director Boonlarp Poosuwan declares on the news website that the team believes "the use of the internet as the space and tool will help sustain the editorial department's independence, overcome the limitations of mainstream media, and bring forth variety". *TCIJ* in July 2014 ran an in-depth report on an agro-business corporate's attempt to promote its business image by hiring media to ensure positive stories about it and correct negative coverage.

While major newspapers were forced by technology and change in consumer behaviour to go online, digital television requires a great deal more investment, and an entirely different set of skills. Uncertainty has deterred the *Matichon Group* from taking the plunge, like *Post Publishing* choosing to provide

content for the time being. As Thakoon said in an intertivew, "..no one can assess accurately, including those in the West, the origin of information technology, how development in new information technology will affect the direction of society." Thailand, he added, had been able to learn from the experiences of newspapers in Europe, the United States and Japan, which had adjusted to the trend of digitisation.

> What we see is there is still room in the market for print media to go forward. At the same time, we are compiling the experiences of others before going into the digital world ourselves.. Eventually, we may not be able to prevent this. As people say, in 20-30 years, everything may go digital. Print media, whether newspapers or books, may become a player in the minority. As to whether it will decrease to zero I don't believe it will be. In the West for example, some [newspapers] have folded, while some are still surviving. Among the survivors, there are two groups 1) giants with money; 2) people who can adjust. We hope that we are who are not giants are in the latter group…We can adjust. We will not go against the trend. We have to see if it's apt. If you jump in (to digital television) too early, you may throw money away. If you are too slow, you'll miss the train. As for when, we have to see the details. The point is that there is uncertainty. (Thakoon, interviewed 2014)

Though digitisation eventually would increase the number of television stations from the current six terrestrial stations to 48 in all, Thakoon expressed doubt whether the advertising market would grow in proportion. What was certain, he added, was that only the fittest would survive in such an environment. At issue was the "quality' of content, he emphasized. If this is up to standard, then advertisers would pay to keep the stations concerned alive. Suthichai expressed hope that digital television activities would meet *The Nation Multimedia Group*'s "expectations" after noting that revenue from online projects had not grown enough to compensate for the decline in print. It is too early to predict how the market will respond to digital television, which launched trial runs only in April 2014, and how consumers' preferences will evolve as they gain greater access to information and learn to be

discriminating. What is certain is that the quality of content is decisive whatever technology may bring.

4.5 Digital television and access to official information

With the advent of digital television, chances are strong that media interest in the Official Information Act will rise because the increase from six terrestrial television stations to a total of 48 means there will be more players, and the call for news stations to provide 50% news has triggered fierce competition for content. The options for the seven news players are to provide more variety or more depth, says Duangkamol Chotana, President of *The Nation Multimedia Group*. The group is trying to develop in-depth reporting because it believes quality news derives from investigative work. The possibilities for investigation are extensive, reaching issues that impact on the quality of life, the environment, state services, social inequalities and crime management. Investigation of issues like irregularities in the rice pledging scheme and state use of the budget for procurement would need support from the OIA. If the OIA were amended to open up access to official information this would improve media checks on state spending.

> If we investigate corruption we would need to use the Official Information Act a great deal. Amendments to the OIA would improve our scrutiny of state use of the budget for purchasing and hiring. (Duangkamol, interviewed July 8, 2014)

An increase in investigative reporting on digital television likely would have a chain effect, compelling print media to also engage in more investigative reporting themselves, said Chavarong of *Thai Rath* daily. On the contrary, media academic Malee, who is now on the policy board of *Thai Public Broadcasting Service*, feared that the impact of heightened competition would be negative on content, forcing players to pander to consumers' demand for thrills.

> Digital television will lead to a bigger race to get the best rating, not to improve quality which I'm very concerned about. Look at how they are racing to buy people. And when you have bought them you have invested haven't you? Then you will need to get the rating so as to get money to pay these people, so these people will produce superficial stuff just to push up the rating. (Malee, interviewed 2014)

Thakoon of the *Matichon Group* thought problematic the latitude for interpretation in the content proportion set by the National Broadcasting and Telecommunications Commission for news and substance. "Whereas the meaning of news is clear, what does it mean to be substantive?" If this included tourism, there was still room for interpretation as to what that meant. Few would disagree that the quality of content is of vital importance as consumers gain access to a wider range of media, and hence more choice.

4.6 Content and corruption perceptions

With content being so important, Malee's concern with how it will develop through the digitisation of television and the competition for the top rating that will engage journalists and their producers is valid. The concern stems in part from her perception of corruption as meaning more than the "ugliness" of high profile cheating but also of unethical conduct in everyday life, such as jumping the queue or pinching pencils from work for one's children. "To remedy the problem, we need to cultivate the importance of the value of honesty from early days," she emphasised. Sungsidh Piriyarangsun, the corruption specialist who has authored and co-authored volumes on the issue, lamented that the Thai perception of corruption was considerably narrower than those of the United Nations, the World Bank or Transparency International which considered nepotism and cronyism as offences. In an interview on June 11, 2013, Sungsidh observed a scarcity of checks on political corruption, which he defined as abuse of power in order to preserve one's own power. He cited the case of the Thaksin government which persecuted the parliamentary opposition and other groups who thought differently, such as journalists, non-governmental organisations and labour

union representatives. Notably, Sungsidh added, the government used the Anti-Money Laundering Law to freeze the assets of these latter groups simply because they differed in thinking. Thaksin's sister Yingluck acted similarly, accusing the People's Democratic Reform Committee spearheading the street protests from November 2013-May 2014 of being rebels and terrorists. Such political corruption, said Sungsidh, should be made a legal offence punishable by jail terms.

Sungsidh also railed against what he calls administrative corruption, or the transfer of positions in the public sector for the benefit of relatives or cronies. If the practice were banned in the constitution, the case of Thawil Pliensri would not have taken more than a year to see justice, Sungsidh noted. Thawil was transferred as secretary general of the national security council in September 2011 to make room for the then national police chief so that a relative of then Prime Minister Yingluck could replace the latter in this coveted position. Thawil was reinstated as NSC chief on April 28, 2014 after appealing to the *Soon Kunnatham* (Centre of Virtue) and taking his case to the administrative court. Though agreeing that patron-client relationships endemic in Thai culture were largely responsible for administrative corruption, Sungsidh said it would be harder if it became unconstitutional to do so. If such nepotism were declared unconstitutional as Sungsidh suggests, offences of this kind would capture more attention from journalists, especially those engaged in investigative work.

Though Sungsidh pointed out that patron-client relationships also had been put to constructive use in the campaign against smoking by doctors, it has to be emphasized that journalists investigating corruption need to perceive the difference between constructive use of connections and cronyism. To arrive at that, they need to broaden their horizons about the context of social behaviour and deepen their understanding of the meaning of corruption. Without this understanding, journalists will continue to find it hard to manage the challenges of reporting corruption.

4.7 Legal constraints

Through discussions of hypothetical situations covering politics, military, economic and social issues with a variety of senior reporters, legal constraints emerged as a prominent concern, with most reporters' confirming that it was imperative to

obtain documentary evidence in case of legal snags after their work is published. Though corruption has been reported since the late 19th century, notably that by tax farmers pocketing more than the conventional share from traders (Pasuk and Sungsidh, 1996), and offenders have been punished, it was an amendment of the Penal Code in 1992 by the government of Anand Punyarachun that deterred investigative work by journalists because it raised penalties considerably. Under the amendment, reporters found guilty of defamation face two years in jail and a fine of 200,000 baht. Previously, under an order published in 1976 by the National Administrative Reform Council of Sa-ngad Chaloryoo, offenders were sent to jail for no more than two years or fined 4,000 baht or both for defaming a third person through the media. In an article for Article XIX and the Press Council of Thailand in July 2009, media lawyer Sinfah Tansarawuth observed that the 1992 jail term was "equivalent to that imposed for causing physical injury, but the maximum fine is much higher than the fine for a physical injury offence under the Penal Code." He added that the amendment to Section 328 of the Penal Code first promulgated in 1957, was "well known" to target news media "since the maximum penalty would only be applied to a defamatory statement which was published or broadcast to wider audiences, i.e. through the media." Section 326 provides for a defamatory statement communicated to an individual to be liable to a jail term of only one year or a fine of 20,000 baht, or both.

The threat of being prosecuted for defamation, possible in Thailand under civil and criminal procedures, has posed a major constraint for journalists in the face of laws that impose increasingly harsh penalties and give extensive discretion to authorities. Under the Penal Code, defamation is an act that causes injury to a person's reputation, resulting in his or her being held in contempt or despised. Though the code provides for offenders to be fined or sent to jail, plaintiffs who were politicians and holders of public offices have tended to seek prison terms for defendants "as a way to silence their critics," independent media lawyer Sinfah points out in his analysis for the international non-governmental organization Article XIX and the Press Council of Thailand. In the Civil and Commercial Code, defamation "is included in the provisions addressing wrongful acts, or tort, as an act which injures the reputation, credit, earnings or prosperity of another person, and which gives an injured party the right to seek compensation from the offender," Sinfah writes. Significant, is his follow-up

remark that the Civil and Commercial Code "sets no minimum or maximum compensation for an injured party, leaving this matter entirely to the discretion of the court."

In an interview in Febrary 2014 for this thesis however, Sinfah emphasized that defamation law was only one of three legal constraints on journalists. The other two are the Press Regulation Act and the Offences Related to Computer Crimes Act, both of which were published in 2007. According to Sinfah, the Press Regulation Act was welcome in that it liberalized the industry, allowing anyone to launch a newspaper without having to seek a licence with the police in advance, rather enabling owners to notify the culture ministry afterwards. But the Act impacted negatively on journalists in that it left individual journalists as authors of the alleged defamatory statement to fight cases alone whereas the 1941 Press Act, however draconian with regard to press freedom, had provided for the editor and author of a defamatory statement to share liability, with the publisher to share liability if the author could not be located. As a case in point, Sinfah cited a writer for *Krungthep Turakij* who had to deal with a Britain-based retail group alone when threatened with defamation and was confronted with a demand for steep monetary compensation. The case eventually was withdrawn in 2009 after the paper published apologies for three consecutive days. Under the Press Regulation Act, journalists "are left to fight alone", Sinfah said. Though there is a provision for taking action against the editor, the burden of proof is on the plaintiff so the latter tends to choose to take the reporter or columnist to task, he added.

The Offences Related to Computer Crimes Act impacted negatively on journalists in that defamation was made a non-compoundable offence, or one in which no settlement was possible. He cited Article 14 Subsection 1 which makes no mention of defamation being compoundable, thereby implying in legal terms that the offence is non-compoundable. Under this subsection, for "import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public", the offender "shall be subject to imprisonment for not more than five years or a fine of not more than one hundred thousand baht or both," (unofficial translation, *Prachathai*, 2007). Noting that defamation previously was compoundable, Sinfah believed lawyers had seen a loophole in this new trend which, he added, "should be more worrying to journalists."

An offence that is compoundable is one where the injured party can agree to a settlement. Making defamation non-compoundable under this act, which covers extensive media territory, constrains freedom of expression seriously.

4.8 Right to know problematic in Thailand

The Official Information Act of 1997 is criticized by journalists and researchers as a deterrent to investigative reporting, the conservative trends in Thailand contrary to new thinking elsewhere on the right to information. Maeve McDonagh (2013) argues for an intrinsic right to information that is fundamental and delinked from questions of context or purpose. McDonagh acknowledges that the widespread recognition that Article 19.2 of the International Covenant on Civil and Political Rights providing for freedom of expression implies a right to information, with its specification that the right to freedom of expression "shall include freedom to seek, receive and impart information ". However, McDonagh argues that such an instrumentalist approach to the right to information is potentially adverse to both this right and the right to freedom of expression on which it is based. She extends her argument to linkages with other rights:

> The right to information has been most commonly recognised by international human rights treaty bodies as coming within the scope of the right to freedom of expression though such bodies have, on occasion, based their recognition of a right to information on the enjoyment of other rights such as: the right to respect for private life; the right to a fair trial; the right to life; social and economic rights; and the right to take part in public affairs...basing the recognition of a right to information on the furtherance of other rights may operate to limit the development of the right to information and may even have negative connotations in terms of the enjoyment of such other rights. (McDonagh, 2013, p.2)

McDonagh's argument for an intrinsic right to information supports journalists' right to access information, a right especially important to journalists

investigating abuse of power. Globally, Thailand ranks under average in terms of providing for the right to information, being placed 62nd among a total of 98 countries considered by the Centre for Law and Democracy based in Canada. The ranking, released in 2013, is based on the law hence countries that published access to information acts more recently fared better than those who did so earlier because the acts are more comprehensive, note TDRI researchers Duenden Nikomborirak and Tippatrai Saelawong. An independent scrutiny of the line-up found that Serbia, whose information act was published in 2003, ranks 1st, while Austria, whose information act came out in 1987, ranks 98th. The ranking, add the TDRI researchers, also indicates a rise in the standard of right to information.

Taking the ten principles of the right to know drawn up by the Open Society Initiative and partner organisations as the yardstick, Duenden and Tippatrai find that the OIA gives no access to information to foreigners because it follows the 2007 constitution's provision for rights of Thai nationals, but individual ministries are yet to issue regulations providing for foreigners. They also find that the OIA lends more importance to concealing rather than disclosing information, its reference to official information rather than public information as the constitution does suggesting that the OIA considers information the property of the state, and consists only of state information, not including information belonging to private agencies such as the records of patients in private hospitals. Furthermore, unlike counterpart laws in developed countries, the OIA does not allow for access to information of private agencies acting on behalf of the state, such as the electricity authorities. Access to information is not simple and speedy because there is no standard time for state agencies to release information and the costs of endorsing documents are relatively high. Due to an absence of standard procedure for disclosure, authorities are not helpful towards the public. The OIA's allowance of too much discretion for agencies in possession of information has resulted in an excess of appeals reaching the tribunal, access to the OIA so far sought by members of the public and state officials more than by journalists. With the exception of information on the environment, there is no clear rule for weighing public interest against the disadvantages of disclosure. The right to speedy and effective appeal is not granted, one case concerning education the TDRI researchers cited taking three years. The OIA does not provide for basic information to

be disclosed on websites, and interprets the meaning of basic narrowly. Lastly, the OIA lacks independence, being under the umbrella of the prime minister's office.

4.9 Discretionary powers of local authorities

While the OIA lacks independence, local authorities' enjoyment of discretion to set their own ethical codes seems to have carried over into their decisions as to whether or not to disclose information. TDRI researchers Duenden and Tippatrai found that only 30% of local authorities complied with the cabinet resolution for every agency to set up committees to assure disclosure of information on procurement on their respective websites. The low rate of compliance was found to coincide with the high rate of refusal by local agencies to allow public access to information, amounting to 11 out of a total of 17 cases that reached the Official Information Board in 2012. Part of the reason, the researchers observed, stemmed from the fact that local authorities enjoyed discretion in setting their own ethical codes (TDRI draft report, April 2014).)

Initially, such discretion seemed to complicate the case of a broadcast journalist threatened with a defamation suit from provincial authorities in Samut Prakarn, south of Bangkok, for exposing irregularities in the use of 800 million baht from the provincial budget for the maintenance of temples in the province (*Isra News*, 2014). The provincial administration organisation filed a complaint with provincial police who questioned all parties concerned and found the work of Sompoch Toruksa, deputy news editor of Channel 7, in line with his duty. But the provincial prosecutor in late February 2014 overturned the police finding and ordered a defamation suit to be filed against the journalist. In an interview in January for this thesis, Sompoch said he had gone on spot to check out with temples concerned some information he had learned from the Office of the Auditor-General. The irregularity lay in temples being compelled to accept one particular contractor, and to transfer 50% of the budget received from the provincial administration authority immediately to the contractor after the project was discussed. Sompoch said he had found a document in the office of the Prime Minister's Secretary that monks were forbidden from receiving money directly, permitted to do so only through the Religious affairs Department or a local

branch of it. In response to a question submitted by email on April 29, Sompoch confirmed that he had appealed for justice from the public prosecutor, who had sent the matter to the officer in charge of prosecution in Samut Prakarn province, who in turn had phoned him to say he had ordered the lawsuit cancelled As it turned out, the provincial governor agreed with the verdict of the director-general of Region 1 prosecution in charge of Samut Prakarn province that the report presented by Sompoch was for the public interest and the lawsuit was terminated, the television journalist said in an email interview on June 11. The disclosure came nine days after Sompoch's report won the *Saengchai Sunthornwat Prize* for investigative reporting in 2013.

4.10 Three categories of irregularities

From the findings established in two rounds of interviews, the first based on 10 hypothetical questions posed to elicit constraints on journalists in different situations, the second to triangulate points raised during in the first round, the researcher found three categories of irregularities posing challenges to reporters. These were: 1) abuse of public position for private gain; 2) lapses in media professional ethics and 3) vote buying.

Category 1

Category 1 could be subdivided into seven sub-categories of abuse of public position for private gain in:

- The education sector;
- Soliciting religious donations;
- Rigged public hearing for legal compliance;
- Profit from land transactions based on inside information;
- Commissions from contract award;
- Procurement;
- Organised bid rigging.

As can be seen from Appendix 1, irregularities under Category 1 emerged in Questions 1, 2, 5, 6, 8, 9 and 10. Question 1 was about abuse of public position for

private gain in the education sector. As Chapter 3 points out, journalists disapproved of such abuse but made the point that the problem had to be seen in the context of unequal education opportunity. An attempt has been made to remedy the problem in the setting up of branches of reputable schools on the outskirts of Bangkok and in surrounding provinces but full effect remains yet to be seen. The use of the concept of patron-client relationships in the new language of irregularities to legitimize the irregularities raises little hope of an end to the problem. Parents eager to optimize opportunities for their child will tend to be persuaded to become *poomee oopakarakhun* (honourable patrons), which holds positive connotations of patronage, and contribute what they can to improve school facilities though some may well suspect that their contributions may be abused. Perpetuation of the irregularities means perpetuation of obstructions to journalists seeking to uncover the irregularities and help eradicate their occurrence, and of unequal education opportunity.

Question 2 was about abuse of public position for private gain from soliciting religious donations. The journalists' tendency to pass this case off as minor was worrying as a minor offence is still an offence. Also of concern was the willingness of donors to respond positively to a monk's call for help simply because of his station, and status as representative of an institution believed able to improve donors' lives. Such reaction to the case is similar to that to petty theft, which if condoned encourages the thief to do worse damage. Such reaction also raises the question of how long society had been hoodwinked by infamous monks like *Nen Kham* who was disrobed after being found to have had sexual relations with a woman, acquired a large number of luxury cars and gems, and *Phra Yantra*, another disrobed monk who returned from 20 years asylum after the statute of limitations expired on his cases, including a charge of raping a minor. Chapter 3 discusses both cases, and the difficulties of accessing information about monks and the commercial affairs of temples, raising speculation that temples may have become places for unusually rich people to launder their dirty money.

Question 5 concerned abuse of public position for private gain in a rigged public hearing for legal compliance. In one case, a dam was to be built as part of a flood way included a water management system but a public hearing invited many villagers who would gain from the project and only a few who would lose. The

hearing was organised to comply with the law that demands state agencies obtain 75% approval from people living in the vicinity before launching a project that would affect their livelihoods. Chapter 3 also cites a public meeting in 2012 on a proposal to produce electricity from solid waste that had to be shelved because villagers were not given sufficient information.

Question 6, on a minister and his friends buying large tracts of land close to a future mass rapid railway route, concerned abuse of public position for private gain in profit from land transactions based on inside information. Interestingly, journalists said investigation of this would involve a procedure similar to that made to reveal assets a former prime minister had hidden in the names of relatives, associates and domestic staff. The registered buyers likely would be nominees, whose connections with the real investors would have to be established through investigation with local community leaders, people living in the vicinity, and through obtaining documents like house registration or company licence.

Question 8, about a minister colluding with contractors and state officials, to siphon off revenue from a housing project, concerned abuse of public position for private gain in commissions from contract award. Most journalists considered this corruption and were confident that the evidence could be found through a paper trail. If banks and other financial institutions insisted on holding information of their clients confidential, reporters would have to go to other sources whom they might find by going on-site, or law courts if any cases of breach of contract reached prosecution.

Question 9, about the purchasing of overpriced and inappropriate equipment, and contract bidding to build police stations, and structures at the public health ministry, concerned irregularities in procurement. The challenge for reporters was to check with suppliers on the market prices of the equipment, and with users the suitability of materials they had been allotted. For the construction contracts, reporters had to check whether there had been any locking of specifications in favour of any particular bidder, and would find watchdogs like rural doctors helpful in the projects involving the health ministry. Chapter 3 mentioned irregularities during the 2000's in the purchase of luggage scanners for the country's main commercial airport, and of bomb detectors and an airship for the army, both items of which turned out to be ineffective and inoperable respectively.

Question 10, about a senior official suspected of receiving bribes in return for ensuring that a particular contractor won a bid to convert a bus terminal into a commercial hub, concerned organised bid rigging. The senior official's contention that he had accumulated a large amount of money from the sale of valuable antiques could be traced without too much difficulty through checks with antique dealers and search for paper documents like cheques. Chapter 3 mentions a bid for the laying of three million telephone lines during the late 1980's that was called again in 1992 after irregularities were suspected.

Category 2

Category 2, about lapses in media professional ethics, emerged in Questions 3 and 4. Question 3 was about a television station failing to live up to a professional code of conduct by the Thai Broadcast Journalists Association, that calls for viewers to be informed of events accurately, comprehensively and fairly, when a former executive was sentenced to 12 years in prison for having approved the purchase of overpriced fire trucks during the time he was a deputy minister responsible for procurement for the capital city. The station carried the news of the sentence without any elaboration, which left it open to being accused of reporting uncomprehensively. In the event there was no protest from viewers of the popular station so the matter passed almost unnoticed by the public though print and online media did notice the lapse. Question 4 also concerned lapse in media professional ethics but this time by an individual journalist who sought information on human trafficking in return for writing positively about a candidate seeking position in the village council. Journalists interviewed emphasised that this was a breach of medial professional ethics because news gathering allowed for no trade-offs with sources. Moreover, there were many other sources the journalist could have gone to for information to uncover something like human trafficking that requires a network of accomplices to succeed

Category 3

Category 3 surfaced in Question 7, about irregularities in vote buying, which many journalists saw as a form of corruption, no matter how sophisticated candidates had become in evading evidence of seeking favour on the eve of polling

day as it is prohibited by law. The methods of gaining favour had diversified, some politicians even offering or agreeing to secure places in school for constitutents' children in return for their votes. Such practice was outside the orbit of the election law which prohibited campaigning on the eve of polling day, organising of feasts, and promising of material favours directly or indirectly to a person or community. Some journalists however maintained that voters were not being bought but were exercising their own judgement based on policies candidates presented.

4.11 Summary

This chapter has discussed the limits of the media business on journalists, and the impacts on media owners of political regime change, financial and technological realities. The chapter also has assessed the legal constraints on journalists, including the defamation laws, the Press Regulation Act and the Offences Related to Computer Crimes Act. Not least, the chapter has pointed out how the Official Information Act has defied international perceptions of the right to know, and adversely affected investigative reporting. The last section of the chapter has categorized the findings from 10 hypothetical questions posed to journalists as catalysts for discussions about reporting in general and corruption reporting in particular.

CHAPTER V
CONCLUSIONS

This thesis has examined the challenges besetting journalists when they attempt to identify irregularities in competition for gain in the economic, political and social sectors. The thesis also has studied how journalists have managed the challenges.

Most striking of the findings was that many journalists have become verifiers rather than seekers of information. Hence access to the truth emerged as a bigger challenge than access to information. A sample of 14 journalists with a wide range of expertise were chosen as the units of analysis. Two media executives, a media lawyer, a media scholar and a corruption expert were also interviewed to obtain a comprehensive picture.

The research questions were: 1) What are the challenges of investigating corruption in the Thai newspaper media? 2) How do journalists deal with the challenges?

The objectives of the research were to analyse the challenges and difficulties of reporting corruption, including access to the truth, access to information, business and legal constraints, to evaluate how journalists manage the challenges, and to determine how the context of changing media impacts on corruption reporting.

The thesis answered research questions by discussing a wide range of hypothetical cases with journalists, summaries of which will be found in the Appendix as well as real cases. The latter included the purchase in 2005 of luggage scanners for Suvarnabhumi Airport where bribery was found after the US Department of Justice confirmed the fact and the opposition Democrat Party spoke up to the media. This showed how media obtained the truth of a lingering controversy only after the injured party in the political opposition to the then Thaksin Shinawatra government confirmed the facts.

In another case five years later, in 2009, when the army purchased an airship that turned out to be inoperable, reporting on the case was limited because no-one in the institution with a history of secrecy would speak. This was an instance of the institution being virtually impenetrable by outsiders seeking the truth. The purchase of the airship took place during the Abhisit Vejjajiva government, which was clouded by a stimulus package called Thai Strength in which unwanted structures were built for the public health ministry among others. Reporters were able to access the truth about the unwanted structures because a group of rural doctors with a good reputation spoke up.

The thesis also spoke of the misrepresentation of documents by the Yingluck Shinawatra government during the controversy over the rice pledging scheme when China was officially said to have signed a contract to buy rice when it had only signed a Memorandum of Understanding expressing an intention to do so. This case showed that journalists have to be knowledgeable, exercise news judgement and see information for what it is.

The thesis discussed the pressures for survival of the media industry after the financial crises of 1997 notably the indirect threat to withdraw advertising income from associates of powers-that-be that compelled some print media to tone down controversies.

The thesis examined the march online of major newspapers to adapt to the change in consumer behaviour and to keep respective brands in the internet market. The thesis noted corruption reporting flourished online in recent years due to unlimited space and the possibility of real-time coverage.

The legal constraints were discussed in terms of defamation laws which have deterred journalists from reporting corruption because penalties have increased considerably since 1992, the Press Regulation Act which has left journalists to fend for themselves alone, and the Computer Crimes Act which made defamtion non-compoundable, or leaving no room for settlement.

With regard to the research objectives, the thesis found that most journalists had managed the challenge of accessing the truth through the use of connections while some had succeeded to prise out some information about the State through resort to the Official Information Act. The thesis also found that a gap of

knowledge remains for journalists reporting corruption, enabling too many instigators to slip through unpunished.

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APPENDIX

Questions Posed to Journalists:

1) Suppose you are leaked a document purportedly showing that a secondary school connected to the elite is charging fees beyond conventional bounds for admitting pupils. What are the challenges and difficulties of investigating this story? How would you manage the challenges?

2) A monk is under investigation for raising funds meant to buy Buddhist scriptures and a cabinet for it to buy agricultural equipment for his relatives. Is this a case of corruption? What are the challenges of verifying this? How will you manage the challenges?

3) A businessman-politician is given a long jail term for malfeasance and bid-rigging in the purchase of equipment for the city when he was a cabinet minister. Suppose the media he owns reports the matter only in passing, would you consider this a case of interference by media owners in the work of journalists? How should the journalists manage this problem?

4) A journalist based in a distant province is said to have helped a candidate win a seat on a village council by reporting positively about the candidate in return for information about human trafficking he needs for his investigative report. Is this a breach of journalism ethics or does it amount to corruption? What are the challenges of verifying the matter? How would you proceed to do so?

5) A government agency in charge of water management conducts a public hearing attended by a large number of supporters of a dam it wants to build, and only a few opponents. NGOs say this was deliberate selection of participants on the part of the agency but the agency argues that it sent out invitations to all villagers likely to be affected by the dam positively or negatively. What are the challenges/difficulties of verifying what happened? How would you manage the challenges?

6) Suppose you have heard that a cabinet minister and his friends have been buying large tracts of land along a future mass rapid railway linking Bangkok with a neighbouring province. What are the challenges of verifying this ? How would you manage the challenges?

7) Vote-buying in general elections is believed to have grown to serious proportions, likewise the forms it takes. Do you think vote-buying amounts to

corruption? What would be the challenges of verifying it has taken place anywhere in Thailand? How would you manage the challenges?

8) A minister in charge of housing is alleged to have colluded with contractors and demanded co-operation from state officials to siphon off large sums of money from a housing project meant for low-income earners. Do you consider this corruption? What would be the challenges of investigating this case? How would you manage the challenges?

9) The government alleges improprieties in a former government's economic stimulus package. The irregularities are alleged in allocations to the health, and education ministries and to the national police. Do you consider as corruption the purchasing of overpriced and inappropriate equipment in the education and health ministries and bid rigging for the construction of 396 police stations? What are the challenges for you as an investigative reporter assigned to pursue the case ? How would you manage the challenges?

10) A senior official is under investigation for receiving bribes in the development of a bus terminal into a transport and commercial hub but he argues that the money came from the sale of antiques. What amounts to a bribe? How is it corrupt? What are the challenges of verifying what happened? How would you manage the challenges?

BIOGRAPHY

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