

**Freedom of opinion and expression: The role of voluntary professional standards in
facilitating mutual respect and understanding**

Session II

Introductory Statement

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Where a man cannot call his tongue his own, he can scarcely call anything his own.

Cato.

The role of the media is vital in generating a democratic culture that extends beyond the political system and becomes engrained in the public consciousness over time. The media is crucial to the exercise of freedom of expression because it is only meaningful if the right is exercised in public. The starting point of any structural stability for the media – even the society itself - is law guaranteeing freedom of expression. The basis for any such law is set out in a range of international standards. Freedom of expression is among the most important of the right guaranteed by many international human rights treaties, in particular because of its fundamental role in underpinning democracy. Laws guaranteeing freedom of expression help the watchdog function of media and civil society immensely by providing benchmarks to measure progress. The freedom to express opinions, feelings and information is in many ways a prerequisite for the exercise of other freedoms and rights.

However, this freedom, just like any other, is not an absolute one. In order for it to be effective, it needs to be accompanied by rules. This is especially true for modern means of transmitting expressions to large numbers of people, with a great impact. As much as it needs legal guarantees of protection, when it comes to freedom of expression modern communications need regulation, especially as they normally use the frequency spectrum, which is a limited natural resource. There is no contradiction in the fact that in societies governed by the rule of law a certain regulation of media is needed. At the same time, any regulation of media is a balance on the – sometimes apparently thin - line between censorship and legitimate regulation. However, the regulation in field of broadcasting is under no circumstances to be understood in terms of censorship. On the contrary, regulation means positive approach to establishment and enabling of professional media in any society.

We do not always appreciate the importance of these freedoms until they are tampered with through state interference and control. Without the expression of ideas and opinions and the publication and distribution thereof in the media no society can develop effectively. Politicians should therefore refrain from undue attacks on the media in an attempt to hide their own incompetence and corruption. Such attacks undermine the effectiveness of the media to inform and educate our citizens. At the same time, faced with social and political conflicts, and even threats to national security as the fight against terrorism, states are tempted to curb liberties in order to safeguard security and a misguided notion of public order. As citizens we should protect our freedom of speech and the freedom of the media to ensure that all other human rights are protected.

BiH insight

Many studies and researches about role of media in ex-Yugoslav conflict were undoubtedly indicating that media were, while serving the regime, produce wars and hatred. In his book «Forging the war» Mark Thompson states that «verbal violence produced physical violence» and that war firstly started in media. Italina journalist Paolo Ramirez also wrote in his book

«One massacre», that «War was already present in 1998 in headlines and articles. At the time of war in BiH, many journalists' articles were dominated by ideological consciousness based on execution of political plans, rather than professionalism and objectivity. Facts in these articles were interpreted very imaginatively and they had the form of arbitrary constructions, cleverly designed to achieve political interests. Although there is no doubt that the media really did play one of the key and dirtiest roles in the conflicts in the region of the former Yugoslavia, they were only an instrument of politics, under its greater or lesser control. In any case an instrument, not an autonomous creator of conflict. There is no doubt that this primacy belongs to politics.

Following this general logic of awakening of national awareness, all ex Yugoslav republics behaved in the similar way, because the deconstruction of the communist system and single-party monopoly, which had controlled activities in all segments of social life, could not be performed painlessly. The road from a single-party model to developed democracy and a multi-party political system was formally being taken, but in reality we still had single-party monopoly in power, which just substituted the ideological matrix with nationalistic phrases. The effect of the war is one important factor and that which immediately comes to mind as to exercising freedom of expression. It must also not be forgotten that the limitations of freedom of speech in the previous system also had to be overcome. In addition to that, the media – and again the society in general – had to learn how to use the newly acquired freedom of expression which was often just a means to either spread hatred and incite to further violence, or at the very least, to defame and insult.

A free media is the first prerequisite for democratic society. However, in BiH, in the last decade of the 20th century, as a result of social developments, the media were susceptible to influence from political and financial centres of power, which were using various kinds of pressure to impose their own interests. Thus, independence of the media, which should serve public interest, became questionable. The purpose of journalism to present an event accurately, truthfully, with balance and impartially, became questionable because the political decision-making centres were the main factors in development of editorial policies in the majority of the media. Since mass media address the public and since the number of their information recipients is high, the level of their responsibility is proportional to their actual influence. Dangerous stereotypes, which dominated the BiH state media since the beginning of the crisis, significantly contributed to the development of an intolerant atmosphere and influenced people's values because they increased feelings of national and religious differences. The code on proper conduct of journalists and adherence to the principles of journalistic ethics were endangered by the very fact that the media were in the service of the official policies, representatives of official political will, financially dependent on their support. Lacking a precise journalistic code, ethics and professionalism, the media also lacked a humanistic feature so characteristic of democratically designed media.

In relation to previous situation, a significant step towards correctfull media reporting was made. Abundance of media channels impacts on more objective and non-uniformed reporting.

When talking about role of voluntary professional standards in mutual respect and understanding BiH may be the right example speaking in favour and against it. The situation before the establishment of the **Communications Regulatory Agency** www.rak.ba as a unique regulatory body in Bosnia and Herzegovina, was giving away a picture complex media scene. Like all other sectors of BiH society, media also had to cope with the transition from a Communist government and centralized economy to a functioning democracy with a dynamic market economy in the aftermath of a catastrophic war. In this situation the broadcasters in many cases did not apply for any licence at all but just started broadcasting or changed frequencies or other parameters. Also, practice of usage of strong hate speech has been wide-spread, with many broadcasters being under a full political control. Intimidation of

journalists remained commonplace, with more than 90 percent of all journalists in Bosnia reporting political pressure from officials or their surrogates on a regular basis even several years (1999) after the Peace Accords were in effect. After the general elections in the Fall of 1998, the political pressure upon the media exerted by the dominant nationalist parties increased dramatically and became increasingly intolerable to both journalists and the international community. According to a survey of journalists in BiH to determine the actual level and types of pressure conducted by the OSCE Media department at that time, there were so many complaints and the finding that more than 75% of journalists reported serious threats on their persons, families or outlets from political and government officials and/or the police. This situation led to establishment of **The Free Media Helpline** in 1999 which was to ensure that an actionable record of threats, harassment and intimidation of journalists existed and that all verifiable threats resulted in swift response and protection of the journalists threatened. In the two years in which Helpline operated (under the OSCE's auspices), more than 250 verified cases of interference - all disturbing, some quite severe - were reported. All verified cases resulted in intervention from the OSCE and/or other local and /or IC agencies. Thus, the Free Media Helpline became the only hotline in the world that directly intervened at the time of threat - unless the journalist who filed the report specifically requested no action.

In cases where the rights of freedom of expression and movement of media professionals have been violated or in any other policy or legislative matters related to media was monitored by the "Media Ombudsman", firstly established in 2000 both in the Federation and RS. Both offices were supported by local government.

To assist journalists and editors to understand and adopt the highest international standards of journalistic, editorial, ethical, legal, and technical media activity, there were a number of programs established to foster the professional practices of both journalists and editors. These included, A **Press Code for Bosnia-Herzegovina**, adopted in April 1999. This Code outlines acceptable standards of professional conduct for journalists in Bosnia. Based upon this Press Code, journalists' associations were helped to develop a system for self-regulation of the press and by the press. The Press Code states that journalists and their publications have an obligation to the public to maintain high ethical standards at all times and under all circumstances. **Press Council** which operates on the basis of the Press Code, is a body that represents both the media (the press, journalists and editors) and their readers (the public). The primary task of the Council is to review citizens' and public complaints against press reports and to resolve disputes in a simple manner, quickly and free of charge. The working paper on the conduct of the Council reads that "the Council shall try to resolve each complaint on the basis of fairness, civility and common sense and shall only use instruments of journalism".

In order to ensure the right to Freedom of Expression, as provided for in the Constitution of Bosnia and Herzegovina, the High Representative's July 1999 Decision required the State and Entity Governments to adopt a **Law on Freedom of Information** and for the Entity Governments to adopt a civil **Law on Defamation (Libel)**. The Freedom of Access to Information legislation was adopted first by the Parliamentary Assembly of Bosnia and Herzegovina in October 2000, and subsequently by the Entity governments in early 2001. The Law on Protection against Defamation was adopted in the Republika Srpska in May 2001 and (after DMA closed in 2001) was imposed by the High Representative on the Federation in November 2002. With adoption of these laws, BiH has met a fundamental requirement for the entrance into the Council of Europe and has ensured that rights to freedom of expression as guaranteed by the Bosnian and Entity Constitutions have been codified in law and have been harmonized across all levels of government. Monitor the status of the treatment of journalists within Bosnia annually by NGOs and public bodies (such as the Ombudsmen's offices) responsible for the protection of human rights.

CONCLUSIONS

As it is recognised, right to freedom of expression has a very special role in democratic processes. Without this right, the public would not be able to form and define its opinion of the Government, elected officials, and other issues of public interest. There, the media has a particularly important role in offering information to the public, emphasizing corruption and inspiring political debates.

The way rights and freedoms of expression are exercised depends on the regulatory framework and the media, especially the journalists. In order for the media to fulfil important “watchdog” role of media, good regulatory structure must be in place and it is an imperative that reporters are able to access information from a variety of sources in order to root out malpractice. Journalist should be free to publish stories in the public interest, without fear of censorship, recrimination or being sued. On the other hand, journalists themselves have the responsibility to maintain and protect the culture of objectivity and to report accurately, fairly and in good faith at all times and circumstances.

Implementation of previously mentioned principles, in line with the European standards, represent a step forward in establishment of balance between rights and obligations of right to freedom of expression. In line with political changes, broadcasting has to play democratic roles as well. Democratic roles come with the imperatives of respecting and upholding freedom of expression and a free flow of information and ideas. State control and regulation has to give way to independent regulation. Independent regulation requires institutional arrangements, which are inclusive and transparent.

What I hold as being extremely important in establishing and maintaining a healthy media environment is a:

- free flow of expression, speech, press and access to information
- editorial independence
- encouraging broadcasters to develop own codes of practice that would cover issues in programming regarding protection of children, the portrayal of violence, fair and accurate programmes, safeguards against the portrayal of people in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status, or as a consequence of legitimate expression of religious, cultural or political beliefs
- existence of independent regulatory body empowered to adopt Codes and issue sanctions. The legal status of these bodies should be clearly defined in law. Their institutional autonomy and independence should be guaranteed and protected by law.
- strong PBS that is producing a variety of programs, objective news and in general programs that are free of political and commercial influence and pressure
- environment that provides possibilities of balance between private and public media in an open market, the existence of a wide range of independent broadcasters and programming that represents and reflects society as a whole.
- training for journalists
- healthy and active involvement of civil society

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