

**THE STATE OF MEDIA FREEDOM
IN ARMENIA 2013**
CORE PROBLEMS AND CHALLENGES



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Investigative Journalists NGO
Yerevan 2013

This publication has been made possible by support from the Organization for Security and Co-operation in Europe, Office in Yerevan. The views expressed herein are those of the Investigative Journalists NGO and do not necessarily reflect the views of the OSCE.

“The State of Media Freedom in Armenia 2013: Core problems and challenges”: Investigative Journalists NGO, Yerevan, 2013.

This book, prepared by the Investigative Journalists NGO, summarizes the main challenges facing reporters and news outlets in Armenia in 2013. These challenges appear in the form of physical violence, pressure tactics and legal suits filed against them. Other challenges to the development of the media sector in Armenia have also been looked at – unhealthy competition, a shrinking print media due to technological advances, a lack of professionalism, etc. It is intended for reporters, attorneys, professionals dealing with freedom of speech/media issues, students of journalism, and the general reading public.

ISBN 978-92-9234-276-0

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PREFACE

Those interested in the current state of freedom of speech and the press in Armenia will find the following study, the latest in an annual series prepared by the Investigative Journalists NGO, of particular note.

This time, we have expanded the thematic scope of the study to include not only acts traditionally regarded as means to hinder freedom of speech - physical acts of violence, and suing reporters and news outlets in the courts on charges of slander and insult - but also plagiarism, which has reached unprecedented levels in the mass media, widespread self-censorship among reporters, the low level of journalistic professionalism, and a look at the challenges faced by the print media, i.e., technological advances and other factors.

Hetq reporters have prepared analytical articles on the above-mentioned issues. Attorneys Ara Ghazaryan and Ashot Vareljyan present a concise overview of the operational freedom of news outlets, focusing on such aspects as legislative regulation, physical violence, and court cases based on charges of slander and insult. Regarding such court cases, the attorneys sound a positive note in their analysis, noting that from January to October of 2013 the courts have handed down verdicts that, by and large, have been favorable in terms of reporter and news outlet freedom.

As always, however, acts of physical violence committed against reporters and interference in their activities revealed in the study are of concern.

“Numerous cases exist when reporters have been threatened, to the point of obstructing their work, without the guilty parties being prosecuted. Even if an investigation of the incident took

place, it was usually an internal agency examination, which, in principle and practice, is not regarded as an effective legal defense method,” the attorneys conclude. The study shows that only in a small number of cases has the legal defense of reporters, as defined in the Criminal Code, served as an effective defense method.

FREEDOM OF NEWS OUTLETS IN ARMENIA

(January-October 2013)

1. Legislative initiatives and changes

On September 10, 2013, the National Assembly unanimously approved a bill making changes to the RA Law on Copyrights and Related Rights. The aim of the bill was to regulate the widespread violations of copyright law occurring in Internet news outlets and by reporters. It had become common practice for one news outlet to republish information from another either without the prior consent of the author or without any credit to the source; even if the news material in question was fully copyrighted.

In other words, many internet news outlets, including blogs, widely violate the copyright privileges of others. However, due to an absence of effective legal defense mechanisms such violations remain unpunished, and the original authors left defenseless. Changes to the law have resulted in more specific and encompassing foundations regarding substantive and procedural matters of legal defense, tasked with ensuring the defense of copyrights in the rapidly developing realm of the internet. Specifically, even though it is widely known that coverage of daily news and breaking stories is not, per say, covered by copyright laws, however, even news reported in such a manner can be covered by copyright law if the manner in which it is presented (“the manner of expression”, according to the law) contains an element(s) of “creative” endeavor. This is a general approach to the issue of copyrights, according to which only the result of creative endeavor is defended by copyright law. On the other hand, had this clause not been included in the law, during court cases the courts ascertain whether or not news information contains elements of creative work.

Changes to the law have also defined a two-layered system when it comes to defending against possible violations regarding the reproduction of material. The first notes that quoting material from other online news outlets can only be sanctioned to a degree necessary to “substantiate a given objective.” The law does not define what this concept means, but rather leaves it to the courts to interpret and apply in individual cases. Such an approach, we believe, is equitable and derives from international and domestic governmental judicial practice. First, it is impossible to provide an exhaustive definition as to what is meant by “substantiate a given objective.” Second, it is sometimes more effective to define wide concepts in executive decisions, in order to apply them long-term in an ever changing social and technological environment, especially when we are talking about such a constantly changing environment as the internet. The second defense system stipulates that reproduction of material “must not reveal the essential portion of press reportage”, regardless of the reproduced amount. This second requirement operates independently of the first. That’s to say, even if the extracted material’s amount is small (one or two sentences), if it reveals the essence of the reportage it is enough to hold the one who lifted the material accountable. The latter has no recourse to claim, in their defense, that the amount of lifted material was small.

In addition to the noted substantive grounds, the law also specifies a number of procedural guarantees. For example, when extracting news material covered by copyright law, a link to the original source is required, and the name of the print news outlet must be mentioned in the title. When reproducing news material from internet sites, a hyperlink to the source and the domain name must be placed in the title.

Changes to the law also specify possible material compensation ranging from 100,000 to 200,000 AMD for copyright violation. After Article 1087.1 (insult and slander), was incorporated into the Civil Code, it can be said that this is the second sector in the domain of civil law where the legislature defines the possibility

of financial compensation for damage. Here, however, confusion reigns. When referring to the concept of “damage”, what does the legislature have in mind - both material and non-material (moral) damage?

On the one hand, as a rule, substantiating material damage in court is difficult; on the other, the section of any claim dealing with non-material damage is threatened with rejection by the courts based on the argument that RA law does not define the possibility of financial compensation for moral damage. Here, perhaps, there is a need for intervention by the Constitutional Court, so that by revealing the legal constitutionality content of the norm, the Court can explain whether this clause, by which the possibility of financial compensation is defined, in reality serves as a method for the financial compensation of moral damage. The Court displayed such an effort regarding Article 1087.1 when it stipulated that financial compensation defined by this article, in reality, is not grounds for compensation of moral damages, but rather, merely a legal defense method.¹ When writing this study, the Constitutional Court issued an important decision on November 5, 2013, stating that the absence² of legislative grounds in order to receive financial compensation for moral damages violates the rights of citizens based on Articles 3, 18 and 19 of the Constitution. The Court’s decision gave the National Assembly one year (until October 1, 2014) in which to draft all necessary legal mechanisms in the Civil Code and other relevant legislative acts to come up with legal mechanisms for financial compensation regarding moral damages.

¹ See Constitutional Court decision 991

² Reference is to Article 17, Part 2, of the Criminal Code that defines the scope of the concept of “damages” in civil-legal relations.

1. Obstructing the work of reporters

Obstructing reporters in carrying out their professional activities has been criminalized and is punished based on Article 164 of the Criminal Code; in the amount of 200 to 400 times the minimum salary (200,000 to 400,000 AMD). If a government official obstructs, by using his/her official position, the punishment is either a fine from 400 to 700 times the minimum salary, or imprisonment up to three years. The official may also be deprived of the right of holding office or engaging in certain activities for up to three years. If the obstruction is accompanied by violence, either causing or threatening damage to the life and/or health of the reporter or their relatives, the punishment is three to seven years imprisonment.

During the period covered by this study, instances of reporters being obstructed in their professional work were registered in all the above-mentioned scenarios – through violence, threats of physical retribution, discriminatory behavior, application of inappropriate restrictions (e.g. restriction of free movement), the seizure of video camera and other equipment, destruction of recorded videos and editing of same, or interfering with the right to respect for ones private and family life and home. Such instances of interference have been displayed by both acting officials (e.g. police employees) and private citizens. Acts committed by authority figures have mostly resulted in official (in house) reviews, and not criminal investigations, exposing the guilty, criminal charges, or appropriate punishment.

a) Physical violence

On presidential Election Day February 18, 2013, physical violence was again committed against Artak Hambardzumyan and Narine Ismail, a young woman volunteering at the Transparency International-Armenia NGO as an election

monitor for European Rights Coalition NGO, who raised the alarm about ballot stuffing in Ararat Polling Station 17/05.

Some 25-30 young men had entered the polling station and several of them pushed the monitor and reporter up against the wall, grasping their hands, so that they couldn't take photos or videotape the ballot stuffing.

A criminal case was launched, headed by the Special Investigative Service (SIS) based on Criminal Code Article 149 (*Hindrance to implementation of the right to elect, to the work of election commissions or to the implementation of the authority of the person participating in elections*) and Article 153 (*Voting more than once or instead of another person*). The “corpus delicti” (body of crime - the fact of a crime having been actually committed) defined by the two articles, in objective terms, has no connection at all with the fact of hindering, with violence, the work of reporters and provide the opportunity of circumventing proof that violence was committed against a reporter. Consequently, the launch of a criminal case based on these articles was the inappropriate and disproportionate response of the official body in charge. It's not accidental that the criminal case was later dropped, since charges against the two individuals implicated were dropped given the lack of evidence that they participated in the violation that occurred.

The Police also failed to find evidence of a “corpus delicti” in the case of reporters Gayaneh Saribekyan and Marine Kharatyan with the newspapers *Hraparak* and *Zhamanak*. On Election Day, near the campaign headquarters of the Republican Party in Yerevan's Metaks neighborhood, the two reporters approached a group of some 10-15 individuals in order to ask them what was going on. The group cursed the reporters and tried to snatch their photo equipment.

During an interrogation at the SIS, it was revealed that Hakob Beglaryan, younger brother of Transportation and Communications Minister Gagik Beglaryan, was one of those actively hindering the reporters. On March 15, the SIS dropped the case.

On May 19, Maxinfo.am founder Babken Haroutyunyan issued a statement alleging that he was assaulted two days earlier when he visited the village of Kanachout in Ararat Province. Haroutyunyan says he went there to photograph the palatial home of presidential advisor and former Police Chief Alik Sargsyan. After photographing the house, he says he was assaulted by Alik Sargsyan's brother Andranik.

A forensic exam was scheduled and the case material was forwarded to the Ararat Investigative Unit. But the case was rejected on the grounds that there was no evidence that a crime had been committed.

On May 18, the relatives of a soldier who had died in a military unit, tried to take the corpse to Yerevan in a sign of protest. At a road checkpoint placed on the Sevan-Yerevan Highway, the police stopped all cars ferrying reporters to the spot where the dead soldier's relatives had blocked traffic. The cops later assaulted the reporters and seized their recording equipment, arguing that they had received an order from above to prohibit any photographing.

According to the statements made by the news outlets, individuals in uniforms and plainclothes used force to seize and break the camera equipment belonging to a crew from Kentron TV. The damaged equipment was later returned and the video erased. Members of the Military Police also used force to seize the video camera of Lragir.am correspondent Siranoush Papyan. They erased whatever she had recorded up till then. A camera

crew from Yerkir Media had their memory card confiscated. It was later returned after the police chief intervened.

The Sevan branch of the Gegharkunik Police assembled case material that was handed over to the Gegharkunik Provincial Prosecutor's Office. From there, the case file was to go to the Defense Ministry's Investigative Branch. But the case was dropped at this point since law enforcement claimed they couldn't identify anyone to charge. The Ministry's Investigative Branch also rejected launching an investigation on the same basis.

b) Threats

Numerous cases exist when reporters have been threatened, to the point of obstructing their work, without the guilty parties being prosecuted. Even if an investigation of the incident took place, it was usually an internal agency examination, which, in principle and practice, is not regarded as an effective legal defense method.

There is the case of Hetq reporter Ani Hovhannisyan being manhandled and treated disrespectfully by a police employee on Yerevan's Northern Avenue. There's even a video tape of the incident.³ The employee was subject to disciplinary punishment and transferred to a reserve position. A disciplinary hearing and its consequences cannot be regarded as a legal defense substitute for the injured party (the reporter), since discharging the police officer does not restore the violated rights of the reporter. What was needed was a criminal investigation based on Article 164.

Law enforcement did take certain measures when *Hetq* reporter Ani Hovhannisyan received a threatening call on May

³ See: <http://hetq.am/arm/news/25965/v-xukasyany-dog-hrel-ev-viravorel-e-hetqi-lragroxin.html>

8, 2013, from a cell phone registered in Russia.⁴ The caller told her that if she continued to poke her nose in places where she shouldn't, it would turn out bad for her and her family members. For a while, the police took steps to safeguard Hovhannisyan's security. A criminal case was launched. Based on transcripts provided by a telephone provider in Armenia of the calls made and received by the cell phone number in question, five citizens and four witnesses were questioned. After all this, the case hasn't passed the preliminary examination stage.

No investigation was launched in the case of www.news.am reporter Gayaneh Aprunts who was threatened by bodyguards of MP Samvel Aleksanyan, or even when Aleksanyan forcefully pulled her arm.

In certain cases, the authorities did launch examinations involving threats but were later dropped. For example, on February 18, 2013, the websites www.asparez.am and www.aravot.am stated that reporters Marine Petrosyan and Nune Arevshatyan were threatened at Gyumri polling station 35/22. While the reporters were seated in the car, a woman approached and angrily yelled: "Who are you to come here and take pictures of us? I'll gouge your eyes out." During the examination, the reporters stated that they didn't regard the woman's outburst as a threat and that it didn't prevent them from doing their work since there was no physical intervention. The reporters also said that they hadn't been wearing their press badges when photographing. The woman who made the threat then stated that, at the time, she didn't know the two were reporters. In the end, the police decided not to press charges based on Article 164. We believe this was a just approach.

In certain cases, reporters have chosen to go the civil defense route, and not the criminal.

⁴ <http://hetq.am/eng/news/26351/>

On February 18, presidential Election Day, New York Institute of Photography correspondent Tzovinar Nazaryan was hindered from her work at polling station 17/4 by Tigran Virabyan, president of the local election committee and head of the Ararat Provincial Government's Department of Agriculture and Environmental Protection. Virabyan yelled at the reporter "like a hysterical person", threatening her by saying, "I'll kill you". The video clip of the incident made it to YouTube.⁵ Nazaryan preferred to sue in civil court on the basis of Civil Code Article 1087.1.

In certain cases, seeking a legal defense based on the Criminal Code has turned out to be the most effective. On September 13, 2013, the Kentron and Nork-Marash Administrative Court sentenced Rafik Sahakyan to one year in prison and fined him 800,000 for cursing and threatening photo-journalist Gagik Shamshyan.

On January 30 of this year, Sahakyan and an unidentified friend hindered Shamshyan from reporting from the Traffic Police's auto impound center. Sahakyan's car had been taken to the impound center for a traffic violation. When Shamshyan attempted to film the car and its owner, the two assaulted the reporter and verbally abused him. Sahakyan was found guilty of Article 164, Part 1 of the Criminal Code (hindering the professional work of a reporter without the use of violence or threats) and Article 258, Part 3, Point 1 (hooliganism, accompanied by the use of violence or the threat of violence).

In essence, the court tied the threats directed against Shamshyan not to the execution of his professional work, but rather to hooligan acts committed by Sahakyan. Otherwise, Sahakyan

⁵ See: <http://www.aravot.am/2013/03/29/224853/>:

would have been charged according to Article 164, Part 3. The precedents set in RA Cassation Court cases No. ARD/0176/01/11 and No. EED/0091/01/11 (dealing with the interpretation of the concept of “threat”) were widely used in the above case. This interpretation can be used as a guideline on cases of threats used against reporters.

c) **Other intervention-type actions**

Hindering the professional work of reporters has not only been accompanied by violence and threats, but also by restricting freedom of movement, by seizing equipment or the attempt to do so, destroying video tape, and displaying a discriminatory attitude towards reporters. Such acts of interference are also the foundations of a “body of crime” as defined by Criminal Code Article 164.

We have already touched on the incidents that occurred on the Yerevan-Sevan highway. No criminal charges were ever filed. (See above)

No charges were ever filed in the case involving reporter Babken Haroutyunyan, whose freedom of movement was restricted when his car was cut off by another, and whose property rights were interfered with when his car keys were seized, thus depriving him of the use of his property; the car.

There’s the case of ilur.am reporter Hakob Karapetyan who was [assaulted](#) during the Yerevan Municipal Council elections.

On April 23, while covering a campaign stop of Taron Margaryan (the candidate topping the Republican Party ballot), Karapetyan was not only roughed, but his professional work was hindered when they snatched his camera. The culprit was Ashot Papyan, a member of the Yerevan Municipal Council and a

member of the Republican Party seeking re-election. Police on the scene did not intervene in the assault against the reporter. Soon afterwards, the video camera was returned, but the film had been destroyed. The investigation was dropped when Papyan publicly apologized and the reporter agreed to drop his complaint. The police argued that, given the situation, the case was dropped on the basis of Article 37 of the Criminal Procedural Code (Circumstances Giving Discretion to Refuse from Criminal Prosecution and from Criminal Case), according to which, a criminal case can be dropped when Articles 72, 73 and 74 of the same Code are relevant. In this case, Article 73 comes into play, according to which “The person who committed a non-grave crime can be exempted from criminal liability, if he reconciles with the aggrieved, mitigates or compensates the inflicted damage in some other way.”

In the end, the police didn’t regard the actions of Ashot Papyan (hitting the reporter in the face, causing him bodily injury, seizing his video camera), as violations of Criminal Code Article 164, Part 3, Point 1 (hindering the professional work of a reporter without the use of violence or threats). Otherwise, that’s to say had the actions been regarded as a violation of Part 3 (hindering the work of a reporter with violence or accompanied by threats), the case couldn’t have been dropped on the grounds that the parties reconciled, given that the crime, as defined by Part 3, was a grave criminal act. It is clear that the decision to drop the criminal case contradicts the evidence. Nevertheless, we must also note that the reporter did not protest this decision; moreover, he publicly declared that he agreed with it.

A convenient method of legal defense was employed in the case of *Haykakan Zhamanak* reporter Hermineh Manukyan. The Gegharkunik Provincial Court of First Instance found Hakob Ghazaryan guilty on the basis of Article 164, Part 1, of the RA

Criminal Code and fined him 200,000 AMD for hindering the reporter who wished to interview Samvel Ghazaryan, Principal of the Khachaghbyur village high school. Hakob Ghazaryan attempted to the reporter's video camera and the reporter was forced to leave without getting her interview.

Reporters have also been hindered in carrying out their work as a result of discriminatory conduct directed against them. Take the case of Yerkir.am reporter Agnesa Khamoyan. The reporter wasn't allowed to participate in an election campaign press gathering with presidential candidate Serzh Sargsyan scheduled to take place at the Government Sessions Hall, or at the Avan administrative cultural center. The reporter was barred from both even though she had the proper press credentials to cover both.

3. Insult and slander court cases against news outlets

a) Statistics

From January to October 2013, thirteen legal suits accusing new outlets or reporters for slander and insult were filed with the courts. Six of these were repeat cases filed by the same individual against news outlets with the same set of charges and facts.⁶

Three of the thirteen trials have ended, and the others are on-going, either in the Court of First Instance or the Appeals Court. Overall, from decriminalization (May 2010) until the writing of

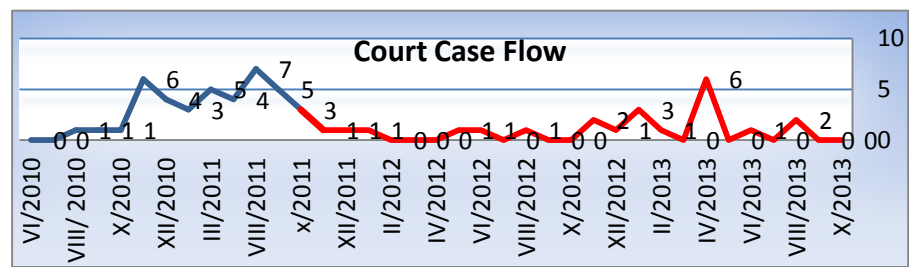
⁶ The suits were filed by former attorney Karineh Avanesyan, who was found guilty and is currently imprisoned for forging an unfavorable legal deed for her defendant. She filed suits against six news outlets, arguing that by publishing a statement about her guilt during the trial, they insulted and slandered her. The courts, in two decisions, found the plaintiff filed the suits after the six month deadline.

this study (October 2013), 73 suits have been filed against reporters and news outlets. Fourteen are still in the courts⁷; the other 59 have been completed.⁸

Legal decisions have yet to be handed down in ten of the fourteen ongoing cases. At least one verdict has been issued in the other four.

The charts below depict the breakdown of cases since decriminalization over time.

Table 1. Court case flow per months



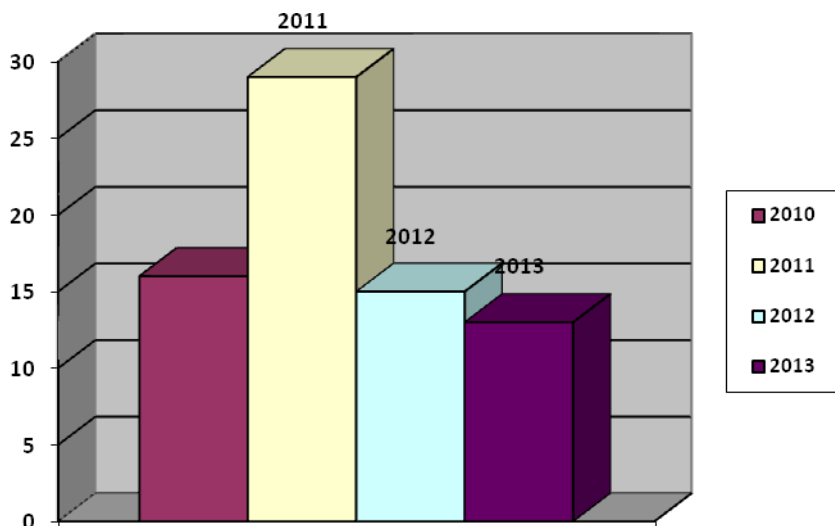
The blue line covers the time period until the Constitutional Court handed down its famous Decision 911 (November 2011). The red line depicts court cases after this decision. As we see, the number of cases significantly dropped after this decision was issued – from one to two cases per month. This rate continues to date. The reason for the jump to six cases in April 2013 was due to the fact that the same person filed all six suits against six

⁷ During the same period last year, 15 of the 51 cases were ongoing; about the same amount as in 21013. This is also evidenced by the monthly breakdown of cases presented, which fluctuates between zero and two; an average of one case per month.

⁸ The study does not cover court cases in which news outlets or reporters are included as third parties. In our opinion, inclusion as a third part litigant does not constitute essential interference. Thus, we haven’t covered them here.

news outlets; all based on the same legal arguments. Thus, if we regard the six cases as one the monthly rate falls back within the zero to two average. This is also evidenced by the yearly breakdown of cases. From July to December 2010, 16 cases entered the courts, 29 in 2011, 15 in 2012, and 13 from January to October 2013, of which six are repeat cases filed by the same individual.

Table 2. Number of court cases per year



Of the 59 completed cases, 24 (41%) were completely rejected by the courts. Twelve (20%) were partially sustained. A reconciliation agreement was reached in ten (17%). The plaintiff withdrew the suit in nine cases, and the courts returned the suits in three cases, so that corrections could be made for re-filing. The courts completely sustained the plaintiff's suit in only one

case.⁹ (See Chart 3) In the 59 completed cases, a total of 150,225,300 AMD was sought in compensatory damages against news outlets and reporters. Of this amount, 13,160,000 (8.7%) was sustained. Noteworthy is the fact that as of October 2012, this figure was 8.6%. In the 36 cases that had been completed as of then, a total of 130,698,350 AMD had been sought in damages, but only 11,286,000 (8.6%) had been allowed. (See Chart 4)

Table 3. Court decisions

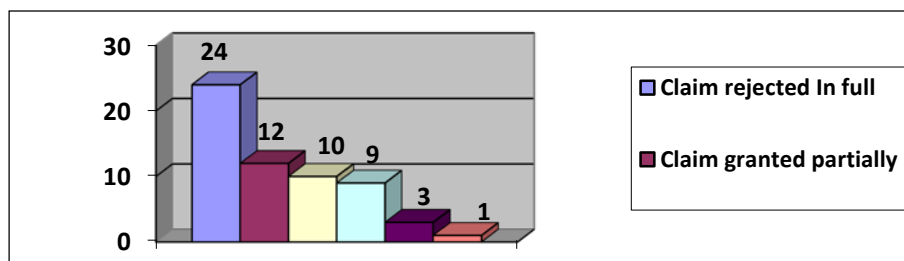
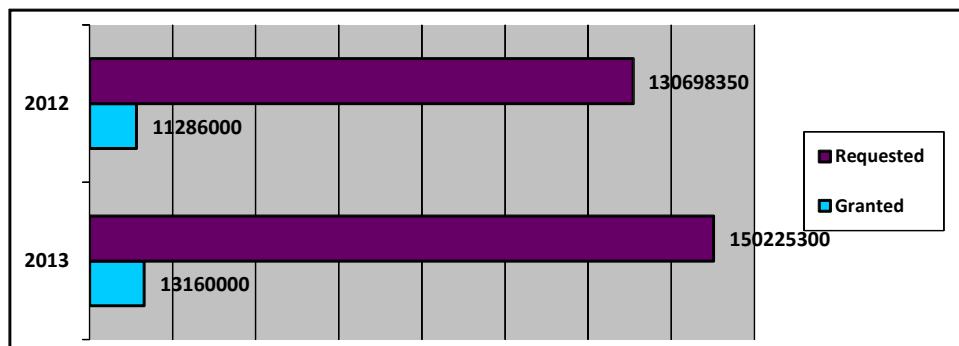


Table 4. Comparative view of monetary compensation claims as of October 2012 and October 2013



Samvel Aleksanyan, Ruben Hayrapetyan and Levon Sargsyan against Dareskizb Ltd.

Table 5. Number of court cases against each type of media outlets

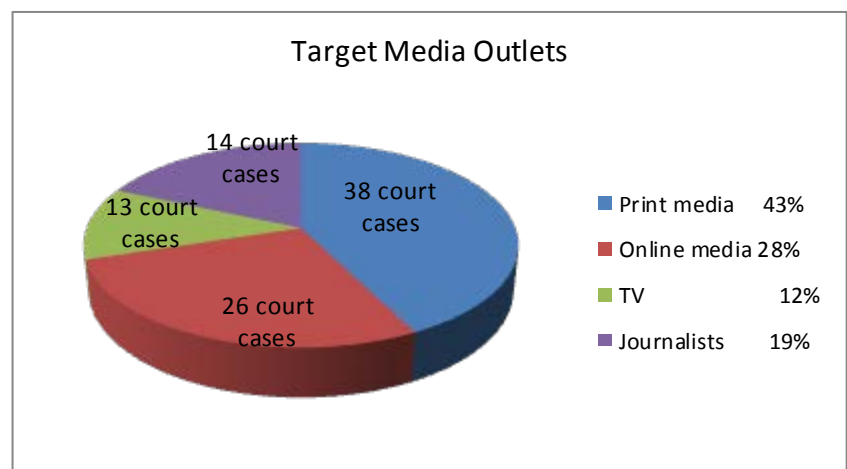
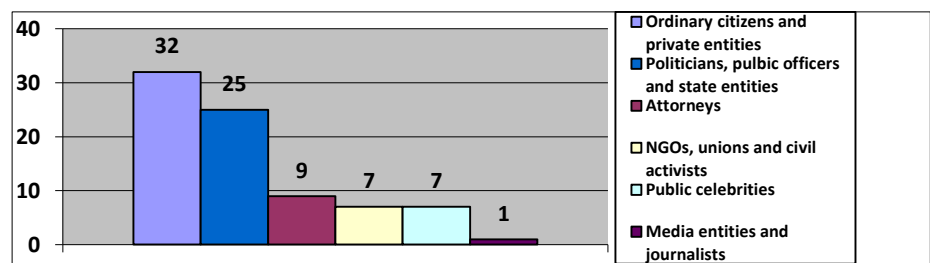


Table 6. Number of court cases per groups of applicants



The above breakdown shows that the 2012 trends are generally being maintained. The low number of court cases (1 or 2 monthly), is maintained. Most are rejected, either wholly or partially. Often, the courts partially sustain the plaintiff’s demands, while in general, the number of cases are resolved via a desire of the parties to reconcile is growing. There is a

relatively large number of cases in which the plaintiff withdraws his/her suit in the examination phase. These trends can be explained by the fact that the courts have set the bar quite high in terms of evidence for plaintiffs, thus allowing a markedly greater degree of defense for news outlets, reporters, and freedom of speech.

2. Content analysis of court decisions

During January-October 2013, the courts have issued mostly favorable verdicts regarding the freedoms of news outlets and reporters. At the same time, the courts have also issued questionable verdicts in certain cases.

In early 2013, a decision handed down by Yerevan's Kentron and Nork-Marash General Court of Jurisdiction, calling for a freeze to be placed on 3 million AMD worth of property owned by the daily newspaper *Zhoghovour*, caused an outcry in many circles. In the case, the newspaper was sued by the Yerevan Poultry Factory and its director, Khachik Khachatryan. The court issued the freeze allegedly as a measure to guarantee that the paper would be able to pay compensation to the plaintiffs if they won. The newspaper and certain legal rights defenders regarded the court's decision as a lopsided approach to a news outlet's right to freedom of expression, in that the freeze threatened the very operation of the newspaper. In this regard, a clarification was sounded by the judicial authorities and certain organizations involved in news outlet self-regulation, saying that the court's decision, in general, was proportionate, given that the freeze was only placed on property and not financial resources. Thus, they argued, the operation of the newspaper wasn't threatened. Truly, the placing of a freeze in this case was a proportion manner of intervention, as was evidenced by the fact that the newspaper continued to operate unrestricted despite the freeze. This method has become standard practice today. When

the courts receive a freeze motion by the plaintiff, they prefer to place a freeze on property and not on financial or other resources, thus allowing the news outlet to operate normally. Thus, the courts ensure the free flow of information by the news outlet during the trial.

In 2013, the courts were again forced to pay attention to an essential shortcoming in the law; i.e. the inability to mount a legal defense against non-public insult and slander statements. The reason is that Article 1087.1 of the Civil Code only allows a defense against publicly disseminated speech.

This issue first came to the fore when Armenian MP Ruben Hayrapetyan insulted *Hetq* reporter Grisha Balasanyan during a telephone conversation. The issue was also discussed as a result of a similar case involving *Zhoghovour* newspaper reporter Sona Grigoryan. She sued Yerevan Poultry Factory Director Khachik Khachatryan in civil court, claiming that he had insulted her over the phone. The court was forced to drop the case, since the plaintiff's rights to a defense weren't covered by Civil Code Article 1087.1 or any other clause. Taking up the issue, the Information Disputes Council in its Decision #32 noted that there was a gap in the system allowing for a violation of Article 19 of the Constitution – the right to a fair and independent legal defense. In this regard, it must be noted that the Constitutional Court, in its Decision 997, had already expressed the view that, “it is not a shortcoming of said article of the Code, but an overall legal-regulatory shortcoming, and to overcome it the Armenian National Assembly must, within the scope of its jurisdiction, raise the issue of defending against non-public defamation as a separate topic of discussion.” Two years have passed since the Constitutional Court issued this decision, but the National Assembly has yet to implement it.

The courts continue to receive legal suits in which plaintiffs argue that news outlets have violated the “presumption of innocence” principle when covering trials or pre-trial examinations. Such suits, as a rule, are brought under the rubric of Civil Code Article 1087.1, which regulates the legal aspects of insult and defamation. However, this article does not provide effective defense mechanisms when it comes to litigating violations of the presumption of innocence in civil-legal relations. As a rule, the courts reject such legal suits, noting that the presumption of innocence is a criminal-judicial category, and as such, does not fall under the domain of a civil right. In fact, the Civil Code does not delineate the possibility of filing a civil suit regarding a violation of the presumption of innocence principle. In this case, the method to mounting a legal defense is fully absent. This is the reason that citizens are forced to litigate such violation cases on the grounds of insult or defamation which, as has been noted, is an effective legal mechanism for this legal relation.

For example, the Shirak Provincial Court is now hearing the case of Haroutyun Sargsyan v Tsayg TV. The plaintiff claims that the TV station insulted and defamed him by accusing him of a murder before being found guilty by the courts. If the pre-trial examination continues until such a time when Sargsyan is actually accused of murder, then the news outlet won’t be held liable since the information it had disseminated proved to be correct, and not slander. However, Sargsyan’s right to a “resumption of innocence” has nevertheless been violated all the same, regardless of whether or not he’s charged with murder at a later date. But if Sargsyan were to file a suit in civil court, claiming that this right of his has been violated, the court would throw it out, given that he is arguing a right not covered by the law. We believe that such a situation is a system-wide shortcoming in the law that needs to be addressed. It’s a fact that today the presumption of innocence is violated to a greater

degree in civil-legal relations, than in the criminal-judicial process. For example, we can cite those media outlets, particularly, journalists who work in the style of paparazzi and aren't concerned with the possibility of being punished for violating the presumption of innocence, given that as yet they haven't been sued for such infractions. In other words, the violation of the presumption of innocence exists in social relations, whereas a legal defense against such a manifestation is lacking. This state of affairs raises a constitutional issue.

Troubling was the decision of the Shirak Provincial Court in the case of Hambardzoum Matevosyan, in which the judge, after approving the reconciliation agreement between the parties, obliged [Hetq Online](#) (neither a litigant in the trial or reconciliation) to publish a retraction. Experts say this was an inappropriate court intervention on the news outlet. If the court decided to obligate the news outlet to publish a retraction, than the court first should have made the news outlet a party in the court case, so that the outlet could have the opportunity to argue against such intervention. On the other hand, the news outlet isn't deprived of the opportunity to appeal this decision by the court, which it has done, even though its appeals were rejected as baseless. In addition, if the news outlet has a conflict with the person who demanded that it print a retraction in the first place, it can petition the courts and challenge the obligation placed on it. The question thus arises – does such a judicial opportunity undermine the legality of the original demand placed on the news outlet (the court defining an obligation on the news outlet during a trial it didn't participate in). We do not think so, since in all cases, the news outlet must first implement a court verdict that has legal power, and the implementation of that verdict cannot be halted on the grounds that the news outlet has entered into a separate court case with the individual who presented the demand that the news outlet publish a retraction. To date, we know of one other such case where the courts have placed an

obligation on a news outlet in a court case in which the outlet hasn't been a litigant. Such court decisions are ones that interfere with the rights of news outlets and we hope that such decisions don't become judicial practice.

In the case of Armen Darbinyan v Civic Investigations Center Ltd.,¹⁰ the court expressed several important positions regarding the term “judgment” in the concept of “evaluative judgment”.¹¹ An approach had taken shape in domestic state judicial practice, whereby litigants would attempt to present common statements as evaluative judgment, just as tactical ploys. Sometimes, even the courts present declarations of fact, including common opinion, as evaluative judgment.¹²

In this context, the necessity for judicial interpretation of the term “evaluative judgment” had arisen in practice, which was given in said court case, clarifying the issue of applying the term. Nevertheless, we believe that the issue partially lies in a defect of the legislation, since the main regulatory norm (Article 1087.1 of the Civil Code), does not provide an independent definition of the “evaluative judgment” concept. Instead, in the article, the legislature uses the term public “expression”, which equally refers to statements of fact and evaluative-judgment. In legal practice this leads to confusion. Even though the courts continuously broach this concept in their decisions, due to the lack of legislative regulation, situations sometimes arise when litigants perceive statements of fact as evaluative judgment, and vice versa. As a result, courts sometimes demand that litigants

¹⁰ See Civil Case ԵԿԴ/2050/02/12.

¹¹ See IDC [Decision 12](#) – Glendale Hills v *Zhamanak* newspaper.

¹² See, for example, the verdicts of 27/04/2012 and 22/03/2013 by the Tavoush Provincial Court in case ՏՂ1-0177/02 (Ijevan Road Construction v Ijevan TV and reporter Nayira Khachikyan), in which the court presents statement of fact common statements or expressed views as evaluative judgment.

prove a statement that objectively cannot be proven. For example, in the above-mentioned case, the defendant was asked to prove the validity of the expression “Napoleon-like phenomenon”, which cannot be objectively proven and it not subject to proof in a legal sense.¹³

Another case was *Women’s Resource Center NGO v Zaruhie Publishers Ltd.*, in which the court demanded that the plaintiff prove the veracity of the expression “home wreckers”, and then concluded in its verdict that the author of the article, “did not note, nor could it note in court, any evidence that any direct activities of the plaintiff had caused the destruction of even one family.” Whereas, the court should have taken into account the fact that the author, by using this expression, had provided a value judgment regarding the activities of the organization¹⁴, and not specific evidence as to the destruction of families. It was an opinion, an evaluation based on the individual’s subjective impression, which isn’t open to being proven. In such situations, defining the burden of proof is regarded as a disproportionate restriction on the right of freedom of expression. In the same case, however, the Appeals Court expressed a position possessing a positive inclination. In this case, the State Language Inspectorate officially expressed an opinion regarding the term “grant sucker”, noting that the word has a negative connotation. The Appeals Court, as a result of a judicial check, stated that if it was possible to accept the conclusion of the Ministry of Education and Science’s Language Inspectorate regarding the composition of the word, what was unacceptable was its opinion that the word had a negative connotation.

¹³ An analysis of a similar situation was made by the European Court in the verdict of *Novaya Gazeta ve Voronezhe v Russia* (No. 27570/03, 21/12/2010, § 52).

¹⁴ The Women’s Resource Center deals with family violence and gender discrimination issues.

According to the Appeals Court – “Giving an evaluation as to whether the expression is insulting or not is reserved to the court, and not the Language Inspectorate.” Such an approach is to be welcomed since in cases of insult or slander it is very important for the word to be interpreted in the context of a public statement, and not out of context, whereas a state body, contrary to the court, is inclined in all cases to interpret the meaning of the word in an abstract fashion. In addition, in this case the state body reserved the functions of the court to itself, which is unacceptable.

Along these lines, the conclusion of the judicial tribunals regarding the court expenses in the case of Ijevan Road Construction v Ijevan Studio Ltd. and reporter Nayira Khachikyan was very troubling. The Court of First Instance completely rejected the demands of the plaintiff, but at the same time obligated the defendants, in case they lost, to compensate the plaintiff 100,000 for hiring a lawyer, and to pay 40,000 in state fees. The court justified this apparently strange approach by arguing that even if the Court of First Instance had rejected the claim that insult had been levied, however, it did accept the evidence of slander. Thus, it was this portion of the suit on which the court granted the plaintiff’s demand for compensation of legal fees and the state fee. As to why the court didn’t state this in the verdict summary, the Appeals Court argued that in reality it had also rejected the slander portion of the suit, but not on material-legal grounds, but solely based on the financial situation of the TV station and the reporter.

The conclusion reached by the courts in this case caused uncertainty in press and legal defense circles. In the end, even if a news outlet wins its case in the courts, it still isn’t free from the obligation of paying compensation. What inhibited the court from clearly stating in the verdict summary that the news outlet had violated the plaintiff company’s rights as to slander and to

register the violation, while at the same time rejecting the financial demand?

According to the Information Disputes Council - “The noted approach of the court is problematic as it can create chilling effects on the freedom of the media and journalists in light of the above-mentioned principle of Article 19. If this decision becomes widely practiced, even in the case of winning a case, the journalists having found themselves in the situation of the respondent might be obliged to pay high monetary compensation, which will make any legal remedy null and void, and seriously endanger free speech. Taking into account the importance of the freedom of the media in a democratic society, the Council expects that the Civil Court of Appeal will revoke the afore-mentioned decision”.

The court rejected the first of six suits brought by Karineh Avanesyan on the grounds of late filing. The process is noteworthy given that the first instance court once again interpreted the deadline rule - “one month after the moment of being informed and six months from the date of publication” - for filing slander and insult cases. The court noted that the second element takes precedence in all cases. Regardless as to when the individual is informed about the publication, the six month deadline takes precedence. In the same case, the court also interpreted the maintenance of the mentioned deadline in order to substantiate the conception of presented “evidence”; by applying the precedent setting definitions of the Court of Cassation.

In particular, the court specified that the maintenance of the six month deadline can be substantiated with indirect evidence, and that the suit cannot be rejected solely on the grounds that the presented evidence is not direct evidence. It becomes clear from this judicial decision that today, that a constant precedent setting

law has taken shape regarding the issue of regulating expiration deadlines in slander and insult cases.

A number of other decisions have been taken in this period in which despite the fact that nothing new has been registered in court practice regarding the issue of the law, the courts, however, have consistently rejected groundless complaints presented against news outlets and reporters.

Several other decisions were also made in this period and despite they did not contribute in the development of legal concepts, the courts in these decisions consistently rejected *prima facie* ill-founded claims against media entities and journalists.

Ararat Davtyan

THE CHARADE CONTINUES: REPORTERS HAVE LITTLE REASON TO TRUST THE POLICE

In October of 2012, Armenia's Police Department organized a three day conference in the resort town of Tzaghkadzor for its employees and reporters.

“Please help us in doing our work. We are your brothers, not outsiders,” entreated Police Chief Vladimir Gasparyan in his sales pitch to the gather members of the press.



Ever since Armenian independence 22 years ago there have been countless attacks and violations against reporters and sadly, most have gone unresolved. The culprits have never been punished for their deeds. And the few cases that have been exposed and made it to trial in the courts, can only be said to have been “exposed” with serious reservations.

Vladimir Gasparyan has inherited a vast legacy of such unexposed cases. “Have you ever gone back and looked anew at those cases?” *Hetq* asked the Police Chief after the conference had ended.

“No I haven’t. It never occurred to me. There’s so much on my plate,” Gasparyan answered and directed the head of the Police department’s Press Office to remind him about all those unsolved cases.

“When we finish solving our current caseload, we’ll take a look at the backlog,” added Gasparyan.

This, perhaps, is the most sincere confession uttered from the lips of the Chief of Police. Solving cases of assault and other violations against reporters has been placed on the back-burner in Armenia. Police chiefs come and go, but the overall picture in the country remains the same.

In the same conversation with *Hetq*, Vladimir Gasparyan also noted that during his tenure as the top cop, assaults against reporters “haven’t yet occurred”. ‘Yet’ is the operative word, and all we can do is wait and see.

In general, attempts to disrupt reporters doing their work and acts of violence against them spike during election cycles. This year was no exception. We had the presidential election in February and Yerevan Municipal Council elections in May.

Election Violations

On presidential Election Day February 18, Narine Ismail, a young woman volunteering at the Transparency International-Armenia NGO as an election monitor for European Rights Coalition NGO and reporter Artak Hambardzumyan, a

representative for the Reporters for Human Rights NGO, raised the alarm about ballot stuffing in Ararat Polling Station 17/05. Some 25-30 young men had entered the polling station and several of them pushed the monitor and reporter up against the wall, grasping their hands, so that they couldn't take photos or videotape the ballot stuffing.

The Constitutional Court declared the election results from this polling station null and void. A criminal case was launched, headed by the Special Investigative Service (SIS). During the preliminary examination, Narine Ismail told Hetq about the pressure exerted on her by law enforcement. Transparency International-Armenia issued a statement on the matter and U.S. Ambassador to Armenia John Heffern announced that he was following the case with great attention.

Investigator Gorik Hovakimyan split the case and filed charges against 27 year-old Sergey, the son of Artashat Mayor Gagik Mouradyan. The SIS found that on Election Day Sergey, as the proxy of President Serzh Sargsyan, entered the polling station with a group of others and assaulted monitor Narine Ismail, restricted her movement and prevented her from taking photos, thus hindering her in the execution of her work.

The statement released by the Prosecutor General Office notes, "According to evidence received before the trial, Sergey Mouradyan also aided unidentified individuals in stuffing the ballot box."

However, during the court procedure Prosecutor Harutyun Harutyunyan declared that the charges against the accused would be dropped, given the lack of evidence that he participated in the violation that occurred.

Thus, months later, on July 26, presiding judge Gagik Sargsyan of the Ararat and Vayots Dzor Provincial Court found Sergey Mouradyan (who works as a first degree legal specialist at the Legal Consultation Division of the National Assembly's Department of Expertise) not guilty and exonerated. The SIS halted the other section of the criminal case, arguing that the identity of the other culprits could not be ascertained.

Iravounk newspaper reporter Elmira Martirosyan declared that on Election Day, February 18, at polling station 17/01 in Ararat Province, she was hindered from carrying out her work by election proxies.

At polling station 17/04, New York Institute of Photography correspondent Tzovinar Nazaryan was hindered from her work by Tigran Virabyan, President of the local election committee and head of the Ararat Provincial Government's Department of Agriculture and Environmental Protection. Virabyan yelled at the reporter "like a hysterical person", threatening her by saying, "I'll kill you".

That same day the websites asparez.am and aravot.am reported that reporters Marine Petrosyan and Nune Arevshatyan were threatened at Gyumri polling station 35/22. 168.am and aravot.am also reported that reporters Marine Martirosyan and Hripsimeh Djebejyan were hindered from working at polling stations 9/27 and 9/28 in Yerevan's Nor Gyugh neighborhood.

Nevertheless, none of these incidents made it past the examination stage, on the basis of a "lack of a crime".

The Police also failed to find evidence of a "corpus delicti" in the case of reporters Gayaneh Saribekyan and Marine Kharatyan with the newspapers Hraparak and Zhamanak. On Election Day, near the campaign headquarters of the Republican Party in

Yerevan's Metaks neighborhood, the two reporters approached a group of some 10-15 individuals, asking to know what was going on. The group cursed the reporters and tried to snatch their photo equipment.

During an interrogation at the SIS, it was revealed that Hakob Beglaryan, younger brother of Transportation and Communications Minister Gagik Beglaryan, was one of those actively hindering the reporters. On March 15, the SIS dropped the case.

The situation was the same during the Yerevan Municipal Council elections. On April 23, while covering a campaign stop of Taron Margaryan (number one candidate on the Republican Party ballot), ilur.am reporter Hakob Karapetyan was [assaulted](#). In addition to being roughed up, they hindered his professional work by snatching his camera and erasing the photo file.

Based on the findings of an internal investigation, Police Chief Vladimir Gasparyan issued a disciplinary warning to a cop that was at the scene but failed to intervene. The cop's immediate supervisor was issued a severe reprimand and a police officer serving as the deputy head of the Nor Nork branch was dismissed. It seemed that Ashot Papayan, a Republican Party member in the Yerevan Municipal Council, would also be punished. Papayan was the "hero" of the day since he assaulted the reporter. It took the Police two months to state that there was evidence of a crime in what Papayan had done. On July 20, he publicly expressed regret for his actions and asked for forgiveness. Four days later, law enforcement dropped the case on the grounds that the parties had reconciled.

May 5, the day when elections took place for the Yerevan Municipal Council, was also replete with reporters being

prevented from carrying out their work and the police failing to find any “corpus delicti”.

On that day, the police received a report that voters in the Arabkir 4/02 polling precinct were being bused in to cast their ballots. Local election committee President Samvel Gzlaryan, a member of the ruling Republican Party, refused to provide any comment to news outlets and yelled at reporters on the scene. Heritage Party proxy Lala Arzumanyan claimed that Gzlaryan was hindering reporters from doing their job.

Samvel Zakharyan, president of election committee at the 7/14 polling station in the Haghtanak neighborhood, shoved a Hetq reporter out of the building for not having proper press I.D. At the 7/05 polling station, a reporter from Kentron TV was barred from entering the building after failing to produce a certain document from the Central Electoral Commission. At polling station 8/08, Republican Party candidate Gevorg Manoukyan, using a proxy I.D., disrupted the work of reporters and monitors. Later that night, after the polls closed, a reporter from the newspaper 168 Zham was barred from entering polling station 07/34 to witness the vote count. At polling station 6/23, an *Aravot* newspaper reporter was not permitted to take photos.

Violations outside the electoral process

The incidents listed above are just a portion of the violations that occurred. During the current year there have been other incidents, outside the electoral process, where violations have occurred against reporters. In certain cases, the police manifested a degree of follow-up, but on the whole, even these illusions of concern were quickly shattered.

With certain reservations, the case regarding photo-journalist Gagik Shamshyan can be added to the list of exceptions. On

January 30 of this year, Rustam Sahakyan and an unidentified friend, hindered Shamshyan from reporting from the Traffic Police's auto impound center. The two assaulted the reporter and verbally abused him with sexual expletives.

The Police sent the case to court, charging Rustamyan with hooliganism and issuing verbal threats of violence. On September 13, Yerevan's Kentron and Nork-Marash Administrative Court sentenced Russian citizen Rustam Sahakyan to one year imprisonment and fined him 300,000 AMD after finding him guilty of hindering the professional work of photo-journalist Gagik Shamshyan. Sahakyan was not only found guilty of Article 164, Part 1 of the RA Criminal Code, but also of Article 258, Part 3, Point 1 (hooliganism by a group of individuals or an organized group). However, under the amnesty declared on the occasion of the 22nd anniversary of Armenian independence and passed by the National Assembly, Sahakyan was freed from serving time and paying the fine.

Another incident in which someone was held accountable for hindering a reporter's professional duties was registered this year. On February 5, Hakob Ghazaryan, a resident of the village of Khachaghbyur in the Vardenis area, hindered Hermineh Manukyan, a regional reporter for the Haykakan Zham newspaper, from conducting an interview with and photographing the village school Principal Samvel Ghazaryan (Hakob's father). Hakob tried to snatch the camera from the reporter's hands. The Gegharkunik Provincial Court accepted the case on April 22, pursuant to the grounds that the reporter had been hindering in her professional work. On September 23, the court found Hakob Ghazaryan guilty of Article 164, Part 1 of the RA Criminal Code and fined him 200,000 AMD. Under the provisions of the amnesty declared on the occasion of the 22nd anniversary of Armenian independence and passed by the National Assembly, Ghazaryan was freed from paying the fine.

On May 8, Hetq reporter Ani Hovhannisyan received a call from a cell phone registered in Russia. The caller [threatened](#) her, saying that if she continued to poke her nose in places where she shouldn't, it would turn out bad for her and her family members. For a while, the police took steps to safeguard Hovhannisyan's security. A criminal case was launched. Based on transcripts provided by a telephone provider in Armenia of the calls made and received by the cell phone number in question, five citizens and four witnesses were questioned. After all this, the case hasn't passed the preliminary examination stage.

On March 1, Vorotan newspaper editor Arevhat Amiryan published an article claiming that Samvel Tangyan, head of the Syunik Provincial Department of Agriculture and Environmental Protection, had issued threats against him and his family regarding an earlier publication. "Arevik, I will destroy you and your family", was the alleged threat. An inquiry conducted by the Syunik Investigative Unit found the lack of corpus delicti and the case was dropped.

In certain cases of reporters being assaulted, the investigative service of the Defense Ministry or the Military Police got involved. But the modus operandi of law enforcement in these cases as well remained the same.

On May 18, the relatives of a soldier who had died in a military unit, tried to take the corpse to Yerevan in a sign of protest. At a road checkpoint placed on the Sevan-Yerevan Highway, the police stopped all cars ferrying reporters to the spot where the dead soldier's relatives had blocked traffic. The cops later assaulted the reporters and seized their recording equipment, arguing that they had received an order from above to prohibit any photographing.

According to the statements made by the news outlets, individuals in uniforms and plainclothes used force to seize and break the camera equipment belonging to a crew from Kentron TV. The damaged equipment was later returned and the video erased. Members of the Military Police also used force to seize the video camera of Lragir.am correspondent Siranoush Papyan. They erased whatever she had recorded up till then. A camera crew from Yerkir Media had their memory card confiscated. It was later returned after the police chief intervened.

The Sevan branch of the Gegharkunik Police assembled case materials that were handed over to the Gegharkunik Provincial Prosecutor's Office. From there the case file was to go to the Defense Ministry's Investigative Branch. But the case was dropped at this point since law enforcement claimed they couldn't identify anyone to charge. The Ministry's Investigative Branch also rejected launching an investigation on the same basis.

On May 30, Henaran.am correspondent Lusineh Ghazaryan stated that she was assaulted near her home by Ministry of Defense Major Arkady Mkrtchyan. Ghazaryan alleged that the major verbally abused her and tried to beat her, but was stopped when neighbors intervened. The reporter also said that Mkrtchyan shoved her son down the stairs.

The next day, according to the reporter, the Nayri Police Chief returned her written complaint, advising her to amicably resolve the matter without police intervention. In the end, the case was handed over to the Kotayk Unit of the Defense Ministry's Military Police.

Lusineh Ghazaryan told Hetq that the Abovyan Military police launched a criminal case, but that it was dropped a week later. The reason given was that no injuries had been documented and

that verbal assault wasn't a criminally prosecutable crime. Ghazaryan says that law enforcement failed to take into account the premeditated nature of the incident and that they didn't interview witnesses.

On May 19, Maxinfo.am founder Babken Haroutyunyan issued a statement alleging that he was assaulted two days earlier when he visited the village of Kanachout in Ararat Province. Haroutyunyan says he went there to photograph the palatial home of presidential advisor and former Police Chief Alik Sargsyan. After photographing the house, he says he was assaulted by Alik Sargsyan's brother Andranik.

A forensic exam was scheduled and the case material was forwarded to the Ararat Investigative Unit. But the case was rejected on the grounds that there was no evidence that a crime had been committed.

On September 2, a woman participating in a counter demonstration at Yerevan's Covered Market verbally insulted and threatened Radio Liberty reporter Naneh Sahakyan. The incident was caught on tape. Sahakyan reported the incident to Deputy Police Chief Valery Osipyan who was on the scene. Osipyan then approached the woman in question and said, "This citizen alleges that you have threatened her. Please refrain from voicing such threats."

The Police later informed Hetq that they had received no formal complaint. When asked if the tape recording wasn't sufficient proof, the Police Department's Press Office repeated the same argument – "No one filed a formal complaint. We haven't received any."

Naneh Sahakyan says the entire incident was an attempt to hinder her job as a reporter. She stated, "I wasn't interviewing

that woman (Karineh Sargsyan), but a woman standing next to her.” Sahakyan confessed that she hadn’t filed a complaint in order not to waste time or get stressed out.

On September 4, news outlets reported that police scuffled with activists and reporters near the Presidential Palace. Activists gathered across the street to protest Armenia’s decision to join the Customs Union. Some of the demonstrators had approached the gate and were standing there peacefully when they were forcefully shoved back by the police.

Some of the protestors then sat down in the middle of the street and a few were arrested.

Regarding the incident, Epress.am wrote that the cops also prevented journalists from covering the event, violently shoving them so that they couldn’t photograph those who had been detained. The news outlet says that the police pushed their reporter and other press members on top of the protestors sitting in the street. “They encircled the reporters and didn’t let them out,” Epress.am wrote.

The Yerevan Department of Investigations failed to launch a criminal investigation of the incident.

Sara Petrosyan

ARTICLE 1087.1 OF THE CIVIL CODE – A NEED TO AMEND, CLARIFY AND INTERPRET

After balancing the monetary amount of insult and slander suits, decisions by the courts to freeze property and financial assets became new challenges for news outlets and reporters.

In 2013, the Kentron and Nork Marash Administrative Court handed down verdicts to freeze the assets of three news outlets. On the basis of the motion of the representative of X Group company President Khachik Khachatryan, a freeze was placed on the newspaper *Zhoghvourd* and on the property of its reporter Sona Grigoryan. On the motion of the representative of Robert Kocharian, the second President of Armenia and his son, a freeze was slapped on the daily *Zhamanak* and its founder, *Skizb Media* and on financial accounts of *Arajin Lratvakan* and its founder.

Placing a freeze on of property and financial assets of news outlets wasn't something new. During the past years, a freeze was placed on the daily *Hraparak* on two occasions. Later on, due to various suits, a freeze was placed on the paper's property. Due to the vociferous reaction of the media community, the freeze was lifted ten days later. The European Court has regarded the placing of a freeze on the property and financial assets of the press as a restricting the freedom of the press.

Ara Ghazaryan, an international legal expert, stated the following on court decisions to freeze assets:

“The application of such measures by the courts to guarantee suits, which impact the possibility of the press and reporters to search and disseminate information, is considered as an

interference by the Article 10 of the European Convention of Human Rights regarding the right to freely receive and disseminate information and ideas, and thus, the given news outlet or reporter can consider themselves as victimized parties.”

It would appear that the problem of placing a freeze on financial assets was resolved and that the courts would subsequently steer clear of applying such drastic measures. This year, however, when Armenia’s second President and his son again filed a suit against the daily *Zhamanak* and www.1in.am, the Kentron and Nork-Marash Administrative Court (presiding judge A. Soukoyan) placed a freeze on finances of the news outlets and their founder and publisher *Skizb Media Center Ltd* and *Arajin Lratvakan Ltd*. True, the motion was partially sustained (besides a retraction, the Kocharians demanded compensation of 5 million AMD, 2 million each for slander and 1 million for incurred legal fees), nevertheless, placing a freeze on financial deposits restricts the operations of news outlets already in dire economic straits.

At the same time, this stresses that in the case of certain privileged individuals, like the former President, such measures will be enacted. (For example: Robert and Sedrak Kocharian v *Skizb Media Center* and *Arajin Lratvakan Ltd*, for the retraction of slanderous information and damage compensation). This is truly a case when freezing the property of a news outlet can have a dampening effect on the free flow of information.

In his observations, attorney Ara Ghazaryan doesn’t regard the decisions to free assets as leading to a crisis, opining that he doesn’t see a threat to the operations of news outlets as they themselves claim. In response to a question posed by Hetq regarding the court’s decision to place a freeze on the daily *Zhoghovour*d and the property of reporter Sona Grigoryan, Ghazaryan stated: “If we are talking about a news outlet,

plaintiffs must understand that there must be a very substantial reason to present such motions. I didn't see such a necessity.”



Afterwards, commenting on the three demands in the motion (freezing the financial assets, the property and disallowing the outlet to publish anything on the subject in question until the end of the court case), the attorney notes that out of the three Judge R. Apinyan chose that demand which would interfere with the paper's operation the least. “In other words, he remained loyal to his principles in the sense that he displayed an evenhanded approach in order to sustain the motion of the plaintiff and to also not deprive the news outlet of the possibility to operate,” stated the attorney. Nevertheless, in addition to publicizing its concern, the outlet filed a motion to have the freeze lifted from the property of reporter Sona Grigoryan; which the court sustained.

There is also the need for a defense from non-public insult

The need to legally regulate the problem of a defense from non-public insult became a hot topic in 2011, when the court examined the suit filed by *Hetq* reporter Grisha Balasanyan against National Assembly Deputy Ruben Hayrapetyan. The reporter had telephoned Hayrapetyan and during their conversation the deputy uttered a number of sexual invectives. The reporter took the matter to court and lost.

The following is excerpted from the court's decision:

The court, after examining the evidence, has found that the demand of the plaintiff, Hetq reporter Grisha Balasanyan, for compensation from Deputy Ruben Hayrapetyan for damaging his honor and dignity is without merit. According to Article 42 of the RA Constitution, no one shall bear obligations not stipulated by the law. In other words, if responsibility for non-public expression is not envisaged by the law, then it cannot be regarded as insult, and the court cannot define obligations not legally envisaged for the defendant; in this case Ruben Hayrapetyan. None of the evidence submitted by the plaintiff sustains the existence of public insult, since it wasn't public but rather took place during a private telephone conversation.

In 2011, the RA Constitutional Court examined the issue of the absence of accountability for non-public insult based on the petition of the Human Rights Defender of Armenia. In its decision, the Court noted that to overcome this legal omission, the issue needs to be debated by the National Assembly. During the past two years, this issue hasn't received legislative regulation. New cases of non-public insult against the reporter have been since registered.

Zhoghovour reporter Sona Grigoryan telephoned businessman Khachik Khachatryan to get his side of the story on an article she was writing. Khachatryan replied: "...Of course, nothing of the kind happened. But you won't write that tomorrow. Dear girl, write what you want. I'm happy that you are writing about me, otherwise you would just neglect me. Dear girl, you aren't a reporter but a prostitute. And you can write that as well."

Yerevan's Ajapnyak and Davtashen Administrative Court [threw out](#) the slander suit filed by the *Zhoghovour* daily and reporter Sona Grigoryan against Khachik Khachatryan that demanding a public apology, 1 million AMD in damages, and payment of legal fees. The court, citing the verdict in the Grisha Balasanyan v Ruben Hayrapetyan case, noted that such incidents, when made during a private telephone conversation, are outside the purview of Article 1087.1 of the RA Civil Code. The Appeals Court also threw out the reporter's petition, arguing that Article 1087.1, Part 2, of the Civil Code clearly defines the concept of insult; i.e. that it must be a public expression of defamation through insulting speech, images, sound, signal or another method. According to the court, an examination of the Article clearly implies that there must be the presence of a third party (individual) for such insult to be public in nature.

Commenting on the legal regulation of the issue, attorney Ara Zohrabyan stresses that the courts neglect the nature of the activities of reporters, the public interest and place the verdicts handed down within the narrowest of interpretation parameters of the law. In his estimation, if the Court of Cassation accepts an appeal of any case and delineates that dignity is also subject to defense from non-public insult, it would reduce the number of cases lost by Armenia in the European Court of Human Rights.

"The courts are obliged to defend an individual's violated dignity, and today the courts objectively have that legal possibility. The courts can even apply an analogy of the law.

Citizens aren't interested if a specific form of defense is envisaged by law or not, since there is legislation, i.e. rights guaranteed by the Constitution. Thus, it is subject to be defended from any violation," says Zohrabyan.

The Court of Cassation however, as in the case of preceding slander and insult suits demanding legal regulation, once again did not assume its regulatory role as defined by law. On September 6, 2013, the Court of Cassation returned the appeal of *Zhoghovourd* reporter Sona Grigoryan.

In a conversation with *Hetq*, Ara Zohrabyan stated that according to Article 3 of the RA Constitution, "The individual, his or her dignity, fundamental rights and freedoms are supreme values, and that according to Article 14, an individual's dignity, as an inseparable part of his or her rights and freedoms, are respected and defended by the government. It follows that the government is obliged to defend an individual's dignity. By government, we mean the judicial authority and the legislature," the attorney said.

In a statement issued in April of this year, Human Rights Defender Karen Andreasyan expressed a willingness to defend reporters from non-public insult. He petitioned the Council of Court Presidents (CCP), requesting the body to investigate and clarify the nature of expressions made to reporters during interviews. The court authority once again avoided stating its position on such an important matter. The CCP responded that it didn't see the need for an official clarification since there was specific legal regulation on the matter and a well established legal practice.

The courts clarified the legal term “evaluative-judgment”

On the basis of Civil Code Article 1087.1, one of the most questionable issues being examined in the courts relates to expressions of insult. Media analysts estimate that the courts equate evaluative judgments as insult or the opposite, because this Article, according to lawyers, does not provide an independent definition of the concept.

Media experts have observed that in their decisions the courts have broached this concept. However, due to the absence of legislative regulation, sometimes the parties to a case regard fact as evaluative judgment, or, as in this case, as a statement of fact.

From the cases examined in 2013, RA former Prime Minister Armen Darbinyan’s [suit](#) against the Political Research Center (whose periodical is www.n-idea.am) in the defense of his dignity and for compensatory damage stood out because the Appeals Court gave a judicial interpretation of the term “evaluative judgment”.

Plaintiff Armen Darbinyan regarded the following published expressions as insulting:

“...And today, Armenchik Darbinyan, the new Armenian Napoleonic phenomenon was irked by an article of Suzan Simonyan. In his Facebook page, that coward wrote...”

“...Pay attention as to how that nobody, this pathetic coward, who steals the bread of our kids (by the way all Armenia’s children, except for the elite, are under threat), to date, coward Darbinyan has been able to steal the bread of my child and the bread of Serobyan’s and many others’ kids.”

“But this doesn’t mean he will be satiated with it...”

“...Perhaps because Vazgen regularly (almost every day) organized educational activities for the Armenchik-like despicable people...»:

The plaintiff found the following sentences slanderous:

“The government has allowed him to live outside the law and has given him other perks that he has been able to pocket.”

“The government has allowed Armenchik Darbinyan to put his hands in the pockets of average Armenians without punishment and to cause them harm.”

“In this way, this vainglorious prime minister has fed off of the stolen meat and meat products, without paying, since his father ripped off the meat factory when serving as its director, and before that he ate leftovers.”

“To date, coward Darbinyan has been able to steal the bread of my child and the bread of Serobyan’s and many others’ kids.”

“When serving as prime minister, Armenchik Darbinyan called Sandoyan, the Minister of Finance to his office where he cursed him most vulgarly and beat him to within an inch of his life.”

The defendant regards the above expressions as evaluative judgments since they represent opinion.

During the trial examination, the defendant (the Political Research Center), stated that such judgments are not subject to being proved. Thus, the defendant concluded that there was no premeditation on his part to cause insult and that he should not be obliged to validate those expressions.

The Court of First Instance partially sustained the suit. The court decided that the above expressions were insulting and slanderous. The Appeals Court paid specific attention to the argument of the defendant that the expressions were evaluative judgments, concluding that, "...to clarify whether the information in question was judgmental, we must first clarify the meaning of the word judgment."

In logic, judgment is a form of thought representing a combination of conceptions, of which one (subject) is chosen and opened through the means of the other (predicate). In philology, judgment is a conclusion, assumption, interpretation and clarification based on listening to opinions, advice, and convictions. In this case, from the perspective of logic, the predicate is absent and only the subject exists. From the perspective of philology both advice and convictions are lacking, as well as the assumptions, interpretations, clarifications and conclusions based on them. What exist are claims, statements and presentations about completely factual info.

The Appeals Court rejected the plaintiff's appeal. The Information Disputes Council, placing importance on the interpretation given the concept of evaluative judgment by the Appeals Court, noted that the problem was partially one of legislative inadequacy. The Council stated, "Article 1087.1 of the Civil Code does not provide an independent definition of evaluative judgment." At the same time, the Council doesn't share the opinion of the court and the plaintiff, and noted that many of the expressions regarded as insulting included evaluative judgments and not "claims about proven facts".

Judges have defined additional obligations for news outlets

Article 1087.1 of the Civil Code, which has turned into a straight-jacket for new outlets, is being abused by judges. Judge Gevorg Narinyan of the Shirak Provincial Court, in his verdict of a January 20, 2013 slander case (Hambardzoum Matevosyan v Anoush Mnatsakanyan, Iveta Charkhifalyan, Vardan Papoyan and Levon Gevorgyan), also set down obligations for *Hetq*.

The defendants in the case had contacted *Hetq*, requesting that the outlet cover the case. On October 4, 2013, *Hetq* published two articles on the issue. In the one month deadline to report material deemed slanderous or insulting, *Hetq* received neither a printed or phone request from Hambardzoum Matevosyan to retract the material. The plaintiff also didn't include *Hetq* in his suit nor make any demands of it. There is only one sentence in the plaintiff's suit where *Hetq* is mentioned. There, Matevosyan states that the defendants spread slanderous info about him through the pages of *Hetq*. Attached to the suit were copies of the *Hetq* articles in question. During the trial, the parties agreed to reconcile.

The court decision reads:

Judge Gevorg Narinyan affirms the reconciliation reached by the parties stating that the defendants must issue retractions in the newspaper Azg and Hetq Online within a seven day period.

Thus, the judge set down equal obligations for the 3rd parties included in the case – the Azg newspaper and *Hetq Online* – neglecting that the plaintiff had never presented such a demand and that *Hetq* had never been official party to the case.

The Court of Appeals rejected the appeal filed by *Hetq* regarding this court's decision on the following

grounds: “A reading of the court’s decision clarifies that no obligation has been placed on *Hetq Online*, but rather it is an obligation to be assumed by the defendants.” In addition, the Appeals Court stated that it rejected *Hetq*’s appeal because it had no right to appeal the lower court’s decision in the first place.

Attorney Davit Danielyan commented on the decision by saying that if the plaintiff presented no demands in his suit against *Hetq*, and if *Hetq* had no official status in the case, then we are looking at a possible verdict where there has been a breach of powers.

Grisha Balasanyan

THE COMPUTER MOUSE SHOULD BE THE 1ST WEAPON AGAINST UNSCRUPULOUS NEWS SITES



My neighbor, 75 year-old grandpa Sourik, is pretty active, politically.

He's attended almost all of the opposition demonstrations and says he's become aware of developments in the country by participating in various protests.

During the current relatively “peaceful period”, Sourik only source of news is Armenian TV. But he's not satisfied with the limited programming it offers.

Every two days, grandpa Sourik would come to our home with the names of news sites written on a piece of paper. He wanted me to read him the opinions of the internet press.

But I stopped serving as the press spokesman for Sourik about one month ago. When he visited me the last time, with his piece of paper in hand, and asked that I open his favorite site, a semi-nude picture of Kim Kardashian popped out on the first page. On the next website, Sourik said he read news that wasn't true; just a pack of malicious gossip.

“And here I was thinking that they operated normally. They are either in need of sex or either gossip like a group of old women. To be a journalist back in the Soviet era was an honor. Now, they have turned into naggers. Back then we would impatiently wait for the postman to arrive with the newspapers for us to read. I used to subscribe to five papers and magazines. The ones I didn't subscribe to I would pick up from my neighbors. Nowadays, young kids just out of diapers claim to be reporters, running from interview to interview with tape recorders in hand,” Sourik exclaimed and left.

There are real reasons for Sourik to complain. It's true, the internet press has benefitted the media field, ensuring greater diversity and serving as an alternative platform for speech and opinion, in contrast to the TV under state control and the newspapers with small print runs, which have little impact on public opinion.

However, the internet press has intensified the issue of media self-regulation. A number of ethical questions (the use of anonymous sources, disinformation, or the publication of unverified news and even outright lies) have been given much greater attention. Such methods have become the accepted work ethic at certain news sites.

These daily growing media outlets had a need for new staff and filled the void with young people who were untrained and unfamiliar with professional standards. As a result, serious analytical and investigative journalism almost disappeared. What rose instead was a demand for easily digestible news. On the other hand, cutthroat competition amongst internet media sources for a shrinking audience led to a serious fall in quality, a devaluation of professionalism.

Today, yellow journalism dominated the internet press. Almost every other site fills the need to lift Facebook posts of well-known individuals and reprint them on their sites, thus ensuring the desired number of “likes”. It was due to this race that, for example, that during the course of one minute on July 30 of this year, the internet was swamped with the false news that prominent humorist and broadcaster Mark Saghatelian had died after being rushed to hospital in critical condition. Minutes later, the news had been removed from the news sites, but none felt the need to apologize to their readers for publishing the unverified and undignified report in the first place.

The devaluation of professionalism also benefits certain political circles that obtain or create news sites for propaganda purposes – by providing one-sided news and by stoking political intrigue. In the struggle against the political opposition or competition, we see the more frequent use of news websites. As a consequence, reporters have become tools to be exploited and the media community is being split apart. And this can only benefit the powers that be. The fact that oligarch/MP Samvel Aleksanyan recently expressed a desire to open a news site and strike back at his reporter naysayers proves our point. It is difficult to imagine how many such “beaten” reporters would express a desire to work for Tsarukyan.

So the following questions remain: How to regulate the media field in Armenia? How to raise the level of professional of internet reporters? How to spur journalism that adheres to ethical norms?

These questions are of concern not only to responsible reporters and editors, to media analysts and experts, but also to readers who have grown tired of low quality news reporting

How to overcome the problems now faced by the internet press in Armenia?

The principle of free speech in news reporting is gradually turning into a free for all, where concepts of responsibility, ethics and morality are being disfigured under the rubric of Article 10 of the European Convention of Human Rights:

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.”

In several precedent setting decisions, the European Court of Human Rights has often stated that freedom of expression is a pivotal pillar of a democratic society and that its advancement, as well as individual expression of all, a fundamental prerequisite. The right to freedom of expression not only guarantees the freedom of the press to inform the public, but also the right of the public to be informed in a responsible fashion.

Specialists say that it is easy today to create a news site. It's not an expensive proposition. Naturally, this is the case if we are merely talking about having a website. It takes around \$200 to

open a site in Wordpress, \$10 monthly for the hosting, and \$10 annually for the domain name.

Neither is getting content all that expensive. You can get two students to work for next to nothing if they agree to lifting Facebook and other social web posts of prominent individuals and copy pasting articles from other sites without due credit. Clearly, for serious news sites, creating a site is a serious problem as well as the financial challenges of getting and keeping a quality staff.

In an interview with *Hetq*, media analyst Samvel Martirosyan said that the issue of regulating the sector is complex as it demands solutions involving the engagement of the media community, educational institutions and the consumer.

The public needs to be more demanding; otherwise it's all being read. The public must be mature enough to remove any site that spreads disinformation from its reading list. The press community must go the route of self-regulation, a process that has started to some small degree. Yellow journalism must be separated from the responsible media. All must not be given the same credit rating," says Martirosyan.

For example, he says that the Sun British tabloid isn't rated equally with The Guardian.

Martirosyan notes that if we follow the instincts of the general public, then naturally, only sex and violence are needed in the press. But the problem is that the responsible press must address the public consciousness.

"Since the field of competition has developed incorrectly in Armenia, the yellow and normal press has been sandwiched together with the same credit rating. Naturally, in order to

compete successfully, the normal press becomes yellow as well. There must be a separation. Throughout the world, the yellow press is more popular. It's just that it operates in another field," he added.

The expert finds the competition to gather "likes" as normal, since it shapes an audience. The problem arises when "likes" are gathered by deceiving and disgusting readers.

Anna Israyelyan, the editor of the online *Aravot* news site, doesn't agree with the claim that serious analytical and investigative journalism has almost disappeared and that a demand for easily digestible news has arisen.

She says that serious journalism has its readers and so too does the easy, syrupy stuff. The two don't cross paths or get in the other's way. It's a whole other question that news sites seeking to disseminate serious news must slightly review the way they work. Such sites shouldn't wait for advertisers to line up outside their door after publishing a good article.

Anna Israyelyan says that we have also have a lot of stuff to borrow from the websites providing the easily digestible news, in terms of integrating with social networks and disseminating original material.

"And I'm not even talking of the necessity to study the needs of the reader audience. Perhaps we must contact market analysts, in order to regulate the activities of sites in such a way to make it as easy as possible to work with search systems/ As regards the professionalism of internet reporters, I don't think that the situation is all that different now than in the past. There have always been more reporters who don't spend much time and effort on an article than those that do. I mean the ones who always present a second opinion," notes Israyelyan.

The *Aravot* editor believes that the only way to raise the professional level of inexperienced reporters is to fill in the gaps by sending them to on the job training courses and seminars. She confesses that in the competitive rush to publish breaking stories, quality and precision suffer as a result. Israyelyan notes that this is a worldwide problem not unique to Armenia.

“Regarding the resolution of plagiarism and other ethical issues, I have long ago given up any hope that the answer will come from self-regulation measures. They do not work and experience has shown they aren’t effective. The only solution is to financially penalize those who violate copyright laws. Luckily, such an opportunity now exists with the recent passage of a parliamentary bill,” Israyelyan added.

Media specialist Mesrop Harutyunyan proposes a different solution. Just like viewers use the remote control to change the TV channels of those broadcasting tasteless programming, so too must the computer mouse be the first weapon against unscrupulous internet news sites.

That’s to say that if readers don’t visit these sites they will wither and die off.

“It’s better to educate and reeducate new reporters; by constantly working with them and informing them regarding all possible manners of self-regulation. This starts with educating them as to the rules of ethics and explaining the need for reprimand and other means when these rules are violated,” added Harutyunyan.

Photo: A bundle of Soviet newspapers sent to Grandpa Sourik

Sara Petrosyan

THE TIME HAS COME TO SMASH THE SHACKLES OF THE MIND

Those who fled the Glavlit censors of the Soviet era, and those who have waged a ceaseless struggle with the “impunity” of the post-Soviet media, failed to observe that over the years they have become their own *glavlit*.

They also failed to note how the national media, with several thousand readers, dropped to print runs that were even less than community papers. And this occurred within the span of ten years.

Without notice, topics in demand disappeared from the pages of newspapers. Afterwards, the main targets of “hot” topics were conveniently forgotten. In the past 4-5 years, the circulation of papers that had been printed in the several thousand dropped so low that today any paper with a print run of 1,500 is considered a success. This development, in turn, led to a drop in staffs, and unstable and minimal wages has led to an exodus of experienced reporters.

Editorials, which reflect the paper’s ideology and the attitude of publishers on daily developments, were put off for more opportune occasions. An impression was created that the “editor’s column” was not appropriate for the needs of today’s press and was forced out due to “modernization”. The reality was that news outlets adopted a passive stance, the spirit of rebellion dropped, and to conceal this fact it was first necessary to shun editorials.

“Many have lost the habit of thinking, so much so that they are afraid to think. Heaven forbid that they think correctly and face

danger.” These words by the prominent Armenian writer Gostan Zarian, penned in the 1960s, are just as appropriate today regarding every reporter and newspaper.

Dependence on this or that political or economic power has greatly increased the vulnerability of news outlets and reporters. The inner censor has spoken in the reporter, and the editor, in turn, has rounded out any sharp corners that remained. The eye of the reader has not missed the puzzling bareness that dominates news outlets. They have not accepted or tolerated those who mislead. However, print runs are no longer of concern to editors. Even the idea of having a free press is no longer primary. Now, they merely strive to maintain the name of a periodical, since the daily tightening economic noose threatens their very existence.

From the outset, the regime was able to “pacify” the ten or so television stations and it was concerned about the thousand fold circulation of newspapers, even though the distribution circle had grown smaller and the papers were mostly read in the capital. Self-censorship achieved more than even those wishing to put a lock on sharp tongued reporters could even have imagined. It was only a matter of time for a segment of reporters to get used to the demands of the changing times.

The types of newspaper articles most in demand (analysis, commentary, oratory), were replaced with the most sordid and low brow news. Individuals with no professional background infiltrated the media field and news reporting became a farce. Professionalism was no longer a prerequisite for getting established in the media. The conception of hard hitting news has changed. It is no longer concerned with exposing the blemishes of daily life, but rather with portraying bloody accident scenes and naked bodies, or disseminating the ignorant comments of a self-proclaimed sex pathologist. Daily life, with

all its tragedy and repugnance, has infiltrated the media. Reporters have turned into mere recorders. Levels of professionalism have dropped so much that even transcribing a taped conversation is regarded as top notch journalism.

The media has become fully monitored. Topics and their manner of presentation are no longer the product of the creative thought or imagination of reporters and even editors. “What and how to write”, has been determined for many years and for most papers from one center. This mode of oversight has become quite attractive for top officials who, in order to eternally hold on to their office, thought of their own way to strengthen their amiable ties with news outlets. Each of them became unregistered shareholders in the papers and with open thanks admitted that: “Yes, silence is worth money.”

It shouldn’t have surprised us when a well-read reporter would be allocated a calculated number of lines in a paper with limited pages, and on the other hand, that same paper would freely and without regret, devoted space to long-winded interviews praising various officials. In these instances, editors probably couldn’t even imagine how such methods demeaned the media and lessened its impact.

“What do you need? How can I help?” – Only a few reporters could withstand such temptations of offering favors and services uttered by small and large officials and by oligarchs controlling the economic sector. Changes to the value system happened so quickly that not betraying professional values and circumventing ethics became the norm. The face of reporting is being corrupted daily. Professional courtesy is a worn out concept. The long held media “commandments” – do not engage in plagiarism, lying, discrediting colleagues, etc, have become a part of today’s media make-up. All this did not satisfy them and, like the mistress of the “Golden Fish” fable, they wanted to own their

own news outlets; in the same way as owning a chain of supermarkets or beauty salons. The appearance of hundreds of websites in just the past two years underscores the fact that the aim of today's "media magnates" is not to become influential in the news arena, but rather to neutralize influential news outlets.

Maintaining news sites at little cost allows them to publish "rubbish" and thus divert public attention from vital issues of political, social and economic significance. News sites, working along the lines of TV serials, must implement the directives of their owners when the time comes. To disparage their target, these sites throw out some piece of "news" which then gets picked up by scores of other sites specifically created for this purpose. The rest of the time, these news sites are busy filling their pages with automobile accidents and listing suicide cases. Readers with weak constitutions are treated to stories about what the "stars" are up to.

The Various Manifestations of Censorship

The serious economic situation is the primary, but not only, reason for self-censorship. In the past decade, there have been scores of incidents where reporters have been hindered from carrying out their professional duties. These incidents have gone unpunished. Assaults against the press particularly increase during election cycles, because even the rabble drawn into the electoral process knows that the press in Armenia, unlike other countries, is not included in the list of professions enjoying special defense measures. Why is it that law enforcement can display such intolerance regarding those who hinder the police in their duties, but they can't do the same when it comes to reporters? This vulnerability has forced reporters to make a choice between remaining a constant target and going the self-censorship route. The latter option has emerged victorious, and reporters have voluntarily limited their freedom of thought and

action, all the while waiting for the best time to free themselves from the shackles of the mind.

Closed Topics

This is a problem, conditioned by social-political realities, that periodically appears before reporters. One decade ago, the army was a topic off limits to reporters because that the way officials at the time pictured it to be – you either wrote well about it or nothing at all. Over the years it has been understood that by concealing acts of violence within the ranks it is impossible to cure the army, Solutions to problems arise when they are discussed. Today, stories about the church and the clergy are equally not tolerated. To publicly express opinions about the inadequacies of the religious elite and church servants is regarded as a sin against God. Articles and open discussions about homosexuals, freedom of religion and conscience and gender equality are open to derision. Stereotypical thought even constrains those with relatively liberal mindsets.

Even the Soviet Union guaranteed the participation of women in the government via quotas. Now, reporters shy away from raising the issue. Is ignorance the cause? Perhaps, for aren't United Nations member states obliged to carry out those policies agreed upon in different committees, even documents regarding the equality of the sexes? The public has remained the same - small-minded – and doesn't want to hear about these topics that are alien to its mentality and traditional perceptions.

If some of the restrictions noted for the above topics have, over time, followed one another, there is one theme that has remained impossible to crack –the *generalitet* (clique of generals). They have been off-limits and inviolable ever since they came upon the scene. Each one of them is like an uncrowned king in the country's provinces and has reconstituted the reign of Genghis

Khan in their domains. However, their conduct is not a subject for examination in the press; especially for regional reporters. Repercussions will be quick in coming. The most typical example of the last few months was a tragic settling of scores in the town of Goris. The local news outlets not only didn't have the courage to cover the incident or comment on it, but also failed to cover the lively discussions taking place in the social internet sites. This is the way it has been during the entire ten year tenure of the former Provincial Governor.

The Provincial Reporter Must Also Resist Local Customs

If the most inviolable thing for the national media is the “clique of generals” (*generalitet*), then the provincial press is extremely cautious when it comes to choosing topics and, based on the fact that what it has to say primarily must refer to the province, it is possible to picture the content of such papers.

“Newspapers are like the toastmaster's speech; false, superfluous and exaggerated.” This description of the Soviet press by the prominent writer Gostan Zarian fully characterizes the provincial press in Armenia today. The writer, who from time to time worked for the Soviet media, advises us to search for the reason inside the human person, and not in the system.

The true situation of the provincial media speaks to the fact that it has remained, in content and form, in the Soviet period. A former regional paper has been striving for fifteen years to maintain a status that in reality doesn't exist. Today's urban community government has no desire to become a caretaker of a news outlet that will give it nothing but problems. However, the more local authorities strive to cut the umbilical cord, the more editors embrace them. The formula for the vitality of the regional media has no connection to media marketing. The press continues on merely at the whim of the Provincial Governor.

Thus, motivated out of feeling of gratefulness, provincial reporters sometimes become more “Catholic than the Pope.” Why, then, should we be surprised that regional issues are not covered by local news outlets.

The media investigative [piece](#) published one year ago by *Hetq* proved once again that regional problems are not being covered in the regional press. The existence of the print media in the provinces is not made apparent by what it publishes, but rather when the government drafts a list regarding the state subsidizes to be allocated to the regional media. Only by reading this list can one find out that there are 5-6 newspapers and other periodical published in each province.

This year I conducted a training course in Syunik, Lori and Gegharkunik for regional reporters. Not one reporter from any of the three provinces wanted to have their article submitted to any local paper, even though they dealt with local issues. One of the reasons was that local papers were not ready to publish material on regional problems. All pieces critical of local authorities were rejected.

In addition to all these publishing difficulties faced by reporters living in the provinces, they must also gain experience in resisting the local environment. It demands great courage to go against the stereotypical mentality in a small country like Armenia and especially in small communities where relations are formed with local perceptions and rules. Reporters collaborating with the national media seek to break free of this environment; however they stand out like sore thumbs. First and foremost, the press guild doesn’t tolerate them.

Numerous are the instances when, for example, half the village has surrounded a reporter’s house for criticizing the work of the community mayor, waiting for an explanation as to why the

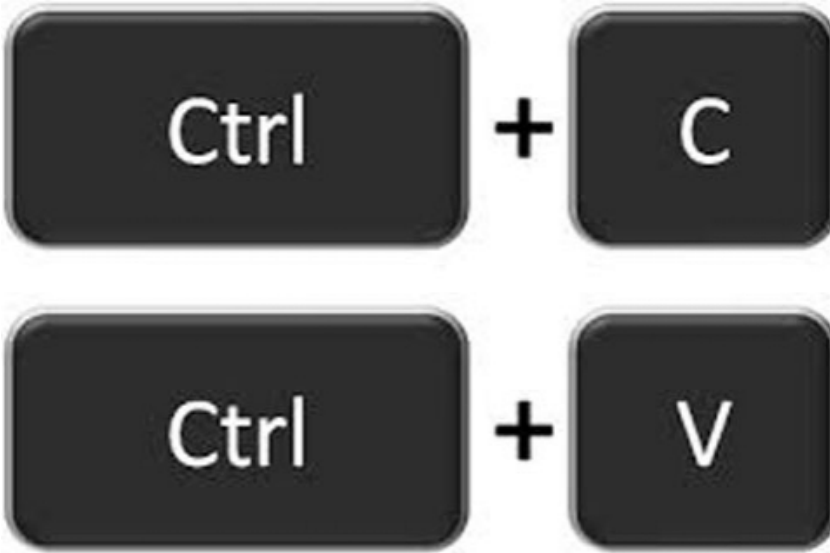
reporter “shamed” the village head. They would then proceed to teach the reporter a lesson in manner

In one mayor’s office, there was a discussion of community problems with regional reporters in attendance. One “famous” reporter got even more upset than the mayor when a colleague criticized the community head. He started to scold his colleagues for expressing their displeasure with the work of the mayor. Amazingly, the very same public is not intolerant when it comes to a pedophile living amongst them, but does not tolerate any reporter that publicizes his criminal lifestyle.

The fourth estate is experiencing a similar crisis like the other three branches of government. And it is not merely a crisis of thought. This situation is a result of a drive to accumulate as much power and material resources as possible. It is possible to overcome if the regime quickly comprehends that to maintain the stability of the country it must end this Sodom and Gomorrah and each the opportunity to fulfill his/her calling in life.

Grisha Balasanyan

NATIONAL ASSEMBLY PASSES NEW BILL EXPANDING MEDIA COPYRIGHT PROTECTION



On September 10, Armenia’s National Assembly unanimously passed a bill amending the Law on Copyrights and Related Rights.

Passage of the bill signals the first serious effort to regulate copyright issues that have plagued the electronic and print media in Armenia, providing new weapons in the struggle against the “copy and paste” culture so endemic in the country.

The bill was sponsored by MPs Arpineh Hovhannisyan, Galoust Sahakyan, Artzvik Minasyan, Aghvan Vardanyan, Alexander Arzoumanyany, Gagik Janhangiryan, Tevan Poghosyan and Davit Haroutyunyan.

Even though Armenia signed the Berne Convention for the Protection of Literary and Artistic Works ten years ago, in addition to other international copyright regulatory treaties, the problem of media copyright infringement has only spread, especially in the expanding field of internet “news” sites.

Why the problem has persisted remains a nagging question for many in Armenia’s media sector given that a fairly comprehensive “Law on Copyright and Related Rights” was passed in 2006.

MP Arpineh Hovhannisyan told her colleagues that the bill contained amendments demanded from a number of news outlets.

The bill’s most important feature is that it expands the scope of what types of news reporting will be legally protected from copyright infringement.

According to existing law, reports about daily or ongoing news weren’t considered subjects of copyright protection. The new bill specifies that the “choice” of daily news and events is considered copyright protected if the mode of expression of such news is the result of creative effort.

Another article of the bill limits the amount of material that one internet news site or print newspaper can reproduce/republish from another.

The article specifies that the permissible amount to be republished, without the consent of the original author, should just be enough to “justify” the aim of republished citation. It goes on to say that regardless of the republished amount, it must never reveal the essential core, the crux, of the original material.

Here, the new law is attempting to protect the original source from losing readers by having its material appearing elsewhere,

Articles and material can only reproduced in full with the consent of the author and according to conditions defined in a mutually negotiated contract.

Ani Hovhannisyan

MEDIA MIGRATION: WILL NEWSPRINT SURVIVE IN THE AGE OF THE INTERNET?



Media theory divides human civilization into four strata – verbal, written, print and electronic communication.

These layers have been transformed via cross pollenization and influence. But, if it took several centuries to go from the verbal to the written word, the transformation process was much quicker in the last century.

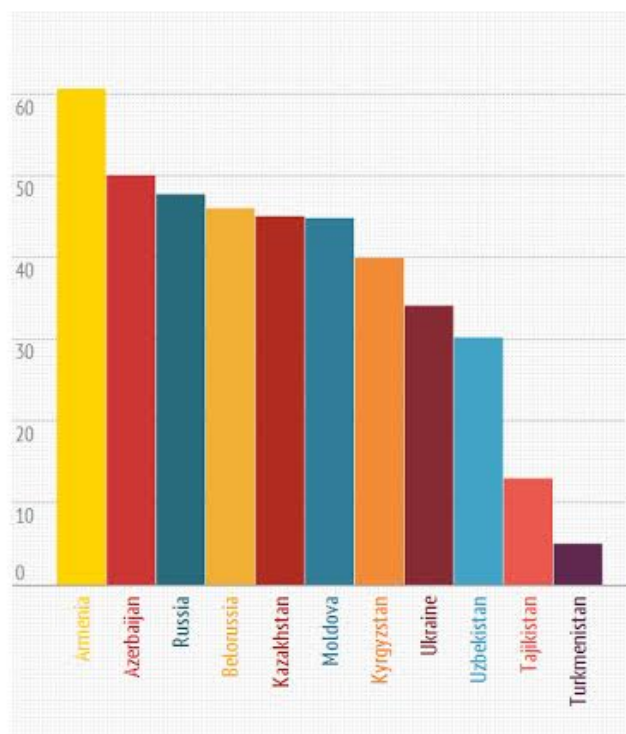
At the start of the 20th century, humankind was jolted by the advent of the telegram. By the middle of the century, TV became a household item. By the end of the century, the widespread accessibility of the internet ushered in the technological advances we have witnessed this century.

The quick development of technology first impacted the activities of news outlets, since reporters mainly circulate information for a wider audience, using technological resources.

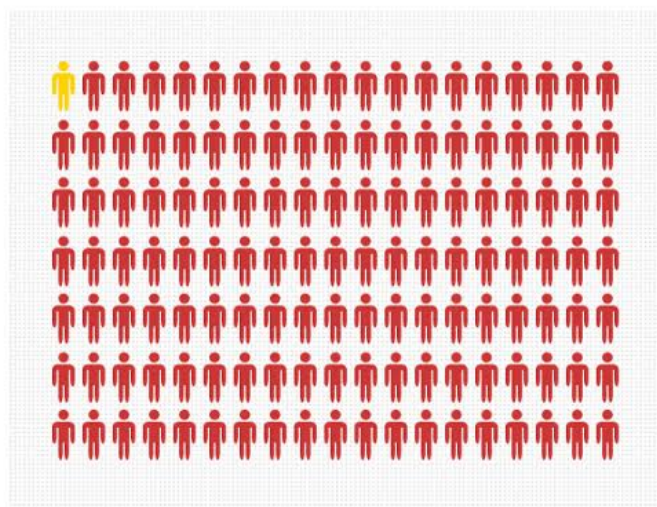
The development of technology is not subject to any spatial or time constraints. Every new computer and telephone gadget or improvement that comes along can be found in almost any electronics store in a matter of days.

In the recent past, people in Armenia associated the receipt of news with reading newspapers. The Armenian word *lragir* (written news) describes this succinctly. In today's technological age, however, news can be obtained not only in written form but in its audio-visual-photographic versions, in slide shows, making information accessible in its minutest detail. Humankind's primary medium of receiving information today is the computer, the telephone, and any item that connects to the internet.

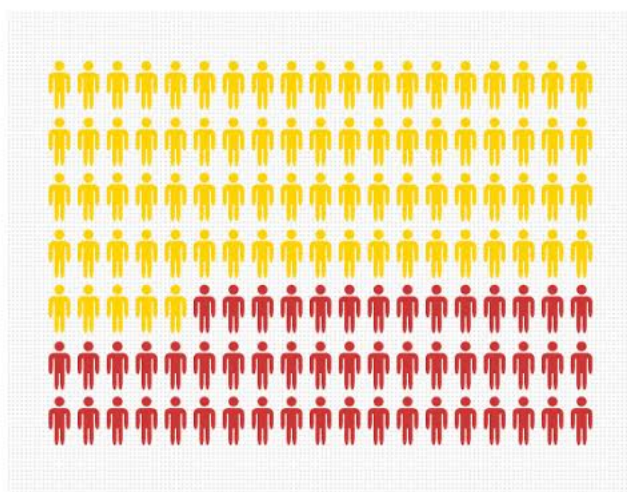
The internet usage in Armenia and the CIS.



● 2000 ○ 2012



○ 2000 ● 2012



According to [figures](#) released by InternetWorldStats, as of July 2012, 1.8 million (60.6%) people in Armenia use the internet. For comparative purposes, we should note that in 2000 the number of users was a mere 30,000. When compared with the rest of the CIS, Armenia leads the way in internet usage. Azerbaijan comes in 2nd with 50%; followed by Russia (47.7%), Belarus (46%), Kazakhstan (45%), Moldova (44.8%), Kyrgyzstan (39.9%), Ukraine (34.1%), Uzbekistan (30.2%), Tajikistan (13%), and Turkmenistan (5%). In neighboring Turkey the figure is 45.7%, and 28.4% in Georgia.

The rate of information transference has grown tenfold. Ten years ago in Armenia, the transference of information took a day to reach the public at large (the case with newspapers), or a few hours (radio and television). Today, it takes just a matter of seconds to reach a much larger audience than ever before.

Due to the development of technology, the dissemination of news and information is much more interactive as well. Every internet user now serves as a potential source of information or its disseminator. Today, the audience is not merely a recipient of information, but also a sender. The dissemination process has broken free of its former chains, and has become as disorderly as atoms in space.

The present stage of technology, the electronic, has a number of noteworthy positive and negative features:

1. Speed and coverage – In just a few seconds, dissemination can cover thousands of kilometers. People can communicate and exchange information via video, photos, sound and text, from two sides of the world. People can also follow events as they happen instantaneously in another hemisphere.

2. Decrease of physical function – In the 21st century, it is sufficient for a person to have a computer linked to the internet to receive news from around the world. Sometimes, people living in one country can find employment in another. Their physical presence “on site” is not mandatory.

3. Dependency – Connectivity has made technology a real dependency that is regarded as an illness. According to a TeleNav survey, Americans are willing to go without chocolate, alcohol and coffee for a week, but not the telephone. One third of respondents would forgo sex, 22% would stop brushing their teeth, and 21% would leave the house barefoot, rather than going “phoneless”. 66% of respondents confessed that they go to bed with their Smartphone. According to an earlier survey conducted by a British company called Interspereince, our dependency is so strong that people compare their days without the internet with foregoing alcoholic drinks.

4. Impossibility of censorship – In the current age of technology, shutting down the dissemination of information or censoring it is impossible. It’s enough for the information to appear in social websites for its dissemination to become uncontrollable. Glaring examples of this are the Wikipedia revelations and Eric Snowden’s disclosures of classified documents which allowed people to get a glimpse into the operations of America’s secret intelligence agencies.

5. Interactivity – Almost each internet website has a “comments” section allowing for reader feedback. Certain news outlets are totally based on the news reports from readers, from which the term “citizen journalism” arises. Every citizen is a potential citizen journalist who can disseminate news on any given event from on-site. The war in Syria is primarily covered through video footage taken by

local resident on cell phones. A huge army of citizen journalists has sprung up in various town and cities throughout Syria.

6. When the technological advance has transformed everyone, regardless of profession, sex, age or other affiliations, into both a bearer and conveyor of information, the question arises as to what technical, economic and content related changes must be made so that journalism maintains its primary functions.

Technical – The print media is today at death's door. Even the giants of media, newspapers and magazines, are either on the brink of closing or are making the move to the internet. Print reporters are also making the same move, and are learning the skills of online journalism in order not to lose their place in the labor market.

If, in the past, the technical worker stood apart from the text writer, today, reporters with universal skills are competitive. In addition to recording and converting information to text, they must be able to film, edit, draw diagrams, and convey information to an audience in the most accessible, visible and interactive way possible.

According to [Pew Research Center](#) stats, traditional news outlets are losing ground as a source of news for Americans. In 2011, only television remained competitive with the internet. If the internet hadn't yet become the primary source of news for the average American senior citizen, the internet had already become the main source of news for a majority (65%) in the 18 to 29 age bracket. This is a global trend, and it's only a matter of time until the rest of the world catches up.

Gegham Vardanyan, a specialist with the Media Initiatives Center, [writes](#) that from the start of the 2013 presidential election, true internet TV and a truly competitive internet TV market took shape in Armenia. He believes that internet TV websites fill in the gaps of debate and analysis left by traditional TV.

Before the recent election, on-line live broadcasts were primarily associated with public rallies and meetings. Today, one can watch on-line debates, interviews, roundtable discussions, and conferences. There are three news outlets in Armenia that stand out for their on-line broadcasts – A1+, Armenia Liberty, and CivilNet. These sites not only cover the elections with live broadcasts, but also other important developments. Thus, people get the news uncensored and unedited.

Such live coverage of events and news also has a public impact. Availing themselves of such direct coverage, many no longer leave their house or workplace to participate in rallies, demonstrations, and other public events. On-line coverage replaces their need to be physically present at the event itself to understand what is taking place.

Content and Financial – To talk about these transformations, it is necessary to note that a news outlet's content is directly linked to its financial policy and sources. Technological reforms have greatly impacted on the financial policy of large and small newspapers alike. German papers, after witnessing decades of continued development, are now in a tight squeeze. Today, they can't decide on a new financial strategy; i.e., a replacement for newsstand sales and subscriptions, sources which financed their operation adequately for years. Subscriptions have gone down and papers no longer sell – the internet provides a comprehensive supply of news for free.

They have found the technological solution. A number of large German papers have launched their on-line versions, but they can't sell the information contained therein.

32 year-old Christian Unger works at the Hamburger Abendblatt newspaper. He's also started to write for the paper's on-line edition. "The print media is offering everything for free on-line. In Germany, we see a growth in the websites of newspapers offering content on a paid basis – welt.de, bild.de, abendblatt.de, taz.de, and others. Nevertheless, readers continue with the mentality that everything is free over the internet. And given that there are still large and free websites like spiegel.de-and zeit.de, it will be difficult to get readers to pay. I work at Hamburger Abendblatt, and one must pay for its exclusive material. Despite this, the number of our readers is growing daily," Unger says.

Advertising prices in the print media are decreasing, while ad rates in the on-line press aren't going up. The German journalist says that there only a few news outlets in Germany not operating at a loss. "Video clips can help boost ad rates, and local advertising can also be of significance. The policy is the same, print reporters are becoming on-line media reporters. Often, they first write for the website, and then for the newspaper. The old hierarchy seems to be crumbling," notes Christian Unger.

Christian Meyer, another German reporter, believes that it is still too early to describe what the on-line media is, because nobody knows what it might evolve into later on. "Right now, no one really knows where the road will lead. I believe that the print media will survive for a few more years. But, in the meantime, reporters must learn to adapt or else fall by the wayside. On the one hand, reporters are becoming more skilled, while on the other, the demands of the market are rising. I don't believe that the press is doomed. Perhaps, it is just a matter of acquiring new

skills. All inclusive reportage, a quality presentation and attractive packaging are also important,” adds the German reporter.

These large-scale changes can impact the financial policy of news outlets, upon which content and news policy is directly dependent. Technically going on-line is perhaps not a solution. All small and large European news outlets face a problem of organizing their finances. German reporter Christian Meyer also raises the issue. “In Germany, there is wide-spread discussion in the media regarding the possibility of selling on-line content. In fact, several outlets operate on this principle, but nothing has been clarified. It’s a completely new thing. I believe that even the largest newspapers haven’t decided how to conduct their business affairs.”

While business management issues continue to be debated in Europe, in Armenia, the financial policy of news outlets in Armenia has nothing to do with business. There are just one or two independent outlets financed by international foundations, the websites of political parties, TV and radio stations, and newspapers on the verge of closing down.

The media, financed by politicians and political parties, have gone on-line; with just one difference. Maintaining a news outlet today is cheaper than printing a newspaper. You don’t need a license to launch a news site; anyone can do it.

Information technologies have provided operating and experienced new outlets in Armenia the opportunity to develop, launch new features, and to avoid censorship. At the same time, hundreds of new sites have employed these new technologies to spread disinformation, slander and conspiratorial material; thus becoming tools in the hands of various forces.

There is no discussion in any Armenian news outlet about selling on-line content, given that here financial resources aren't derived from the sale of information, but rather derive from carrying out political favors/instructions. In this era of limitless and diverse news coverage, people aren't prepared to pay for receiving their news. In Armenia, the provider of news is ready to pay, so that their information, or political communiqués, can be sold to as wide an audience as possible. Good examples are the ads spreading through social networks, the diverse fraudulent attempts to attract “likes”. The buying and selling of information has moved from the market to the trading floor. If, in the past, sellers would place their wares on little tables, and buyers, browsing up and down, would buy what was to their liking, today the situation is totally different.

Social networks have been created where readers (potential buyers) have gathered, while sellers (news sites) offer their product. The more that product is interesting and attractively packages, the better it will sell. In these exchanges, the definitions, standards and content of information, as a product, have already been blurred. Manufacturing news coverage is no longer the monopoly of news outlets. The consumer is also a producer. Given these conditions, the rules of competition have also changed.

Media Initiatives Center specialist Gegham Vardanyan regards the advance of new technologies as a great tool, but only for news outlets producing quality content. “Technology allows reporters to improve content, and I would like to see news sites and the press develop in this direction. I am specifically talking about quality content, credible news coverage, those who assist media consumers, and not those who mislead or deceive...Because I am hopeful that in time, media consumers will start to demand greater quality on-online news, and that the demand-supply equation will balance out.”

Vardanyan believes that in the future Armenia's on-line sites will also begin to sell their important content. "The development of online content of the print press will unavoidably impact their financial policy. It's only natural that if newspaper owners invest in the on-line field, that market will also develop and, consequently, revenue expectations. It is also possible that we will see print media in Armenia in the near future demanding payment for their archival material on-line."

Media specialist Samvel Martirosyan is convinced that as a result of these technological changes, all types of news media are gradually fusing together. "Today, it is already very difficult to draw a line separating various mass media outlets. There are sites that are not only on-line news providers but also photo agencies and on-line TV. The borders are gradually getting blurred. There is simply one differentiating mark – on what field are the resources of any given media outlet primarily being spent. One is spending more on television, another, more on a news site. Both are engaged in all fields," Samvel says.

Samvel Martirosyan also stresses that as a result of the fusion of different forms of news outlets, the only loser is the print media. Both TV and radio can continue to operate on-line, but the situation of the print media is the most critical.

"Even in those countries where the print media enjoys a storied legacy of tradition, where it is accepted by wide segments of society as a way of life and operates as a self-serving business, even in these countries the print media is being forced to migrate to the internet. The print media is in more deleterious straits, given that newspaper print runs are only a few thousand at best and are falling. Newspapers, in essence, aren't attracting a new audience. Young people aren't becoming newspaper readers. Consequently, their only salvation is to make the move to the internet," Samvel concludes.

«Հետաքննող լրագրողներ» ՀԿ

**«Մամուլի ազատությունը Հայաստանում 2013-ին.
հիմնական խնդիրները եւ մարտահրավերները»**

Ծրագրի ղեկավար/Խմբագիր՝ Լիանա Սայադյան
Անգլերենի թարգմանիչ՝ Հրանդ-Հարրի Կատարիկեան
Էջադրումը՝ Նարա Մենդելյանի

“INVESTIGATIVE JOURNALISTS” NGO

**“The State of Media Freedom in Armenia 2013:
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