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The fundamental freedom of expression, free media and information

Statement on the current conflict between freedom of media and other Human Rights, such as presumption of innocence in criminal proceedings and the right to freedom from discrimination

“It is easier to turn an arrow from its way then to stop a word that left your lips”

Media as the fourth power of the state must be kept accountable for the full consequences of its actions. In most OSCE participating states today, media does not challenge the human rights as limited in freedom of speech by state legislation. Today media conflict with the freedom of thought in a system wrongly believed to be morally self regulated much in the same way as the prices in a market economy. In reality media today many times come to violate the fundamental human rights by a public management of information without regulation by accountability or a commonly accepted convention of professional conduct.

The question of accountability when private actors carry through actions of state level is well illustrated by the recent debates regarding the situation in Iraq. Private entrepreneurs of war do not have to obey to the same regulations as state troops and are not as individual or collective actor accountable for their misjudgements to the same degree as a regular army would be. Together with the Hypocrite code one of the uncontested triumphs of human morality is, paradoxical as it might seem the existence and appliance of the conventions on conduct in war. The common sense of modern society is offended when these conventions are not kept in a war, even when keeping to them might seem contrary to the immediate purpose of that specific action of war. In the field of media and public information management, humanity has yet not reached to establish such conventions and common sense.

As we intuitively understand that media and public information by definition is based on an unequal and potentially harmful interpersonal relation – just like between doctor and patient, soldier and civilian or soldier and prisoner of war – we have a common sense understanding that this relation should be guided and regulated by some certain universal fellow values beyond the immediate interests of the one in power.

Indeed the self regulation of morality in media is many times most efficient. In other situations media seem collectively to allow them selves not to consider the inner self regulating norms of morality as valid anymore. Sometimes an else diverse and multilaterally reflecting media landscape is completely dominated by one single opinion little related to common sense or morality. We find three major such situations – when by patriotism relating to sports and international conflicts, when a specific group temporarily manage to by force implement their specific views and when relating to unfamiliar cultural and spiritual praxis undesired by the surrounding society.

We frequently experience that in the field of information incidents innocent people have being hurt. The fact that the damages inflicted by immoral and unjust actions of journalists are not so easily measurable as in the war field in Iraq might be one reason to why there is not any debate on medial accountability today.

Media plays a key role in forming the public opinion. No modern society allows teachers with no or inappropriate education to work in the educational system and still no modern state have yet issued a degree needed to form the public opinion. Those working in public media management should enjoy at least the same support and attention as the educational system. The power of a journalist is in many ways equal to that of a priest in pre-modern society. It is a profession in need of moral and spiritual education without which we risk “one blind leading another blind”. A truly free media require journalists morally free by having a tolerant moral understanding.

The public opinion is a complex and vulnerable mechanism not self regulated in a way parallel to the free market economy. As discussed in previous sessions, “hate crimes” are propelled by exactly this failed self

regulation and the failing of moral responsibility in the media environment. Still the individual journalist does not even by common morality stand accountable or convicted for such crimes, nor does the company who contracted him. An article will destroy the life of a person and in the end, if proven wrong the paper is responsible to publish a small apologize in the fifteenth page. "One dump is throwing a stone in the river and even ten wise cannot take it out". This fact is today cynically and systematically used in accordance with the so called Machiavelli principles. The real responsibility has to come from a free minded media that is a consequence of a properly prepared journalist.

As we have started to present here the complex and severe case of the MISA yoga school in Romania, here is the situation presented from the point of view of the freedom of expression.

During the period 1997 – 2006 a number of 2700 negative or calumnious articles appeared in the media only about this yoga movement. Only less then 4% of the cases were followed by the right to reply.

The influence in the case from the media was so big that the decision of the Swedish Supreme Court denying the extradition in 2005 of the Romanian yoga teacher Mr. Gregorian Bivolaru states the following:

"Madalina Dumitru (the alleged victim) has further stated that her apprehension by the police on 18th March 2004 was filmed and that the film along with excerpts of her confiscated notes was repeatedly shown the following day on Romanian television. The pictures and the notes have also been published in several newspaper articles. This has led to severe harassment from people within her immediate surroundings and she has not been able to continue her schooling."

"The tone in the media has, according to the Ministry of Foreign Affairs, periodically been very vicious. (...) In the case it has furthermore been made probable that the immediate TV broadcasting of the arrest and the following press campaign based upon information from the investigation was deliberately handed out by the authorities in the aim of turning the public opinion against GB".

The lack of real accountability in the fourth power of state is seemingly a growing problem in modern open societies. It is clearly misused by states or other powers of interest to by force impose their will and ideas in society with media as agents that will not face any consequences in proportion to the sufferance they might cause.

The report made by Transparency International in Romania in 2006 show regarding the influence of media in judicial processes, that judges and prosecutors perceive that in the cases of interference with the justice, media is responsible for more than 56% of the cases, the rest being shared between the other major forces of the state.

There is in the open society a natural resentment regarding state regulating the media through legislation. Among journalists there is an inherit idea about a specific and common conduct of honour similar to that of soldiers, doctors and so on. Still it was not yet stated in conventions and is many times proven to be largely relative according to the pervading normality of the recipient society.

We consider that the lack of efficient self regulation of media in accordance with the democratic and tolerant principles stated by the OSCE participating countries regarding the protection of the human rights is a problem that should be addressed internationally.

Recommendations

- We recommend OSCE to initiate the establishment of a convention of intellectual and moral justice in media. This convention would be formalised as self regulated based on common journalistic principles developed and defined in this forum.
- We recommend to the OSCE to encourage the creation of an independent international commission that can provide an unbound referential to journalists, thus easing the pressure from specific groups of interest upon the media.
- We recommend to the OSCE participant states to support the development of public informational management into a science with at least the same importance as pedagogy.