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**A Study of Policies, Regulations
and Case Studies in Taiwan
Pertaining to Televised Judicial
News and Commentaries
Involving Human Rights
Protection**

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Abstract

The purpose of this research is to study and analyze the policies and regulations concerning televised judicial news and commentaries in relation to the protection of human rights, specifically focusing on principle of presumption of innocence, principle of non-disclosure of investigations, fact checking and fairness doctrine, right of correction and reply, and privacy protection.

In order to achieve the above objectives and provide policy suggestions, this research uses systematic research methods, such as literature review, content analysis, case studies, focus group interviews, and policy comparisons.

This research studies four countries as research cases: the United States, the United Kingdom, Germany, and Japan, and uses content analysis to analyze the content of news reports and commentaries broadcasted on ten TV news channels during the main time slots (12:00-13:00 and 19:00-20:00 daily) from September 1 to September 20, 2020, with 100 CDs containing 400 hours of content. Finally, this research conducted four focus group interviews (FGI) with relevant scholars, practitioners, legal experts, and relevant civic groups to discuss related issues.

Through different research methods, this research hopes to realize Taiwan's current development situation, combine the international trends and opinions of stakeholders, and find the balance of legal interests between freedom of press and human rights, as well as propose feasible policies, regulations, or practice recommendations.

The study finds that according to the survey, television is still the primary source of information received by the Taiwanese, and the public pays special attention to social news, which produces judicial news reports

not only between the perpetrator and the victim, but also a public discourse. In specific fields, it is more likely to further promote the bottom-up civic movement, and even influence legislative policies, as well as judicial trials and subsequent execution of crimes and sentences.

Although media self-discipline standards have been regulated for "principle of non-disclosure of investigations," "principle of presumption of innocence," "fact checking and fairness doctrine," "right of correction and reply," "protection of privacy rights" and other related content, issues have emerged regarding its implementation, such as non-compliance or inconsistent standards.

First of all, when reporting judicial news or providing related commentaries on television, in addition to fulfilling the duty of verification, multiple viewpoints should also be given and subjective opinions and objective facts must be clearly distinguished. Besides, in order to implement the protection of privacy rights, on the principle that privacy-related content should not be disclosed, limited disclosure is only allowed on the premise that its public interest overrides its private one.

It is essential that the media should fundamentally understand the meaning of the presumption of innocence, report the facts of the case in a neutral and objective way, and at the same time explain the current process of the case, distinguish the suspect from the perpetrator, and learn from international experience that the truth of the media report must not affect the investigation process. Therefore, it should avoid disclosure of investigative information, and conduct interviews without disrupting the scene.

Since there is no absolute priority between freedom of speech and human rights, the government should follow the legal norm of restrictions on fundamental rights when coordinating freedom of speech and human rights. The form of restriction must conform to the principle of legal

reservation, legal clarity, and proportionality.

In conclusion, this study proposes policy recommendations as follows.

In the short term, in view of the imminent implementation of the "Citizen Judges Act", the media should be more cautious about reporting judicial news. Therefore, on the basis of current laws and regulations, education and training related to the media and prosecutors should be provided, and citizen media literacy education should be implemented.

In addition, the competent authority should ascertain the actual situation of media self-discipline through regular investigations, from which to guide, encourage and even supervise the media to implement self-discipline norms. At the same time, it can provide media self-discipline incentives, such as extra credit for changing licenses, honorary recognition, etc., so as to improve the effectiveness of media self-discipline.

However, there should be more detailed regulations or requirements for the implementation of human rights protection, such as amending the "Regulations Governing Non-Disclosure of Investigations" to allow for enforcement procedures to be clearer and more detailed, borrowing from the experience of the United States, and adjusting the current spokesperson system to hierarchical processing.

From a long-term perspective, an effective platform to resolve media disputes should be established. The platform can be jointly organized by the government, experts and scholars, media industry and citizen groups, etc., in the form of public-private cooperation, accepting complaints from the public that claim their rights have been damaged due to media reports, and assist the public and media operators to negotiate on media infringement incidents, as well as extra-litigation dispute resolution mechanism. In addition, when the platform has been firmly established, mediation cases can also be compiled into a media dispute resolution manual, professional training courses, etc., to educate and train media

operators.

Keywords: television programs, freedom of speech, freedom of press,
human rights, protection of privacy

Chapter 1 Introduction

The multimedia news reports enable the public to freely receive information on events in order to satisfy their right to know. At the same time, the media also plays the role of the fourth power to supervise the government through functions such as fact checking and information dissemination.

However, in the highly competitive and fast-paced environment of the media, there exists chaos, such as failure to fulfill the obligation of fact checking, distribution of fake news, excessive invasion of personal privacy, and even public disorder, etc. These phenomena have also caused disputes between news liberty and other legal interests.

Therefore, when TV news involves issues such as non-disclosure of investigations, media influence on trials and privacy protection, how to reconcile the legal interests of freedom of speech and human rights has become an issue that cannot be ignored in contemporary society. The measures consider legal interests inclusive of press freedom and human rights protection. As a result, it is necessary to conduct in-depth research and analysis.

Chapter 2 Methodology and Research Steps

In order to complete this study, the research methods include literature review, content analysis, case study, focus group interview and comparative research. The detailed steps for each research method are described below.

I. Literature Review

This research firstly defines the research scope of the project through literature review.

According to the methodology of literature review, researchers need to compile relevant market information, survey reports, industry trends and other literature content based on certain research purposes and topics. The following is a list of the sources that was used in this study:

1. Government reports, regulatory orders, and so on;
2. Database of research reports written by the business community and international organizations;
3. Enterprise or organization's public information;
4. Books, theses, journals and newspapers.

The analysis steps include reading and organizing, description, classifying, and interpretation.

II. Case Study

Case analysis is based on specific issues, obtains qualitative and quantitative data, adopts multiple research methods, and conducts in-depth research and analysis, to identify the problem and find its solution.

This research studies four countries as research cases: the United States, the United Kingdom, Germany, and Japan. The scope of data collection focusing on relevant controversies of TV judicial news, including principle of non-disclosure of investigations, principle of presumption of innocence, fact checking and fairness doctrine, right of

correction and reply, protection of privacy rights.

III. Content Analysis

In order to understand the current situations of judicial news and commentaries reported by TV media in Taiwan, this research uses content analysis, which can further infer the impact of the communication process through narrative structure, language use, and so on.

The news analysis sample of this research is the content of news reports and commentaries broadcast on ten TV news channels during the main time slots (12:00-13:00 and 19:00-20:00 daily) from September 1 to September 20, 2020, with 100 CDs containing 400 hours of content.

IV. Focus Group Interview

After conducting research progress such as literature analysis, case study and content analysis, this research conducted four focus group interviews (FGI) with relevant scholars, practitioners, legal experts, and civic groups to discuss related issues.

V. Comparative Method

After collecting and analyzing the data, the research team makes a comprehensive comparison between the countries studied and Taiwan.

By comparing and analyzing the pros and cons of different policy approaches, this research integrates different point of views to make suggestions on TV coverage of judicial news or commentaries involving protection of human rights.

Chapter 3 Research Findings and Conclusions

Considering the policies and regulations of various countries and the current situation in Taiwan, this paper puts forward practical methods for the principles and boundaries that TV media and government agencies should abide by when reporting judicial news or commentaries on TV, and makes future policy recommendations for Taiwan.

I. Principles and boundaries that TV media should abide by when reporting judicial news or commentaries on TV

First of all, the pursuit of truth is the highest principle of news reporting, which is an uncompromising requirement. However, "truth" is a floating concept, so it is extremely important to fulfill the responsibility of verification, which is not endless. The information should be verified in an appropriate way considering the present situation, while the right of correction and reply should be given according to the facts. In addition, diversified viewpoints and the clear distinction between subjective opinions and objective facts will help TV media to implement the fact checking and fairness doctrine.

Principle of presumption of innocence is an important implication of human rights protection and a key element in the practice of fairness and justice. The media should fundamentally understand the meaning of principle of presumption of innocence, report objective facts of the case as neutrally as possible, and explain the development of investigations or judicial proceedings.

From the observation of international experience, although the subject of responsibility for the principle of non-disclosure of investigations is taken by the prosecutors and polices rather than the media, the truth reported by the media should not conflict with the state's public power to

trace crimes. The media have the obligation to cooperate in the principle of non-disclosure of investigations, and should carefully consider the reported information and avoid affecting the investigation procedure.

The right to privacy is based on the principle of non-disclosure. Even if the parties agree, privacy matters that have nothing to do with public welfare should not be disclosed. Only on the premise that the public interest overrides the private one, can it be disclosed to a limited extent.

In contrast to the above principles, the right of correction and reply has the connotation of repair afterwards, which is a key issue to supplement the protection of human rights. Therefore, the media should not only provide the public with media access, but also respond to the correction request in a timely manner. In order to take the editorial autonomy of the media and the freedom of the press into account, the media may refuse a citizen's request for correction or defense only if the reasons for the refusal are clearly communicated.

II. In order to balance the freedom of speech and human rights, government departments should observe the following principles and boundaries

In terms of the freedom of speech and freedom of news editing, the countries of case studies do not censor any content prior to broadcast; they only establish reporting principles in accordance with laws such as fact checking, fairness doctrine, and protection of specific interests (such as the children's interests). In principle, most of them only require the media to deal with above principles on a case-by-case basis under the absolute prohibition of laws and regulations. In addition, most countries supervise the media through mechanisms, such as self-discipline and hetero-discipline.

Therefore, there is no absolute priority of freedom of speech and

human rights. The government should follow the legal norm of "restrictions on individual rights" when coordinating freedom of speech and human rights. The form of restriction must conform to the principle of nondelegation doctrine, the principle of unambiguous law, and the principle of proportionality.

1. Nondelegation doctrine

When the government restricts the freedom of speech in the media based on the protection of human rights, it should follow the principle of clarifying legal norms or explicitly authorizing the competent authorities to issue orders. When the details and technical secondary matters related to the implementation of laws cause inconvenience or slight impact on citizens, the order issued by the competent authority shall be the necessary norm.

2. The principle of unambiguous law

When our government formulates media supervision regulations, it should follow the principle of clarity as much as possible. However, for the fairness doctrine and fact checking, it must be judged on a case-by-case basis, and it is difficult to stipulate in detail. Therefore, these concepts are regulated by uncertain legal concepts. Before the competent authority makes a decision on penalties, professionals are allowed to use their professional knowledge and social understanding to decide on a case-by-case basis.

3. The principle of proportionality

If the government would like to restrict the execution of freedom of speech in the media for the purpose of safeguarding human rights, it must consider the following conditions:

- Whether the means of restriction contributes to the achievement of the purpose ;
- Methods limited to the necessary, least impactful choices ;

- Damage balanced with its achievement.

III. Policy recommendations

To this end, in the short, medium, and long term, this study puts forward the following policy recommendations:

- (1) Short-term approach: Provide education and training related to media and prosecutors, and implement citizen media literacy education.

To achieve this, the government should cooperate with relevant units, civic groups, etc., through case education, strengthening the media's awareness of human rights, seeking to establish the standard of media handling judicial news, and extending relevant education and training to all media practitioners.

Through pre-employment training, on-the-job education and other training courses, the knowledge and awareness of human rights of the procurator and police officers can be strengthened, and the issue of interaction with the media can be discussed.

In view of the endless vigilante justice and media public trial cases, and the imminent implementation of the "Citizen Judges Act," strengthening the public's understanding of judicial news has also become an important issue.

- (2) Medium-term approach: Intensify supervision of judicial officers, implement media self-discipline, and introduce hetero-discipline mechanisms in due course.

The competent authority should ascertain the actual situation of media self-discipline through conducting regular investigation or entrusting a third-party platform, to supervise and guide the media to implement self-discipline norms according to the investigation situation. On the other hand, the authority can cooperate with relevant groups to compile judicial news

report cases and demonstration examples. At the same time, the competent authority can provide media incentives to improve the effectiveness of media self-discipline.

Comparing with the protection of freedom of speech by the media industry, stricter standards of censorship should be adopted in terms of legal restrictions. Therefore, more detailed norms or requirements should be imposed on the implementation of human rights protection. Learning from the experience of the United States, the law enforcement procedures should be clarified and more detailed, and the current spokesperson system should be adjusted to hierarchical processing.

- (3) Long-term practice: Strengthen appeal channels, and establish an effective platform to settle media disputes.

The media dispute resolution platform aims to resolve disputes over human rights violations caused by media reports. It brings together the government, experts and scholars, media industry and citizen groups, etc., to accept complaints from the public that their rights have been damaged due to media reports, and to assist the public and the media in the form of public-private cooperation when it comes to the negotiation of media infringement incidents. As a result, it becomes an extra-litigation dispute resolution mechanism for media disputes.

In addition to providing services such as the correction and appeal mechanism, media infringement mediation, etc., mediation cases can also be compiled into a media dispute resolution manual, professional training courses, etc., to educate and train media practitioners.