

Hearings for hearing...cenzura morum?

RESEARCH UPDATE

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(with comments by head of the General Department for Information and Press of the Presidential Administration Serhiy Vasyliiev, and member of the National TV and radio Broadcasting Council Vitaly Shevchenko.

Article 15 of the Constitution of Ukraine is short and clear: "Censorship is prohibited". Ukrainian reality is not that clear about that. Though censorship in Ukraine is prohibited, there are a number of modifications of it: self-censorship, administrative censorship, political censorship. Today, in a certain way, censorship exists in the Roman sense of the statement "cenzura morum" – censorship of habits, ways and institutions that have set an "official" beginning to censorship. Ways of censorship and their mechanisms define the attitudes to the phenomenon in the society.

"Cenzura morum"

The presence of censorship in Ukrainian mass media has been recognized by politicians, media professionals and ordinary Ukrainians. The issue of censorship, particularly its political version, has been repeatedly discussed at all levels. The level of awareness of the problem among citizens could be measured by opinion polls. Yet, it is enough to just watch TV or read some major newspapers to see that the same events presented by different TV news programs and publications are commented in a very similar way by a few same individuals, and that interpretations are almost identical.

"It would be simply blasphemy if I denied the fact of this problem in Ukraine," said Speaker of the parliament Volodymyr Lytvyn in October, answering a journalist's question. There are quite a few other quotes of that kind. For instance, head of the National Union of Journalists Ihor Lubchenko believes there is so-called "censorship of a bullet", when "the fear is becoming increasingly important distinguishing feature of behavior of journalists in this country." However, in addition to fear and administrative censorship, there is something described by leader of the journalists' independent trade union, Andriy Shevchenko, at the recent parliamentary hearings on "The Society, Media, Government: Freedom of Speech and Censorship in Ukraine": "before we were told what we could not say. Now we are told what we must say. The government calls that an information war. We believe that is a war against [our] profession."

According to an opinion poll conducted by the "Ukrainian Democratic Circle" (1,000 respondents, October 2002), published in *Zerkalo Nedeli* on December 7, 2002, 43 percent of the respondents fully agreed with the statement that "In Ukraine there is political censorship in news programs, at TV and in the press", 25 percent partly agreed, 7 percent "rather disagreed" and 11 percent disagreed with the statement. Opinion polls show a high level of awareness of the problem of censorship among journalists and experts. The studies show that censorship is perceived by the majority of respondents unequivocally as a problem, not as interpretations of reality in the interests of specific political forces. Meanwhile, "fighting censorship" still remains a good issue that can be used by various politicians for boosting their own fading images. That kind of image-hungry parasitism on issues like fighting censorship, corruption, crime, "enemies", NATO enlargement etc. is not unusual for the Ukrainian political elite.

The use of the issue of fighting censorship for political purposes contains a risk that important actions will be substituted with political slogans and seen by a broader society as competition between different power-hungry political groups. The perception of existence of such competition allows the owners of the censorship network to claim that the very issue of censorship is artificially created and politicized by "grant-seekers" and interpret the developments only as elements of political struggle. Paradoxically, the shift of the issue of political censorship only to the sphere of political competition distorts the reality of relations between the media and the state and reduces the role of the media to that of propaganda and exchange of signals between opposite political forces.

Background and Current Setting

The general division into state-owned, private and public media has its own specific features in Ukraine. Although

the state may not formally be listed among founders of a specific media outlet, the influence of state agencies and politicians on media owners makes the state machine able to influence and/or control effectively almost all of Ukraine's media, influence the processes of shaping public opinion, and manage the information flow. The media are interesting objects for political-financial interest groups not because they may be profit-making business (which is not that easy in Ukraine) but a tool of political influence. As most of privately owned media are largely controlled by the state, they cannot even dream about being in opposition to it. Because the state interference in all spheres is so strong, the media cannot be truly free, even though censorship is pronounced illegal. Ukrainian journalism today suffers from the same problems, as the Ukrainian society and Ukrainian economy.

Introduction to the Hearings

The trigger that led to the initiation of the recent parliamentary hearings on censorship was the dissemination of s-called "temniks" on news editors' desks. The brief notes without signatures instructed what and in what light should be covered by the news programs. It is generally believed that the author of the "temniks" was head of the general Department of Information and Press of the Presidential Administration, Serhiy Vasyliiev. Mr. Vasyliiev, however, has argued that "the issue of "temniks" is artificial and invented". In a recent interview to the "Hromadske Radio" he claimed he had never had a "temnik" in his hands and that the situation had been invented and modeled by the persons who had been first to publicly disclose the papers. As it was suggested by the context, the person was head of the Parliamentary Committee for Freedom of Speech and Information Mykola Tomenko.

Yet, numerous efforts of content analysis of news programs show striking similarities between the news and the "temniks". As Andriy Shevchenko announced in the parliament during the hearings, "a fax arrived straight to the Novyi Kanal newsroom, in which an anonymous adviser recommended that the news said: the parade at the Khreshchatyk had been run at a European level... in the evening, all news channels I watched said word by word about the parade at the European level." Similarly, almost the same words were used by different TV channels for covering the actions of the political opposition before September 16. For instance, for a few days in a row the news programs quoted statements of regional or national conferences of representatives of state authorities, local self-governance bodies and "the public", organized by the presidential administration. The same faces and quotes toured the channels, condemning the opposition, for almost a week.

One of the factors that contributed to the hearings was growing consolidation of journalists – unprecedented for Ukraine. A new trade union of journalists has been formed, joint statements have been signed, and regional independent trade unions of journalists have emerged.

However, the "Temniks" project is deeper and broader than it is interpreted now. It may be compared to efforts of Russian political technologists to set up single information massifs and public opinion-forming. The authors of Ukrainian "temniks", though chose a rather weird mechanism for "cooperation" with the media: their "newsmakership" and "news production" went far beyond simple influence on the media's editorial policy (that is also not defined in Ukraine). The efforts resemble "newsmakership" of the time of Brezhnev's stagnation and "the party's general line" that can inspire nothing but rejection. The relapse to the 20-year-old style is characteristic of both the authorities and the media, and show the level of professionalism of both of them. If the current attitudes among the government and the media owners remain, the "temniks" may be substituted with other information manipulation and opinion-shaping techniques that will reduce the role of the media to that of voiceless dummies.

In that sense the recent parliamentary hearings, regardless of their procedure and documents they approved, may be seen as a healthy reaction of journalists, politicians and a broader society to the perverse situation in the Ukrainian information environment. The fact that the recent hearings were the fourth in the line of hearings on the same issue, shows that the situation is not new...

Previous hearings

The first parliamentary hearings on media freedom, "Freedom of Speech in Ukraine: Status, problems, Prospects", took place in April 1997. The documents, adopted by the hearings, mentioned the problems of censorship, probably, for the first time. The positive fact was that the parliament officially addresses serious problems in the Ukrainian media law and its implementation: "... there are instances of overt ignoring and violation of the law, including [violations] by bodies of the state executive power... There is censorship (open and hidden) that is aimed not at

protection of fundamental state interests, but protection of interests and image of specific political forces and politicians ... there are increasingly many facts of persecution of journalists for their professional and creative activities, attacks on them and their property,” – read the “Recommendations of Participants of the First parliamentary Hearings in the Verkhovna Rada of Ukraine on Issues of Freedom of Speech in Ukraine” (April 10, 1997).

Later on, some decrees of the head of the state (for instance, on the establishment of the National TV and Radio broadcasting Council) were brought to agreement with the media legislation, as the parliamentary hearings recommended. While the document of the hearings argued that the legal provisions for media freedom and access to information were “insufficient and contradictory”, the “improvement of provisions and norms” has never been done in full. Although Ukrainian media relations are regulated by almost 240 laws, decrees and resolutions and are formally liberal, some of the problems (for instance, the maximum amount of compensation that an “offended” object of a publication can demand from the media through court) have not been solved. In 1997, according to then head of the parliamentary committee for freedom of speech, now head of the State Committee for Information, Ivan Chyzh, the total amount of compensation, claimed from journalists and media outlets, reached UAH 90 billion, and the courts did make journalists pay UAH 1.5 million for defamation.

A number of recommendations of the hearings remain worth as much as the paper they are written on. After September 16, 2000, when Georgy Gongadze was kidnapped, there is little value in the parliament’s order to the Ministry of the Interior, the Security Service of Ukraine to make sure that “ensuring freedom of activities of media and journalists, protecting them from moral terror, acts of violence, other persecution are seen by participants of these hearings as an element of national security.”

Even before the second parliamentary hearings, “Information Policy of Ukraine: Status and Prospects” (May 1999) the existence of “political censorship” was recognized in official documents, and a number of cases of persecution of opposition journalists by the authorities had been reported. “...In Ukraine, with the involvement of bodies of executive power, as well as of the Office of Attorney General and some courts there is an increasingly frequent practice of persecution of opposition and other critically minded, towards bodies of executive branch, mass media, their managers... In different ways, political censorship is, in fact, practiced,” stated the parliamentary resolution, “On Activities of the Cabinet of Ministers of Ukraine, other bodies of state power for ensuring freedom of speech, satisfaction of information needs of the society and development of the information sphere in Ukraine” (February 16, 1999). The resolution was one of key documents discussed at the three-day parliamentary hearings on the freedom of speech in April 1999. According to most of the speakers at the hearings, then the state’s information policy was based mainly on “the telephone right and the editor’s scissors”. The problem of limiting the amount of compensation that could be demanded from the media on charges of defamation was particularly relevant in the light of several high-profile cases. The total amount of 2,258 claims to the media made that year exceeded the size of the national budget of Ukraine almost three times. However, notwithstanding the hearings and new draft bills designed to improve the situation, little progress was achieved.

The third parliamentary hearings on media freedom, “Problems of Information Activity, freedom of Speech, the Observance of Legitimacy and the Status of Information Security of Ukraine”, took place in January 2002. the hearings mainly pointed out to facts of “deviation from democratic development” and stressed increasingly frequent “usage of the most influential mass media for disorientation of the population about the situation in the state, imposing political views, manipulation of public opinion”, when “the state-owned media were in fact transformed into tools of political struggle”. The above lines are from the resolution approved by participants of the hearings, focused on the disappearance of Georgy Gongadze and repressions organized by the Ukrainian authorities against the media. However, apart from statements of generally known facts, the hearings produced no result. Yet another evidence of the lack of progress was the decision to call the new parliamentary hearings on December 4.

Probably, for the first time the problems of censorship were discussed in the parliament not just by MPs but also by journalists. It was stressed that as most of Ukrainian media and information laws were adopted before mid-1996, when the new Constitution was approved, the media legislation reflected realities of the early 1990s and overlooked a number of issues in relations between media owners and journalists, and lacked mechanisms of enforcing declarations of media freedom. However, the main result of the hearings was probably the chance to raise the issue that is likely to develop into something more than simply “letting out the steam”.