

Editorial

JUDGES AND MEDIA CAN SHOW A COMMON INTEREST IN CENTRAL ASIA

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In Central Asia, debates on media law and justice for media very often present new laws as a necessity, which projects are being discussed between specialists. Too little attention is paid on the understanding of the already existing texts.

Not long ago, in Tashkent, a professor of Law at the local university asked a small demand to the Ministry of Foreign Affairs of the Republic of Uzbekistan. For her course, she needed the list and texts of all the international agreements signed or ratified by the Uzbek government. She could hardly believe the answer the government gave: she was refused access to the documents because they were classified as “state secrets”. It is well known that the provisions on “state secrets” in many country of the CIS (Community of Independent States) are regularly used to deny access to public information, which is theoretically guaranteed in the country’s media laws.

INOFFENSIVE CONTENT

The Government of Uzbekistan also uses the excuse of “state secrets” against the printed press, reminiscent of a Soviet-style censorship, which makes the content of the newspapers totally inoffensive. This political inconsistency is reflected in the legal field. The few cases in 2001 involving the media do not constitute a solid base to build on a jurisprudence that would turn into reality the principles contained in the Uzbek Constitution. This inertia is understandable: as Nadezhda Stepanova writes (see her article in this issue of *Media Insight*), “Who would sue a media

that, as a matter of record, does nothing except deliver eulogies?”.

MORE COMPLEX

Were the media laws be more often used, the country’s judges might show the same lack of logic than the public administration concerning the provisions affecting journalist’s daily work, such as the articles on defamation and slander. As in Kirgizstan, judges may, for example, «consider each lie or mistruth reported about an individual as slander, while not every mistruth or erroneous piece of information is actually slander» (see the article by Tolkunbek Turdubaev). As in Tajikistan, observers may arrive at the conclusion that «the judiciary is incompetent as far as the protection of honour and dignity is concerned. Judges do not practice in this field and there are no experts trained in the higher educational establishments at all» (see the article by Nargis Zakirova). Or observers might consider that the media laws regularly used in the country are not adapted to a relatively independent functioning of the media. They could then, like the Tajik journalist Turko Dikaev (see his opinion piece in this issue) call for an «urgent need» of an «updated law».

However, the reality of the media environment in Central Asia is far more complex than just two

sides opposing each other - the state-owned controlled and repressive structures against and a private media sector fighting for freedom of speech and expression. Beyond the real threats and pressures that hamper or make impossible journalist’s work in Central Asia, the use journalists make of the relative freedom they sometimes enjoy leaves open some important questions about their impression of what freedom of speech means. In Kirgizstan, where countless judicial cases took place against the media last years, Marina Sivasheva (her opinion piece in this issue) considers that, “journalists in Kyrgyzstan lose lawsuits due to their own dilettantism. Still, they blame their ‘failures’ on judges and the undemocratic attitude of the state towards the press”.

Quick to denounce attacks against freedom of press, a majority of journalists, as well as some international organisations active in media support activities, so Marina Sivasheva states, simply ignore the existence of the “Kyrgyz Journalistic Code of Ethics”, which was published in newspapers in July 1997. When applied, the standard provisions of this Code - which include verifying information, no spreading of rumours, respect for the presumption of innocence - may have preserved media from many judicial procedures in the recent past. But, as Sivasheva states, “not a single editor signed the Code or discussed it with their editorial staff”.

Reforms of the media laws in

the Central Asian countries are under constant discussion. Many claim that changing the laws would improve the media. Yet at the same time, some specialists agree that generally the media laws provide a sufficient base for the development of media activities. What appears lacking is the understanding of those laws, as well as the proper functioning of the judicial system that could ensure the implementation of the rule of law. In most political systems, judges and journalists are regularly opposed, given their various functions and interests. But presently, in Central Asia, judges and journalists show a common need: the need for political and social recognition and acceptance of their role; the need for a relative

independence from the political power in order to carry out their task; and the need for a better understanding of their own rights and duties. Today, improvements in the performance of one of these two establishments will contribute to the success of the other. Unfortunately, judges and journalists are rarely invited to the same discussion tables where they could acknowledge their respective needs and improve their mutual understanding. Also, debates on new laws too often concern only restricted circles of specialists. But, as two experts state, “the public acts of drafting and debating media laws must be enacted as a drama, a teaching drama that educates the citizenry in the role that the media can play.

The process must encourage a rise in consciousness about the value and functioning of free speech and its operation in the society”¹. When played together amongst large circles of media, judicial and, if possible, political representatives, such a drama could effectively improve the work conditions of the media: by making the judges sensitive to the public interest in media activities; the politicians aware of the concrete meaning of the access to information; and help journalists to define their own limits of freedom of speech.

¹ Monroe E. Price & Peter Krug, “The Enabling Environment for Free and Independent Media”, Oxford University, December 2000.