
LOW-SKILL JOURNALISM SOMETIMES OPENS DOOR TO PROSECUTION

By Kamil Satkanbayev, journalist, Osh, Kyrgyzstan

The judiciary quote low qualifications of journalists as the main cause of charges recently brought against them. However, journalists themselves, and their lawyers, think that telling the truth in the south of Kyrgyzstan is fraught with litigation and even conviction.

Over the last six months, several criminal cases have been initiated against media people in southern Kyrgyzstan. They were accused of offence to human honour and dignity pursuant to Articles 127 and 128 of the Criminal Code of the Kyrgyz Republic. Charges were brought against Ernis Nurdinov, deputy editor-in-chief of *Jany Muun* (“*New Generation*”) newspaper, and newsmen and human rights activists, Moldosali Ibraimov and Nomanzhan Arkabayev. On May 8 of this year, a lawsuit was filed against Samagan Orozaliyev, part-time correspondent of *Zamana* Studio of the Kyrgyz TV and Radio Company, on an extortion charge.

PRESS WITHOUT EVIDENCE

“Most news people in their actions are guided by rumours rather than hard facts“, said Tamara Temirbayeva, Judge of the Osh Municipal Court. The case of Ernis Nurdinov, deputy editor-in-chief of the *Jany Muun* newspaper, proved that journalism requires solid evidence. Kubanychbek Zholdoshev, director of the Department of Emergency Situations, Construction and Service Lines in the Osh municipal and regional administration, filed an action on 2 May 2001 with the Osh Municipal Court against Ernis Nurdinov demanding protection of his honour and dignity. The plaintiff was not happy with an article published in *Jany Muun* on 27 April 2001. He accused the journalist of libel and insult under the Kyrgyz Media Law, Art. 23, and the Kyrgyz Criminal Code, Art. 127 and 128. The plaintiff demanded a published refutation and claimed compensation for moral damage amounting to 500,000 soms (about US 10,500). The claimed sum was to be transferred to the Abandoned Child House in Osh. The article accused the public servant of frailty and debauch. During a two-month trial, the journalist could not prove his case and on July 17 an amicable settlement was reached after the defendant had promised to publish a refutation in his newspaper. The latter admitted that his evidence was too thin, which is often the case with the local media men. Mr. Ulugbek Miralimov, a member of the Lawyers’ Guild, believes that journalists can profit from their mistakes. “Such things are commonplace in any country. I think that it is a duty of the press to keep a close eye on public figures. Besides, Articles 127 and 128 of the Criminal Code demanding criminal prosecution for libel and insult need to be revised. That would promote the freedom of speech and democratic processes in this country”. “Independent media outlets of Kyrgyzstan are just starting up,” says a private lawyer, Erkin Madumarov. “Under those circumstances, many journalists do not give heed to the importance of gathering hard facts for their article writing. The Nurdinov case was a signal regarding the poor professional skills of the local media people”. A survey conducted by the Osh Media Resource Centre revealed that around 150 people were working in Osh in the media industry, but only 50 of them had a proper background, and almost all of them work in the state-run news agencies. Non-governmental media can boast of merely three properly educated staff. The rest have miscellaneous backgrounds. “Regional media have to recruit people with only the slightest ability to write articles

because of a severe shortage in skilled human resources”, says the manager of DDD Information Commercial Centre, Mamirzhan Shakirov. “It can take three to five, even ten years, before they have acquired the needed expertise”.

A VAGUE LAW

The lawyer Akmat Alagushev, from the international organisation Internews Network, thinks that not all the blame should fall on journalists alone. “Numerous charges reflect the desire of those in power to punish the most stubborn opponents, with an eye to intimidate others. A plaintiff is entitled by law (and many take advantage of that provision to the full) to claim most ridiculous sums for moral damage. For example, Turdakun Usubaliev, a member of the parliament, brought a multimillion charge against *Asaba* newspaper for regular libel and insult of his person. “In our country, many people are unable and unwilling to accept the freedom of thought, speech, or mass media”, says Akmat. “Officials of every stripe and calibre nowadays do not hesitate to turn to judicial power in an attempt to defend their dignity. Their backlash plainly points out to their inability to stand fire and their intolerance towards criticism”. Sometimes, journalists bring to light the incompetence of public servants as it was done in the case of the article “Seven Mistakes of Satybaldiyev the Mayor”, run in the *Jany Muun* newspaper. The article dwelled on the mismanagement of the Osh City Mayor during his tenure. The city boss was accused of ignoring public opinion, intolerance towards criticism, and proclivity towards ruining other peoples’ lives. After publication of the article, the mayor called the author 'on the carpet'. The lawyer from Internews remarked that the same appeals court in Jalal Abad passed entirely different judgements in regard to Moldosali Ibraimov, the convicted human rights activist from Jalal Abad. In spring last year, Judge Kasymbekov from the Suzak District Court filed an action against Mr. Ibraimov for libelling and insulting him in a written article. In June 2000, the court gave Mr. Ibraimov two years of suspended sentence and ordered him to pay 107,000 soms of compensation to the judge. A month later, the regional court confirmed the judgement under which the *Akyikat* newspaper had to pay 100,000 soms. Ibraimov lodged a complaint and the regional court of appeals reduced the amount of compensation to 10,000 soms. The affected judge appealed to the Supreme Court of KR, which recalled the judgement and ordered a new consideration of the case. According to a municipal judge who preferred to stay anonymous, the Law of KR on Legal Action is not perfect. It does not link the size of a compensation sum to the gravity of offence. This uncertainty opens the gate for contradictory judgement. “Sometimes, incompetent judges, rather than the law, itself should be blamed. In addition, bribery remains a standing challenge”.

IMPRISONMENT FOLLOWS CRITICISM

An article entitled “Corruption Grows Under Our Sun” brought human rights warrior and journalist, Nomanzhan Arkabayev, to the pre-trial detention centre of the National Security Service Branch in Osh. A search in the office of Mr. Arkabayev produced leaflets denouncing President Akayev. Director of the Humans Rights Organization “Justice – the Truth”, Ravshan Gapirov, said that the journalist had simply been framed. His article unmasked corrupt officials who had got hold of good plots to build houses upon near the southern presidential premises in the Osh area. According to Mr. Arkabayev, he bought the incriminating evidence for 500 soms from a staff member of the Osh Municipal Administration. His article listed 31 public servants who had obtained such plots for construction. “Apart from some veterans of labour or the Afghan war, most of the people on the list seemed to have acquired the plots through abuse of power or for a graft”, wrote the contributor. The captions under photos in the newspaper read: “The houses built from graft money and stolen loan funds. Such houses continue to pop up every day”. (*Jany Muun* of 22 June 2001). An investigation into the Arkabayev case is not yet over; however, he has been released from custody. It is worth mentioning that President Akayev, in his Comprehensive Development

Framework Programme for the Kyrgyz Republic, recognises the existence of corruption among government officials. On 12 July 2001, speaking on TV, the President made a commitment to fight corruption, but admitted that it would be unlikely to attain its total eradication.

WHAT NEXT?

What can be done if press peoples' ignorance of the law is the main cause of charges brought against them? The first professionally-qualified journalists trained in the south of Kyrgyzstan will arrive next year. How proficient are they? "Four years straight, we have been studying only the history of journalism", complained one student from the Faculty of Journalism, Osh State University. Our instructors, in the main, lean on their own experience stemming from as far back as the '60s and '70s". Uktambek Bakiyev from *Demos Times* agrees: "Many students who had hands-on training at our newspaper more often than not were incapable to write news items. What can one expect of them?" An independent journalist, Ibragim Yusupov, admits that low wages push the media people to write articles for money. In his view, such items often lead to litigation. It appears that the situation with the media is not likely to improve in the coming three to five years. So, media people will have to pull through, relying upon themselves. The director of *Alliance Press News Agency*, Elmurad Jusupaliyev, has been writing for the media for the last 12 years and produced about 100 censurable articles. But, not a single charge was brought against him, nor refutation demanded. "I've never been ambitious and have always only relied on hard information", said Mr. Jusupaliyev.