PROBLEMS OF PROTECTION AGAINST MEDIA ABUSE: LEGAL AND ETHICAL ASPECTS

PROBLEMAS DE PROTECCIÓN CONTRA EL ABUSO DE MEDIOS: LEGAL Y ÉTICO





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RESUMEN
El objetivo de la investigación fue estudiar los mecanismos de protección del abuso de la libertad de los medios de comunicación. Para examinar los aspectos éticos y legales de la protección contra el abuso de la libertad de los medios de comunicación en Rusia, se realizó un análisis del discurso de las publicaciones de las principales editoriales de Tatarstán en ruso y tártaro. Los hallazgos de la investigación indicaron que los siguientes factores en el mecanismo de protección legal y moral son muy importantes: el marco legal, el sistema funcional de las instituciones estatales y las organizaciones de la sociedad civil, la autorregulación de las actividades de un periodista profesional, que tratan con los medios indirectos y no profesionales corriente.
Palabras clave: medios, abuso de medios, libertad de medios, protección legal, conciencia de masas.

ABSTRACT
the aim of research was to Analyze mechanisms of protecting media freedom abuse. To examine the ethical and legal aspects of protection against media freedom abuse in Russia, a discourse analysis of publications of leading publishing houses of Tatarstan in Russian and Tatar languages was made. Research finding indicated that the following factors in the legal and moral protection mechanism are very important: legal framework, functional system of state institutions and civil society organizations, self-regulation of a professional journalist's activities, which deal with the indirect and non-professional media stream.
Keywords: media, media abuse, media freedom, legal protection, mass consciousness.

DOI: https://doi.org/10.5281/zenodo.7897080

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INTRODUCTION

Common procedures to analyze the media, along with media-linguistic, communicative, and territorial approaches, include a political-ideological or a resource approach, which, as emphasized by Dzyaloshinsky (2017) considers media as a specific resource and its possession allows implementing various political and ideological goals. According to this approach, the media and processes involved are described as courses of obtaining, distributing, redistributing and consuming specific resources in the field of human relations. In the classical theory of the resource approach, the emphasis is placed on the dependence of sustainable success on the availability of unique resources and organizational capabilities or competencies, which constitute competitive advantages (Barney, 2009; Prahalad & Hamel, 1990).

The media and its success also depend on the availability of unique resources, and display of special competencies, one of which, according to Kovach and Rosenstiel (2001), is self-regulation, which actualizes the media freedom protection.

The traditional forms of media self-regulation include development and adoption of codes of journalistic ethics, as well as establishment of professional standards for coverage of the news or events. However, as Kovach and Rosenstiel (2010) stated, the very nature of knowledge is changing around us while protecting the importance of seeking truth and producing reliable information for journalism.

This is especially significant in the era of blurring the border between a citizen and a journalist, as the citizens are difficult to institutionalize, which makes open media space a place for "discharging" the inaccurate and fake information that threatens security of the society and the individual.

These factors make it possible to consider the stated topic as relevant and to determine the article purpose as revealing the conditions of influence on the implementation of the protection mechanism against media freedom abuse.

METHODS

To Analyze the ethical and legal aspects of protection against media freedom abuse in a multi-ethnic region of Russia, it was made a discourse analysis of the publications of leading publishing houses of Tatarstan in Russian and Tatar languages: newspapers "Respublika Tatarstan", "Vatanym Tatarstan", electronic media "Business Online", "Vechernyaya Kazan", TV and radio channels "Tatarstan" and "NovyVek" for 2017-2018, as well as the Internet interviews with the journalists and consumers of media-products (about 100 respondents).

RESULTS

The concept of media freedom consists of two components of its terms - media and freedom. It is widely used the interpretation of the term "media" as a means of

information and communication, while emphasizing that the media can be considered as the information sources and carriers, while performing the functions of transmission and transfer (Kolesnikov, 2017).

The intermediary role of media is emphasized (Chandler and Munday, 2011).in conducting sectoral and special studies in the field of jurisprudence, communicability's, sociology, psychology, pedagogy, etc.

McLuhan (2014) defines media as technologies (intermediaries) that facilitate the transformation of communication processes in the interaction of human and environment, reorganizing the ways of perception of the world and the way of life of a person. Dzyaloshinsky & Dzyaloshinskaya (2014) refer the media to the communication institutions, defining them as a rigid system of rules, norms, public expectations, regulating the actions of professionals: journalists, advertisers, writers, etc., emphasizing their social nature and regulating them with the developed formal (laws) and informal (codes of conduct) regulations governing the behavior of professionals.

The clearest definition of freedom is given in legal literature. For example, it is treated as a state of a person and the people to act on their own in the constitutional law. Baglay (2015) treats freedom as a fundamental philosophical principle, implemented through a set of constitutional and legal norms. On the other hand, freedom is defined as a subjective possibility of doing something. In relation to media, the terms of "information freedom" and "mass information freedom", "press freedom", which characterize a group of rights and freedoms, dealing with various aspects of information activities, are widely used: expression of opinion, the right to receive information, information dissemination, etc. Malinovsky (1995) emphasizes the unhindered nature of the information dissemination by the media adequately reflecting the processes of social being destined for an unlimited circle of persons.

Thus, media freedom is a set of rights in relation to all types of activity with the information in the media space: its free search, receipt, transfer, production, distribution on a lawful basis by any lawful means complying with the restrictions established in accordance with the Constitution of the Russian Federation in order to protect the rights and legitimate interests of others.

The notion of the "information freedom" should be considered as a broad concept in relation to the notion of the "information freedom", as it includes the right to information, speech freedom, mass information freedom, press freedom, and information dissemination freedom through the technical and technological processes. At the same time, the terms "media freedom" and "mass information freedom" can be used as synonyms.

In the rule-of-law state, the media freedom is recognized at the legislative level,

and implemented and provided through the effective remedies. Today, there are various kinds of problems in the media field in Russia and abroad with all the efforts of the international community to ensure the right to freedom of thought, speech.

One of the most important is the problem of improving the mechanism of legal protection against media freedom abuse, which is actualized by the emergence and development of qualitatively new mass media relations based on the development of information and telecommunications networks, the presence of various threats to information security and other social deviations that negatively affect the provision and implementation of the principle of mass information freedom.

The Republic of Tatarstan, as a subject of the Russian Federation, is positioned in the media space as a region in which legal mechanisms for ensuring the principle of media freedom are developed, including the protection mechanisms against media freedom abuse. So, it is revealed: the facts of the unfair information dissemination due to the lack of fact-checking practice (54% of the texts studied), the incompetence of journalists (46% of the texts studied); the placement of unreliable, unverified information on the interethnic problems, leading to the imbalance of social processes (unilateral presentation of the problem - up to 38% of the texts studied, violation of the tolerance principle); the facts of accusations against the state and the state institutions, not supported by reliable evidence and facts, or insufficiently substantiated.

The legal analysis of publications shows that such materials are most often found in the electronic media, which is partly due to imperfect mechanisms of technological control of communication. The second reason proves the complexity of legal regulation of these processes, since the law does not stipulate the sufficiently effective legal means of protection against media freedom abuse, which harm the personal and national security of society and the state. Along with this, the journalistic community and the consumers of media products express confidence that the laws in the field of mass communications are able to protect against media freedom abuse, as they are included in a set of ethical and legal measures that are presented both on a legal and ethical level - press self-regulation.

DISCUSSION

Media freedom is considered as a social benefit, providing the transmission of socially significant information and public control over the activities of state institutions and civil society. Therefore, in the process of implementing media freedom, it is important to observe the limits established by the law, not aimed at restricting media freedom, but at preventing unlawful arbitrariness of the persons using the media as a means to inflict harm.

According to Marx (year), the press law as "*the real law*... expresses the positive being of freedom", he defines freedom as a *normal* state of press and comes into conflict only with the press misdemeanors as an exception that destroys itself (Malinovsky, 1995). The media freedom abuse is the "press misdemeanor", which harms the very media freedom. The Media Law establishes and ensures the implementation of media freedom, fights against media abuse as an offense directed against media freedom itself.

An important aspect of media freedom is the information security, in particular, the protection of vital interests of citizens, society and the state in the field of mass communications from illegal information, ensuring security in understanding the lack of threat and harmlessness of information. The information security is necessary for the observance and implementation of the constitutional rights and freedoms of a person and citizen to search, receive, transfer, produce and disseminate the objective information (Marx & Engels, 1955).

The legal protection mechanism is based on the principle of inadmissibility of media freedom abuse. In turn, this principle follows from this general legal principle and further formulates special requirements for the media and non-media persons. Based on the analysis of the international and national regulatory framework, it is noted that in general terms the principle of inadmissibility of media freedom abuse is defined in Art. 19 of the 1966 International Covenant on Civil and Political Rights, Art. 10 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms (Doroshchuk, 2013), the 1993 Constitution of the Russian Federation, the Art. 4 of the Media Law make a detailed disclosure of the content of this principle (The Constitution of the Russian Federation, 2014).

This question is the subject of research by a number of authors (Briggs, 2013; Patching, 2014) which emphasize that the aspect necessary in the law enforcement is the existence of an effective mechanism to ensure and protect the principle of mass media freedom (Shaw, 2012).

The most important feature of the mechanism for implementing media freedom is the institutional and integrated approach to solving this problem. There is a system of public authorities, local government and civil society institutions that provide legal protection of interests against media freedom abuse on the territory of the Russian Federation. Along with this, it is also stipulated the legal self-protection of interests.

The Media Law defines the content of the principle of inadmissibility of mass information freedom abuse. The federal executive body, in particular, the Ministry of Digital Development, Communications and Mass Communications of the Russian Federation (Mincomsvyaz of Russia) carries out the functions on development and implementation of the policies and legal regulation in the field of information technology, mass communications and media, including electronic

(including the development of the Internet, TV (including digital) broadcasting and radio broadcasting systems and new technologies in these areas), printing, publishing activity, personal data processing, as well as in the field of protecting children from the information that is harmful to their health and (or) development.

Roscomnadzor refers to the subordinate body of the Mincomsvyaz of Russia, which exercises control and supervisory functions against offenders. It controls and supervises the media field, including electronic and mass communications, information technologies and communications, the personal data field, as well as organizes the activities of the radio frequency service. The department has a "hot line", the number of reports about banned information on the Internet is growing.

An important place in the mechanism of legal protection of rights in the field of mass communications is occupied by such institutions of civil society as the professional communities of journalists, lawyers, mediators, human rights organizations, etc.

Despite the existence of relevant institutions acting as the elements of protection mechanism against abuse, the interests of our citizens and representatives of the authorities cannot be protected against media freedom abuse committed by foreign media. The mechanism of legal protection cannot be put into effect without the introduction and entry into force of the relevant law.

CONCLUSIONS

As the research result, we determined the conditions and factors that prevented the implementation of protection against media freedom abuse, concerning the legal and ethical aspects:

- the absence in the mass consciousness of a setting for observing media freedom within the framework of legal norms and ethical principles; according to the interview results, the ideas of independence, autonomy of the individual, as well as independence and autonomy of the media, have firmly entrenched in the minds of the information consumers and journalists, that does not imply personal responsibility for their beliefs and deeds, social responsibility for low-quality information in mass media, in 60% of cases;

- the trend of increasing the role of tolerance, including ethnic, and the simultaneous movement towards the pretentiousness of the information submitted, disinformation, fake news, with the prevalence of the effect of immediate success (including financial);

- continuing stratification of society into the poor and the rich, which becomes an obstacle to the solidarity of the rich with the poor, as well as the harmonious socialization of the younger generation, as a result - the inflections of the media information policy, manifested in the publication of unverified information,

concealment of facts, suppression of actual information; as a consequence - the decline of public confidence, which forms public opinion, expressing extreme dissatisfaction with the activities of journalists;

- the lack of clear and justified national idea at the state level in Russia does not contribute to the formation of clear ideas for the media that can solid ate different segments of the population with all their real regional, ethnic, confessional and other differences, because the Russian Federation is a multinational and a poly-confessional power;

- ineptness of reflecting in the media various objective contradictions that inevitably arise between ethnic groups living in Russia (and on the territory of the Republic of Tatarstan), which leads to such phenomena as interethnic tension, psychological tension, pronounced intercultural conflict, broadcast of media images of hostility, enmity language;

- opposition of two journalisms: tolerant, humanistic, uniting people, and negative, inhumane ethnic journalism;

- creation of mass media in case of media freedom abuse in a society of frequent stressful situations, which provoke growing tension in the society.

SUMMARY

The conducted research has shown that the following elements are extremely important in the mechanism of legal and ethical protection: legal framework, functioning system of state bodies and civil society institutions, legal remedies, self-regulation of professional activities of a journalist, which allows confronting an incompetent and unprofessional media stream. The effective legal protection against mass information freedom abuse can be ensured under the following conditions: 1) the legal framework affirms the positive essence of media freedom, is not aimed at limiting this freedom and provides punishment for the media freedom abuse; 2) the system of government bodies and civil society institutions, following the basic legal principles, provides comprehensive media freedom, limiting the mass information freedom abuse and prosecuting offenders.

ACKNOWLEDGEMENTS

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

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