



Censorship as a Limit Instrumentality of Freedom of Expression

1. What is censorship and how to recognize it?

Bosnian-Herzegovinian media are not free, they are inappropriate for a sovereign European state and society and they are facing many problems today. First and foremost, media are faced with the non-transparency of media ownership and funding. Then, there are economic and political impacts, the problem of privatization of the media and uncertain status of public services, censorship, self-censorship and tabloidization. We also bear witness to numerous influences on journalists and they are often not reflected in direct censorship intervention, but in the awareness of media workers themselves and also of editors about the need to report in a certain way - so the self-censorship is very present in BH media. Since most private-owned media, the editors and the owners are adjusting their editorial policy to whom they want but for this approach there are no prescribed sanctions. However, concrete pressures and influences of individuals influencing censorship and self-censorship are not really easy to prove, but only through the superficial monitoring of media content, especially in election campaign periods, it is quite visible. Censorship and self-censorship are, therefore, only a consequence of the problems that arise in BH media, and only some of their consequences are the collapse of journalism but also the limitation of freedom of expression. Censorship has more meanings and definitions, but perhaps the most concise definition of censorship in journalistic discourse is that "censorship is an attempt to establish control over the public circulation of unacceptable content that has been determined on the basis of a prior qualitative-political assessment that, according to its own criteria, and non-institutional social participants with the aim of forming a narrowed public "(Panić, 2017, 29). It is almost impossible to find a country that will recognize and admit censorship, but also a state that has not made many plans and ways to silence newspaper editions and the media, how to direct but punish them too. It is very important to talk about the subjects of

censorship but also about its purpose. There are two types of censorship in the literature. First of them are *institutional social participants* who have significant institutional power, or possess power through social institutions of power. Social institutions can be defined as institutions legitimized by a broader part of the political community with implicit and explicit obedience. Other group includes *non-institutional social participants*. Among them, we include individuals, groups of people, trade unions and political parties that are not part of the institutions of power. It is also of great importance to mention the purpose of censorship, ie. its target. In one word, the purpose of censorship is control. Expanded, the target and purpose are to prevent the disclosure of opinions and information against the interests of the state, the ruling elites, and the power centers. It is quite clear that it is always a reflection of the political state in the country.

Freedom of expression represents great importance because it is one of the key foundations of democratic society, one of the basic conditions for its progress and development for every person. It is also fundamental and international human right and as such constitutes a fundamental component of a democratic society. The legal framework for the protection of the speech freedom is primarily contained in the B&H Constitution and in the constitutions of the entities, legal regulations and valid international documents that the state should respect. Freedom of expression is guaranteed by the Communications Law of Bosnia and Herzegovina, which defines the broadcasting sector as "a sector that guarantees the protection of freedom of expression and freedom of opinion, respecting the general standards of conduct, non-discrimination, fairness, accuracy and impartiality. In addition to the Communications Law, there is the Law on Public Broadcasting System of BiH, which guarantees the editorial independence and institutional autonomy of the public broadcasting system in BiH. The Constitution of the Republic of Srpska specifically protects the freedom of expression in Article 25, while Article 26 protects the freedom of the press and other means of public information. Particularly important, paragraph 3 of the article explicitly states that "censorship of the press and other of the public announcement is forbidden "(Constitution of Republic of Srpska, Article 26, 3). In this context, it should be emphasized that criminal sanctions for violation of freedom of expression and censorship have been included in the Criminal Law of Republic of Srpska. Article 161 of the Criminal Law

of Republic of Srpska defines that media must not be subject to any form of restriction of freedom of expression and censorship. The article states the following:

Whoever disclaims or restricts the freedom of speech or public release, the establishment of public information institutions, the freedom of the press or other means of public information shall be punished by a fine or imprisonment not exceeding one year. (2) The punishment referred to in paragraph 1 of this Article shall be punished as well as who orders or acts censorship, discourages the journalist or restricts access to information or freedom of disclosure, unless it is a state or official secret.

Article 162 states:

Whoever unlawfully prevents the printing, sale or distribution of books, magazines, newspapers or other printed materials or the production and broadcasting of a radio or television program shall be punished by a fine or imprisonment not exceeding one year.

The legal and constitutional arrangements that regulating the freedom of expression in the media in Bosnia and Herzegovina are thoroughly aligned with the normative acts that protect this freedom in developed democratic societies too. In this context, public information is free and is not subject to censorship. Media legislation is generally good, however, the problem is the inadequate implementation of almost all media related laws in BiH. Media laws offer really satisfactory solutions, however, if they are deeper analyzed, it will be noted that many issues are improperly regulated and in that context, the existing provisions of the law are often interpreted in completely different and often wrong ways. For the sake of journalism, however, we must insist on the consistent law enforcements, but also on the more efficient implementation of all regulatory mechanisms. Maybe, this is the only way to get the desired change in the media sphere.

2. Today, it's harder than ever to be a journalist

In societies such as Bosnia-Herzegovina, which is on its way to democracy, legal frameworks are necessity, and inevitable exemptions from freedom of expression must also be defined

by law. If all the above mentioned are analyzed, there are legal frameworks in Bosnia and Herzegovina that regulate the media system and formally protect the media from unjustified state interference in media content or censorship practices in accordance with the interests of the governing structures, but they do not guarantee that there is no censorship. On the contrary, it exists, and direct and indirect pressures are mainly directed at journalists who most often do not need to report negatively to anyone or anything that is significant to their owners or editors. Also, freedom of expression in Bosnia and Herzegovina is often jeopardized because the profession does not have clear and specific rules as to protect a journalist from inappropriate pressures of owners, editors, or some external factors. Endangering freedom of journalists and media does not impinge on their media independence, but on free access to information and critical thinking, which further jeopardizes the media landscape that is so threatened throughout the region. With the censorship and self-censorship that left us inherited from socialism system, the media have come up with other problems.

The issue of journalistic activity and journalism is generally in a very turbulent period. Journalists exist in very specific conditions today. In addition to the bad economic conditions, they face, pressures from different subjects and bad working conditions and they have a problem today because they have insufficient freedom to report. It is clear that there are very often cases of unacceptable changes in texts by the editor, then there are decisions not to publish texts and contributions, but also censorship and self-censorship. Pressures and attacks have different forms. Journalist of Internet portal Sarajevo-x, Adis Karadz has presented a personal experience from his journalist engagement in a press media for research *Under pressure - Report on the Situation of Media Freedom in Bosnia and Herzegovina*, where there was direct favoritism of certain or negative relations with other political actors even to the extent that it was not possible to write anything negative about certain politicians while others "were very often displayed in a negative context" and "the orders for attacks on certain politicians came directly from the editor." He also pointed out that there was no way or any effort for journalists to defend themselves from such pressures. All blackmails, whether directs or indirects, expressed threats, but also the whole atmosphere of fear, are the major factor that negatively affects to the Bosnian-Herzegovinian media reality. It is quite clear that there is no absolute media freedom.

Journalists couldn't make a shift from serving to daily politics, current government, and media house owners. To make it easier to understand how much media and journalists are free in Bosnia and Herzegovina, it was taken on the research results from the *Regional Platform for Advocacy of Media Freedom and Journalists Security on the Western Balkan*. The research has shown that the greatest influence on the work of journalists has top editors, then government officials and politicians. We have frequent examples when certain political parties and individuals are given a greater media space. Such privileges are drastically reflected in the creation of a program scheme but also in the confidence of media consumers.

3. More and more journalists are in the service of politics

There are many examples in the region that confirm that there are huge political pressures, especially towards public services. Journalists, loyal to authorities, have much better treatment than those who criticize them. Examples of co-operation between political elites and the media sector are exposing journalists to political and economic pressures. Some of them include threats as well as physical attacks against journalists. Other pressures are latent and include economic but also political pressures on the media, such as limiting budget funds or withdrawing advertising content whose media are financially dependent. According to the *Under Pressure - Report on the Status of Media Freedom in Bosnia and Herzegovina*, journalists meet with pressures of a different kind almost every day, and almost all journalists have experience with certain pressures directed at them or their colleagues. On the other hand, the political elites are increasingly trying to control and manage the media, with one goal: to weaken their critical function but also to move away from problematic social issues. Efforts and controls are being sought through arranging media funding (it especially worths for public services) and setting up a management structure. The inadequately regulated funding system leads to the fact that the contents of the public media are almost equated with the content offered by commercial media companies. It is extremely important that the media distance from the government and the economy, as it can preserve the public sphere but also ensure the achieving the right to information and the right to expression. However, most pressures on the media and

journalists remain hidden from the eyes of the public. It is important to mention that in B&H media, there is more and more self-censorship cases, which, according to many considerations, is significantly more vulnerable to journalism than censorship itself. We can explain it as a limitation of the freedom of media and public expression of own will. Reasons why journalists are subject to self-censorship are mainly the pressures of authorities or strong interest groups, than due to the influence of political and other social circumstances and the fear of the consequences of true and complete writing and editing, either because of special career or material reasons. It is reflected in the deliberate release of important facts or opinions, and even without formal censorship, they avoid topics that might be undesirable to the authorities or are treated unilaterally so that these authorities are satisfied with the news and content. Self-censorship in BH media is becoming more and more visible, and with a position of professionalism and social responsibility, it is the biggest problem that crumbles the integrity of BiH journalism. Journalists often justify that fact by existence, and the worst fact is that it is growing rapidly. It can be concluded that direct censorship is much less present, in the way that editors receive direct instruction from ruling parties, but it manifests itself much more subtle. So we have examples when journalists get the task of the institution to write the text that has been already written. Journalists are essentially used to sign the text because they do not want to mislead to media owners and media owners do not want to blame to the sources of information. Do we ever think of what would happen to a journalist of some BH press (almost all newspapers are so-called political bulletins) that in the paper which is preferred and financially supported (or even kept) by a political option, he writes in a negative context about the same political option or its members? How often do we have the opportunity to listen to or watch contents in the media about corruption, nepotism and party obedience as one of the main criteria for employment? Very rarely. Journalists who write and point directly to social anomalies are exposed to numerous inconveniences, often bringing themselves and their own family into danger, and sometimes they also come to the employer's disfavour. Because of this reason, media content is, to a lesser or greater extent, in the service of the interests of the owners and its connected centers of political power, so the credibility and quality of the media in BiH is significantly compromised. What brought this situation to us? Rreal and cruel issues have been suppressed, the past has been supported on one or another way, we have got silence on crime and criminal activities and bad journalism, bad media and passive media

consumers. Media is increasingly being used as a means of satisfying the interests of powerful individuals and groups, while their primary role in providing public information timely and truthful is reduced to the extent that citizens lose a real and clear picture of the social reality.

4. How to improve the conditions for journalists

In the *Media and Shrinking Space study in Bosnia and Herzegovina* that was published in 2017 and was based on the empirical research of media in BiH, among other things, listed are the main problems with which journalism and journalists in Bosnia and Herzegovina meet today. First and foremost, journalists are doing a lot of stories on a daily basis, they are underpaid and do not have enough time to do the story well and they are often out of all the professional principles of journalism. Media owners, on the other hand, have commercial interests. Journalists are divided by ideological lines (three peoples, three groups of journalists, three truths). Due to the political influences, and therefore the economic, a large number of journalists agree to censorship and self-censorship, afraid of losing their jobs or having some sort of financial sanctions. However, in this context, the biggest problem is the interdependence of all these issues. It is very easy to explain this situation. Namely, if the editor / owner needs a story written and published in a certain way and the journalist refuses to do that on requested way because it is not in line with professional journalistic standards, the editor / owner will find someone else who will do it as he/she requests (a significant part of the media does not seek professionals but only a cheap work force). In this context, it is clear that media owners in Bosnia and Herzegovina possess a monopoly, and journalists often (because of the specific conditions in which they work) are giving up of professional standards because of their demands, destroying the successes of true journalists who are struggling hard to freedom of speech and thought. It is evident that the Bosnian-Herzegovinian media has experienced serious devastation in the last twenty years, which left a deep clue, mostly in a qualitative sense. Some of the solutions for improving of the conditions for journalists are: the Media Ombudsman, investigations and legal proceedings of all cases of threatening journalists' safety, the professionalism of the judiciary, the efficient and timely responses of the institutions to attacks, but also of self-regulation.

4.1. Self-regulation - one of the options?

The idea of self-regulation was born in Sweden almost a century ago. The idea is actually symbiosis between the media that need to set standards of authority, which should not be interfered in the media and citizens freedom who want to have reliable media. Views and understanding of self-regulation varies from culture to culture. In closed or transitional societies, this issue is still at the level of advocacy, and the functions of self-regulation are primarily understood and defined as the protection of the media from political censorship, economic dependence and judicial processes. The others see self-regulation as an educational tool for both journalists and the media audience. In the context of journalists, self-regulation involves high professional standards, and for the media audience, a high degree of media literacy. First of all, by promoting standards, self-regulation helps maintain the credibility of the media in public. This is particularly desirable in young democracies where independent journalism is just a new term. Thus, in Bosnia and Herzegovina, when we have hyper-production of media content, a situation where many new players appear on the media market, the state is often unable to offer an adequate legislative framework in time. That is why self-regulation in response to a lack of legal norms and the establishment of minimum rules is better than the absence of regulation. Furthermore, self-regulatory acts can often serve as a good basis for amending the regulatory framework, since they are precisely pointing to problems by the participants themselves in the media market. Self-regulation is a very important factor in the media regulation model advocated by the EU. It involves a high level of co-operation between all factors: the media, regulatory bodies, the state, professional representatives and civic associations. It would present the common effort of media professionals to establish voluntary editorial guidelines, and thus the media would accept their part of the responsibility for public speaking quality. Finally, we will explain why self-regulation is good and why would it just improve and make it easier the work of journalists. The introduction of self-regulatory documents into media houses in Bosnia and Herzegovina would significantly reduce the possibility of misuse of public media spheres from pressures of all kinds. Along with numerous other initiatives, such as encouraging media literacy, self-regulation instruments can significantly contribute to pluralism, liberalization, diversity and the improvement of media content. The key issue is to improve the quality of the media and self-regulation is a way that is easy to apply. It is of

great importance to find methods that will last long to solve the underlying problem - independent and responsible media.

4.2. Conclusions and suggestions

- Despite numerous laws, the media in Bosnia and Herzegovina are not free and they are faced with numerous problems.
- Censorship and self-censorship seek to control media and media content.
- Freedom of expression is guaranteed by law, but law enforcement is inconsistent. The Criminal Law of the Republic of Srpska, sanctions those subjects that deprive the freedom of speech but also order or enforce censorship by money but also by deprivation of liberty. These sanctions may be tough and heavy, but analyzing the media image that becomes worse and worse every day, the desire is that the Federation of BiH goes in the same way.
- Political elites are increasingly dominating media and media content.
- The media financing system is inadequately arranged - the media is a „fertile ground“ for censorship and self-censorship.
- The solution may be: legal proceedings in cases of threatening journalists' safety, the professionalism of judicial bodies, the media Ombudsman, self-regulation.
- Self-regulation should include: media, regulatory bodies, states, professional representatives, civic associations.

Conclusion

In the contemporary context, preserving the right to information is a big challenge. Journalists who carry out their work professionally, conscientiously and responsibly are left to themselves and most often do not have the protection of the competent bodies. The public has the right to know what is happening in society and all public persons and public bodies are obliged to respect this right, but also to help journalists that they objectively and fairly inform the public. Social media responsibility suggests that the state should give up in setting of any restrictions on media activity. Nevertheless, the state is obliged to protect the highest values, so in this context it must curb the power of the media and also find a way to set the restrictions. The solution is that certain limitations should be proposed by those to

whom it will relate. In any case, the media need to be professionalized and draw under the control of each type.

Some authors believe that the most effective way to leave the media is to self-regulate. Media self-regulation is a generally accepted model that defines relationships in journalism, respects the application of professional standards and ethical principles. If we want "healthy media", we must also have a healthy media environment: functional legal regulation, a high level of educated journalists, their economic stability and independence. Today, we often hear in Bosnia and Herzegovina that journalism is in crisis. It is nothing more in crisis than society as a whole. Whether we like it or not, the media are just the mirror of the society in which they exist.

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