

## **PUBLIC SERVICE BROADCASTINGS AS RELIABLE SOURCES FOR HUMAN RIGHTS IN MYANMAR**

Yin Yin Lae\*

### **Abstract**

Public Service Broadcasting organizations play a crucial role in ensuring the public's right to receive a wide diversity of information and ideas in a State. These are nonprofit organizations that distribute programming to the nation's public television and radio stations. In Myanmar, radio services first came on air in 1936 and regular programming by Bama Athan channel began in 1946. Television service was first introduced in 1979 and MRTV was first launched in 1980. Nowadays, there are public TV channels, private channels and organizational channels. Then, there are a lot of radio channels owned by public as well as private. Their programmes have been designed to support for promotion of health conditions, non-formal education, cultural and heritages, civic education and agricultural production and preservation. Besides, these channels have to produce timely about the rightful information for upcoming natural disasters, current news for education, weather news, health care and spread disease, political issues and so on. The people in distant rural areas rely on the public TV channels and radio channels. Whereas Myanmar is now building to real democracy and freedom of media going to gradually improve in the process of national development. In this regard, the Television and Broadcasting Law is enacted in 2015. The law provided to transform the state-owned media as public service broadcasting and the freedom of expression and freedom to give/take right information. But, actually, it cannot be implemented yet. Unless the Broadcasting organizations produce the important news freely, these could not be the reliable sources for public rights. Especially, the public could not get the procedural rights and substantive rights from broadcasting. The paper aims to highlight the importance of the role of broadcasting organizations in country's development process. The paper leads the policy recommendations for broadcasting channels on the rights of social, economic, culture and politics.

**Keywords:** Public Service Broadcasting, freedom of expression, right to information

### **Introduction**

Public Service Broadcasting (PSB) is the most important source of information, as well as of entertainment for most people around the world. Public Service Broadcasting Organizations play a crucial role in ensuring the public's right to receive a wide diversity of information and ideas. The Public

\*. Dr, Lecturer, Department of Law, University of Mandalay

Broadcasting Service is a nonprofit organization that distributes programming to the nation's public television stations. Broadcasting is the one of media which is accessible for many people to watch or listen to the news. Myanmar is a highly agricultural nation with approximately 70 per cent of the population living in rural areas. They are facing difficulty to get print media and rely on broadcasters for their required information and entertainment needs.

The Public Service Media Bill was drafted by the Ministry of Information (MOI) and had been submitted to the Parliament for approval in 2014. Myanmar Radio and Television (MRTV) shall be transformed as a Public Service Radio and broadcasting enterprise once the Parliament approves the bill. In early 2015 the MOI withdrew its proposed public service media law because there are some issues in printed media. The MOI drafted the Charter of public service broadcasting for MRTV and had been submitted the Union Attorney Office and still now discussed.

When the Public Service Media Bill is approved that would reform MRTV into a public broadcast service media that will be the autonomous public broadcast service. It is free from political interference and pressure from commercial force. It receives government support to produce informative, independent programs. It shall be independent in all matters concerning the content of program and the management of its affairs as public service organizations of many other countries.

At present, MRTV is also transitioning to a public service broadcaster but MRTV has still undertaken some reforms to this end such as providing more news content in a variety of ethnic languages, expanding network coverage and a greater focus on staff training and news quality. In the past few years, MRTV has placed a greater emphasis on providing its news, increasing coverage and expanding and training its newsroom staff. Consequently, news coverage for MRTV has increased in the past few years to 60 per cent of its airtime. In October 2013, MRTV also launched three digital channels; the National Races Channel, a Farmer's Channel, and a Hluttaw Channel. In April 2013, MRTV launched an online portal which, among other things, has streaming video from its digital channels.

## **Materials and Methods**

A review and analysis was made of the legal concepts and terminology of public service broadcasting and freedom of expression and right to information and also international legal instruments and national laws relating to freedom of expression and right to information.

## **Findings**

PSB's role in national development can be analysed from political, economic and social perspectives. In the political sphere, this role can be found in the areas of democracy and good governance, political transparency, foreign policy, human rights, war on terrorism, and public relations. In the economic sphere, broadcasting can play their role in the areas of economic policy and growth, economic empowerment, advertisements, investment and tourism, etc. In the social sphere, broadcasting's role cover social issues, such as corruption, criminal violence, education, food security, public health and cultural and heritages. In order to be more effective the role of PSB in national development, it must be freedom of expression, right to information and editorial independence.

The Television and Broadcasting Law (2015) defines the role of government broadcasting services as radio and television services which is owned and administered by union level government organization, state, region and self-administrative regional governments in order to broadcast public information accurately. International standards do not recognize this as a legitimate type of broadcasting. According to international standards, they should either be transformed into independent public service broadcasters or perhaps privatized to become commercial broadcasters. The existing government broadcasters (MRTV) in Myanmar must take time to decide what to do and supported the need to transform independent public service broadcasters. Both broadcast regulators and broadcasters should be strictly independent of government.

## **Definition of Public Service Broadcasting**

Public service broadcasting (PSB) is an important role to play in providing access to and participation in public life. PSB is about people. It provides programmes to national audiences, including all minorities and

sections of society, which very often are not catered for by the commercial sector. It operates through an accountable and transparent structure of management and is supported by public funds. PSB, operating through all forms of media, is also about quality, reliability and independence. It provides a broad range of opinions, whether in education, news and information, or cultural and entertainment programming, all of which are ethical and professional in content and sensitive to citizens' needs and values; and it is about setting standards for fairness at work, social justice and protection for journalists and all who work in the industry.<sup>1</sup>

Public broadcasting is defined as a meeting place where all citizens are welcome and considered equals. It is an information and education tool, accessible to all and meant for all, whatever their social or economic status. Public broadcasting must also appeal to the imagination, and entertain. Public broadcasters develop knowledge, broaden horizons and enable to people to better understand themselves by better understanding the world and others.<sup>2</sup>

### **Characteristics of Public Service Broadcasting**

Public service broadcasting organizations are generally associated with a number of features are;

1. general geographical availability;
2. concern for national identity and culture
3. independence from both the State and commercial interests;
4. impartiality of programmes;
5. range and variety of programme; and
6. substantial financing by a general charge on users.<sup>3</sup>

In understanding the role of PSB, the following factors could be taken into account in judging whether a PSB system is playing the role it is expected to perform:

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<sup>1</sup> UNESCO, *Public Service Broadcasting: A Best Practice Sourcebook*, 1<sup>st</sup> edition, 2005, p.10.

<sup>2</sup> UNESCO, *Public Service Broadcasting: A Best Practice Sourcebook*, 1<sup>st</sup> edition, 2005, p.13

<sup>3</sup> Toby Mendel, *Public Service Broadcasting, A Comparative Legal Survey*, 2<sup>nd</sup> edition, 2011, p.6

- a) **Universality:** Public broadcasting must be accessible to every citizen throughout the country. It forces the public broadcaster to address the entire population and seek to be used by the largest possible number.
- b) **Diversity:** The services offered by public broadcasting should be diversified in at least three ways: the genres of programmes offered, the audiences targeted, and the subjects discussed. Diversity and universality are complementary in that producing programmes intended sometimes for youth, sometimes for older people and sometimes for other groups ultimately means that public broadcasting appeals to all.
- c) **Independence:** Public broadcasting is a forum where ideas should be expressed freely, where information, opinions and criticisms can circulate. This is possible only if the broadcaster is independent, thereby, allowing the freedom of public broadcasting to be maintained against commercial or political influence.
- d) **Distinctiveness:** Services offered by public broadcasting must have particular character of its programmes. It is a matter of doing things differently, without excluding any genre. This principle must lead public broadcasters to innovate, create new slots, new genres, set the pace in the audiovisual world and pull other broadcasting networks in their wake.<sup>1</sup>

### **Perspectives Human Rights for Public Service Broadcasting**

According to Wilbur Schramm (Father of Communication Studies), "By making one part of a country aware of other parts, their people, arts, customs, and politics; by permitting the national leaders to talk to the people, and people to the leaders and to each other; by making possible a nation-wide dialogue on national policy; by keeping the national goals and national accomplishments always before the public--thus modern communication, widely used, can help weld together isolated communities, disparate subcultures, self-centered individuals and groups, and separate developments into a truly national development."<sup>2</sup>

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<sup>1</sup> UNESCO, *Public Service Broadcasting: A Best Practice Sourcebook*, 1<sup>st</sup> edition, 2005, Pp.15-16.

<sup>2</sup> MDIF, *Media Development's Role in Social, Economic, and Political Progress*, p-1 ([www.mdif.org/](http://www.mdif.org/) [mdif@mdif.org](mailto:mdif@mdif.org))

PSB's role in national development can be analysed from political, economic and social perspectives.

In the political sphere, PSB can make the political system more transparent by helping people understand the operations of government, participate in political decisions, and hold government officials accountable. PSB can defend human rights as enshrined in national constitutions and recognised by the Universal Declaration of Human Rights (UDHR). Such rights include the right to life, freedom of speech, freedom of association, and the right to a fair hearing.

Media can boost economic development by promoting good governance and empowering citizens, so that economies can function better. It has given about economic growth, increase in competitiveness, sustainable development, reduction of poverty and inequality, increasing wages and benefits, and industrial policy. The media can provide atmosphere for healthy trade; foster business climate of transparency and accountability; and ensure that accurate financial information is available to investors.

To play a role in social development, the media assist the society in tackling problems of corruption, criminal violence, communal conflicts, public health and related issues. The media can expose corruption in both the government and corporate sector. Radio and television could broadcast early warnings, evacuation information and increase public awareness about risks and responses. As a medium, one of the most basic applications of the television lies in its ability to portray the devastation of disasters, both as they occur and in their aftermath.<sup>1</sup>

Independent media has a positive impact on society, three sections addressing three areas where media can have a positive effect on societies:

**Governance Impact:** Corruption has a negative impact on society, particularly in furthering poverty and income inequality. It is a link between a free, strong, and independent media and reduced corruption. A free media exposes private and public sector corruption. It monitors government officials and increases voters' knowledge, allowing voters to hold corrupt politicians accountable during elections, causing politicians to reduce corruption.

**Economic Impact:** Economic actors need accurate and timely information to allocate resources efficiently. Investors and other groups

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<sup>1</sup> MDIF, Media Development's Role in Social, Economic, and Political Progress, p-3 ([www.mdif.org/](http://www.mdif.org/) [mdif@mdif.org](mailto:mdif@mdif.org))

increasing value and demand a governance-monitoring role from the media. A free and independent media can provide information and monitoring to the economic policy development process leading to more effective economic policies. It can also reduce political risk and increase good governance conditions that are important for economic development.

**Social Impact:** In order for development to be just and sustainable, citizens must productively participate in the decisions that shape their lives. Participation requires an informed citizenry. A free and independent media supply timely and relevant information to citizens allowing them to change their own behavior and to demand higher social standards for society.<sup>1</sup>

Independent media play a critical role in improving governance and reducing corruption, increasing economic efficiency and stability, and creating positive social and environmental change. The media provide information to actors throughout society allowing them to participate in the decisions and debates that shape their lives. The media also play an important monitoring role in a democracy that enables citizens to hold their governments and elected officials accountable—leading to better policies and service implementation.<sup>2</sup>

According to the Media Law 2014, one of the objectives of the law is based on to make news accessible to every citizen. The entitlement of media workers are provided in Section 4 shall have the rights to investigate, publish, broadcast information and related opinions to which every citizen is entitled in accordance with rules and regulations.<sup>3</sup>

The Television and Broadcasting Law (2015) is paving the way for private TV broadcasters to operate legally in Myanmar and limits on foreign ownership of private TV broadcasters, establishes a national TV broadcaster, and authorizes the creation of a council to regulate the national broadcaster. The overriding objectives of this law are;-

- (a) to promote the use of broadcast spectrum, designated by the Ministry of Telecommunication and Information Technology, as a common development resource,

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<sup>1</sup> MDIF, Media Development's Role in Social, Economic, and Political Progress, p-3 ([www.mdif.org/](http://www.mdif.org/) [mdif@mdif.org](mailto:mdif@mdif.org))

<sup>2</sup> MDIF, Media Development's Role in Social, Economic, and Political Progress, p-6([www.mdif.org/](http://www.mdif.org/) [mdif@mdif.org](mailto:mdif@mdif.org))

<sup>3</sup> Section 4 of the Media Law , 2014

- (b) to promote access by the public to a wide variety of broadcast services as well as broadcasting content,
- (c) to ensure that broadcast services meet minimum standards, and to provide the public with a system for participating in pursuing quality broadcasting which meets the information, education and entertainment needs of the people of Myanmar.<sup>1</sup>

### **PSB and Freedom of Expression**

For the media (including radio and television) to effectively influence national development, they must be free and independent.

The Universal Declaration of Human Rights (UDHR) is generally considered to be the flagship statement of international human rights, binding on all states as a matter of customary international law. It guarantees the right to freedom of expression in the following terms:

“Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”<sup>2</sup>

The International Covenant on Civil and Political Rights (ICCPR) is imposed legally binding obligations on States Parties to respect a number of human rights set out in the UDHR. Myanmar has neither signed nor ratified many of the international treaties that pertain to freedom of expression such as the International Covenant on Civil and Political Rights (ICCPR).

In Myanmar, Section 354 of the Constitution, 2008 sets freedom of expression, every citizen shall be at liberty in the exercise of the rights to express and publish freely their convictions and opinions except union security.<sup>3</sup> Furthermore, freedom of expression is protected in a constitution in order to set conditions on ordinary laws which would otherwise impact it.

The State Law and Order Restoration Council Law 9/89 also known as the State-Owned Economic Enterprises Law gives the state the sole right to carry out broadcasting service and television service which is prescribed under Section 3 to be operated solely by the Government to be carried out by joint venture between the government and any other person or any other economic

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<sup>1</sup> Section 3 of the Television and Broadcasting Law, 2015.

<sup>2</sup> Article 19 of the Universal Declaration of Human Rights, 1948.

<sup>3</sup> Section 354 of the Constitution of the Republic of the Union of Myanmar, 2008.



organization subject to conditions.<sup>1</sup> Therefore, all domestic TV and radio broadcasters are either fully state-owned enterprises or joint-ventures between the State and private companies.

MRTV is also transitioning to a public service broadcaster but MRTV has still undertaken some reforms to this end such as providing more news content in a variety of ethnic languages, expanding network coverage and a greater focus on staff training and news quality.

According to the Television and Broadcasting Law, 2015, a public broadcasting service is made for the public and financed and controlled by the public. It is free from political interference and pressure from commercial forces. Through a public broadcasting service, citizens are informed, enlightened and entertained.<sup>2</sup>

It recognizes important guiding principles for the regulation of broadcasting, including freedom of expression, diversity and independence. Sections 3 and 4 of the Law, setting out the objectives and guiding principles for regulation, which provide refer to internationally recognized standards such as freedom of expression, professionalism, diversity, independence, fair competition, universal service, and fairness and non-discrimination in the allocation of licenses. It is provided as follow,

The development and regulation of broadcast industry in Myanmar shall be based on the following principles:

- (a) freedom of expression, professionalism and independence of the broadcast media
- (b) balanced development of public service broadcasting, commercial, community and government broadcasting services
- (c) rational and efficient use of the broadcasting spectrum designated by the Ministry of Telecommunication and Information Technology.
- (d) promotion of fair competition and media pluralism in the field of broadcasting
- (e) fairness, objectivity, non-discrimination, efficiency and transparency in the procedure for granting frequencies and licenses for broadcast media ensuring that all areas of the country receive broadcast service.<sup>3</sup>

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<sup>1</sup> Section 4 of the State-Owned Economic Enterprises Law, 1989.

<sup>2</sup> Section 46 of the Television and Broadcasting Law, 2015.

<sup>3</sup> Section 4 of the Television and Broadcasting Law, 2015.

## **PSB and the Right to Information**

It is well established under international law that States should put in place clear rules limiting undue concentration of ownership of the media. This is based on the fact that international guarantees of freedom of expression protect not only the right of the speaker but also the rights to “seek” and “receive” information and ideas (i.e. the rights of viewers and listeners). As a result, restrictions on undue concentration of media ownership, which may look like restrictions on the freedom of expression rights of owners, are actually measures to protect the freedom of expression rights of listeners and viewers.

In this regard, the ICCPR provided as follow, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression. Consequently, States parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.<sup>1</sup>

According to Section 6(a) of the Media Law, a news media worker is entitled to access government information.<sup>2</sup> Section 31(a) of the Media Rules states right to information as follow “Any authorized individual, organization, departments who are responsible to release what the public have the right to know; must not delay and refuse without sound reason requests for viewing and copying data, photographs, illustrations, facts and figures, accounts that the public have the right to know”. Section 31 also prescribes a timeframe of 24 hours within which the relevant government authority or organization must either provide the information or give sound justification why the information cannot be provided. Section 31 (d) also gives the News Media Council the responsibility to serve as a grievance mechanism should media workers believe the government has not offered sound justification for denying access to public information.

Under the Media Rules, there are no government-wide guidelines for what qualifies as confidential information. This will lead to a lack of uniformity in access to information across the government. In effect, departments enjoy wide discretion over what information is made public, weakening the effectiveness of the Law. The system also lacks clear

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<sup>1</sup> Article 19 of the International Human Right Commission

<sup>2</sup> Section 6 (a) of the Media Law, 2014

procedures regarding how to submit a request for information. Furthermore, the right to information stipulated in the News Media Law only extends to media workers and not to the population at large.<sup>1</sup>

MRTV as a Public Service Broadcasting Enterprise shall obtain a license in accord with the law to transmit radio and television programs.<sup>2</sup> Broadcasting Enterprises under the Public Service Act are;-

- (a) have the right to operate independently;
- (b) have no pre-censorship and hindering over their freedom to express or distribution of their programs in the media;
- (c) have freedom to express their editorials and their own information; and
- (d) enjoy copyright related benefits.<sup>3</sup>

The Public Service Broadcasting enterprise shall;-

- (a) be able to produce free terrestrial radio and television programs throughout the nation;
- (b) be able to produce radio and television channels in different languages of national races in their respective Divisions or States or Self-administered divisions or Self-administered areas;
- (c) in order to be able to implement broadcasting programs as stated in the above subsections a and b, required spectrums shall be allocated for the Public Service Broadcasting enterprise in accord with broadcasting law.<sup>4</sup>

The Public Service Broadcasting enterprises shall receive minimum of 70 percent of its expenditures from the State's budget; or the precise amount of it from some kind of tax incomes, as stipulated by the Parliament. The annual funding shall be directly sent to the Public Service Media.<sup>5</sup> The Public Service Broadcasting enterprises shall seek 30 percent of its budget required for the operation in the advertising and sponsorship.<sup>6</sup>

Broadcasting organizations in Myanmar informs the public about government policy, plans and implementation and knowledge and education

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<sup>1</sup> UNESCO, Assessment of Media Development in Myanmar, 2016, p.16

<sup>2</sup> Section 7 of the Public Service Media Bill, 2013.

<sup>3</sup> Section 9 of the Public Service Media Bill, 2013.

<sup>4</sup> Section 60 of the Public Service Media Bill, 2013.

<sup>5</sup> Section 64 (a) of the Public Service Media Bill, 2013.

<sup>6</sup> Section 66 of the Public Service Media Bill, 2013.

through various media including radio and television broadcasting. Currently, access to government information remains limited. However, the News Media Law offers significant opportunity for improving journalists' access to government information. Myanmar does not have any constitutional guarantee of right to access government information for citizens and does it have a Right to Information Law.

### **PSB and Management of Spectrum Allocation**

At present, informal spectrum management plan exists in Myanmar. The MCIT provides the MOI with frequencies that can be used for TV and radio broadcasters. According to the Broadcasting Law, a National Spectrum Management Plan will be developed by the National Broadcasting Development Authority.

The Television and Broadcasting Law establish the Broadcast Authority and Broadcast Council as the regulatory bodies overlooking the broadcasting industry and responsible for adopting a broadcasting Code of Conduct and developing internal procedures for investigating and processing alleged for processing grievances in the broadcasting sector. The Council will also bring about a greater degree of independence in the regulatory system.<sup>1</sup>

Broadcasting institutions shall prioritize the production and airing of locally-produced programs.

- (a) Radio broadcast institutions which reaches the entire country shall allot at least 70 percent of its programs to local programs.
- (b) Commercial TV institutions with national coverage shall allot at least 30 percent of its programs to locally-produced programs.
- (c) Commercial TV institutions with national coverage shall also carry at least 20 percent of programs from the local independent producers, of which 10 percent shall be broadcast at prime time.<sup>2</sup>

Section 68 allows the Council to review and adjust these rules, either generally or for any particular broadcaster, so that may provide a means to address this concern. The Council should consider increasing the percentage of local programming that national television channels are required to carry.

MRTV operates under the Ministry of Information. Myanmar Radio is operated by MRTV and places a strong focus on news. It allocates 45 per cent

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<sup>1</sup> UNESCO, Assessment of Media Development in Myanmar, 2016, p.70

<sup>2</sup> Section 67 of the Television and Broadcasting Law, 2015.

of its airtime to news, which is broadcast 10 times per day. Myanmar Athan is divided into two stations; one covering the North of Myanmar and one covering the South. They both air news in the prominent ethnic languages of their respective geographic areas. The station covering the North of Myanmar broadcasts has nine ethnic languages for 15 hours per day, and the station covering the South of Myanmar broadcasts in eight ethnic languages for 13 hours per day. In 2013, MRTV launched the National Races TV Channel (NRC), which broadcasts a total of 17 hours of news per day in 11 ethnic languages.

To this end, MRTV has opened news bureaus in thirteen locations across the country to collect the news. The daily news schedule of NRC is provided below. While the establishment of the NRC is a novel initiative by the government to provide minority ethnic groups with information, regionally produced content is limited and mainly educational in focus. Therefore, MRTV is promoting wider public access to news, education and information, the media needs of a diverse society cannot adequately be met by any singular monolithic content producer, especially one under State control.

### **Importance of Code of Conduct**

Focus on Broadcasting Law, formation of a broadcasting council and a broadcasting authority are important role for granting broadcasting licenses. These enactments can be seen as essential building blocks for effective self-regulation and adequately ensure quality, unbiased reporting.

It includes numerous mechanisms and systems to promote both external and internal diversity in broadcasting, it provides for fair and appropriate systems for both licensing broadcasters and promoting professionalism, and a number of public interest rules. Council shall be autonomous and independent from government authorities, juridical and natural persons involved in the planning, production, and broadcasting of radio and television programmes.<sup>1</sup>

The Code of Conduct shall define content and production standards in the following areas:

- (a) balance and impartiality in news and current affairs programming and the duty to strive for accuracy in these programmes;

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<sup>1</sup> Section 75 of the Television and Broadcasting Law, 2015.

- (b) protection of children;
- (c) classification of programmes, including films, according to the recommended age of viewers;
- (d) the terms, conduct and editing of interviews;
- (e) the use of covert recording and subterfuge;
- (f) keeping within accepted boundaries of taste, decency and ethical values, including in relation to the portrayal of sexual conduct, violence and antisocial behavior, the use of strong or abusive language, and the broadcasting of text message sent in by viewers or listeners;
- (g) the coverage of crime and anti-social behavior;
- (h) distinguishing between factual material and comment;
- (i) the treatment of religion, ethnic minorities, women and men, minors and disadvantaged groups;
- (j) human right issues;
- (k) respect for privacy;
- (l) the use of subliminal images or sounds; and
- (m) appropriate advertising, including truth.<sup>1</sup>

In current situation, there have some issues in broadcasting organization relating to code of conduct, specifically the accuracy of news and classification of programmes. When the Council has been established, it has the duties with complaints from natural or juridical persons regarding the breach of the codes of conduct or from persons with a direct legal interest regarding the non-compliance by a broadcast institution with its license, provisions of the broadcasting law and any rules and regulations adopted by the Council.<sup>2</sup>

### **PSB and Justice of Human Right**

Under the Broadcasting Law, penalties are administrative action of the Broadcasting Commission or Authority and legal actions before the Court.

The National Broadcasting Council shall impose administrative sanctions on any broadcast institution found violating license agreement, and

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<sup>1</sup> Section 77 of the Television and Broadcasting Law, 2015.

<sup>2</sup> Section 15 (e) of the Television and Broadcasting Law, 2015.

other pertinent provisions of this law or rules or regulations adopted by the Council.<sup>1</sup>

The type of administrative sanction or sanctions shall depend on the gravity and frequency of the offense or violation. Sanctions available at the disposal of the council include the following:-

- (a) Warning;
- (b) Temporary suspension for the broadcast program found violating the law;
- (c) Limiting the air time in broadcasting;
- (d) Imposing cash penalty;
- (e) Suspension of certain amount of time to the broadcasting institution;
- (f) None extension of the broadcast license;
- (g) Revocation of the broadcast license.<sup>2</sup>

The Council shall revoke or suspend the licenses if it is found out that the license holders violate the provisions of this law or deliberate use of wrong information in license application. The Council, shall revoke the licenses only under following conditions:-

- (i) normal transmission cannot be started after passing the test transmission period as provided for in section 32;
- (ii) suspension of the broadcasting service or going off-air for more than three months without notifying and seeking prior approval of the council;
- (iii) transferring the license to another institution or a person without prior approval of the Council;
- (iv) serious violations of the broadcasting law, Council's rules and regulations, programme standards or the code of conduct, including those related to allocated spectrum and the areas to be covered, and basic mechanical requirement for the broadcasting technology and broadcasting equipment.<sup>3</sup>

Section 91 provides for an appeal from certain decisions of the Council namely those relating to issuing licenses, to renewing licenses, to suspending or revoking licenses and to imposing administrative fines to the

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<sup>1</sup> Section 87 of the Television and Broadcasting Law, 2015.

<sup>2</sup> Section 88 of the Television and Broadcasting Law, 2015.

<sup>3</sup> Section 89 of the Television and Broadcasting Law, 2015.

President.<sup>1</sup>This is simply not legitimate. Appeals against decisions of the Council should never be decided by a political actor but should, instead, go to the courts. Section 91 of the Law should be repealed and replaced by a rule allowing for appeals from decisions of the Council to go to the courts.

Anyone who operated a broadcasting service without license issued by the Authority shall be charged from minimum thirty million kyats to maximum fifty million kyats and confiscated properties.<sup>2</sup>

Anyone who continued its broadcasting service after termination of its license until such license is renewed by the Authority shall be charged from minimum five million kyats to maximum ten million kyats.<sup>3</sup>

Anyone who violates the prohibition as deliberate use of wrong information in license application shall be charged from minimum ten million kyats to maximum thirty million kyats and confiscated properties.<sup>4</sup>

Anyone who continued its broadcasting service upon revocation and suspension of its license shall be charged from minimum thirty million kyats to maximum fifty million kyats and confiscated properties.<sup>5</sup>

The Ministry of Information declare that if the content of program are contains the unfair and abuse treatment of religion ,ethnic minorities ,women ,minor and disable person and the use of abusive language ,any person may inform to the Ministry of Information.

Before the Broadcasting Law can be enforced, the Ministry of Information is resolved the complaints. It is settled by amicable means out of court. In other words, it is imposed administrative action by the relevant minister. Nowadays, the Broadcasting Law is promulgated by 2015 and should settle by the provisions of the Broadcasting Law for future cases before court.

## **Conclusion**

The Broadcasting Law will bring about a significant improvement in terms of both independence and transparency of broadcasting regulation. The Broadcasting Law includes some positive aspects, such as recognition of the basic principles of freedom of expression and media pluralism, and of the

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<sup>1</sup> Section 91 of the Television and Broadcasting Law, 2015.

<sup>2</sup> Section 96 of the Television and Broadcasting Law, 2015.

<sup>3</sup> Section 97 of the Television and Broadcasting Law, 2015.

<sup>4</sup> Section 98 of the Television and Broadcasting Law , 2015.

<sup>5</sup> Section 99 of the Television and Broadcasting Law , 2015.



fundamental principles of fairness, transparency and processes needed to develop further media policy. The law also offers a basis for the development of independence regulation, and includes a balanced allocation between public service media, commercial broadcasters and community broadcasters.

However, the law has several substantial areas of concern that will significantly undermine the freedom and independence of the media. And then, all domestic TV and radio broadcasters are either fully state-owned enterprises or joint-ventures between the state and private companies so it is not independent from the government. It is impact the national development. In order to be more effective the role of PSB in national development, it must be freedom of expression, right to information and editorial independence.

Although Myanmar is not a signatory to the ICCPR, it needs to consider the customary international law. These provisions are fundamental to human development and serve as an international standard to assess the validity of domestic laws and governments are held accountable to these provisions of ICCPR.

In order to better of human right in PSB, 2008 Constitution should be amended to strengthen guarantees of freedom of expression and the right to information. State-owned broadcasters should be turned into public service or private broadcasters, and all references to state-owned media should be removed from the Broadcasting Law. The public service remit for public service broadcasters should be defined in and protected by law.

The National Broadcasting Authority should develop the Broadcast Spectrum Management Plan in consultation with broadcasters and civil society and develop a dissemination plan and public awareness. The government and media development organizations should provide adequate funding and technical assistance to the newly created MNMC in order to perform its functions as a media self-regulatory body. The drafting of both a new public service media bill and an MRTV charter must be an inclusive process with representatives from the broadcast industry and civil society. Similarly, the new law and charter should contain provisions for an open, transparent and free process for the appointments of the public service broadcasters' governing body.

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## **References**

### **Laws and Conventions**

The Constitution of the Republic of the Union of Myanmar, 2008.

The Media Law of Myanmar, 2014

The Public Service Media Bill, 2013.

The State-Owned Economic Enterprises Law, 1989.

The Television and Broadcasting Law, 2015.

The Universal Declaration of Human Rights, 1948.

### **Books and Articles**

MDIF, Media Development's Role in Social, Economic, and Political Progress,  
([www.mdif.org/](http://www.mdif.org/) [mdif@mdif.org](mailto:mdif@mdif.org))

Toby Mendel, Public Service Broadcasting, A Comparative Legal Survey, 2<sup>nd</sup> edition, 2011

UNESCO, Assessment of Media Development in Myanmar, 2016

UNESCO, Public Service Broadcasting: A Best Practice Sourcebook, 1<sup>st</sup> edition, 2005