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**Karol Jakubowicz**

Freedom of Speech in Poland:  
An Evolving Concept

**Sergei Korkonossenko**

The "New Politicization" of Russian Journalism

*Devoted to UNESCO seminar on Promoting  
Independent and Pluralistic Media  
Sofia, September 1997*

# Contents / Sommaire

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## ESSAY

## ESSAI

**Claude-Jean Bertrand**  
La déontologie des médias

## ARTICLES

## ARTICLES

**Karol Jakubowicz**  
Freedom of Speech in Poland:  
An Evolving Concept

**Sergei Korkonossenko**  
The “New Politicization” of Russian Journalism

**Richard Shafer**  
The Press and the Preservation of Yugoslavia Before  
1990: TANJUG’s Leadership of the Non-Aligned News  
Agencies Pool

**Christopher Bennet**  
Media in Bosnia and Herzegovina: How International  
Support Can Be More Effective

## VARIA

## VARIA

**M. Coulomb-Gully**  
L’Humour politico-cathodique russe  
Kouklis et Guignols: a chacun sa marionnette

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Summary / Sommaire

ESSAY / ESSAI

**Claude-Jean Bertrand**

La déontologie des médias

5

ARTICLES

**Karol Jakubowicz**

Freedom of Speech in Poland:  
An Evolving Concept

35

**Sergei Korkonossenko**

The “New Politicization” of Russian Journalism

57

**Richard Shafer**

The Press and the Preservation of Yugoslavia  
Before 1990: TANJUG’s Leadership of the Non-  
Aligned News Agencies Pool

67

**Christopher Bennet**

Media in Bosnia and Herzegovina: How  
International Support Can Be More Effective

87

VARIA

**M. Coulomb-Gully**

L’Humour politico-cathodique russe  
Kouklis et Guignols: a chacun sa marionnette

97

ESSAY

ESSAI

# La Déontologie des Médias

PAR CLAUDE-JEAN BERTRAND

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## Pourquoi maintenant?

**I**l fut un temps où, quand on évoquait la déontologie, les professionnels des médias réagissaient par un silence dédaigneux ou une réplique rageuse. Aujourd'hui ils sont de plus en plus nombreux à s'y intéresser. Ils le manifestent par des livres, des éditoriaux et des articles de quotidiens, des numéros spéciaux de revues professionnelles, des émissions de radiotélévision, des collo-

ques et des ateliers, des commissions d'étude et des sondages. Pourquoi?

Quand on pose la question à des journalistes européens<sup>1</sup>, leurs réponses varient: un effet des progrès technologiques; la concentration de la propriété; la croissante commercialisation des médias; le mélange d'information et de publicité; une aggravation de l'inexactitude de l'information; le faux „charnier“ de Timisoara et

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la Guerre du Golfe; de graves atteintes à la morale professionnelle par certains journalistes (violations de la vie privée, en particulier par la presse populaire); une baisse de la crédibilité et du prestige de la profession; le rôle abusif des médias dans une crise politique; des liens inacceptables entre médias et gouvernement; la menace de restrictions légales à la liberté de presse; le réveil des organisations de journalistes; une réaction au laissez-faire des années 80; la violence et les reality-shows à la télévision.

Les principaux paraissent être au nombre d'une demi-douzaine. D'abord, l'élévation du niveau intellectuel du public le rend plus exigeant et plus militant. Plus de gens comprennent l'importance de bons services médiatiques; l'inadaptation au monde moderne de la conception traditionnelle de l'information. Et ils prennent conscience qu'eux, les usagers, peuvent et doivent faire quelque chose.

Les journalistes possèdent un meilleur niveau d'éducation. Ils sont plus nombreux à désirer remplir leurs fonctions convenablement et à souhaiter un plus grand prestige social. Dans cette quête, le plus grand nombre supporte mal de pâtir des fautes d'une minorité.

La médiocrité des médias fait du tort à ceux-là mêmes qui en sont responsables. Presque partout, les propriétaires voient baisser la diffusion des journaux et le temps passé devant le petit écran. Les annonceurs également tiennent à la crédibilité du média où ils placent leur réclame. En outre, on constate, depuis quelques années, chez les hommes d'affaires en général, un souci des effets causés par les produits qu'ils mettent sur le marché, et aussi la conscience que la qualité paye.

La technologie, tant par ses bons que par ses mauvais effets, a été un promoteur de la déontologie. Elle démocratise les médias mais, dans le même temps, elle provoque la distorsion : le reporter sur le terrain s'adresse en direct au téléspectateur, sans délai de réflexion. Enfin la technologie rend plus facile de manipuler l'information, de truquer les images notamment.

Leur commercialisation croissante rend les médias plus sensibles à l'opinion publique - mais elle multiplie les raisons de déformer l'information ou de vulgariser le divertissement - et de mélanger les deux. On constate d'ailleurs la multiplication des professionnels de la persuasion: publicitaires / attachés de presse / „consul-

tants médias“/ experts électoraux.

Enfin, l'écroulement de l'URSS a participé au changement. En mettant fin au mythe de la solution étatique aux problèmes des médias, elle a redonné vigueur à la déontologie, seule stratégie acceptable contre l'exploitation des médias par les puissances économiques. De surcroît, la déontologie souffrait d'être parfois associée à la propagande communiste, emplie de nobles dénonciations (du racisme, de l'impérialisme) et de belles déclarations (sur la paix, le développement) - qui étaient reprises par les gouvernements des pays „non-alignés“ et, dans les nations démocratiques, par divers marxistes universitaires.

### Marché, droit et déontologie

**L** E MARCHÉ. - L'expérience soviétique l'a prouvé: la liberté d'entreprise est nécessaire à la liberté d'informer et de débattre. On le voyait en France quand la télévision dépendait entièrement de l'Etat. En fait, c'est l'absence de concurrence qui entraîne la médiocrité des médias. On le voit aux Etats-Unis où la télévision est presque entièrement livrée au marché. On ne peut admettre qu'une poignée de sociétés s'emparent d'un service public crucial pour

l'exploiter dans un but seulement lucratif; ni admettre qu'elles prétextent, pour repousser toute réglementation, que la presse-institution doit être totalement libre.

Le „marché“ ne peut suffire à garantir une bonne communication sociale. Au mieux, il permet à une majorité de s'exprimer. Au pire, les médias se placent au service de la minorité fortunée, d'une part: et d'autre part ils distribuent à une masse indifférenciée ce qui semble lui déplaire le moins. Il a été parfaitement démontré au temps du capitalisme sauvage, dans la seconde moitié du 19ème siècle, qu'en l'absence de réglementation étatique, le monde des affaires ne se soucie nullement de service public, autrement dit, de déontologie.

**LE DROIT.** - Des lois sont nécessaires pour que les médias assurent un service convenable à tous les publics. Par „loi“, il faut entendre des textes votés par le Parlement, des règlements imposés par des agences étatiques, la jurisprudence des tribunaux et les obligations contractuelles (comme les „cahiers des charges“ de sociétés de télévision). Le respect de ces obligations est du ressort de la police, des tribunaux et des commissions de régulation (tel le CSA en

France 2).

La loi intervient d'ordinaire pour empêcher certaines pratiques. Si tout le monde est d'accord sur l'intérêt public d'une mesure, il est naturel d'en faire une loi: contre la diffamation, par exemple, ou l'appel au meurtre. La publicité pour les cigarettes est interdite à la télévision dans de nombreux pays. Mais la loi ne se limite pas aux interdictions: la plupart des nations européennes accordent à leurs citoyens un droit légal de réponse. Beaucoup usent de subventions étatiques afin de contrer la tendance à la concentration dans certains secteurs médiatiques. Les Européens semblent avoir plus peur des milieux d'affaires que des milieux dirigeants.

La loi n'est pas restrictive par nature. Elle peut aider les médias à faire leur travail. La loi suédoise sur la presse donne aux journalistes une exceptionnelle série de garanties: pas de censure, même en temps de guerre / interdiction d'interroger les journalistes sur leurs sources / accès à (presque) toutes les archives officielles / protection très spéciale en cas de procès. Le pouvoir judiciaire, surtout quand il est indépendant, peut contribuer à inciter les médias à faire leur travail convenablement - et peut inter-

prêter des lois restrictives à leur avantage. La Cour européenne des droits de l'homme a confirmé aux journalistes britanniques leur droit de protéger leurs sources, ce que leur déniaient les tribunaux nationaux.

L'attitude des Etasuniens semble absurde: ils refusent toute loi sur la presse (et tout moyen de faire respecter la règle déontologique) - mais soufflent rarement un mot des très grandes restrictions commerciales à la liberté - ou des lois favorables à l'ordre établi et au profit.

Droit et déontologie, les deux domaines ne sont pas nettement distincts. On rencontre rarement dans les codes des interdictions qui sont normalement incluses dans la loi (ne pas attenter à la sûreté de l'Etat), ou le sont souvent (séparer nettement le rédactionnel du publicitaire 3). Les codes citent des devoirs du journaliste qui peuvent lui être imposés par la loi, soit dans tous les pays, soit dans certains seulement.

Le droit de réponse est légal en France, mais pas en Grande-Bretagne ou aux Pays Bas. Le code allemand recommande de ne pas donner les noms ou photos de délinquants mineurs, ce que la loi interdit en d'autres

pays. Aux Etats-Unis, la chaîne CBS exige que les résultats de sondage soient accompagnés de données que la loi en France oblige de donner.

Evidemment, certains actes sont condamnés à la fois par le droit et par la déontologie. Bien des codes exigent pour le journaliste des droits que lui reconnaissent des législations éclairées: le secret professionnel en Allemagne; l'accès aux archives aux Etats-Unis; le droit de refuser des tâches contraires à ses convictions en France. Lois et règlements fixent un cadre à l'intérieur duquel chaque praticien peut choisir entre divers comportements. La déontologie en trace un autre, plus étroit mais laissant encore un choix - qui est fait par l'individu selon ses valeurs personnelles.

Les médias peuvent causer des torts graves sans enfreindre la loi. Des actes autorisés par la loi peuvent être contraires à la déontologie, comme pour un journaliste d'accepter des mains d'un industriel une invitation à des vacances de luxe. Et par contre, il arrive que la déontologie tolère des actes illégaux, comme d'usurper une identité ou de dérober un document pour prouver un scandale qui nuit gravement à l'intérêt général.

Bref, bien qu'il y ait des chevauchements, les deux domaines sont distincts - et il est important qu'ils le restent. Avoir recours à des lois, en matière de presse, comporte toujours des risques. A cela, les raisons ne manquent pas: l'efficacité d'une loi dépend de l'environnement socio-politique<sup>4</sup>: elle peut être diversement utilisée par le pouvoir du jour: le laxisme peut alterner avec un littéralisme museleur. Certains domaines (telle la vie privée) sont si mal définis qu'une loi forcément trop vague, ou trop précise, risque de faire plus de tort que de bien. Certaines attitudes sociales (vis-à-vis de la sexualité, par exemple) évoluent si vite que la loi risque de figer une norme bientôt désuète. Enfin, bien des méfaits se situent en deçà du délit: le tribunal peut punir un acte commis par les médias mais ne peut faire grand chose contre une omission. De toute façon, la machine judiciaire est lente, chère et rébarbative<sup>5</sup>.

## **P**ROFESSION LIBÉRALE ?

La solution viendrait-elle d'un conseil de sages instauré par l'Etat mais indépendant de lui? „J'ai toujours regretté qu'il n'existe pas un ordre des journalistes qui veillerait à défendre la liberté de la profession et les devoirs que cette liberté comporte nécessairement“,

disait Albert Camus<sup>6</sup>. Il vaut mieux en effet que la presse exerce une autodiscipline, dans la mesure du raisonnable. Cet idéal est en harmonie avec le souhait que forment certains praticiens de voir le journalisme classé, comme la médecine et le droit, au rang des professions libérales.

Mais le journalisme n'en est pas une. Pour des raisons diverses. D'abord, il ne se fonde pas sur une science (comportant une théorie globale et un ensemble de connaissances): dans la quasi totalité des pays, le journaliste n'est pas obligé d'obtenir des titres universitaires justifiant la transmission d'un savoir. Et il n'a pas besoin d'une autorisation pour exercer. Il bénéficie rarement du statut de travailleur indépendant<sup>7</sup>. Par ailleurs, comme il n'y a pas rapport direct entre praticien et client, l'Etat ne s'est pas préoccupé de protéger le citoyen en imposant des règles à la presse. Ou en créant des tribunaux particuliers: il n'existe pas d'Ordre des journalistes - sauf en quelques pays latins comme l'Italie où il souffre d'avoir été créé sous Mussolini. Quoiqu'il en soit, l'efficacité des ordres de médecins ou d'avocats est d'ailleurs peu impressionnante. Etant donnée la fonction politique de surveillance et de contestation que doit exercer une

partie des médias, la plupart des professionnels et des observateurs jugent que la déontologie doit être maintenue à l'écart de l'Etat.

### **Morale, déontologie et contrôle de qualité**

**L**A MORALE . - La distinction entre ces trois notions (le nom qu'on leur donne peut varier) est nécessaire mais n'est pas souvent faite. On peut réserver le terme „morale“ pour l'éthique intime de chaque individu, son sens du devoir, fondés sur sa vision personnelle du monde, sur son expérience de la vie. Pour certains, comme J.C. Merrill<sup>8</sup>, c'est la seule restriction admissible à la liberté du journaliste.

**L**A DÉONTOLOGIE . - Elle s'applique au sein d'une profession. C'est souvent une tradition non écrite qui détermine, par consensus, ce qui « se fait » et « ne se fait pas ». Mais dans tous les pays au monde, des organisations corporatives ont jugé utile de rédiger une charte des devoirs des journalistes, quand bien même il est des professionnels qui dénoncent cette tendance.

Le „contrôle de qualité“. - Pour certains, „ morale“ et „déontologie“ ont des connotations rebutantes. Ces termes évo-

quent le sermon ou le cours de philosophie, la BA du boy-scout ou « l'ordre moral » des régimes autoritaires. Et surtout, ils paraissent dénués de pertinence dans un monde où les médias deviennent plus mercantiles sous la pression de la concurrence toujours plus vive.

Le „contrôle de qualité“, concept peu utilisé jusqu'à présent dans le cadre médiatique, a d'abord l'avantage d'être large: il englobe morale, déontologie et aussi les initiatives de la direction des médias visant à mieux satisfaire le public. Il a surtout l'avantage d'être neutre, de pouvoir plaire à tous les protagonistes. Pour les usagers, il évoque un service de valeur. Pour les journalistes, il signifie produit meilleur, crédibilité accrue, donc prestige augmenté. Pour les propriétaires, il évoque les succès commerciaux japonais, donc des profits accrus<sup>9</sup>. Enfin, il évoque l'action, pas le bavardage.

### Valeurs humaines

Droits et devoirs sont inséparables. L'être humain est enclin à réclamer des droits sans évoquer les devoirs qui les accompagnent - surtout de nos jours, surtout en Occident. Or, la déontologie justement se soucie de devoirs. Elle pose que liberté et responsabilité vont de pair.

Comme toute religion ou philosophie, elle formule des règles qui dessinent des limites à la liberté de chacun et qui fixent des obligations à l'individu. Ces règles découlent d'un ensemble de principes moraux. Ces principes, un humain les adopte parce qu'ils correspondent à la vision qu'il/elle a de ses semblables et de l'univers. Et ils correspondent à ses idées de la société et de ses institutions - qui elles-mêmes s'inspirent de ses connaissances.

**V**ALEURS FONDAMENTALES .  
S'il est une valeur sur laquelle tous les humains peuvent se mettre d'accord (sauf peut-être quelques fanatiques), c'est la survie de l'espèce, le sort de la planète. Quelle que soit leur idéologie, qu'ils aient ou non une foi religieuse, ce souci devrait les animer tous. Ils sont menacés, comme ils ne l'ont jamais été auparavant. L'ennemi, ils l'ont découvert: c'est eux-mêmes. Tous doivent se sentir responsables. Il se trouve, par bonheur, qu'ils partagent généralement certaines valeurs, sur lesquelles se fonde la morale sociale: le respect de la vie humaine, le souci de ne nuire à personne inutilement, la promotion de la justice et des droits de l'homme, l'amélioration du sort d'autrui, la démocratie.

Si l'on peut parler de valeurs

universelles, c'est en partie une conséquence de la globalisation commencée au 19<sup>ème</sup> siècle. Mais, aujourd'hui encore, il est des valeurs que certaines cultures traditionnelles n'acceptent pas, comme l'égalité des femmes, la tolérance envers les êtres différents, la vie privée, la démocratie. En contrepartie, certaines de ces cultures ne tolèrent pas non plus l'égoïsme forcené et la jungle sociale de l'Occident. En outre, chaque culture a ses particularités, indépendamment de son stade de développement économique: ainsi la nudité féminine offusque gravement aussi bien en Arabie Saoudite qu'aux Etats-Unis, alors qu'en Europe elle fait partie du décor estival (ou publicitaire).

**L'HERITAGE JUDÉO-GREC.** Dans la plupart des démocraties industrialisées, l'idéologie est originellement d'inspiration judéo-grecque, chrétienne. Résumée en une phrase: l'être humain fait à l'image de Dieu a été souillé par le péché originel. Il est noble et corrompu. Il possède des droits mais il est astreint à des devoirs. Selon que l'accent est sur l'une ou l'autre nature de l'homme, deux traditions existent au sein de la civilisation occidentale, la catholique et la protestante, la latine et l'anglo-américaine, celle du Sud et celle du Nord de l'Europe. La première, plus

autoritaire, met davantage l'accent sur la solidarité du groupe et la stabilité de la société. La seconde, plus libertaire, met l'accent sur l'individu et l'entreprise. C'est cette dernière qui a présidé à l'émergence de la démocratie et de la civilisation industrielle. Parmi ses valeurs, maintenant répandues sur le globe: l'affirmation de l'égalité des hommes, la foi dans le progrès humain, le respect de la loi, du contrat qui fonde la société.

Pour guider le comportement des individus, de grands préceptes moraux ont été formulés au cours des siècles. Ainsi Aristote recommandait de toujours suivre une via media entre deux excès contraires. Pour Kant, chaque être humain possède en lui un sens moral, la détermination de faire ce qui est bien: selon cet « impératif catégorique », un acte moral est un acte qui peut être généralisé. Et pour Stuart Mill, l'utilitariste, on doit toujours rechercher le plus grand bien pour le plus grand nombre.

**LA DÉMOCRATIE.** -De nos jours, une majorité des humains semblent persuadés que le peuple doit dicter sa volonté aux gouvernants et non l'inverse. La démocratie, dont on dit qu'elle serait proprement chrétienne, et même protestante, peut ne pas paraître

compatible avec l'Islam traditionnel, selon lequel la politique dépend de Dieu, dont la volonté est interprétée par des sages. Pas compatible non plus avec le bouddhisme, le confucianisme, l'hindouisme ou le tribalisme. Allégeance absolue à son groupe ethnique, ou respect des castes pour assurer la stabilité sociale, ou loyauté envers les ancêtres, les vieux, les chefs du clan: de telles valeurs ne paraissent pas s'accorder avec la démocratie. C'est oublier que l'Inde est la plus vaste démocratie du monde et le Japon une des deux plus puissantes<sup>11</sup>. Quand on y regarde de plus près, on découvre, par exemple, que pour Confucius il existe deux valeurs de base: le souci de l'autre et l'équité, que le confucianisme est, certes, fondé sur le respect de l'ordre et de la hiérarchie, mais aussi sur le dévouement à la collectivité, la coopération, la courtoisie.

### Liberté d'expression

Tous les Etats du monde ont pour idéal proclamé d'assurer à chacun de leurs citoyens les „droits de l'homme“. Dans la pratique, l'individu ne dispose d'aucun de ces droits s'il ne possède pas l'un d'entre eux: celui de savoir. Tout droit se conquiert, puis se défend sans cesse. Or, dans ce combat, s'il n'est pas informé, l'être humain

est désarmé.

### LA LIBERTÉ DE PRESSE .

**L** La vocation première du professionnel des médias, quelles que soient ses autres fonctions, est d'exercer la liberté de communiquer en vue d'informer les hommes de ses observations du monde alentour. Cette liberté est un de ces droits humains dits absolus parce qu'ils correspondent à des besoins vitaux. Sans communication, il n'y a pas de société, donc pas de survie prolongée de l'individu.

L'instauration d'une dictature, laïque ou théocratique, monarchique ou impériale, militaire ou coloniale, bourgeoise ou prolétarienne, s'accompagne toujours de la suppression de la liberté de parole et de presse. Celle-ci est donc devenue un signe autant qu'un facteur de démocratie. Il n'est pas inutile de le répéter: s'il est vrai qu'il n'y a pas de liberté réelle sans limites, en revanche, il ne peut y avoir de responsabilité sans liberté. Le professionnel a besoin de liberté vis-à-vis de l'Etat, et aussi vis-à-vis des propriétaires. Il a également besoin d'une liberté „économique“: sans un salaire décent, il échappe difficilement à la corruption.

**L**IBERTÉ POSITIVE . „Tout individu a le droit à la lib-

erté d'opinion et d'expression, ce qui implique le droit de ne pas être inquiété pour ses opinions et celui de chercher, de recevoir et de répandre, sans considération de frontière, les informations et les idées par quelque moyen d'expression que ce soit": c'est là l'article 19 de la Déclaration internationale des droits de l'homme, votée par l'ONU en 1948.

En fait, la technologie de la fin du 19ème siècle et ensuite l'électronique ont provoqué une expansion formidable des médias et celle-ci a requis une révolution conceptuelle. Pendant des siècles, la „liberté de la presse“ a bien été conçue comme un droit de chaque citoyen. Et elle a été réelle tant qu'il a suffi d'une faible somme pour publier un périodique. Puis les coûts augmentant, cette liberté est devenue négative: parmi plusieurs journaux, le citoyen pouvait écarter ceux qui ne répondaient pas à ses besoins ou présentaient du monde une vision différente de la sienne. Depuis 1945 au moins, dans la plupart des villes le nombre des journaux s'est réduit à un. Il faut des dizaines de millions de francs pour lancer un quotidien d'information. En conséquence, la „liberté de la presse“ est devenue, non plus un droit du citoyen, mais un privilège de ploutocrate ou de gouvernants.

C'est pourquoi une conception nouvelle a émergé.

Elle est apparue particulièrement dans les démocraties scandinaves et anglo-saxonnes où existent tout à la fois un consensus sur les valeurs nationales, l'usage que les partis alternent au pouvoir et, pour la presse, une tradition de liberté et de raisonnable agresseivité. Autrement dit, des nations où l'opposition, qu'elle soit partisane ou journalistique, est intégrée dans la vie politique.

On s'est mis à définir la liberté de presse, non plus simplement comme la négation de la censure politique, ou même de toute censure, mais comme l'affirmation d'une tâche à remplir: satisfaire le droit à l'information de chaque citoyen. Le droit d'être informé bien. Et aussi le droit d'informer, c'est à dire d'avoir accès aux médias.

### **Le droit à la communication**

La liberté de parole et de presse ne saurait rester une absence d'interdiction, qui profite seulement à une infime minorité<sup>12</sup>. Elle doit se transformer en droit de communiquer, pour tous. Jerome Barron, juriste étatsunien, déduit de la prohibition de toute censure (contenue dans le Premier amendement de la constitution) l'existence d'un

droit d'accès des citoyens aux médias: à quoi sert, en effet, la liberté de s'exprimer si on ne peut pas se faire entendre? Mais édicter un accès aux médias est impensable: la déontologie est un moyen respectable d'y parvenir.

La communication étant un besoin essentiel de l'être humain, le „droit à la communication“<sup>13</sup> s'impose: le droit reconnu aux individus, aux groupes et aux nations d'échanger tout message par tout moyen d'expression. Et par voie de conséquence, l'obligation pour la collectivité de fournir les moyens de cet échange. Le droit à l'éducation ne signifierait pas grand chose s'il n'y avait pas d'écoles, ni le droit à la santé sans hôpitaux.

**P**OURQUOI ? - Est-il raisonnable de vouloir muer en liberté „positive“ une liberté „négative“ dont la conquête a exigé des siècles de lutte - et qui ne règne pas encore sur l'ensemble de la planète? Il y a quatre raisons principales. En premier lieu, la technologie depuis quelque temps rend une communication globale possible, facile et bon marché. Nous sortons de la brève période des „mass media“ durant laquelle la rareté des canaux de communication et le coût des investissements ont imposé l'expression à sens

unique, la surconcentration des émetteurs et dans le domaine électronique, un étroit contrôle de l'Etat. Nous entrons dans le cyberspace.

Deuxième cause: la société de masse. L'individu moyen dispose de plus d'éducation, d'argent et de loisirs que jamais. Dans les pays développés, pour la plupart des habitants, la science et les sécurités sociales écartent la hantise de la misère et de la mort précoce. Pourtant l'être humain se sent à la dérive dans la „foule solitaire“. Il se sent impuissant face à des bureaucraties publiques ou privées. Plus que jamais, il ressent le besoin de s'intégrer dans une communauté, de participer à la gestion de sa propre vie. A preuve, les luttes engagées par les minorités ethniques, les femmes, les consommateurs, les écologistes. Enfin, plus que naguère, les gens perçoivent leur dépendance envers le reste du monde. Pour toutes ces raisons, ils éprouvent la nécessité d'informer et d'être informés.

Troisième cause: la prise de conscience que l'information est une ressource naturelle très particulière, et très précieuse; que sur elle désormais se fondent la paix et la prospérité; que sa circulation libre et abondante conditionne l'émancipation de l'individu, le développe-

ment économique, la résolution des problèmes sociaux et une adaptation douce aux changements accélérés de l'environnement.

Une quatrième cause réside peut-être dans un sentiment de solidarité qui peu à peu s'étend au globe, malgré les grandes différences culturelles et les grandes inégalités. La multiplication des échanges de produits, de culture et surtout d'information, apparaît comme le seul moyen d'éviter une catastrophe économique, un désastre écologique ou même, encore (causé par quelque dictature terroriste) un holocauste nucléaire.

**L**ACUNES DE COMMUNICATION. - La communication sociale s'exerce à des niveaux et dans des directions diverses. Les relations internationales se font de nation puissante ou de groupe financier (comme Radio France Internationale ou les studios de Hollywood) à nation faible; de nation faible à nation puissante; de nation faible à autre nation faible. Quant aux relations intergroupes, elles se font verticalement, soit de haut en bas: de gouvernement à peuple (par une radio d'Etat) ou de firme à grand public (ex. quotidien national); soit de bas en haut (par sondage ou référendum). Enfin, la communication

se fait horizontalement, d'un groupe à l'autre (par un canal d'accès public sur un réseau de câble local).

Il apparaît que dans trois directions le droit à la communication est peu exercé - et qu'il devrait l'être plus: de nation faible à nation forte, de citoyens à pouvoirs établis et de groupe à groupe dans la masse. Le but de la déontologie consiste pour une part à lever les obstacles.

**S**AUF UN. Il est un arrêt de communication qui est parfaitement admissible: en cas de refus de communiquer. Au niveau individuel, chacun admet qu'on puisse ne pas acheter un journal ou allumer un récepteur de radio. On comprend moins ceux qui demandent le droit de ne pas être agressé par la publicité. Et au niveau international, on tolère parfois mal les efforts de certains pays pour protéger leurs cultures en freinant l'importation de produits audiovisuels étrangers. En fait, partout on entend réclamer une communication bidirectionnelle équilibrée, sauf aux Etats-Unis, bien sûr, du fait de leur hégémonie médiatique.

### Valeurs médiatiques

Traiter de déontologie revient à parler des devoirs des journal-

istes. Ces devoirs impliquent l'existence de droits que les gens de presse possèdent, en tant qu'humains et en tant que praticiens d'un métier particulier. La loi d'ailleurs leur garantit souvent certains de ces droits - et certains codes les évoquent. Droit à un salaire décent; droit d'être informés de la politique rédactionnelle et consultés avant un changement important dans la gestion; droit de refuser une mission incompatible avec leurs convictions ou avec la déontologie; droit d'accès aux informations etc. Etant les agents du public, ils vont où celui-ci ne peut pas aller en masse, font ce qu'il ne peut pas faire: ils jouissent de prérogatives, mais il leur faut rendre des comptes.

**D** EVOIRS DE L'HOMME . Les obligations du journaliste consistent d'abord dans les devoirs de tout être humain, appliqués dans le domaine des médias. Ils doivent répondre à des besoins instinctifs que semblent ressentir tous les humains: dès l'enfance, on désire s'exprimer librement; on veut que les adultes disent la vérité, qu'ils soient responsables. D'ailleurs, du décalogue de Moïse, six commandements au moins sont applicables à la communication sociale: 2. pas de vénération pour les idoles, pas de parjure ou blasphème / 5. respect des anciens, des tra-

ditions /6. pas de violence / 7. pas de pornographie / 8. pas de corruption / 9. pas de mensonge / 10. solidarité avec les autres journalistes. Semblablement, les valeurs fondamentales de l'Évangile résumées (par le journal La Croix) en cinq mots: liberté, dignité, justice, paix, amour (aime ton prochain comme toi-même) sont des pôles autour desquels on pourrait regrouper toutes les clauses des codes journalistiques.

**L** 'HÉRITAGE OCCIDENTAL . Le journalisme est né et s'est développé entre la Renaissance et la Révolution française dans une Europe occidentale imprégnée des valeurs de la Réforme - en particulier l'individualisme et la responsabilité individuelle, le travail dans une vocation, la rigueur morale. Mais imprégnée aussi des valeurs rationnelles et libérales du Siècle des lumières. Puis, plus tard, par les concepts du „laissez-faire“, de l'utilitarisme et du „darwinisme social“.

Les médias n'étant apparus qu'au tournant du 20ème siècle, les grands penseurs des siècles précédents n'ont pas eu à s'en préoccuper - mais ceux du 18ème s. n'avaient pas grande estime pour la presse. Plus récemment, les auteurs de codes déontologiques, soucieux de pratique et ignorants de la

philosophie, se sont peu souciés de déchiffrer les oeuvres de penseurs abscons.

A partir du 18ème siècle, avec le progrès des sciences et techniques, a commencé de se développer un idéal de professionnalisme: prestige et puissance devaient émaner, non plus des ancêtres et de propriétés terriennes, mais de la compétence et de l'utilité sociale de l'individu. Ensuite, dès la fin du 19ème siècle, les professionnels des médias ont constitué des associations afin de fixer leurs propres règles d'entrée et de pratique, dans le but de faire reconnaître leur indépendance par l'Etat et leur valeur par le public. On a ouvert des écoles spécialisées, on a écrit des codes.

**V**ALEURS UNIVERSELLES . Les valeurs médiatiques sont très largement les mêmes dans toutes les régions du globe où le régime est démocratique. La déontologie repose en effet sur des valeurs universelles, telles le refus de la haine, de la violence, du mépris de l'homme (fascisme) ou de certains hommes (racisme). La déontologie s'accorde avec la plupart des idéologies, judaïsme, bouddhisme, confucianisme, christianisme (catholique et protestant), islam modéré, humanisme, social-démocratie. Mais, elle ne s'accorde pas avec

extrémismes, totalitarismes ou fondamentalismes.

Il va de soi que la hiérarchie des valeurs varie d'une culture à une autre. Ainsi, une étude comparative de journalistes étatsuniens et chinois a montré que les deux groupes estiment que l'information donnée doit être exacte et complète, mais le premier place en première ligne des vertus journalistiques l'agressivité et la curiosité, tandis que le second met en avant la modestie et la loyauté.

Ce qui constitue une profession, selon Deni Elliott, ce sont des valeurs partagées par la plupart de ses membres - même si elles ne sont pas mises en noir sur blanc. Dans le cas des journalistes: publier un rapport complet, exact, pertinent, équilibré sur l'actualité; donner aux citoyens l'information dont ils ont besoin; ce faisant, ne causer de tort à personne. Se mettre à la place des personnes affectées par ce qu'on publie; envisager les effets à court et long terme de ce qu'on révèle. Plus généralement, les valeurs journalistiques sont, bien sûr, liées aux fonctions des médias. D'où la nécessité que le journaliste ait une conscience claire de ces fonctions.

**V**ALEURS MÉDICALES . Lors d'un congrès de 1994,

regroupant une douzaine d'associations corporatives, la profession médicale en Grande-Bretagne, a rappelé ses valeurs, très anciennes, et toujours valables pour le 21ème siècle. Il est frappant qu'elles conviendraient à la profession médiatique : engagement, compassion, intégrité, compétence, esprit d'enquête, confidentialité, responsabilité envers les usagers et la communauté. Les médecins eux aussi s'inquiètent de la baisse de confiance des usagers, de leurs plaintes et procès. Ils jugent que la profession entière doit se sentir responsable des actes de ses membres et doit organiser son autodiscipline. Ils recommandent des évaluations par les pairs avec participation des patients. Ils estiment que la profession doit participer activement à l'amélioration de la société.

### La responsabilité envisagée

**O**N n'est pas simplement „responsable“ : on est responsable envers quelqu'un. Un professionnel des médias l'est d'abord envers lui-même. Il ne doit pas trahir ses convictions, doit refuser d'exécuter une tâche contraire à la déontologie. Il est responsable aussi envers son employeur. Il ne doit, par exemple, rien révéler des affaires internes de la firme; il doit respecter la loi et

ne pas attirer, d'une façon quelconque, l'opprobre sur l'organe de presse. Ni sa vie privée, ni des engagements politiques, ni la très haute rémunération de prestations extérieures, ne doivent faire naître le soupçon d'un conflit d'intérêt. Encore moins doit-il travailler pour d'autres employeurs sans autorisation, surtout des concurrents - sans parler de tricher sur un CV ou une note de frais. Mais le journaliste est surtout responsable envers quatre groupes:

Envers ses pairs. - Il ne lui faut en aucune manière discréditer la profession. Il lui faut lutter pour les droits des journalistes, contre toute censure et pour l'accès à l'information, officielle ou privée. Il doit être confraternel envers des autres journalistes: ne pas leur causer du tort, à des fins égoïstes; ne pas offrir de travailler à moindre salaire; ne pas s'approprier idées, données ou produits appartenant à d'autres. Il doit aider les collègues en difficulté, en particulier les correspondants étrangers<sup>14</sup>.

**ENVERS SES SOURCES .** Le journaliste doit respecter les dates de publication fixées pour les communiqués distribués à l'avance (embargos). Il doit veiller à l'exactitude de toute parole rapportée (surtout s'il la place

entre guillemets); ne pas déformer une parole en la citant hors contexte, ni déformer un long exposé en le résumant. Il ne doit pas publier une information qui a été donnée à la condition qu'elle ne soit pas rendue publique avec attribution, ni dévoiler une source à qui il a promis le secret - sauf si, exceptionnellement, l'intérêt public l'exige. En revanche, il doit exercer son esprit critique à l'égard de ses informateurs, ne pas se laisser manipuler ou intoxiquer; se méfier des déclarations de personnes choquées ou faibles d'esprit.

**ENVERS LES PERSONNES EN CAUSE.** - Le journaliste ne doit pas lancer d'accusations, même fondées, si elles ne servent pas le bien public. S'il accuse ou critique une personne, il doit lui donner l'occasion d'exprimer son point de vue. Il ne doit pas non plus relever une caractéristique quelconque (sexe, nom, nationalité, religion, groupe ethnique, caste, langue, option politique, emploi, domicile, préférence sexuelle, handicap physique ou mental) si ce trait n'est pas pertinent. Et encore moins s'en servir pour la discréditer. Il ne doit pas utiliser d'expressions inutilement péjoratives, ne pas salir par insinuation. D'une façon générale, sauf si l'intérêt général est en jeu, le droit

d'informer ne doit jamais être utilisé afin de nuire à des personnes ou des groupes, physiquement, moralement, intellectuellement, culturellement ou économiquement. Une présentation en images d'accidents ou de crimes horribles, par exemple, risque de blesser les proches des victimes.

**ENVERS LES USAGERS.** - En tout cas, le professionnel ne doit pas causer du tort aux usagers. Que ce soit en utilisant des méthodes „subliminales“ pour faire passer un message audiovisuel. Ou en publiant des reportages sensationnels sur des découvertes médicales ou pharmaceutiques susceptibles de créer des craintes ou des espoirs injustifiés.

Les médias ont aussi des devoirs envers la communauté qu'ils desservent: ne pas choquer la conscience morale du public; découvrir ses besoins; servir tous les groupes. En outre, les médias ont des devoirs envers la société dans son ensemble (en plus de respecter les lois): ne pas satisfaire la curiosité du public au lieu de servir son intérêt; ne rien publier qui attente à l'institution familiale; ne pas se faire le chantre de la loi de la jungle; lutter contre les injustices et parler au nom des sous-privilegiés; améliorer la

**coopération entre les peuples;  
ne pas spéculer sur la peur; ne  
pas cultiver l'immoralité,  
l'indécence ou la vulgarité; ne  
pas encourager les bas  
instincts; ne pas glorifier la  
guerre, la violence, le crime.**

**O**

## Notes

1. Résultats d'un sondage personnel fait dans 17 pays d'Europe en 1993-1994.
2. De tels organismes sont indépendants du gouvernement, mais restent étatiques et ne relèvent donc pas de l'auto-contrôle.
3. Le code norvégien le recommande. En France, la loi l'impose.
4. Les sanctions fondées sur la loi française de 1881 se font rares et faibles. La loi a besoin d'être mise à jour et revivifiée, mais les politiques craignent de s'attirer l'hostilité des médias.
5. Il est des cas où ni la loi, ni le marché, ni la déontologie ne peuvent rien. L'ignoble «Radio Mille collines» qui au Rwanda encourageait au génocide des Tutsis ne pouvait être supprimée que par les armes.
6. Le Monde, 17/12/1957.
7. Il est à noter que dans les hôpitaux, bien des médecins aussi sont des salariés, comme les juristes employés par de grandes firmes.
8. John C. MERRILL., *The Imperative of Freedom : A Philosophy of Journalistic Autonomy*, New York, Hastings House, 1974.
9. La déontologie paye : les compagnies qui lui accordent le plus d'importance ont une croissance quatre à cinq fois supérieure à la moyenne des compagnies cotées par le Dow Jones.
10. Voir Hans JONAS, *Das Prinzip Verantwortung*, Frankfurt/Main, Insel, 1979.
11. Il est entendu que la conception asiatique de la démocratie n'est pas identique à l'occidentale.
12. „La liberté de la presse appartient à ceux qui possèdent une presse“, selon la formule du critique américain A.J. Liebling.
13. Concept lancé en 1969 par le Français Jean d'Arcy, repris dans les années 70 au Canada et aux Etats-Unis, puis par l'International Institute of Communications et l'Unesco.
14. On se rappelle que, lors de la guerre du Golfe, l'AFP fut exclue des pools constitués par les Etatsuniens.
15. Un directeur de quotidien parisien à qui l'on demandait en 1993 s'il faisait faire des études régulières de son public, répondit qu'elles seraient bien trop chères. Il venait de se flatter de posséder des matériels informatiques du dernier cri.

ARTICLES

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# Freedom of Speech in Poland: An Evolving Concept

BY KAROL JAKUBOWICZ

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## Introduction

**A**s you look out the window in Poland, you see a society re-inventing itself. A major part of this process is, of course, unfolding in the area of law and regulation.

Freedom of speech is one of many areas where have to restore the proper meaning of particular concepts and reject the heritage of Communist law-making and “newspeak”. One case in point is a 1988 book by a Polish jurist, Professor Jerzy Bafia. In 1983, he

had published a book called “The Law of Censorship” (Bafia, 1983) and that was the true subject matter of this publication. In 1988, his new book’s title was “The Law of Freedom of Speech” but it still dealt mostly with censorship. His main philosophical argument in the book is that there is no such thing as “perfect” or “abstract” freedom, but only “socially useful freedom”. Clearly, then, censorship

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was the instrument of turning “abstract” freedom of speech into “socially useful” freedom of speech.

Describing the sources of the law on freedom of expression in Poland, Czarny (1997) mentions (in addition to such international documents as the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms), the constitution, the civil code, the penal code, the law on the protection of state secrets, copyright law. In addition, some specialized legal instruments - such as the press law, the broadcasting act, the law on cinematography - introduce additional restrictions. As Polish law undergoes a process of what might be called “political cleansing”, re-education and rehabilitation, these laws have been, or are being revised or replaced by new ones, designed to be in keeping with “European standards”.

At this writing in April 1997, the National Assembly has just adopted a new constitution which now awaits acceptance (or rejection) in a national referendum.

On March 20, 1997, the Sejm, the lower chamber of Parliament, passed a new

penal code, which now awaits passage in the Senate and will later have to be accepted by the President (some of its provisions may still change in this process). Once adopted, it will replace the 1969 Penal Code (with later amendments) which is still in force.

This, then, is a good opportunity to examine the evolution of some of the legal provisions relating to freedom of speech as it is happening in Poland today.

### **Constitutional Background to Freedom of Speech in Poland**

**T**HE 1952 Constitution, adopted to set the final seal on the transformation of Poland into a Communist country, contained Article 83 which stated:

*1 The Republic of Poland shall guarantee for its citizens freedom of speech, print, assembly, meetings, marches and demonstrations.*

*2 This freedom shall be effected by turning over for the use of working people and their organizations printing shops, newsprint, public buildings and halls, telecommunications, radio*

*and other indispensable material means.*

As can be seen, not just everyone but citizens, and in fact only citizens who at the same time were working people, and in practice only the organizations of working people were meant to exercise freedom of speech. They media of communication had been "turned over" for their "use", but - though this is left unsaid - remained the property of the state. And freedom of speech was turned into its opposite by means of censorship and a variety of other means.

When the 1952 Constitution was amended on a number of occasions after 1989, the second paragraph of Article 83 was struck off in 1991, leaving only paragraph 1.

In 1992, constitutional provisions dealing with freedom of speech were extended when the Constitution was amended in the process of passing the new Broadcasting Act. Article 36b was added in the process, dealing with the National Broadcasting Council, the broadcasting regulatory authority, which was charged with the duty to "protect freedom of speech, the civic right to information, and the public interest in broadcasting".

The new constitution, adopted

in April 1997, deals with freedom of speech in three articles. Article 54 reads:

*1. Everyone shall have the right to express his opinions and to receive and impart information.*

*2. Pre-publication censorship of the media of social communication and the licensing of the press shall be banned. A statute may require the licensing of radio or television stations.*

This, then, could be described as a shorter version of Article 10, para. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 14 of the new Polish Constitution reads:

*The Republic of Poland shall guarantee freedom of the press and of other means of social communication.*

The National Broadcasting Council is dealt with in Article 214 in exactly the same terms as before.

## Political Speech

### 1. Sedition

**T**HE closest provisions of the old Penal Code come to dealing with sedition in regu-

lating freedom of speech is in Chapter XIX "Offenses Against the Fundamental Political and Economic Interests of the Polish People's Republic". It contains Article 133 which reads:

*Whoever advocates acts directed against the allied unity of the Polish People's Republic with an allied State or publicly extols such acts shall be subject to the penalty of deprivation of liberty from one to 10 years<sup>3</sup>.*

Of course, the Polish People's Republic no longer exists. Moreover, also the old alliances of the Polish People's Republic no longer exist. In strictly legal terms, therefore, this article cannot be regarded as binding, because it no longer refers to any identifiable action<sup>3</sup> (Gardocki, 1996: 226-227).

Under this rubric, we should also perhaps mention the Broadcasting Act which says in Article 36 para. 2 that a license to broadcast will be denied (or may be withdrawn - Article 38) if the applicant's (or the licensed station's) programming could "infringe on the interests of the national culture, public decorum, national security and defense or violate state secrets"<sup>4</sup>.

In addition, Article 18 para. 1 of the Broadcasting Act reads:

*Programme items shall not propagate activities incompatible with the law or the Polish raison d'etat, or attitudes or convictions contrary to morality or the social good<sup>5</sup>.*

Raison d'etat is a very general term and admits of a variety of interpretations, but is usually understood in Poland to mean "the totality of activities in the area of foreign policy serving to guarantee the sovereignty of the country and the best possible conditions for its development" (Sobczak, 1994: 87). Thus programme items violating this rule could be regarded as being against the national interest. This is not exactly sedition, but it is certainly more than just "inflammatory words".

## 2. Inflammatory Words, Public Order

**I**N the old Code, the chapter on offenses against the public order contains Articles 271 and 282 which might perhaps more properly be regarded as dealing with seditious behaviour and which, in any case, are not replicated in any way in the new Code. (see Figure 1).

Figure 1 Old Penal Code	New Penal Code
<p><b>Article 271</b>            1. Whoever disseminates false information, if this may cause grave damage to the interests of the Polish People's Republic shall be subject to the penalty of deprivation of liberty for up to 3 years.            2. If the perpetrator commits an offence mentioned in para. 1 abroad, or transmits the information specified in para. 1 to a foreign centre engaged in activity against the political interests of the Polish People's Republic, he shall be subject to the penalty of deprivation of liberty from 6 months to 5 years.</p>	No corresponding article
<p><b>Article 282</b>            Whoever publicly advocates disobeying or resisting a law or a lawful order of a state organ, shall be subject to the penalty of deprivation or liberty for up to two years, limitation of liberty or a fine.</p>	No corresponding article

It has been pointed out that Article 271 of the old code is not only patently political in its intention, but describes the alleged offense in such broad and imprecise terms that individuals have no way of identifying the offense and avoiding committing it. Therefore, though it has not yet been formally struck off the books, "this article should be regarded as non-binding" (Gardocki, 1996: 235). The authors of the new code did not think it necessary to replace it with any new article. The same is true of Article 282.

Let us now compare some equivalent articles or paragraphs in the two Penal Codes. (see Figure 2).

Figure 2	
Old Penal Code	New Penal Code
<p><b>Article 270</b> 1. Whoever publicly insults, ridicules or derides the Polish Nation, the Polish People's Republic, its system or supreme organs shall be subject to the penalty of deprivation of liberty from 6 months to 5 years.</p> <p>2. Whoever publicly extols fascism or any of its variants shall be subject to the same punishment.</p> <p><b>Article 237</b> Whoever insults a state organ or a political organization, a trade union, an association of higher public utility or other social organization of nationwide importance, at a place of its activity or in public, shall be subject to the penalty of deprivation of liberty for up to 2 years, limitation of liberty or a fine.</p>	<p><b>Article 132</b> Whoever publicly insults the Polish Nation or the Republic of Poland shall be subject to the penalty of deprivation of liberty for up to 3 years.</p> <p><b>Article 134</b> 2. Whoever publicly insults the President of the Republic of Poland shall be subject to the penalty of deprivation of liberty for up to 3 years.</p> <p><b>Article 225</b> 3. Whoever publicly insults or degrades a constitutional organ of the Republic of Poland shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom of up to two years</p> <p><b>Article 255</b> Whoever publicly propagates fascism or any other totalitarian State system<sup>6</sup> or incites to hatred for reasons of nationality, ethnicity, race, religion or against non-believers shall be subject to the penalty of a fine, limitation of liberty or deprivation of liberty of up to 2 years.</p>

It is precisely because of Articles 270, 237 and 271 (see above) that Gardocki (1995) argues - with reference to the verdict of the European Court of Human Rights in the Castells case (Gomien, Harris, Zwaak, 1996) - that the old Code required revision in its freedom of speech provisions. In such areas as criticism of public figures and protection of State organs, political parties and other organizations against defamation, the old Penal Code limited freedom of

speech far more than is considered acceptable under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 270 of the old code is a typical provision from Communist times designed to limit freedom of speech and repress criticism of the State<sup>7</sup>. It lumps together many disparate offenses and has been interpreted very broadly. The political nature of this provision is emphasized by the inclusion of

the word “[political] system” as the object of defamation, and the inclusion of the provision concerning fascism in the same article. Commentators have pointed out that today any substantive criticism, however severe, of any organ of the State, cannot be prosecuted on the basis of this article, as long as it is couched in non-offensive, non-defamatory terms (Gardocki, 1996: 234) <sup>8</sup>. Also Article 237 of the old Code sets out to protect not only state organs, but also other officially sanctioned forms of social organization and collective activity designed to strengthen the Communist state and serve as its “transmission belts” to the masses.

In the new code the different offenses are dealt with separately, there is no scope for punishment on political grounds unless this is clearly warranted by the nature of the offense, and the sentences are shorter <sup>9</sup>. Article 255 does, however, deal with inflammatory words and the threat to public order as well as with incitement to hatred together. Whether the President needs such protection as is afforded by Article 134 could be a matter for discussion.

As for the treatment of public officials in the two codes, not much has changed.

Figure 3	
Old Penal Code	New Penal Code
<p><b>Article 233</b> Whoever commits an active assault on a public functionary or a person called upon to assist him, in connection with the performance of official duties, shall be subject to the penalty of deprivation of liberty for 6 months to 5 years</p> <p><b>Article 236</b> Whoever insults a public functionary or a person called upon to assist him, in the course of and in connection with the performance of official duties, shall be subject to the penalty of deprivation of liberty for up to 2 years, limitation of liberty or a fine.</p>	<p><b>Article 221</b> 1. Whoever violates the personal inviolability of a public functionary or a person called upon to assist him during, or in connection, with the performance of official duties, shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom for up to 3 years</p> <p><b>Article 225</b> 1. Whoever insults a public functionary or a person called upon to assist him, in the course or in connection with, the performance of official duties, shall be subject to the penalty of a fine, limitation of liberty or deprivation of liberty for up to one year.</p>

The provisions of the new Penal Code have been criticized for offering too much protection to public functionaries. The old Code offered protection against “active assault” (Art. 233); the new one - against “violation of personal inviolability” (Art. 221), which can be practically anything. Some commentators are also opposed to Article 225 of the new Code, saying that almost anything can be construed by public functionaries as an insult: “An insult need not be verbal; it can also take the form of an inappropriate gesture, facial expression,

unflattering image. This is quite a trap for writers of satire, cartoonists or cabaret artists” (Podemski, 1997 d). In the light of Lingens and Castells cases of the European Court of Human Rights, this may indeed be going too far, though Polish prosecutors have in many cases been unwilling to prosecute such “insults” (see “Conclusion” below).

In a less political vein, also other provisions of the Penal Code have been changed, as shown below:

Figure 4 Old Penal Code	New Penal Code
<p><b>Article 280</b> 1. Whoever publicly advocates the commission of an offence or extols it, shall be subject to the penalty of deprivation of liberty of up to 5 years. 2. If the act specified in para. 1 relates to a serious offence, the perpetrator shall be subject to the penalty of deprivation of liberty from one to 10 years.</p>	<p><b>Article 254</b> 1. Whoever publicly advocates the commission of a misdemeanour shall be subject to the penalty of a fine, limitation of liberty or deprivation of liberty for up to 2 years. 2. Whoever publicly advocates the commission of a felony shall be subject to the penalty of deprivation of liberty for up to 3 years. 3. Whoever publicly extols the commission of an offence shall be subject to the penalty of a fine (...), limitation of liberty or deprivation of liberty for up to one year.</p>
<p><b>Article 281</b> Whoever with the purpose of disseminating produces, stores, transports, transfers or dispatches written, printed or other objects comprising a content specified in Art. 280, shall be subject to the penalty of deprivation of freedom for up to 5 years.</p>	<p>No corresponding article.</p>

Again, the new code has been changed by defining particular offenses more clearly, by more closely relating punishment to the particular offense and by providing for shorter prison terms. In addition, Article 281 of the old code, which gave law enforcement agencies and the courts grounds for fairly arbitrary limitation of freedom of speech and of the press, has been struck off.

Under offenses against public order let us finally mention articles which deal with protection of the flag and other symbols of the State. Interestingly, in the old code they are part of Chapter XXXVI "Offenses Against Public Order", while in the new one in Chapter XVII "Offenses Against the Republic of Poland".

With the international workers' movement long gone, Article 284 of the old Penal Code is another case of a legal provision referring to an unidentifiable offense. This matter was actually put to a practical test by an organization called the Republican League which during a political happening in Kraków in March 1997 publicly put "symbols of the International Workers' Movement" through a meat grinder and then reported "the offense" to the prosecutor's office. Naturally, the matter was not

taken up (Wilk, 1997).

### 3. Incitement to Hatred

Differences between the two codes extend also to the treatment of incitement to racial and other hatred, as shown in figure 5.

Here the differences are less systemic and could be described as resulting from the natural evolution of the law.

### Keeping the State's Secrets

**O**NE relic of the past which Poland has not been able to get rid of so far is the 1982 law on the protection of state and official secrets. In Article 2 it defines as a state secret any piece of information which, if revealed to unauthorized persons, may jeopardize the defense, security or some other important State interests, relating particularly to:

- 8 defence;
- 8 law enforcement and security agencies;
- 8 research in the area of national defence or security;
- 8 industries of key importance for the national economy;
- 8 banking;
- 8 preparations for, and negotiations of, international agreements.

Figure 5 Old Penal Code	New Penal Code
<p><b>Article 193</b> 1. Whoever publicly insults, derides, or humiliates a group of persons or an individual person on account of their not having a religious affiliation shall be subject to the penalty of deprivation of liberty for up to 3 years.</p> <p><b>Article 272</b> Whoever publicly advocates discord on the basis of national, ethnic, racial, or religious differences, or publicly extols such discord, shall be subject to the penalty of deprivation of freedom for from 6 months to 5 years 10.</p> <p><b>Article 274</b> 1. Whoever publicly insults, ridicules or degrades a group of people or an individual person by reason of their national, ethnic or racial affiliation shall be subject to the penalty of deprivation of liberty for up to 3 years.</p>	<p><b>Article 255</b> Whoever publicly propagates fascism or any other totalitarian State system or incites to hatred for reasons of nationality, ethnicity, race, religion or against non-believers shall be subject to the penalty of a fine, limitation of liberty or deprivation of liberty of up to 2 years.</p> <p><b>Article 256</b> Whoever publicly insults a group of people or an individual person by reason of their nationality, ethnicity, race, religion or for having no religious affiliation, or for these reasons does bodily harm to another person, shall be subject to the penalty of deprivation of liberty for up to 3 years.</p> <p><b>Article 118</b> 1. Whoever applies violence or an illegal threat to a group of persons or an individual person by reason of their nationality, ethnicity, race, political affiliation, religion or no religious affiliation, shall be subject to the penalty of deprivation of liberty for between 3 months and 5 years. 2. Whoever publicly advocates the commission of the offence specified in para. 1 shall be subject to the same penalty.</p>

Lists of types of information constituting state secrets are prepared by government departments, provincial governments and the President of the National Bank of Poland. The Minister of Internal Affairs, Minister of Defense and the Foreign Minister are to be consulted on matters within their area of competence. These lists, except those in the area of national defense and security, are published in official gazettes.

In terms of freedom of speech provisions, the most important provision of the law is to be found in Article 5.1:

*The obligation to keep state secrets is binding upon everyone who has come into the possession of such information.*

This means that not only the respective civil servants and military and security personnel, but also journalists and

everyone else are duty-bound not to reveal a state secret and may be prosecuted for doing so. Journalists may be refused information by civil servants or public officials claiming that it is a state secret, and there is no possibility of a recourse to a

court to verify this claim (Mik, 1996: 251).

In the penal code, provisions regarding state secrets (we leave official secrets out of this analysis) have changed little, as shown in figure 6.

Figure 6 Old Penal Code	New Penal Code
<p><b>Article 260</b> 1. Whoever discloses information constituting a state secret, shall be subject to the penalty of deprivation of liberty for from 6 months to 5 years. 2. If the information constitutes a secret by reason of the defense or security of the Polish People's Republic, the perpetrator shall be subject to the penalty of deprivation of liberty for from one to 10 years. 3. Whoever unintentionally discloses information specified in para. 1 or 2, with which he has become acquainted in connection with his function in a state or social institution, shall be subject to the penalty of deprivation of liberty for up to 3 years.</p> <p><b>Article 261</b> Whoever discloses information constituting a state secret to a person acting in the name or for the benefit of a foreign institution or a foreign enterprise, shall be subject to the penalty of deprivation of liberty for no less than 3 years.</p>	<p><b>Article 264</b> 1. Whoever discloses, or in violation of statutory provisions uses, information constituting a state secret, shall be subject to the penalty of deprivation of liberty for from 3 months to 5 years. 2. If information specified in para. 1 is disclosed to a person acting in the name or for the benefit of a foreign entity, the perpetrator shall be subject to the penalty of deprivation of liberty for from 6 months to 8 years. 3. Whoever unintentionally discloses information specified in para. 1, with which he has become acquainted in connection with his public function or by virtue of a special authorization, shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom for up to 1 year.</p> <p><b>Article 265</b> 1. Whoever discloses or uses, in violation of a statute or an obligation he had undertaken, information with which he has become acquainted in connection with his public function, work, public, civic, economic or scholarly activity, he shall be subject to the penalty of deprivation of liberty for up to 3 years. 2. A public functionary who discloses to an unauthorized person information constituting an official secret or information which he has obtained in the course of official duties and whose disclosure may compromise a legally protected secret, shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom for up to 2 years.</p>

As can be seen, the sentences may be shorter, but the full system of protecting state secrets is still in force. Article 265 of the new Code still makes it possible to prosecute journalists who came into possession of state secrets and subsequently published them. Work on revising the law on state secrets is proceeding in Parliament but has not yet produced any results.

## Moral Speech

### 1. Pornography

**T**HIS is an issue which is given more detailed and extensive treatment in the new Penal Code, due no doubt to much higher incidence of more numerous and inventive - as well as exploitative - forms of pornography and its dissemination under free market conditions. For the same reasons, also penalties for the production and dissemination of pornography are higher today.

Figure 7 Old Penal Code	New Penal Code
<p><b>Article 173</b> 1. Whoever disseminates writings, printed matter, photographs or other objects having a pornographic character, shall be subject to the penalty of deprivation of freedom for up to 2 years, limitation of liberty or a fine. 2. Whoever with the purpose of disseminating such writings, printed matter, photographs or objects, produces, stores, transfers, dispatches or transports them, shall be subject to the same penalty.</p>	<p><b>Article 201</b> 1. Whoever publicly presents pornographic content in such a way that its reception may be imposed on unwilling persons, shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom for up to one year. 2. Whoever presents pornographic content or objects of the same nature to persons under the age of 15, shall be subject to the penalty of a fine, limitation of freedom or deprivation of freedom for up to 2 years. 3. Whoever produces, imports or disseminates pornographic content with the participation of persons under 15 years of age, or involving the use of violence or animals, shall be subject to the penalty of deprivation of freedom for between 3 months and 5 years. <b>Article 199</b> 1. Whoever induces a person under 15 years of age to conduct sexual intercourse, or to submit to some other sexual activity, or to perform it, shall be subject to the penalty of deprivation of liberty for between 6 months and 8 years. 2. Whoever records pornographic content with the participation of a person under 15 years of age, shall be subject to the same penalty.</p>

Of course, the definition of pornography itself has caused considerable problems in Poland, as everywhere else (for a brief review see Gardocki, 1996: 276-277). Traditionally, Polish law has defined pornographic content as that whose goal is to produce sexual arousal, with the exclusion, however, of works of art. Some authors have placed much emphasis on the fact that this intention of whoever makes such objects must be reflected in the object itself. Others maintain that pornography should be defined as objects or representations which produce excessive sexual arousal in average persons.

A leading Polish authority on the subject, prof. Filar (who favours decriminalization of the dissemination of pornography because he considers it harmless) argues that in the light of existing regulations pornography should be defined as objects or representations portraying deviant sexual behaviour (homosexual acts, sodomy, pedophilia, necrophilia, etc.). He places considerable emphasis on the aesthetic criteria, regarding as pornography primarily objects that are primitive and vulgar in form and content.

The matter remains unresolved. Another effort to come

closer to a descriptive definition of pornography was undertaken in a regulation of the National Broadcasting Council which is discussed below.

## 2. Film and Television Violence

**T**HERE are no special rules in Poland concerning the portrayal of violence in films. As for broadcasting, we have already mentioned Article 18 para. 1 of the Broadcasting Act which prohibits the broadcasting of programme items which propagate activities or convictions contrary to morality. Paragraphs 3 and 4 of the same article read:

*3. Programme items likely to impair the physical, mental or moral development of children shall not be transmitted between 6 a.m. and 11 p.m.*

*4. The National Council may determine by means of a regulation detailed rules concerning the transmission of programme items referred to in para. 3.*

On this basis, the Council issued on Nov. 21, 1994 its "Regulation concerning the special rules of transmitting broadcasts which may threaten the psychological, emotional or physical development of children and teenagers by radio

and television programme services”.

The regulation reads in part:

*1. Radio and television broadcasters shall restrict the transmission of programme items which could threaten the psychological, emotional or physical development of children and teenagers. In particular, this shall concern programme items which:*

*1) portray brutality and violence, especially pictures of assault, torment or other vicious scenes;*

*2) depict behaviour which transgresses the customary limits of socially accepted behaviour and containing vulgar phrases, words or gestures,*

*3) drastically infringe the social norms through pornography, leading to treating human beings as objects, with no regard for human sensitivity or dignity*

*4) portray methods and techniques of criminal activities.*

*2. The programme items referred to in para. 1 may be transmitted if this is justified by their high artistic, documentary, informative or historical value, provided that their transmission does not infringe the provisions of the Penal Code.*

The regulation puts broadcasters under an obligation to warn viewers of the potentially objectionable nature of a programme item in advance and to adopt internal rules concerning the classification of programme items as those referred to in para. 1. Broadcasters have not exactly rushed to draft and adopt such rules.

Recently, however, there has been another wave of public debate about violence and pornography in television programming of a scale and intensity which may induce broadcasters to do not only that, but also to put onto the screen special signs warning viewers about the level of violence, pornography, bad language in particular shows. Polish Television has announced that it will consider responding to the public outcry against pornography and violence in television programming in this way.

## Commercial Speech

**A**DVERTISING is another area where we have had to create regulation in a hurry, starting from scratch. Until recently, the prevailing doctrine was that the difference between socialist and capitalist advertising was that the former contained primarily informative content and the latter predomi-

nantly persuasive content.

There is no special law on advertising in Poland (though work is proceeding in the National Broadcasting Council on a draft of such a law), so it is regulated by a variety of different statutes, rules and regulations (cf. Skubisz, Sagan, 1997; Jurawski, 1997), including various professional codes of conduct.

The Press Law of January 26, 1984 (with later amendments) says in Article 36:

*1. The press may publish paid announcements and advertisements.*

*2. Announcements and advertisements shall not violate the law or principles of social coexistence<sup>1</sup>.*

*3. Announcements and advertisements shall be clearly marked as separate from editorial matter.*

*4. The publisher and the editor shall have the right to refuse the publication of announcements and advertising if their contents or form are contrary to the editorial policy or nature of the publication<sup>12</sup>.*

The Broadcasting Act defines advertising in Article 4 in the

following way:

*“Advertisement” means any announcement intended to promote the sale or other form of use of a product or service, to foster a particular idea or concerns, or to bring about some other effect desired by the advertiser, for which transmission time has been given to the advertiser in return for payment or similar compensation.*

This means, therefore, that political advertising on radio and television is not excluded and in fact does happen during election campaigns when political parties or candidates are allowed to buy clearly specified amounts of air time for additional paid electoral broadcasts, in addition to the free time they receive under electoral law.

More particularly, the Broadcasting Act has this to say on the subject of advertising and sponsorship:

*Article 16*

*1. Commercials shall be clearly distinguishable as such and separated from other contents of the programme and clearly marked as advertising not coming from the sender.*

*2. The amount of advertising shall not exceed 15 per cent of the daily transmission time and 12 minutes of any one hour.*

*3. The National Council may determine by means of a regulation the permissible share of advertising in the transmission time of public broadcasters, within the limit specified in para. 2<sup>13</sup>.*

*4. The National Council determines by means of a regulation rules governing advertising in radio and television programming.*

#### *Article 17*

*1. Sponsored programme items shall be clearly marked as such by identifying the sponsor before or after the item.*

*2. Sponsors shall not influence the contents of programme items (...)*

*3. The National Council may by means of a regulation prohibit the sponsoring of particular programme items or ban particular forms of sponsorship.*

Another set of general principles is provided in the Law on Combatting Unfair Competition of April 16, 1993, which

says in Article 16:

*1. In the area of advertising, unfair competition consists in particular of:*

*1) advertising which is contrary to the law, customary morality or is a violation of human dignity;*

*2) advertising which misleads buyers and may thus influence their decision whether to buy a product or service;*

*3) advertising which appeals to buyers' feelings by arousing fear, playing on superstition or the credulity of children;*

*4) a message which appears to constitute neutral information but in fact serves to encourage receivers to buy goods or services;*

*5) advertising which constitutes a significant invasion of privacy, in particular through persistent presence in public places, sending of unordered products at the buyers' expense or abuse of the technical means of information transmission;*

*6) comparative advertising, unless it contains information that is true and useful for buyers.*

*2. All aspects of an advertisement shall be considered in judging whether it is misleading, including information about the quantity,*

*quality, composition, method of production, usefulness, possibilities of application, repair and maintenance of advertised products or services, as well as the behaviour of buyers.*

Polish regulations ban the advertising of:

- 8 alcohol;
- 8 cigarettes and other tobacco products (on radio and television, in cinemas, in publications for children and young people, in hospitals and other health-care establishments, cultural and educational establishments, in institutions of higher education, and sports centres)<sup>14</sup>.
- 8 medicines available only on prescription (though it is acceptable in specialized medical periodicals)<sup>15</sup>;
- 8 pharmaceuticals and medical materials in advertising addressed to children<sup>16</sup>;
- 8 lotteries and pools<sup>17</sup>.

The following professions have decided not to use advertising to attract customers:

- 8 physicians<sup>18</sup>;
- 8 legal counselors<sup>19</sup>;
- 8 notaries public<sup>20</sup>.

Regulations of the National Broadcasting Council specify in detail methods of inserting commercials into program-

ming, scheduling, etc. They contain few specific rules as regards the actual contents of advertising and sponsorship,

The Regulation of the National Broadcasting Council of May 20, 1993, Concerning the Rules for Advertising in Radio and Television Programme Services says that:

- 8 public broadcasters may not interrupt programming for commercials; commercial broadcasters should not interrupt news, religious programmes and children's programmes to broadcast commercials;
- 8 in scheduling commercials, broadcasters should take into consideration the nature of programme items preceding and following commercials;
- 8 the image or voice of performers appearing in factual and children's programmes should not be used in commercials.

The Regulation of the National Broadcasting Council of August 31, 1993, Concerning the Ban on Sponsoring Particular Programme Items and Particular Methods of Sponsorship bans the sponsorship of:

- 8 news
- 8 current affairs programmes on socio-political subjects;
- 8 programme items for con-

sumers and advice programmes;  
 8 electoral broadcasts or programme items directly related to an election campaign  
 8 religious programmes<sup>21</sup>

There are in addition extremely detailed regulations concerning the required and unacceptable contents of advertisements

of foodstuffs, pharmaceuticals etc.

## Religious Speech

**T**HE article of the old Penal Code which deals with religious speech has not changed significantly in the new one, as can be seen below:

Figure 8 Old Penal Code	New Penal Code
<p><b>Article 198</b>            Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to the penalty of deprivation of liberty for up to 2 years, limitation of liberty or a fine.</p>	<p><b>Article 195</b>            Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to the penalty of a fine, limitation of liberty or deprivation of liberty for up to 2 years.</p>

The Broadcasting Act contains two provisions regarding religious speech. Article 18 para. 2, which refers to all broadcasters, reads:

*Programme items shall respect the religious feelings of the audience, and particularly the Christian system of values.*

*Article 21 para. 2, point 6, which refers to public service broadcasters alone, reads:*

*2. Programme services of public radio and television should:*

*(...)*

*6) respect the Christian system of values, adopting as the basis the universal principles of ethics.*

These provisions were highly controversial when the Broadcasting Act was being adopted<sup>22</sup> and are still regarded as potential restrictions on freedom on speech: "The NBC

[National Broadcasting Council] has broad interpretative powers... The law does not fully define the term 'Christian values'.

Since the NBC has the ultimate responsibility for supervising the content of programs, these restrictions could be used as a means of censorship" ("Country Reports...", 1996: 967-968).

These provisions were challenged before the Constitutional Tribunal of Poland, but it has confirmed their constitutionality.

Fears that they could be used to restrict freedom of speech have so far proved unfounded, however. They have not been invoked by anyone who has lodged a complaint with the National Broadcasting Council - due no doubt to the fact that "Christian values" are difficult to define with any precision - and so it has not had to rule on the question of whether any content has violated them.

On the other hand, there have been complaints based on Article 18, para. 2. In 1993, there was a storm of protest following a show on Polish Television "Big Zbig Show and His Friends", broadcast at Easter, which included a parody of a festival of religious

songs, among them a song incorporating Christ's prayer before crucification. In Resolution No. 12 adopted on May 25, 1993, the National Broadcasting Council found that the show had indeed violated Article 28, para. 2 by showing disrespect for viewers' religious feelings. However, no disciplinary action followed (in any case the Council has few instruments of disciplining broadcasters), and the matter may be regarded as closed.

## Other Issues

### 1. Can Journalists Protect Their Sources?

**T**HE freedom of speech issue which has aroused most passion in Poland recently concerns the question of whether or not journalists should be forced to reveal their sources. The legal situation is such that there is a coincidence of two potentially opposed provisions. Article 15 of the 1984 Press Law says in para. 2 that the journalist is under an obligation not to reveal his/her source if that person wishes to remain anonymous. This is treated as a professional secret, rather than an official one. However, Article 163 of the Code of Penal Procedure says:

Persons under an obligation to

keep an official secret or a secret connected with their profession or function may refuse to testify regarding circumstances covered by that obligation, unless that the court or a prosecutor has released them from the obligation to keep that secret.

From a legal point of view, the question is which provision takes precedence, or, in other words, which is the *lex generalis* and which is the *lex specialis*.

The matter was dealt with in a ruling of the Supreme Court of January 19, 1995, after a review of a case in which a journalist refused to reveal his source. The Supreme Court ruled:

Article 163 of the Code of Penal Procedure constitutes the *lex specialis* with reference to Article 15 para. 2 of the Press Law of January 26, 1984 which in general terms regulates the issue of journalists' professional secrecy. Journalists, including editors, may not, therefore, during a criminal trial refuse to testify concerning circumstances covered by professional secrecy, if the court or the prosecutor have released them from that obligation on the basis of Article 163 of the Code of Penal Procedure (quoted after Kunicka-Michalska, 1997).

This ruling, which has been contested by the journalists and publishers themselves<sup>23</sup> as well as by a number of lawyers (see Barta, 1997; Kunicka-Michalska, 1997; Barta, Markiewicz, 1997), including Mr. Leszek Kublicki, the Minister of Justice<sup>24</sup>, has led to a number of cases in which journalists refusing to reveal their sources of information have been prosecuted. It is seen as a grave threat to journalists' independence and their ability to cover controversial events.

One well-known, and current, case originated when Mr. Aleksander Cheko (Editor) and Mr. Karol Macuzyński (Deputy Editor) of *Dzisiejsze* Warszawy, a Warsaw daily, refused to reveal their source of an official document. The document in question is the decision of the military prosecutor to discontinue legal proceedings against Mr. Józef Oleksy, then the Prime Minister of Poland, accused of having been an informer for Soviet and then Russian intelligence services. The Military Prosecutor found there was no case to be brought against Mr. Oleksy. A part of this decision was printed in *Dzisiejsze* Warszawy. This was treated by the Warsaw Prosecutor's Office as a case of disclosure of a state secret. An investigation was launched on the basis of Article 260 para. 1 of the Penal Code

(see above). The two editors were treated as witnesses and were asked to provide the identity of the person or persons who had made the document available to them. They refused on the basis of Article 15 para. 2 of the Press Law. Therefore, the case for disclosure of a state secret was dropped (since the identity of the person or persons concerned could not be established), but the two editors were charged with criminal support on the basis of Article 252 para. 1 of the Penal Code<sup>25</sup>. The case is still pending.

All this was happening while the new Penal Code was being drafted and adopted. In the new Code of Penal Procedure adopted by the Lower Chamber of Parliament, Article 180 para. 2 still lets the court (but no longer the prosecutor himself) release the journalist from the obligation to keep professional secrecy "if this is required by the good of the system of justice". This, too, has been criticized as offering the court wide discretion in forcing journalists to reveal their sources (Podemski, 1997a). The journalists would have the right to appeal against such an action. However, when the new Codes found their way to a Senate Committee, prior to their consideration by the full Senate, two amendments to this article

were proposed with the intention of offering journalists much stronger protection.

The Senate Committee for Human Rights and Rule of Law proposed an amendment to the Code of Penal Procedure, drafted by the Minister of Justice, to the effect that neither the prosecutor nor the court will be able to require the journalist to disclose his sources, unless in cases of murder, high treason and espionage, kidnapping or hostage-taking. In the Minister's view, this should remove the conflict between the Press Law and the Code of Penal Procedure (Kêsicka, 1997b). Even if the journalist refuses to reveal his source, he or she could still be prosecuted for offenses committed by publishing the information itself (e.g. disclosing a state secret).

Another senator proposed an amendment to the effect that a journalist may be required to reveal his source of information only in cases concerning espionage, rape with special cruelty, dealing in drugs or weapons.

The matter is understandably being given extensive coverage in the press. Public opinion is fully aware of the implications of the choice that will finally be made by the law-makers and this will certainly affect their decision.

## 2. Will High Damages Gag the Media?

**T**HE honour and personal rights of individuals and groups of individuals, as well as institutions, are protected by both the Penal Code (Chapter XXIV, Articles 178-181; Chapter XXVII, Articles 211-215 in the new Code) and the Civil Code, adopted on April 23, 1964. Since the issue arises in the context of the Civil Code, we will concentrate on its provisions here.

Article 23 of the Civil Code states that such personal rights of the individual as, among other things, honour are protected by civil law irrespective of the protection afforded by other laws. Article 448 stated until recently that in case of “a deliberate violation of personal rights”, the injured person may demand that, apart from from other actions required to redress the offense, the perpetrator should also pay a punitive financial award to the Polish Red Cross. This article was amended in 1996 in view of the liberties some publications were taking in slandering officials and private individuals. It now reads:

*In case of violation of personal rights, the court may, in addition to ordering actions required to redress*

*the offense, adjudge in favour of the injured person an appropriate sum of money as damages for the wrong he suffered, or at his request adjudge an appropriate sum of money in favour of some social purpose specified by him.*

First of all, the word “deliberate” has been dropped, meaning that the journalist’s deliberate intent no longer has to be proved in considering such a case. Secondly what “an appropriate sum of money” means is left to the court to decide, raising fears that the injured persons may potentially claim very high damages. Therefore:

*Many publishers will think twice before they name names, and may decide to write about “general tendencies” or “worrisome trends”, and avoid details like the plague, since the cost of doing that may be very high ... The risk borne by the publishers is thus very high and that was probably the intention (Karpowicz, 1997: 27).*

This was clearly seen as a move which may lead more courageous publishers to bankruptcy and thus prevent open discussion of events in public life.

One such case has already been

decided. The editor of "Rzeczpospolita", a leading Polish daily, took to court the publishers of "Nie", a weekly, for violating his personal rights by publishing false information that he had worked for the election committee of a presidential candidate. The court awarded damages ("for a social purpose") amounting to an equivalent of over 60 000 dollars. After an appeal, a higher court reduced the damages to a much more manageable 3 000 dollars: "the moderation displayed by the Warsaw Court of Appeals gives rise to hope that the article will not be used to gag the press" (Podemski, 1997b: 102).

## Conclusion

**O**NE excellent test of the degree of freedom of expression in Poland is the activity of the above-mentioned Republican League, an ardently anti-Communist movement which expresses its views, and its opinions of those who now rule the country in a very public, aggressive and derisive way, seen by some as a continuation of a movement known as the Orange Alternative<sup>26</sup>. This has included:

8 disrupting a meeting of the National Assembly by throwing leaflets and chanting anti-Communist slogans;

8 putting up in a public place a cage with an effigy of the Minister of Administration and Internal Affairs;

8 putting up in public places posters with an image of President Kwasniewski as "Cvasula" (a play on his name and on Dracula) with the teeth of a vampire;

8 disturbing meetings with the Minister of Education, prof. Jerzy Wiatr, and throwing eggs at him;

8 organizing marches and demonstrations with all the trappings of a Communist rally;

8 organizing happenings like "Close Encounters with Socialist Realism, or the Charm of the Polish People's Republic", involving a variety of "party meetings", "self-criticism sessions", showings of old, socialist-realist propaganda films, an exhibition of old propaganda posters, etc.

The Republican League's activities are very controversial. Prosecutors around the country have on a number of occasions investigated them and in some cases charged the individuals involved with a variety of offenses, including particularly "insulting public functionaries" and the like. However, in all

the cases so far, proceedings were dropped or cases dismissed. The League, which has a number of law faculty graduates among its leaders, and can rely on the assistance of other lawyers, can usually manage to stay on the right side of the law. Its leader has said: "We want to show that even under still existing law the prosecutors and the police should avoid appearing ridiculous. There is such a thing as the spirit of the law. A political joke or caricature, even if some should regard them as tasteless or unacceptable, should not be considered insulting" (cited in Wilk, 1997).

The fact that despite considerable official displeasure and condemnation the League has so far evaded any legal punishment seems to bode well for freedom of expression in Poland. What is also important in this respect is the existence of a civil society institutions (the Helsinki Human Rights Foundation, a Centre for Monitoring Freedom of the Press, etc.) which perform a watchdog function. The media are themselves dedicated to the cause and give extensive and critical coverage to any moves to limit freedom of expression and of the press<sup>27</sup>. In so doing, they can count on the support of public opinion. Freedom of speech was one of the most

highly cherished values under the Communist system, even among the workers, and public opinion is highly sensitized to any attempts to limit it (even if it is also critical of journalistic excesses).

In these circumstances, there is hope that any relics from the past still existing in our laws and political and legal practice will successively be removed.

O

## FOOTNOTES

1. Mik (1996: 249) points out that the concept of "freedom of speech" is equivalent to that of „freedom of expression". This is underscored by a 1994 ruling of the Constitutional Tribunal which says in part that „freedom of speech" encompasses all forms of communicating opinions, views and information to others.
2. Excerpts from the 1969 Penal Code are taken from *The Penal Code of the Polish People's Republic*, translated by William S. Kenney and Tadeusz Sadowski, South Hackensack, N.J.: Fred B. Rothman and Co.; London: Sweet & Maxwell, Limited, 1973.
3. It might be interesting to recall in this context that until the adoption of the new Constitution in 1997, parts of the old one still in force until literally days ago retained in Article 93 a typically Stalinist injunction that „Vigilance against the enemies of the Nation ... is a duty of every citizen of the Republic of Poland".
4. These provisions have not yet been invoked since 1994, when the first licences to broadcast were granted.
5. In a 1994 ruling the Constitutional Court made it clear that the National Broadcasting Council could not engage in any pre-publication censorship to enforce observance of this paragraph.
6. The new Constitution is more explicit in banning the establishment of political parties or other organizations which invoke in their platforms the „totalitarian methods and practices of nazism, fascism and communism ..." (Article 13).
7. Offenses specified by this article used to be called „hostile propaganda", or „anti-State propaganda".
8. However, in 1993 this article of the Penal Code was invoked when a drunken night watchman was overheard insulting the then President Lech Wałęsa in a bus-stop conversation. He was prosecuted and given a fine equivalent to a month's wages and a year's suspended sentence. Two students found guilty of similar behaviour were fined about the same amount, each in a separate incident. Article 273 of the Penal Code imposes a prison term of up to 10 years for a person who commits an act under Articles 270 and 271 (as well as under Article 272 which will be discussed below) in print or in a radio or television programme. In October 1995, Presidential candidate Leszek Buzek was charged with violating Articles 270 and 273 when he claimed on a radio programme that a former head of the Presidential chancellery protected a group of criminals.
9. This is a general tendency in the new Penal Code (see Podemski, 1997c, Késicka, 1997a).
10. See also note 7.
11. „Principles of social coexistence are closely connected to moral norms. They constitute rules of

behaviour directly tied to that group of moral norms which govern mutual relations between people ... According to legal doctrine, it is impossible to create a catalogue of principles of social coexistence, since new moral, customary and organizational norms develop as societies evolve" (Sobczak, 1992:73). „The editors are not only entitled, but in fact duty-bound, to refuse the publication of advertisements which are contrary to the law or rules of social coexistence. This covers, for example, political advertisements calling for assaults on Jews or Negroes, as well as advertisements recommending the services of under-age prostitutes, or of persons willing to be hired as thugs with the job of beating up a particular individual, or announcing events devoted to slaughter of animals as a public spectacle" (Sobczak, 1993: 107).

12. „The law does not define the terms ‘editorial policy’ (linia programowa) and „nature of the publication”. The first concept refers to the ideological preferences, world outlook and goals of a publication. The second refers to the type of readers to which it is addressed, artistic assumptions and type of editorial approach .... a totality of views with a functional connection to the interests and goals of a social group" (Sobczak, 1993: 106).

13. Such a regulation has not been issued and consequently public service broadcasters may devote as much time to advertising as commercial ones.

14. As specified by the Law of November 9, 1995 on Protection of Health Against the After-effects of Using Tobacco and Tobacco Products.

15. This is regulated by the Law of October 10, 1991 on Pharmaceuticals, Medical Materials, Pharmacies, Wholesale Trade and Pharmaceutical Supervision.

16. As specified in a Regulation by the Minister of Health and Social Welfare of February 21, 1994, Concerning the Principles and Forms of Advertising and Dissemination of Information on Pharmaceuticals and Medical Materials

17. This is regulated by the Law of July 29, 1992 on Lotteries and Pools.

18. A resolution on the Medical Code of Ethics, adopted on December 14, 1991, by the Emergency 2nd National Congress of Physicians says that „a physician can base his professional reputation on the results of his work alone. Therefore all advertising by physicians, whether direct or indirect, shall be banned. A physician should not allow his name to be used for commercial purposes" (Budzisz, Sagan, 1997:229). However, a regulation by the Minister of Health and Social Welfare of November 14, 1988, on Advertising by Medical Personnel Employed Outside the National Health System says: „Physicians, dentists, dental technicians .... may advertise by providing their names, degree, profession, specialization and surgery hours”.

19. The Code of Ethics passed by a resolution of the National Congress of Legal Advisors which bans all forms of advertising or the use of advertising in any way does however allow members to publish basic information about themselves and their offices (see Budzisz, Sagan, 1997).

20. Resolution No. 12 of the National Council of Notaries Public of November 29, 1991 says that „individual advertising of the chancellery of a notary public is unacceptable” (Budzisz, Sagan, 1997: 237).

21. Originally, the regulation banned sponsorship by political parties, trade unions and employers' organizations as well as by „persons whose principal activity consists in the production, sale or rental of goods or services, the advertising of which is prohibited”. However, this ban was dropped when the Regulation was amended in May 1996.

22. „Enforcement of the provision on 'Christian values' may indirectly violate fundamental human values (...) In a democratic state all philosophies should be treated equally and should be respected and guaranteed, except those which directly threaten individuals and/or society. Any restrictions should be derived from the existing law. Civil and penal codes provide for penalties for violation of norms which protect values underlying any „Christian” system. Duplication of legal norms protecting those values is unnecessary. The Broadcasting Act is much less precise in its language than civil and penal codes, and so it opens the door to many more abuses of its provisions” (Piontek, 1996: 65-66).

23. „As a result [of this ruling], journalists will have only one remaining source of information, i.e. press spokesmen who sing the virtues of their superiors. The watchdog function of the media, which is a foundation of the democratic order, will be eliminated” - said a statement published by major newspapers, radio and television stations in the country (cited after Késicka, 1997 c).

24. The Minister believes that a court may not, unless in cases such as murder or high treason, release a journalist from the obligation to keep his sources anonymous and has asked the National Prosecutor's Office to review the case of Cheæko and Ma3cu;ÿñski. Kubicki believes that the relation between the two provisions mentioned above is the reverse of what the Supreme Court has said, namely that the Code of Penal Procedure is the *lex generalis* and the Press Law is the *lex specialis* which therefore takes precedence, which would mean that journalists may not be released from the obligation not to reveal their sources (Karpowicz, 1997).

25. It reads: „Whoever obstructs or frustrates a penal proceedings by aiding a perpetrator to evade penal liability, and especially whoever hides the perpetrator, obliterates physical evidence of the offense or undergoes a penalty for a sentenced person, shall be subject to the penalty of deprivation of liberty for up to 5 years”.

26. The Orange Alternative, a movement born out of the Movement for New Culture founded by counter-culture groups in Wroc3aw, Poland, in 1980, used „socialist surrealism” in organizing politically provocative street events and happenings based on using the language and symbols of Communism in order to ridicule it: „Generally speaking, the existing social reality, with its conventions and language creates the material for the happenings of The Orange Alternative ... The context of dignity, of order, and accepted rules of ceremony are replaced by a context of laughter and absurdity. The content of fliers and slogans utilizes the language of political propaganda and public speeches. Programs of the officially celebrated national holidays, names of political institutions and symbolic attributes of authority also provide inspiration. A happening can be created by using even such common props as a newspa-

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per, scattering large quantities of issues of [official Party newspapers], and the public reading of those newspapers, favored particularly in Wroc3aw" (Peczak, 1991: 52-53).

27. Such, for example, as an attempt of a few years ago to propose a draft Press Law which would have introduced a number of press controls and ways of limiting access to the journalistic profession. The draft met with such outrage and criticism on the part of the media that it was quietly dropped.

## REFERENCES

- Bafia, J. (1983) *Prawo o cenzurze* [The Law of Censorship]. Warsaw: Ksiaska i Wiedza.
- Bafia, J. (1988) *Prawo o wolności słowa* [The Law of Freedom of Speech]. Warszawa: Ksiaska i Wiedza.
- Barta, J. (1997) *Opinia prawna przygotowana dla Centrum Monitoringu Wolności Prasy w sprawie kolizji przepisów kodeksu postępowania karnego i ustawy Prawo Prasowe odnośnie do tajemnicy dziennikarskiej* [A Legal Opinion Prepared for the Centre for Monitoring Press Freedom on the Conflict of the Code of Penal Procedure and the Press Law in Relation to Journalistic Secrecy]. Warszawa: Centrum Monitoringu Wolności Prasy, Stowarzyszenie Dziennikarzy Polskich.
- Barta, J., R.Markiewicz (1997) 'Zachwiany warunek wolności słowa' [Freedom of the Press Under Threat]. *Rzeczpospolita*, April 17.
- Country Reports on Human Rights Practices for 1995 (1996). Washington: Department of State.
- Czarny, P. (1997) 'Wolność wypowiedzi' [Freedom of Expression]. In: P. Tuleja (Ed.) *Prawo konstytucyjne* [Constitutional Law]. Warszawa: C.H. Beck.
- Gardocki, L. (1995) 'Europejskie standardy wolności wypowiedzi a polskie prawo karne' [Freedom of Expression: European Standards and Polish Penal Law]. In: J. Skupiński (Ed.) *Standardy praw człowieka a polskie prawo karne*. Warszawa: SCHOLAR.
- Gardocki, L. (1996) *Prawo karne* [Penal Law], 2nd edition. Warszawa: C.H.Beck.
- Gomien, D., D. Harris, L. Zwaak (1996) *Law and practice of the European Convention on Human Rights and the European Social Charter*. Strasbourg: Council of Europe Publishing.
- Karpowicz, A. (1997) 'Upadek czwartej wadzy?' [The Decline of the Fourth Estate?]. *Press*, No. 2 (13).
- Kęsicka, K. (1997 a) 'Mniej krat' [Fewer Prison Bars]. *Gazeta Wyborcza*, March 19.
- Kęsicka, K. (1997 b) 'Tajemnica dziennikarska' [Journalistic Secrecy]. *Gazeta Wyborcza*, April 12-13
- Kęsicka, K. (1997 c) 'Nakaz milczenia czy nakaz mówienia' [An Obligation to Keep Silent or an Obligation to Speak]. *Gazeta Wyborcza*, April 17.
- Kunicka-Michalska, B. (1997) *Ekspertyza odpowiadająca na pytanie: czy dziennikarz może być oskarżony o utrudnianie śledztwa przez niepodanie informacji objętej tajemnicą dziennikarską (w rozumieniu Kodeksu Karnego i Prawa Prasowego)* [An Opinion on the Subject of

Whether a Journalist May be Accused of Interfering with an Investigation by Refusing to Reveal Information Covered by Journalistic Secrecy (As Defined by the Penal Code and the Press Law)]. Warszawa: Centrum Monitoringu Wolności Prasy, Stowarzyszenie Dziennikarzy Polskich.

- Mik, C. (1996) 'Wolność wypowiedzi w prawie międzynarodowym i w prawie polskim' [Freedom of Expression in International and Polish Law]. Szkoła Praw Człowieka. Warszawa: Helsińska Fundacja Praw Człowieka.
- Peczak, M. (1991) 'The Orange Ones, the Street and the Background'. Performing Arts Journal. No. 38, May.
- Piontek, D. (1996) 'Swoboda wypowiedzi w świetle ustawy o radiofonii i telewizji' [Freedom of Expression and the Broadcasting Act]. In: W. Dudek (Ed.) Transformacja telewizji w Polsce. Katowice: Wydawnictwo Uniwersytetu Śląskiego.
- Podemski, S. (1997a) 'Prawo do milczenia' [The Right to Silence]. Polityka, March 22.
- Podemski, S. (1997b) 'Sąd powściągliwy' [A Moderate Court]. Polityka. March 29.
- Podemski, S. (1997c) 'Trochę surowiej, dużo łagodniej' [A Little More Severity, a Lot More Leniency]. Polityka, April 5.
- Podemski, S. (1997 d) 'Ponisony organ' [An Organ Suffers an Insult]. Polityka, April 19.
- Skubisz, R., R. Sagan, R. (1997) Prawo reklamy [The Law of Advertising]. Lublin: Wydawnictwo "Mopol".
- Sobczak, J. (1992) Prawo prasowe. Komentarz (Press Law. Commentary). Poznań: Polski Dom Wydawniczy "Lawica".
- Sobczak, J. (1993) Polskie prawo prasowe (Polish Press Law). Poznań: Oficyna Wydawnicza Book Service.
- Sobczak, J. (1994) Ustawa o radiofonii i telewizji. Komentarz [The Broadcasting Act. Commentary]. Poznań: Oficyna Wydawnicza Ab Initio.
- Wilk, E. (1997) 'Liga z jajami' [In League with Eggs]. Polityka, March 22.
- Żurawski, J. (1997) (Ed.) Prawo mediów [Media Law]. Warsaw: Prasowa Agencja Telewizyjna.

# The Press and the Preservation of Yugoslavia Before 1990:

## TANJUG's Leadership of the Non-Aligned News Agencies Pool

BY RICHARD SHAFER

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### Introduction

**B**efore the political disintegration of the former Yugoslavia in 1990, its federal government engaged in a relatively successful effort to maintain national unity through leadership in the Non-Aligned Movement. An important aspect of this leadership was the organisation and administration of the Non-Aligned News Agencies Pool, which was head-

quartered along with TANJUG in a Belgrade building with state of the art communication equipment abandoned by the German Gestapo at the end of World War II.

In this article we provide a history of the Yugoslavian mass media's participation in the federal government's attempt to build nationalism through promoting a world view among the diverse citizens of that nation. By

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focusing on Yugoslavia's role in international affairs and by controlling to a great degree how Yugoslavia's national image was presented domestically and globally, the national press was instrumental in diverting attention from internal divisions that led to fragmentation of the nation in 1990. The Yugoslavian press prior to 1990 was unique in Eastern Europe for its participation in the Non-Aligned Movement and for the relative freedom it was allowed in both domestic and international news coverage and commentary.

As nations in Eastern Europe have in recent years implemented large-scale structural and institutional reforms, one Western institution they have cautiously experimented with is a journalistic model that includes a relatively unfettered press, moving toward being constructively critical and politically adversarial.

In those Eastern European nations experiencing difficult free market economic, as well as democratic political reforms, press deregulation has in most cases sanctioned less restrained journalistic reporting. It has also allowed less restrained journalistic analysis of domestic and regional economic reforms. A more liberated press

in most cases has assumed an important role in preparing the citizens of this nations to understand and accept intensive reforms such as the dismantling of socialist economies and institutions. This is the same reformist role the Yugoslavian press has assumed in that former nation much earlier.

Underwood notes that in Yugoslavia press freedom was reinforced in the 1974 constitution and by the mid-1970's there was no formal censorship in Yugoslavia, although informally the press was prevented from promoting a multi-party system and dissuaded from opposing official foreign policy. (Underwood, 1982).

### Statement of the Problem

**I**N this article it is suggested that the Yugoslavian press prior to national disintegration, had a key role in promoting the official foreign policy of non-alignment, which meant turning away from Europe and toward the less-developed nations of Latin America, Africa and Asia. We postulate that difficult domestic conditions in the last years of Yugoslavian nationhood, including soaring inflation, a crippled economy and declining industrial efficiency turned the attention of the Yugoslavian

people more toward the economic, social and political affairs of the industrialised nations of the West and of the Pacific Rim, as the most likely source for Yugoslavia's economic salvation. At the same time, the external focus on the Yugoslavian people as reflected in their mass media, moved away from the Third World nations. This shift was accelerated as a non-aligned position became less expedient with the decline of global Soviet military and political power.

That the former Yugoslavian government itself continued to avoid appearing to align with either the West, or what was recently the Soviet Block, in favour of actively promoting the non-aligned movement, is evident by the fact Yugoslavia hosted the 1989 conference of non-aligned nations in Belgrade, despite the great economic expense this sponsorship entailed. This may have been the last great symbolic act of nationalism and unity that the federal government was able to generate.

The former policy of non-alignment was summed up to decades earlier in an address by President Tito to the Foreign Ministers of Non-Aligned Countries conference in Belgrade in July, 1978, when Tito said:

"In essence, the policy of non-alignment is directed against imperialism, neo-colonialism, racism and all other forms of foreign domination and exploitation. It is directed against power politics, political and economic hegemony, and every kind of external interference and dependence. This all makes the non-aligned movement also anti-block in its commitment. Our movement does not visualise the future of the world as resting on the balance of bloc power, or on the supremacy of one bloc over the other".

The break up of the "Soviet Bloc" in late 1989 and early 1990, however make the issue of alignment with the Soviets or the Americans in consequential, particularly as the major distinctions between Soviet and American spheres of influence were erased. That the members of the Non-Aligned movement themselves recognised that the hitherto clear demarcation of the two major super powers was rapidly blurring, is evident from an official statement by the Coordinating Bureau of the organisation which met in Zimbabwe in May of 1989. This bureau set the agenda for the Ninth Summit Conference held in September of that year. The statement read in part:

"It was generally conceded that

principles of non-aligned policy were of lasting value, but that contemporary development, especially in East-West relations and within the context of resolving various crisis, made it incumbent to adopt a more creative stand if the movement is to uphold non-aligned and general world of interests as an equal partner in general discussions" (Silovic, 1989)

As Third World nations in Africa, Latin America, Asia and the Caribbean, as well as those in other regions far from Europe, acknowledged that those issues originally motivating formation of the non-aligned movement were passe, it was logical that the former Yugoslavia, as a European nation, would reevaluate its foreign policy in this regard and set a course offering the best opportunity for economic salvation - meaning stronger economic and political ties with Western Europe, North America and the Pacific Rim economic powers such as Japan, South Korea, Singapore and Taiwan. On the other hand, diverting from Tito's policy of non-alignment, involved great risk and uncertainty and there was no apparent leader of Tito's stature to steer Yugoslavia along a difficult new international course. This was especially true since Tito's policies both foreign and domestic

had contributed to peace, relative prosperity and a large measure of national self-esteem for the more than four decades preceding the nation's demise.

## Methodology

**S**INCE it is our objective to explore the relationship between official foreign policy and how that foreign policy was reflected in the domestic press in Yugoslavia before national disintegration, we will:

1. Provide a background explanation of TANJUG, the official Yugoslavian news agency, which gathered news and information worldwide and disseminated it to the domestic mass media throughout was what was formally Yugoslavia.
2. Provide a discussion of TANJUG's historical commitment to focusing on news and information from Third World nations, particularly member nations of the non-aligned movement. This discussion of TANJUG news selection policies is from taped interviews conducted in 1989 with TANJUG bureau chiefs and TANJUG reporters located in four of the six former Yugoslavian republics, as well as TANJUG officials at the headquarters in Belgrade.
- 3) Finally, the policies of both

TANJUG and the federal government of Yugoslavia, are compared with regard to commitment to the non-aligned movement of nations prior to 1990.

### A Brief History of the TANJUG News Agency

**T**ANJUG, an acronym for the Telegraphic News Agency of New Yugoslavia, is an international news agency centred in the Serbia's capital, Belgrade. The new Republic of Croatia has since created its own news agency, HINA, headquartered in Zagreb.

Because of the advanced electronics installed by the Germans in the 1940s, TANJUG moved into the former Gestapo headquarters building after liberation, a building that retained its infamy for Serbians who remember the war. Through its leadership in the struggle to dispel the Nazis, TANJUG gained fame among journalists and consumers of news all over the world. The name TANJUG was likely to appear in stories reporting on political and economic upheaval in Eastern Europe or in others filed from around the globe in places like Zambia, Cuba or Senegal.

TANJUG began when a small

group of reporters and photographers took to the battlefields with Tito's partisans during World War II and eventually became the first news agency in an Axis occupied country in Europe. The Yugoslavian revolutionary, Mosa Pijade, was the chief organiser, operating under orders from Tito to get the partisan message out to those countries not under Axis domination.

During its early days, TANJUG existed as a mobile editorial operation moving through war zones with Partisan military detachments. Its primary war-time mission was to carry news to the world media, of the resistance being waged by Tito's Liberation Army. On November 5, 1943, a 30-watt transmitter sent the first radio newscasts from Tito's headquarters in the Bosnian town of Jajce. A team of 15 journalists began producing a mimeographed daily information bulletin with the intent of briefing information units and Partisan fighters of the progress against Axis occupation forces. In mid-November of 1943, the news of TANJUG's existence was first broadcast to the world by the "Free Yugoslavia" radio station based in Moscow. The bulletins, some of them containing messages from Tito, were delivered by bicycle and ox cart. Soldiers distributed them as

they moved through the countryside; farmers carried them to village marketplaces (Saranovic, 1983).

TANJUG influence in Yugoslavia did not end with the liberation of Belgrade in 1944. After the war, TANJUG's editors and reporters, working out of bureaus in all six Yugoslavian republics, became the principle conduits of information about the reconstruction, economic development and political activity sweeping the country. National unity became a new battle cry as the fledging government struggled to create a new Yugoslavia, one where ethnic and cultural differences would be put aside in favour of unity for industrialisation and the building of a Federal Peoples Republic.

During Yugoslavia's efforts to modernise in the 1950s, TANJUG's role, and the role of other Yugoslavian media, was to serve as a tool for the federal government and to propagandise its master plans. Ministries of information were setup in all of the republics to monitor the content of newscasts and periodicals. TANJUG became a main distributor of national news with a virtual monopoly over foreign news collection (Underwood, 1982).

The national news agency

became the voice of socialist self-management and non-alignment. In speeches, President Tito credited TANJUG with promoting modernisation and for strengthening brotherhood and unity in Yugoslavia. Tito regularly referred to TANJUG as the voice of socialist self-management and non-aligned Yugoslavia (Saranovic, 1983). In 1975, the news agency gained international attention within the global journalism community for initiating the Pool of Non-Aligned nations, designed to improve and expand the mutual exchange of information and to strengthen cooperation among the non-aligned countries and the international community in general.

According to Righter (1978), TANJUG led in a worldwide effort to collect and distribute information filed through a Third World news network aimed at balancing "distorted" images disseminated by the four major wire services - Associate Press, United Press International, Reuters and Agence France Presse. TANJUG linked itself closely with the New World Information Order, as a champion of the Third World, particularly of the non-aligned nations, which maintained they were either ignored by the Western press or were covered only in times of

political and economic crisis. It was also linked with the independent-minded Marxist political tradition from which it was born, the stunningly successful Yugoslavian anti-fascist partisan movement led by Tito during World War II.

Despite such traditions, there is evidence that TANJUG was having difficulty competing with the dominant Western sources of international news by the 1990's.

In a study by Becker, Underwood and Lemish (1980), it was found that despite TANJUG's dedication to providing an alternative source for international news, the Yugoslavians, like most of the world, remained dependent on the major Western wire services for their international news. In reviewing these findings, Robert Stevenson and Donald Shaw (1984) reported that:

"It is clear that news written in the Western wire service style has been widely used around the world. For example, a recent study found that in Yugoslavia - a nation that has been a cradle of many of the ideas supporting a new world information order - press coverage of the United States comes largely from Western news agencies".

Becker, Underwood and Lemish (1980) also found that the Yugoslavian papers did very little editing of the original wire copy. In tone and topic, the view of the United States in Yugoslavian newspapers by 1990 was largely of the Western wire services.

Alternative sources to the Western news agencies were widely available, however. Third World editors and national news agency staffs (staple users of the wire services) had access to the Soviet news agency TASS, the Non-Aligned News Agencies pool, and a rapidly increasing number of regional and specialty news services. TASS was used in Eastern Europe and a small number of Third World countries, but the Yugoslavian study cited suggests that Western wires are still used substantially in most parts of the world, even in Eastern Europe.

Stevenson and Shaw (1984) also reported that despite optimistic claims from TANJUG officials, there was little evidence that Pool material was used and that even the Yugoslavian media made little use of it. In 1989, TANJUG officials continued to espouse a dedication to non-alignment as a guide for TANJUG in the collection and distribution of

international news. But beneath the rhetoric, it was apparent that we were well aware that the winds of change were blowing in Eastern Europe and that TANJUG would be forced to adapt to a lessening of tensions between the United States and the Soviet Union, as well as to a new order in Europe. This new order would include the success of the European Community, and the demise of the Warsaw Pact.

With the breakup of Yugoslavia, there was little interest among the new republics in maintaining the appearance of non-alignment. Even prior to the breakup there were indications that support was slipping.

For instance, in June of 1989, Velimir Srica, Croatia's minister of science and technology, told a group of Fulbright scholars that: "To be non-aligned doesn't pay off. We must become a member of the EC or we won't survive." (Srica, 1989). It appeared Srica was optimistic that the nation would stay unified for longer than it did.

Since the focus of this study is on how the press reflected Yugoslavian foreign policy in the last years of the nation, data collected for this study will now be presented.

## Analysis of Interviews with TANJUG Officials

**T**OP TANJUG officials were interviewed in 1989, using a semi structured interview format. These interviews are reanalysed here in light of the political and economic changes that occurred in Yugoslavia soon after the interviews were conducted.

TANJUG officials interviewed were predictably cautious in commenting on matters directly relating to foreign policy, and it was difficult to get direct statements and opinions on foreign policy directions and the role of TANJUG in expediting them. The officials were, however, very accessible, hospitable and open in most matters relating to the news agency.

As a result, this comprises the best available insider perspectives on TANJUG's role in manipulating the news gate within the former Yugoslavia during a period of rapid economic, political and economic changes, both within Yugoslavia, and throughout the former Eastern Bloc.

Those TANJUG officials interviewed tended to express pride in the news agency's coverage of Third World news and events, but at the same time

appeared cognizant of what was then Yugoslavia's position as a European nation with severe economic and social problems. Since the interviews were done in English, or with the aid of Serbian-Croatian speaking translators, there has been some very minor editing of grammatical errors and sentence structure.

**Interview no. 1: Milenko Babic,  
editor of World Service,  
Belgrade, June 15, 1989.**

**T**ANJUG's leadership of the 90 members of the Non-Aligned Agencies Pool included an obligation to send stories originating from Pool members, without significant editing of content. But because of a tendency for heavy political or ideological content, Babic said stories from the Pool of Non-Aligned Countries were often edited for domestic dissemination within Yugoslavia. In discussing policy and practice regarding the dissemination of foreign news within Yugoslavia, Babic said:

"The problem is regarding content. We have such member agencies as IRNA of Iran and INA of Iraq, and you can imagine what problems we would have in retransmitting their news... so, the content of Pool news is often a little too politi-

cised. Everyone (member news agencies) is trying more than it is tolerable to further their own ideological, political and propaganda interests. The problem still exists, although it is much less than say five or ten years ago. We are one of the largest and most advanced news agencies in the system".

Babic said he saw the role of TANJUG as: (1) to present Yugoslavian news and its own spin on world events, and (2) to deal with news coming from the members of the Pool, with the least ideological content or emphasis on policy and the highest degree of professionalism. With regard to a commitment to non-alignment, he said the Pool itself is a function of non-alignment policy. Babic also explained that despite the former Yugoslavia's historical and official commitment to non-alignment, even under Tito the country's media tended to be Eurocentric. He added that for Yugoslavian newspapers, the traditional news values common to the West prevailed, meaning stories about such things as violence and disaster got more play than did development stories.

Babic predicted in the 1989 interview that there would be little change in TANJUG's commitment to covering news from the non-aligned countries,

although he said even those countries would like to see Yugoslavia have a stronger position in Europe.

**Interview #2, Borislav Korkodelovic, editor, World Service, TANJUG Headquarters, Belgrade, June 16, 1989.**

**W**HEN asked if there was a commitment by TANJUG to providing Yugoslavians with news and information from non-aligned countries, Korkodelovic said:

“Yes, I think it’s one of the main tasks which is unwritten in a lot of agreements between TANJUG and foreign news agencies, especially news agencies from the non-aligned countries.”

Korkodelovic said it was his point of view that it was an obligation that Yugoslavia had incurred with non-aligned nations to provide news about them to the Yugoslavian people, although he said there was a tendency for most of the foreign news distributed by TANJUG domestically, to originate from the dominate “commercial” news agencies, a term he applied to UP, AP, Reuters and Agence France Presse. Korkodelovic said of the tendency of

TANJUG to emphasise news emanating from the Western-industrialised nations:

“So, still, unfortunately from my point of view, TANJUG isn’t balanced. Judging from percentages, I would say more than 60 percent of the stories are coming from the commercial news agencies. But there is an emphasis coming from the leadership of TANJUG, that we must try as much as possible to use stories from the Pool of the non-aligned news agencies.”

Korkodelovic said there is no reliable data on what the demand for foreign news within Yugoslavia was, adding that he would welcome media researchers wishing to use the resources at the TANJUG headquarters. The TANJUG director said:

“I’m not sure that we know exactly (what demand is), we don’t have the exact analysis of what they (Yugoslavians) would like. Still, we are just feeling around in the dark. There is our own main policy that we provide stories from both industrialised countries and the developing ones. But formerly it has been much easier to cover Paris that it has been to cover Addis Ababa (Ethiopia). So that is a problem that you are visually looking at in our newspapers.”

**Interview #3, Dubravko Curac,  
TANJUG bureau editor, Sarajevo,  
Bosnia, June 22, 1989.**

**C**URAC is former editor of “Kommunist”, the party weekly, and had only been with TANJUG for two and a half years when interviewed in 1989. He did not elaborate on what he thought the news agency should provide, but said he didn’t predict any changes in orientation of TANJUG’s international coverage or emphasis on the non-aligned nations, adding that he is not an expert on non-aligned countries.

The Bosnian TANJUG editor said the agency would have to move toward responding to the dominance of the market economy, selling its news and information for a profit. Although the editors interviewed said there was no direct pressure from the former Yugoslavian federal government for TANJUG to become economically self-sustaining, it was apparent from the interviews that such a move was being considered.

**Interview #4, Zarko Modric,  
TANJUG bureau chief, Zagreb,  
June 29, 1989.**

**W**E have to reorient to the market economy by selling information, said Modric,

who was emphatic about the need for TANJUG to become more economically self-sufficient and more competitive in the international news market. Modric said that in 1987, 45 percent of TANJUG’s budget was provided from government sources, while 38.5 percent of its revenue was earned by the sale of bulletins. Profits from other services provided by TANJUG accounted for 1.5 percent of its revenue. The remaining 15 percent of revenue was said to come from the provision of “general service” news.

Modric said TANJUG was striving for objectivity in its news and avoids promoting the Communist Party of Yugoslavia, adding that there was no longer a Yugoslavian Ministry of Information.

With 47 TANJUG correspondents overseas in 1989, Modric said it was still difficult to compete with the major Western news agencies. As a correspondent for TANJUG in Japan, Modric said he filled over 100 stories a month from Tokyo. “We still couldn’t compete with Reuters,” he said, adding that he used the Reuters network to file TANJUG stories from Tokyo.

## Summary and Conclusions

**T**HIS article presents a brief historical analysis of Yugoslavian press policy as it existed just prior to the division of the country into independent republics. It is obvious that the Yugoslavian federal government was relatively successful at building a press system that furthered the national policy of non-alignment. Perhaps in doing so, it built a pride in such international leadership and promoted a nationalism that preserved the Yugoslavian federation for longer than it might otherwise have endured.

Whether the mass media resources of the country could have been better applied to national integration of diverse ethnic, religious and cultural groups is a matter for further speculation. The determination of the national government to pursue leadership of the non-

aligned nations might have alienated Yugoslavia from its European neighbours, so that they were ineffective in helping to slow or prevent Yugoslavia's disintegration in 1990, and the bloodshed and loss of property caused by the resulted ethnic and religious conflicts.

This article builds an historic base for pursuing studies of the news agencies formed in the newly independent republics, to determine how they differ from those of the former federal government of Yugoslavia, particularly with regard to their role in furthering the foreign policies of those new nations.

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## Bibliography

1. Becker, Lee B., Underwood, Paul and Lemisch, Dafna, "Coverage of the U.S.: A study of the Yugoslavian press", paper presented to the International Association for Mass Communication Research, Caracas, Venezuela, 1980.
2. Bryan, Carter R., "The Press System in Yugoslavia: Communism with a Difference", *Journalism Quarterly* 43:2, Summer 1966, pp. 291-299.
3. Doder, Dusko, "The Yugoslavians", 1978, New York, Random House.
4. Fenby, Jonathan, "The International News Services: A Twentieth Century Fund Report, 1986, New York: Schocken Books, pp. 229-235.
5. Lazarus, W., "Proceedings of the Seminar on Non-ALigned News Pool, 1978, Quickall Press: New Delhi, India.
6. Popovic, Velimir (ed.), "Addresses Delivered by President Josip Broz Tito at the Conferences of Non-Aligned Countries", *Jugoslovenska Stvarnost*, 1979, Belgrade.
7. Radojkovic, Mirojub, "Political Participation and Mass Media in Yugoslavia", *Gazette* 21:3, 1975, pp. 136-148.
8. Righter, Rosemary, "Whose News? Politics, the Press and the Third World, 1978, Times Book, Chapter 6.
9. Robinson, Gertrude J., "Foreign News Selection is Non-Linear: Yugoslavia's TANJUG agency", *Journalism Quarterly*, 47:2, Summer 1970, pp. 340-351.
10. Robinson, Gertrude J., "News Agencies and World News in Canada, the United States and Yugoslavia: Methods and Data, 1981, University Press, Fribourg, Switzerland, pp. 13-38.
11. Robinson, Gertrude J., "Tito's Maverick Media: The Politics of Mass Communications in Yugoslavia, 1977, Urbana, Ill., University of Illinois Press, Chapter 9.
12. Saranovic, Mihajlo, Editor, *TANJUG Forty Years*, TANJUG News Agency, 1983, Belgrade, pp. 11-15.
13. Siebert, Fred S., Peterson, Theodore and Schramm, Wilbur, "Four Theories of the Press, 1956, Urbana, Ill., University of Illinois Press.
14. Silovic, Darko, "Preparations for the Ninth Summit Conference", *Review of International Affairs*, Vol. XL, June 5, 1989, Belgrade, p. 5.

15. Srica, Velimir, "Address to the 1989 Fulbright Summer Travel in Yugoslavia seminar participants, Office of the Ministry of Science and Technology, Zagreb, Yugoslavia, June 29, 1989.
16. Stevenson, Robert L. and Shaw, Donald L., "Foreign News and the New World Information Order, 1984, Iowa State University Press, Ames, Iowa, pp. 14-19.
17. Underwood, Paul, "Yugoslavia", World Press Encyclopaedia, 1982, New York: Facts on File, pp. 1038-1049.
18. World Bank, "World Development Report", New York: Oxford University Press, 1989, pp. 164-169.

# Media in Bosnia and Herzegovina:

## How International Support Can Be More Effective

BY CHRISTOPHER BENNETT

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### Introduction

**U**ntil the very last years of communist era in Bosnia and Herzegovina were dull, conservative and firmly controlled by the republican authorities. Nevertheless, in the best Titoist traditions they aimed to satisfy, if not necessarily please, all three of the republic's constituent peoples. Key newspapers were published in a mix of Latin and Cyrillic with the

script of the front-page alternating. Likewise, television subtitles were in Cyrillic one day and Latin the next.

The Bosnian media acquired a lease on life as Yugoslavia's League of Communists disintegrated. RTV Sarajevo, RTV B&H's predecessor, was freed from direct government control by act of parliament and Oslobodjenje, the dominant publishing house, began the privatisation process. In

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October 1990, Sarajevo became home to Yutel, a would-be pan-Yugoslav television network launched by Yugoslavia's last prime minister Ante Markovic, in an attempt to neutralise the media war then being waged between Belgrade and Zagreb. Yutel leased RTV Sarajevo's second channel and was remarkably popular among Bosnian people throughout the war in neighbouring Croatia. It went off the air five weeks after the outbreak of fighting Bosnia and Herzegovina, as the Yugoslav ideal it represented disintegrated.

In the course of 43 months of war, the integrated Bosnian media fell apart and split into three complete separate and mutually antagonistic components. The structure of the media also changed. During the war, most of the trade publications folded and the circulation of newspapers and magazines collapsed. By contrast, broadcast media, which was viewed as critical to the war effort, mushroomed. Whereas 377 publications, 54 radio stations, four television stations and one news agency were officially registered before the war, there are now 145 print media, 92 radio stations, 29 TV stations and six news agencies<sup>1</sup>.

## Current Media Picture

**T**HE Bosnian media remain divided into three almost totally separate markets in Republika Srpska, Bosnian-controlled territory and Croatian-controlled Federation territory. Broadcast signals cross the former front lines and enable Bosnian people to watch television or listen to radio originating from territory controlled by other people. However, few journalists dare to travel to regions outside the control of their nation's armed forces because they fear for their personal security. Moreover, telephone links, which are poor between Croatian and Bosnian-controlled territory, hardly exist between the Federation and Republika Srpska<sup>2</sup>.

One feature common to all three media markets is the overwhelming influence of state television. An opinion poll in the Sarajevo monthly magazine *Dani* indicated that 46.6 per cent of people in Bosnian-controlled Federation territory declared television to be their principal source of information - far ahead of the second most influential medium, the daily newspaper *Dnevni avaz*, which, according to the same poll, was the main source of information for 7.54 percent.<sup>3</sup> In Republika Srpska and Croatian-controlled

territory the influence of state television was even more pervasive, since virtually no alternative medium exists in those parts of Bosnia and Herzegovina. Given the lack of contact between the three media markets, each must be considered in turn.

### Republika Srpska

**I**N Republika Srpska the most important media are directed by the most powerful politician in the ruling Srpska demokratska stranka (SDS). Momcilo Krajisnik, the Serb Member of the Bosnian Presidency, chairs the management board of RTV Srpska and carefully controls the content of state radio and television. The consequences are predictable. Indeed, the output of the official Bosnian Serb media is frequently so offensive that High Representative Carl Bildt accused them of putting out propaganda that "even Stalin would be ashamed of".<sup>4</sup>

TV Srpska's news output and especially the flagship early evening *Novosti u 7.30* is less than subtle. According to the Institute of War and Peace Reporting, "Novosti provides unreserved support to Republika Srpska authorities. It fully upholds the policies, ideology and national euphoria propagated by the ruling SDS.

Its relentlessly negative stance towards the Federation - and especially towards Bosnians - aims to rule out any possibility of coexistence and reintegration."<sup>5</sup> Bosnians are still frequently referred to in derogatory terms, and reports from the Federation are regularly placed in the section *Iz sveta* (From Abroad), thereby suggesting that Republika Srpska is not part of Bosnia and Herzegovina.

Republika Srpska is home to 25 newspapers and other periodicals, 36 radio stations (seven of which are privately-owned), seven television stations (i.e. production units or studios) and one official state news agency, SRNA.<sup>6</sup> Of the broadcast media none apart from RTV Srpska has an independent news-gathering capacity and even the handful of privately-owned stations rely almost exclusively on the SRNA wire.

In addition to TV Srpska, Sarajevo-based radio and television B&H, as well as Croatian and Serbian radio and television, can be watched in much of Republika Srpska. Of these, Serbian television is naturally the most influential, though its image has recently taken a severe beating because of its coverage, that is lack of coverage, of the mass demon-

strations in Belgrade which could be watched on TV Srpska. Otherwise the Belgrade press is also generally available and read far more than anything published in Republika Srpska.

After several years of darkness, alternative media began cautiously to emerge around the time that the Dayton Peace Agreement was signed. The first medium to make an impact, however, was hardly independent. Radio Krajina, an army-run station in Banja Luka which was headed by indicted war criminal Ratko Mladici's spokesman Colonel Milovan Milutinovici, became an unlikely yet influential forum for alternative points of view. Indeed, according to IWPR, it was the "lone broadcaster to act as something other than a government transmission belt"<sup>7</sup> and in the run-up to the elections it consistently produced lively political phone-in debates featuring every party which wished to take part.

The elections were a great spur to the alternative media since the ruling party had to give the impression, at least temporarily, that it would tolerate other points of view. In this way, a handful of newspapers, *Nezavisne novine* and *Novi prelom* in Banja Luka,

*Alternativa* in Doboï and *Panorama* in Bijeljina, all of which had been launched or relaunched since the signing of the DPA, became mouthpieces of the opposition. Of these, *Nezavisne novine* was by far the most influential, evolving, with financial assistance from the UK's Overseas Development Agency, the US Agency for International Development (USAID) and George Soros's Open Society Fund, from a fortnightly newspaper into a weekly in June and a daily in August. Moreover, the daily boasted a circulation of 4,000 and the weekly of 9,000, which though objectively low was, nevertheless, far greater than any other publication in Republika Srpska.

The backlash came as soon as the elections were over and the SDS was confirmed in power. In October journalists with *Alternativa* were put on trial for libel, Radio Krajina was closed and *Glas Srpski*, the state-owned and only printing press suitable for newspapers told *Nezavisne novine* that "for technical reasons" it could no longer be printed. If the intention of the SDS was to silence all dissenting voices, it had the opposite effect. Reporters from throughout Republika Srpska who had been working for alternative media came together in December to form a union

of independent journalists. Meanwhile, *Nezavisne novine* switched printing to Belgrade and continued to come out as a weekly, continuously pushing back the boundaries of the possible with, for example, interviews with the chairman of the Bosnian Presidency Alija Izetbegovic and a joint venture of sorts with the Sarajevo-based biweekly *Slobodna Bosna*. In January, as it became clear that the clamp-down was counter-productive, *Glas Srpski* relented and agreed to print *Nezavisne novine* again.

### **Croatian-controlled Federation Territory**

**T**HE most closed media market is in Croatian-controlled Federation Territory. Of 10 papers and magazines, 15 radio stations, five television studios and one news agency, *Habena*,<sup>8</sup> no media organs, not even those which are privately owned, deviate from the line of the ruling *Hrvatska demokratska zajednica* (HDZ). Not even during the election campaign did any of the media give any space to alternative points of view. The most important local medium, *HTV Mostar* (which is privately-owned television station) is, according to IWPR, "one party television for a would-be one-

party state".<sup>9</sup> Newspapers from Croatia dominate the newsstands and the Split daily *Slobodna Dalmacija* devotes a page every day to events in so-called Herceg-Bosna. Dissident Croatian publications, however, such as the satirical Split weekly *Feral Tribune*, are difficult to find. Otherwise, *Hrvatska Radio-Televizija*, that is television from Croatia proper whose signal covers much of Bosnia and Herzegovina, is the principal information source. On 1 February an outpost of *Hrvatska Radio-Televizija* called *TV Herceg-Bosna* began broadcasting to Croatian-controlled federation territory from *Siroki Brijeg*. In December a weekly newspaper called *Horizont* was launched in west Mostar. While too early for a definitive analysis, the newspaper is nevertheless already the most positive media development in Croatian-controlled territory since the end of hostilities.

### **Bosnian-controlled Federation Territory**

**T**HE most open of the state-run media in Bosnia and Herzegovina is by far that in Bosnian-controlled federation territory. They, nevertheless, leave much to be desired, and while relatively open to the Bosnian opposition, have little

positive to say about either Republika Srpska or, more worrying, their Croatian partners in the Federation. Though TV B&H, the most influential medium, attempts to portray itself as a public service broadcaster for the whole of Bosnia and Herzegovina, its news output is generally slavishly obedient to the ruling Bosnian nationalist party Stranka za demokratsku akciju (SDA) and amounts at best to a version of events from the perspective of a broad-minded Bosnian. The situation is considerably bleaker in the local, municipality-owned media outside Sarajevo, especially in Cazinska Krajina, the area of northern Bosnia around Bihac, which are firmly under SDA control.

Since the state-run media are so much more reasonable and tolerant in Bosnian-controlled territory than elsewhere in Bosnia and Herzegovina, Bosnian nationalist media with close links to the ruling SDA also exist. These include Dnevni avaz, the best-selling daily newspaper, Ljiljan, the weekly with especially high sales abroad, and Hayat Radio. Moreover, a Bosnian nationalist television linked to the newspaper Ljiljan is scheduled to come on air in the near future.

At first glance, the alternative media scene appears to be thriving, diverse and dynamic. News-stands are packed with a plethora of publications and the air waves are clogged by the frequencies of the many radio stations. In addition, privately-owned, local television stations are everywhere. Indeed, there are 110 print media, 41 radio stations, 17 television stations and four news agencies on Bosnian-controlled Federation territory.<sup>10</sup> The reason is donations from abroad. An estimated \$7 million were ploughed into the media in Bosnian-controlled territory between October 1992 and the end of 1995.<sup>11</sup>

Since there has been no shortage of deep-pocketed donors, the scale of the alternative media and the number of journalists is out of all proportion to the size of the population. Moreover, as foreign donors appear prepared to continue subsidising the Bosnian media, the number of media ventures and radio projects in particular, appears to grow by the day. Despite a handful of quality publications, however, circulations are generally small and most of the industry would collapse if the donations dried up.

## International Investments in Media

**F**OREIGN donors have maintained their wartime financial support for the Bosnian media in the first year of peace. Indeed, the level of subsidy has risen sharply as new donors with large budgets, such as USAID and the European Commission, have entered the market. Moreover, this level of support is likely to continue at least for the forthcoming year. George Soros' Open Society Fund says it has a budget of \$3 million, and this will be increased by \$2 million if matching funding can be found; USAID says it expects to give between \$10 and \$15 million; and the European Commission has earmarked 10 million ECU for the former Yugoslavia, much of which will go to media projects in Bosnia and Herzegovina.

In the first post-war year investment has consisted of substantial subsidies, some innovative programming, including in particular broadcasts of war crimes trials from The Hague, and professional training of journalists. Despite frenetic activity, however, there have been few breakthroughs. Though disappointing, this should not be a surprise since the media are generally more effective, at least in

the short-term, at destabilising a situation, than at rebuilding trust. Reconstruction of the media, as any other field, will be a difficult and drawn out process. Moreover, as illustrated above, the ruling nationalists retain a vice-like grip on the key media throughout the country. Nevertheless, money allocated to the Bosnian media could be invested more wisely.

A cost-benefit analysis of media investment in 1996 indicates a poor return. The problem is a lack of overall strategy and absence of expertise. Instead of analysing the Bosnian media in detail, then working out a long-term approach to help improve it and combining forces to implement such a policy, donors have for the most part done their own thing. Worse still, they have on occasions even been competing with each other over which projects to back. One example of this is the proposed project to build a printing press in Republika Srpska to help the fledgling alternative media and prevent the authorities from closing newspapers down by preventing them from printing. Initially, both USAID and the European Commission appeared determined to finance the venture, irrespective of the relative merits, because it was an obvious prestige project. While both parties still appear

keen on the project, neither has as yet fully committed itself.

A still worse example of donor rivalry and overlap this year has occurred in the area of media training. Since many Bosnian journalists are young and only started working during the war, they often have no experience of peacetime reporting and never received any formal training. The need for training therefore is obvious. However, in the course of 1996, hordes of media consultants, few of whom had any prior knowledge of the country, descended on Bosnian news organisations (Almost exclusively in Bosnian-controlled Federation territory) offering short-term training courses to journalists. While the foreign visitors were welcomed at first, news editors quickly tired of the procession. The visits were generally too brief and unstructured for the Bosnians to get much of them.

During the war donations were critical to preserving and ensuring the survival of media in Bosnian-controlled regions. Because of the prevailing conditions and the importance of media for boosting morale, donors did not have to devise a sophisticated media strategy, they merely had to keep the money coming. In peace, however, media subsidies often cre-

ate problems of their own. The market becomes entirely artificial and the viability of a particular publication or radio or television station, for example, depends not on the quality of the product but on the ability of the management to drum up donations.

In the course of 1996, virtually any existing or potential news organisation anywhere in Bosnia and Herzegovina, not overtly controlled by the one of the ruling parties, which has sought financial support has received it, though usually in the form of computer equipment. The list of beneficiaries of USAID's largess, in particular, is impressive. The substance and integrity of some of those beneficiaries, however, are dubious. Take Ekstra magazin, a fortnightly publication from Bijeljina. This newspaper, the recipient of 18,400 DM from USAID, is ostensibly independent. However, it is owned and edited by Jovica Petkovic who, during the war, was the head of the Bosnian Serb Army's press centre and one of Republika Srpska's most chauvinist propagandists. Worse still, the contents of the newspaper leave much to be desired with Sarajevo journalists complaining that articles they wrote for other publications are reprinted without permission and edited in such a way as to

skew the original message. Whoever chose to give a subsidy to this newspaper clearly has not investigated its editor's past, let alone read it. Or take Flash, a news agency of sorts in Banja Luka which received 38,000 DM from USAID to set up a daily media monitoring service ostensibly for the benefit of political parties and international organisations. The fact that many of the radio stations they proposed to monitor had no independent news-gathering capacity and therefore relied virtually exclusively on the TANJUG and SRNA wires appeared not to matter. Suffice it to say, local political parties were not queuing up to subscribe to Flash. The equipment, however, has not gone to waste since it is being used to publish Knina, a nationalist newspaper published by the Croatian Serb refugee community in Banja Luka.

One media donor clearly stands out from the rest, namely George Soros' Open Society Fund. This is hardly surprising given that the organisation has already been operating in Bosnia for most of the war, generally employs locals who have both media experience and expertise, and, critically, it is making an open-ended commitment to Bosnia intending to continue working in the country for many years to come.

Instead of sending trainers into news organisations on flying visits, the Open Society Fund built a school for journalism within its media centre in Sarajevo. Trainers at the school are working journalists supplied by the BBC and paid for by the UK's Know-How Fund, and students, who attend 10-week courses, come from all parts of Bosnia and Herzegovina, that is Republika Srpska as well as the Federation.<sup>12</sup>

When it comes to media subsidies, the Open Society Fund is generally extremely cautious, aware that excessive generosity can skew the market and that certain publications which claim to be independent do not deserve support. Before making funding decisions, therefore, the Open Society Fund attempts to assess the long term economic viability of a project, demanding to see, for example, a business plan. In addition, as part of a process akin to "due diligence", the Open Society Fund often commissions an analysis of the work of any media organisation seeking financial support from Media Plan.

Given the number of media donors and the potential for both rivalry and overlap, the Office of the High Representative has attempted to co-ordi-

nate media investment. It has, for example, compiled a database of the disbursements of the major donors to try to minimise overlap and make sure that potential beneficiaries are not, at the same time, taking money from several sources. However, the Office of the High Representative has failed to develop an overall media strategy and, with departure of its media specialist, lacks the expertise to come up with such a framework.

Internews, the US non-governmental organisation specialising in the media, has produced some of the most innovative television programming to be shown in Bosnia and Herzegovina during the past year.<sup>13</sup> Live broadcasts of the first war crimes trials from The Hague, which were shown on TV B&H, had an immediate impact as Bosnians in both the Federation and Republika Srpska tuned in in droves. After initial curiosity wore off, however, and in the absence of the most notorious indictees, interest faded rapidly. Otherwise, Internews focused on high-brow programmes linking up colourful individuals who used to work closely together but who had been divided by the war. This included Goran Bregovic, the Belgrade-based musician from Sarajevo's most famous rock

band Bijelo Dugme, and Abdulah Sidran, the author of the screen play to "When Father was Away on Business", who remained in Sarajevo throughout the war.

Two international media projects dwarf all others - the Free Elections Radio Network (FERN) and TV-IN, otherwise known as the Open Broadcast Network. Both are ambitious ventures which have been on the receiving end of much criticism and which do suffer from major shortcomings. However, these shortcomings are largely the result of political pressure exerted from beyond Bosnia and Herzegovina which demanded the establishment of some form of nation-wide alternative media in Bosnia before the September 1996 elections. The fact that both FERN and TV-IN are focused on Bosnian-controlled Federation territory, where the state-run media are the most moderate and the alternative media the most developed, yet virtually ignore Republika Srpska and Croatian-controlled Federation territory, where state-run media are all-powerful and broadcast daily incitements to ethnic hatred, did not matter. Nevertheless, both FERN and TV-IN have the potential to make a difference in the longer term and, if carefully nurtured, even to transform the Bosnian

media scene.

FERN is the media success story in Bosnia and Herzegovina. Financed by Switzerland to the tune of 2 million DM, it was originally scheduled to be on air only until the September elections. With an initial staff of 20, including stringers, it claimed that its signal covered 81 per cent of Federation territory and 66 per cent of Republika Srpska. Journalists received two weeks of training and the station began broadcasting on 15 July, that is less than two months before polling day. Without an advertising campaign to announce its appearance and so little time, the station had no chance of having any influence on the election campaign. Moreover, the Republika Srpska authorities temporarily banned FERN's broadcast because it had not sought their permission.<sup>14</sup>

Postponement of the municipal elections extended FERN's existence and gave it the time both to develop a quality product and to build up an audience. In the intervening months, FERN has evolved into a powerful medium producing consistently high quality programming. Critically, by paying regular salaries to journalists (an unusual event in Bosnia), covering health insur-

ance and even implementing incentive schemes, the station has attracted and is attracting many of Bosnia's better reporters, had generated genuine camaraderie among staff and operates with a high morale. That said, the FERN structure remains fundamentally flawed. It is based in Sarajevo and relies excessively upon freelance contributions to cover Republika Srpska and Croatian-controlled Federation territory. It has also had many technical problems, going off the air temporarily in some regions and never reaching others, principally in Republika Srpska and Croatian-controlled Federation territory. In effect it provides a good alternative to radio B&H, but not to radio B&H's Serbian and Croatian equivalents. In addition, FERN only has guaranteed funding until the municipal elections. At that point, unless new funds are allocated, according to a confidential document agreed between the station and the entity authorities, its equipment will be divided between the entities.

FERN's problems pale into insignificance besides those of TV-IN, the \$10.5 million television network, sponsored by the Office of the High Representative. While FERN had a two months run into the elections and a small but dedicated staff

who had undergone training together, TV-IN went on air on 7 September, less than a week before polling day, with barely any staff and no time to practice. Moreover, to get it up and running so soon, the network had to operate using satellite up-links, rather than a cheaper and a longer-term terrestrial alternative. The results were predictable - technical glitches, sloppy productions and in-fighting. At the beginning, the picture quality was too poor for most Bosnians to tune in, and even now its reach is limited. Indeed, when on 1 January the satellite link failed and TV-IN went off the air for a week, few Bosnians even noticed its demise.

A major shortcoming of TV-IN is that it was put together by the Office of the High Representative and not by Bosnians. It is thus generally viewed as a foreign creation and treated with suspicion. A week before it went on air, it lacked key staff and the original news editor, Goran Milic (the former head of Yutel), had to be brought in from Croatia. The key to any media organisation is its journalists and even now TV-IN just does not have enough of them. The news editor says that he only has four reporters at the hub. Moreover, staff complains that they do not know themselves where the

station stands, who is running it or where it is heading. They also say that technically they form part of the black economy and are thus working without standard benefits such as health insurance.

Ostensibly, TV-IN is based on network of nominally independent television stations, all of which were founded during the war on Bosnian-controlled territory, with a news hub in Sarajevo. Originally, five stations set up the network, Sarajevo-based NTV 99 and TV Hayat, TV Mostar, Zenica-based Zetel and TV Tuzla, and each received a large donation of television equipment, which accounted for much of the international community's investment. The stations were expected to broadcast TV-IN programming several hours a day. Having received its share of the equipment, however, NTV 99 promptly left the network and since has been one of its fiercest critics. The other member stations have formally remained in the network and broadcast programming produced at the hub (when available), but themselves frequently join the chorus of criticism.

TV-IN can only be seen in those parts of Bosnia covered by one of the member stations that is Sarajevo, Zenica, Tuzla and Mostar, as well as in Banja

Luka in Republika Srpska courtesy of a transmitter installed last year by IFOR. Programming consists of a central news program broadcast at 8 o'clock in the evening and lasting 30 minutes. There is also a weekly program on refugee issues which TV-IN produces itself, as well as a program of women's issues. Otherwise, however, the hub appears to have a minimal budget for domestic productions and the bulk of programming, including South-American soap opera, is bought in from abroad.

The little stations are a major embarrassment. They fail to contribute much in the way of news reports to the hub, as originally anticipated, and what they do contribute is often amateurish and/or as biased as the state broadcaster. Worse still, some of their practices bring the entire network into disrepute. Hours of programming are filled with videos of recently-released Western films for which no payment is ever made, thus breaking international copyright law on a daily basis. During Ramadan, TV Hayat used its largely US-bought equipment to broadcast many hours of religious programming a day supplied by Iran. While there is nothing wrong with Iranian

programming per se, the fact that TV Hayat is broadcasting it will not endear TV-IN to Serb viewers just the other side of the inter-entity boundary line. And TV Mostar's output is generally so one-sided that Croatian in West Mostar who are only able to watch TV-IN on TV Mostar's frequency cannot take the network seriously. Many senior journalists in both Republika Srpska and Croatian-controlled Federation territory consider that the network is already too compromised among Serbians and Croatian to ever have an impact.

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## Notes

1. Media Plan, cited in *Monitoring the Media: The Bosnian Elections 1996* by Mark Wheeler, p. 32.
2. To phone Republika Srpska from the Federation requires an international call. This is routed from the Federation out of Bosnia to Belgrade and then on to Republika Srpska. Since there are few lines, the calls rarely get through. Worse still, only a limited number of phones have the option of international calling.
3. Dani, September 1996, number 47, p. 25.
4. Reuters, 12 July 1996
5. IWPR Monitoring Report, 10 July 1996, p. 5.
6. *Monitoring the Media: The Bosnian Elections 1996*, p. 32.
7. IWPR Monitoring Report, 24 July 1996, p. 2.
8. *Monitoring the Media: The Bosnian Elections 1996*, p. 33
9. IWPR Monitoring Report, 26 June 1996, p. 5.
10. *Monitoring the Media: The Bosnian Elections 1996*, p. 34
11. Media Plan estimate, *Monitoring the Media: The Bosnian Elections 1996*, p. 36
12. USAID also organised and financed a more structured three-week training programme for young journalists in Republika Srpska in January 1997.
13. Internews receives funding from USAID, George Soros' Open Society Institute and the European Commission.
14. IPTF Elections-Related Human Rights Incident Tracking, 28 August 1996, p. 11.

# The “New Politicization” of Russian Journalism

BY **SERGEI KORKONOSSENKO**

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**T**HE “old” Russian (Soviet) journalism existed in the frame of official social doctrine which treated the political relations to have the paramount importance for the society. Accordingly journalism was the political institute in the first instance: theoretically (this idea has been developed in detail by V.I. Lenin), de jure (the Communist Party committees had a formal right to control media)

and, chiefly, de facto (political interests dominated in the contents and editorial interpretation of the publications).

Of course, the political, social regulative role is one of the natural characteristics of journalism and it maintains its significance in contemporary historical circumstances. But “new” journalism became free from the artificial politicization. To illustrate lets remember the

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dynamic diversification process in the press typology, particularly the rise of specific editions for entertainment, family reading, advertising etc. Nevertheless the leading newspapers appeared to be politically determined as well as they were in the past. Maybe even more because today that's not an order from above, but the independent choice of the staff.

**BY CONTENTS .** The content analysis of four national and regional dailies (Izvestia, Pravda, Sank-Peterburgskiye Vedomosti and Smena - 1995. November) has been made in Sankt Petersburg University for the Russian-Swedish research program "Journalism: Discursive Order and Social Practice". It shows that such subjects as the activities of the power, parties, civil movements account for 27 % of the total number of themes. In the late 1980's the research of the press in Leningrad region gave us 24% (see: Systemny analysis, 1993).

**BY ASPECTS TO COVER .** The importance of the events for the power, internal and foreign policy was stressed in a quarter of all cases (in the project of 1980's - near the same).

By the heroes of publications. The man from the politics has much more chances to become

a personage of shock article than representatives of other social spheres (the same on TV).

The roots of this restoration of the politics as primadonna in media should be searched both in the genesis of Russian journalism and in the specific social situation. First of all, during last decades our journalists are developing the strong model of self identification - as active and competent participators of official political life, in any case - as acting politicians. In this way the most spread professional discursive order has been formed. Whether it was changed in last years or not? That's the main question to understand the ground of "new politicization". Looking for the answers lets examine the results of some investigations in the sphere of journalists consciousness and trade behaviour.

**BY THE PSYCHOLOGISTS** who studied the journalists aims to pre-elections debates, the representatives of Russian media feel themselves of the same "running track" with politicians. Journalists try to leave them behind, to win a dialogue - instead of conducting the mediator role as some foreign correspondents from the control group do (Dykariova 1996). From another side the

newsgathering systems - both editorial and individual ones - are orientated to the hard dependence on the power and administration institutions, on regional and local level of press especially. Journalists prefer to ask officials about fresh facts - therefore about the versions of social events (62% of journalists respondents). At the same time information from private persons, infocentres, civil organisations and business man attracts attention in the second and third turn (Zakonodatelstvo i Praktika SMI 1996, N. 7-8). Can it be wondered then that correspondents working on the text think about the political expediency of the publishing first of all (Vilchek 1995)? At last the statistic picture of the situation is being confirmed by the direct impressions of well known in Russian leader of print and broadcast media, Egor Yakovlev. After the retirement as chairman of the state TV company "Ostankino" he gave the following explanation to his disaccord with former subordinates: "... Many ones here not only have got accustomed to the political censorship and political pressing, but also were satisfied with a period when they existed" (Izvestia 1992, 12 Sept.).

We have the emphasize that in this case we don't worry about concret political and civic atti-

tude of some editors or publishers. The analysis concerns their initial orientations to the space of politics as a focus of the main content, ideas and values for the press. In other words we stand before the permanent and stable discursive model. It corresponds exactly to highly specific self-feeling of Russia these days. For this country the questions of political future are the most interesting now and the least clear. The politicized press is an equivalent copy of the society as a systematic integrity and of expectations of its agents - the political actors, activists and enthusiasts. The integrity of this kind doesn't coincide with civic society in its structure and general values. Alexander Yourkov, vice-editor in chief of newspaper "Sankt-Peterburgskiy Vedomosti" commented these links in next words: "Honestly, we are terribly tired on writing on politics. But everything proceeds from this vile substance - salaries which were not payed and pensions being delayed, the constant growing of municipal taxes and the impossibility to find a suitable job after the age of 35 and a lot of other everyday things" (Sankt-Peterburgskiy Vedomosti - My. 1996. 15 Sept.).

The civic society which is in the making now and mass consciousness in Russia live and

change themselves by another social-historic logic. There are enough reasons to say that the most of the population is losing the interest to the political affairs - both in a reality and in media publications. For instance, only 34% of eligible voters took part in the governor elections in Leningrad Oblast (don't confuse with St. Petersburg) last September - the same level of activity (or even lower) were registered in other regions of Russia. It's essentially that, firstly, the conservative provincials were always characterised by the extremely high election discipline and, secondly, in this case their choice was determined by business qualities of candidates rather than party - political orientation of them. This unusual thing was marked by foreign observers (the St. Petersburg Times, 1996, 1 Oct.).

In media sphere we see how the highest positions of popularity are being occupied by entertainment and utilitarian information. To the fresh data of Petersburg public opinion researchers, in the broadcasting thematic spectrum the commonplace useful information rouses the main interest of listeners (48%) while Russian political and economic events stand quite far from the leaders (23%) and more than 40% meet the negatively (Kropotov

1996). In Moscow the Union of Journalists sociologists revealed that music and news radioformats as well as broadcasting of everyday life are sufficiently more interesting for listeners than political and economic programmes: 41, 27 and 22% against 16% (Zakonodatelstvo i Praktika SMI. 1996. N3).

There are a few reasons of such depolitization of residents. We'd call only some of them. But before let's mark that we don't mean the absolute political indifference of real and potential audience. To declare the total independence of politics, journalism and population on each other means to construct a new (probably terribly old?) mystification. They are engaged to exist together as the elements of the same supersystem - the society. However, we deal with very contradictory and disbalanced composition of mass consciousness. It maintains the stable interest to the results of large-scale political changes - and at the same time turns away from the routine political process ("kitchen") more and more, loses the confidence in politicians. It's quite understandable - if to refer to the tens of trillions roubles debt of administration for the employees salary. Now people don't believe government's and parties' promises to provide the

paradise life. Under the pressure of real living conditions the populations makes the choice in favour of financial and moral welfare. Above that "the man in the street" has lost the ability to make out the nuances of unsteady political map. To some data, the residents of Russian provinces know not more than 1-3 parties from the test list of 15 ones.

At last the phenomenon of psychological self-protection against unpleasant political news has developed during recent years. It became particularly clear towards journalism. Unfortunately, this phenomenon of great significance for the moral health of the nation didn't get a deep analysis and comprehension. Meanwhile some years ago the group of Russian psychiatrists announced the public warning about the catastrophic consequences of totally pesimistic intonations in media reports (Komsomolskaya pravda, 1992, 13 Feb.). "If to speak about the hunger every minute it will come for all that - according to Pavlov's reflex theory. Forming the idea of a riot as an ordinary thing for the people you are preparing the riot", - that was the subject to be apprehended by rulers and journalists. Without any effect nevertheless. After rather short time journalists certified the dra-

matic results of politicised scandals which are demolishing the physics of the nation: "It's a real fact in which we can be sadly convinced of and not «blood and flesh» only but just that - the everyday emotional lie of purposeful omission... one of the respectable newspapers writes. - The results of all these things - the irrigation and the concomitant hysterics" (Obshchaya gazeta, 1996, 13-23 Oct.).

Summarising the facts the researcher has to make a conclusion about growing this connection trends in the relationship of politicised press and "non-party" audience. The last six evidently to find the particularity. But it would be to easy decision to treat the problem as the divergence in writers' and readers' preferences in the matter of publications. That's, obviously, nothing extra than one of the manifestations of quite deeper and multiaspect contradiction. That is being understood clearer from day to day by the theorists both in Russia and in the world. We mean the self-isolation of journalism from human community. Becaming sharper the contradiction jumps up the stage of a conflict in its classic form which includes the difference of needs, interests and values. Among the factors to provoke the conflict there are some

objective conditions - such as the progressing technical / technological strenght of media. It giver modern journalism enough facilities to bring, develop and distribute information from itself and for itself. Today press (electronic media especially) uses its own internal resources and doesn't need, paradoxically, knowledge of "external" social life. But the break of natural links (what to find more kindred than press and community!) was provoked by corporate necessity and will of journalists. Corporate - if not simply private. That's exactly the factor which leads pressmen away from the society and mass audience.

In case we don't take into consideration the pressure of this factor we are not able to reconstruct the mechanism managing journalists' brians and behaviour. Let's follow this idea on the base of the discussion at the simposium "Stockholm - St. Petersburg - Liverpool" (Stockholm, 1996, November). According to the programme "Journalism: Discursive Order and Social Practice" the dispute was concentrated on the factor analysis scheme of the subject suggested by Swedish scholars Karin Becker, Ian Ekecrantz and Tom Olsson. The very professionally done diagram seemed to include all existing variables which one could

imagine - economic conditions, political power, dominating literary orientations, journalistic role model etc. Nevertheless, Russian participators of the programme offered some additions because the scheme didn't foresee to study specific interests of journalists' corps. The additions were accepted so long as they were provided with rather strong reasoning. The arguments are taken from the media practice, from incredible behaviour of Russian press first of all.

So, the secret of illogical (from the position of democracy) covering of election campaign should be found in a huge benefits which media institutions gain out of pretenders' and parties' ambitions. Instant political aims of the campaign, community and journalists as civil persons are moved aside. Editorial staffs are ready to offer their assistance to every solvent clients and don't worry about their status of a tool for political manipulations. The danger to loose the audience's confidence doesn't disturb them too. Of course, there is a special group of a party newspapers with their preliminary devotion to the owners but they are to be dealt with as exclusion in this context - the exclusion which corroborates general rule of bias brightly. When the results of State Duma elections made

clear a great distance between press agitation and public choice some of professionals estimated this effect as "score own goal" (Obschaya gazeta, 1993, 17-23 Dec.). In current editorial practice the priority of economic motion doesn't look so distinctly - but really exists. The former specialist on political problems of one of the biggest Russian newspapers "Izvestia" Nikolai Andreiyev told the American "Boston Globe" that "economic censorship" is felt everywhere in corridors of this famous edition (Sankt - Peterburgskiy e Vedomosti, 1993, 14 Apr.).

Even more, in press we can find sharply negative journalists' self-appraisals. Some of them climb up to quite correct sociological conclusions. For example, in comparative analysis of Russian and British newspapers in a political field "Komsomolskaya Pravda" writes that there is "a problem of more general nature - the difference between national and public interests. First - the interests of this country from the state servants point of view, second - from ordinary people point of view". The substantial part of Russian journalists, by the newspaper, puts higher the so called national interest and that's why they shut themselves off the community (Komsomolskaya Pravda, 1993,

30 Sept.). This way of analysis coincides with famous sociological paradigm of Jurgen Habermass who separates the world of system (artificially constructed norms and values) from the world of life (naturally born values of human association). According to Habermass theory the orientation to the sphere of really significant events and genuine people's interests is a dominant idea of our social journalism concept - as an alternative to subjectivity of traditional, "yesterday" press (see the concept: Korkonosenko, 1993).

Well, whether journalists reach the objective self-estimation sometimes or not they, in mass, don't hurry to change radically habitual professional methods. In this occasion the next way of reasoning becomes quite typical for foreign experts - about journalism and "instead" of it. Mass media develops very dangerous public activity, they allow themselves to be politically involved, to attempt mental health of the society, to cause destructive effects on national level. The moral imperatives are unable, ethic codes look hypocrite. It means the establishment of compulsory regulations to be unavoidable - in a form of hard prohibitory laws and controlling commissions (Zakonodatelstvo i praktika SMI, 1996, N 10). The

situation had some precedents in the world journalism recent history. As specialists know in 1960's Swedish met the increasing social criticism and calls for tightening of legislation. To keep independence and free conditions to act the journalists corporation has considered it right to organize the reliable system of self-regulation aimed to preventive solution of media vs. public and citizen conflicts (Axberger 1993). Today Russian press stands before the similar choice.

One of the needed steps to normalize the state of affairs is to put in order the views on social status of media, in particular to renounce the archaic terms and definitions. Real circumstances in the society and at the mass information market demand to be reflected not in the approaches only but in the term of media management too. Traditionally in Russia we used the name "socio-political newspaper" i.e. addressed to total audience not the special segment. It was the mirror of rudimentary understanding of media social mission as a political phenomenon primary. Accordingly the public was considered as a homogenous formation created on the base of linking for political information. The objective situation makes the expression "wide profile newspaper" (i.e. com-

modity) more precise and actual. But the inertia of the politicization prevents to strengthen the market position of press today - and tomorrow especially. Last year the sociological lab of Journalism Faculty at St. Petersburg University finished the study of "Sankt-Peterburgskiy Vedomosti" (the largest circulation in the city and region - near 140 thousand copies daily). Our specialists advised the newspaper to think of the danger to stay without readers soon because of the bulk of the audience consists of the elder generations - the most attached to political news. However in nearest future the wave of youngest people comes to age. They are much more determined by everyday needs. New generation surely asks of another matter and ideas spectrum - wider, more realistic and pluralistic. This conclusion should be spread on the most part of traditional and alternative editions in Russia. But why only in Russia?

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## Sources

1. Axberger, Hans-Gunnar, *Freedom of the Press in Sweden*, Stockholm, 1993.
2. Dikariova, O., *Na chiem pole igrayem? // Journalist na viborah, Moscow, 1996, p. 24 (Who's Ground Do We Play On? // Journalist during the Election Campaign).*
3. Korkonossenko, S. G., *Sociojournalistica: ponyatie, sodержanie, obrazovanie // The 1st St. Petersburg International Conference "Regional Informatics" RI-92, St. Petersburg, 1993 (Sociojournalism: Concept, Matter, Education).*
4. Kropotkov, A. V., Kim, M. N., *Radioslooshateli Sankt-Peterburga: interesi i predpochiteniya // Jurnalistica i Sociologhia '95, St. Petersburg; Novgorod, 1996, p. 27 (Radiolistenters of St. Petersburg: Interests and Preferences // Journalism and Sociology '95).*
5. *Systemny analiz jurnalistskoy deyatelnosti / Ed. by S. C. Korkonossenko, St. Petersburg, 1993 (The Systematic Analysis of Journalist Activity).*
6. Vilchec V., *Umerte ambitzii // Journalist, 1995, No 7, p. 61 (Keep Down Your Ambitions).*
7. *Zakonodatelstvo i Praktika SMI, 1996, No. 3, p. 16 (The Legislation and Practice of Media).*
8. *Zakonodatelstvo i Praktika SMI, 1996, No. 7-8, p. 2.*
9. *Zakonodatelstvo i Praktika SMI, 1996, No. 10, p. 22.*

**VARIA**

**VARIA**

**L'humour politico-cathodique russe**

# **Kouklis et Guignols: à chacun sa marionnette**

**PAR M. COULOMB -GULLY**

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**L**es Kouklis sont les cousins russes de nos Guignols de l'info français. C'est une création de la chaîne russe indépendante, NTV, qui est née en 1994 et dont I. Malaghenko est le Président. Leur diffusion a commencé en janvier 1995, elle est hebdomadaire (le samedi vers 22h), dure un peu plus de dix minutes et réunit environ 30 millions de téléspectateurs.

En dépit de la haine farouche que lui voue le

gouvernement de B. Eltsine, des procès qui lui sont intentés, l'accusant de destabiliser l'ordre social et d'insulter l'honneur et la dignité des dirigeants du pays, et de l'exil momentané de son producteur, B. Grigoriev, l'émission continue.

Satire de l'univers politique russe, comme nos Guignols le sont du microcosme politique français, les Kouklis fonctionnent cependant selon une scénographie

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toute différente. Les implications de ces choix sont toutefois loin d'être exclusivement esthétiques.

### Pastiche à la française et satire à la russe

**D**ANS les Kouklis, pas de faux journal télé, pas d'équivalent russe de PPD: on préfère convoquer les classiques du répertoire. Gorki, Pouchkine, Dostoïevski, Gogol, Lermontov, Boulgakov, dont le public russe est imprégné dès l'enfance, écrit à ce propos A. Cojean<sup>1</sup>. La matrice référentielle des Kouklis est donc constituée par des œuvres littéraires, pour la plupart puisées dans le répertoire mondial et surtout national. Les grands succès du cinéma constituent une autre source d'inspiration importante.

Ainsi d'une reprise des Bas-Fonds de Gorki, montrant Eltsine, Gratchev (alors Ministre de la défense) et Korjakov (chef de la sécurité personnelle du Président) dans un foyer de SDF, ivres morts et en loques, ou allongés sur des bancs avec des journaux en guise de couvertures: ou d'un remake de Mash, de R. Altman, représentant un bloc opératoire où Kozyrev (alors Ministre des affaires étrangères), Gratchev (toujours Ministre de la

défense) et Erine (alors Ministre de l'intérieur) sont figurés en chirurgiens, couverts de sang et penchés sur les entrailles d'un corps: ils procèdent à "l'ablation de la petite Tchétchénie" comme nous l'apprend la voix de B. Eltsine en commentaire off.

C'est donc, dans tous les cas, par le biais de référents fictionnels que s'effectue la dénonciation de la réalité politique russe. L'effet de déréalisation constitue par conséquent le principe même du fonctionnement des Kouklis. Cet effet est d'autant plus perceptible que la fiction de référence se situe loin dans l'espace et/ou le temps. Ainsi de ce remake d'Hamlet de Shakespeare, avec B. Eltsine dans le rôle du héros éponyme et A. Jirinovski (leader de l'extrême-droite) en Laerte. Le décor du théâtre élisabétain, les costumes d'époque, le fond musical inspiré de l'opéra constituent autant d'éléments instaurant une distance entre la réalité politique critiquée et la fiction parodique.

Les Kouklis s'ancrent de la sorte dans une veine satirique traditionnelle dont Voltaire ou Montesquieu pourraient en France être considérés comme les parangons: leur critique de la société contemporaine s'effectue par le biais de Zadig

le Babylonien pour l'un, Rica et Usbek les Persans pour l'autre. Le regard de l'étranger provoque le même effet de mise à distance de la réalité sociale et politique de l'époque que le recours à Shakespeare dans l'exemple ci-dessus.

Rien de tel avec nos Guignols. Ici, point de recours à la fiction pour mettre en scène les politiques puisque c'est dans le cadre de pseudo informations télévisées que ceux-ci sont convoqués. Diffusé à la même heure et au même rythme - quotidien - que le "vrai", le JT qui se déroule sous nos yeux pendant les cinq minutes des Guignols est identique à l'original: il présente la même structure, avec la même succession de séquences (politique, culture, sport, etc.) et la même variété dans le traitement d'un sujet (brève, invitation-plateau, reportage en direct, en différé); les génériques qui ouvrent les diverses séquences des Guignols sont les vrais génériques des séquences parodiées, qu'il s'agisse du pastiche de Soir 3, du JT de France 2 ou de tout autre. Enfin, comble de la rouerie, le même jingle annonce la vraie séquence publicitaire de Canal Plus...et les fausses publicités des Guignols. Le même réalisme est à lire dans les personnages eux-mêmes. Leur langage, dans sa syntaxe comme dans son vocab-

ulaire, est très proche de celui de leur modèle dont citations et emprunts textuels sont d'ailleurs fréquents; et si J. Chirac se permet quelques grossièretés, c'est là encore la conformité avec le modèle qui prévaut... Le choix de leurs vêtements (costume sombre, chemise claire, cravate) témoigne du même souci au point que, s'agissant de PPD, costume et cravate changent chaque soir, conformément au vrai! Les marionnettes elles-mêmes frappent par leur réalisme, à peine un peu plus bouffies que leur modèle, mais fondamentalement humaines (trop humaines?).

La proximité avec le modèle est telle qu'il est alors difficile de regarder le "vrai JT" de P. Poivre d'Arvor après avoir vu PPD officier sur Canal Plus, d'entendre s'exprimer les personnalités politiques durant les informations après les avoir vues sur le plateau des Guignols. PPD s'impose à P. Poivre d'Arvor, et les marionnettes à leurs modèles...

Si les Guignols fonctionnent comme pastiche, voire comme simulacre de la réalité qu'il entendent dénoncer, les Kouklis en revanche restent dans un cadre plus classique. Là où le pastiche suppose la proximité, voire la confusion entre le modèle et la copie, le

réel et sa représentation, la satire russe maintient la distance entre les deux.

Perfide parce que, brouillant les cartes, le discrédit engendré par le pastiche est sans limites et s'infiltré partout, la satire des Kouklis est plus respectueuse des frontières dans le jeu qu'elle instaure. On conçoit que dans le climat de liberté surveillée des médias dans la Russie actuelle<sup>2</sup>, les auteurs des Kouklis n'aient pas voulu franchir cette barrière.

### Politique et médiatique

**L**A seconde grande différence entre les deux émissions réside précisément dans le choix fait par les Guignols de l'Info, imités en cela par de nombreux pays appartenant à l'"internationale guignolesque"<sup>3</sup>, de faire du JT la matrice organisationnelle de l'émission.

Par ce choix scénographique, les Guignols supposent l'appréhension conjointe de la réalité politique et de sa reprise médiatique, confondues dans un seul et même espace, celui du plateau télé. En effet, ne figure pas d'un côté le réel et de l'autre sa représentation, d'un côté la réalité supposée des pratiques politiques et de l'autre sa version télévisuelle. La politique et sa représenta-

tion sont confondues parce qu'impensables indépendamment l'une de l'autre dans le contexte de médiatisation généralisée des pratiques collectives qui est le nôtre.

E. Balladur alors Premier Ministre ayant fait une sortie en métro, D. Schneidermann, dans le Monde, analysait comme suit la reprise de l'événement par les Guignols de l'Info: "Le Bébête Show, comme on pouvait s'y attendre, le montrait entouré de dix policiers fébriles guettant autour de lui une improbable irruption de l'insécurité. C'était la mise en boîte traditionnelle (...) On se demanda si les Guignols diffusés quasi simultanément allaient jouer dans le même registre. Pas du tout. La marionnette qui apparut sur le petit théâtre de Canal Plus était un Balladur non seulement ridicule comme son jumeau du Bébête Show, mais conscient de l'être et navré de s'être ainsi ridiculisé. Comme s'il venait à l'instant de se voir avec accablement sur la chaîne d'en face."<sup>4</sup>

Pas de réalité "en soi" dans les Guignols de l'Info: n'existe pour ceux-ci que ce qui est médiatisé, la seule réalité accessible étant de l'ordre de l'image. C'est la raison pour laquelle, côtoyant les stars des médias (ces "nouveaux Olympiens"

dont parlait E. Morin), les Cantona, Fernandez, Haliday, Platini, les hommes politiques sont d'abord des vedettes médiatiques.

Ils se prêtent d'ailleurs volontiers à toutes sortes d'émissions télévisuelles: ainsi du "Chiracton", organisé au profit du Maire de Paris lorsque, candidat à l'élection présidentielle, il était au plus bas dans les sondages ("et déjà, précise un commentaire off, on voit s'afficher une promesse de vote!"); ou, à la même époque, du "petit Nicolas" (alias N.Sarkozy) à "L'Ecole des Fans" de J.Martin et qui fait "la voix de son maître" (E.Balladur); ou encore de R.Hue, sous-titré "Voyelle", en référence à l'émission "Des chiffres et des lettres" et d'"Arlette à Malibu", classique métathèse sur "Alerte à Malibu".

C'est donc principalement le tout venant des émissions de télévision qui sert de prisme de perception au politique, comme si la politique n'avait aucune existence en dehors de l'espace médiatique, comme si envisager l'autonomie de la sphère politique par rapport à celle des médias relevait désormais du leurre le plus total.

La réflexion de V.Pitchoul, cité par A.Cojean, selon lequel

"C'est la politique intérieure qui passionne les Russes. Ils ne nous pardonneraient pas de contourner la difficulté en mettant en scène des sportifs ou des personnalités étrangères"<sup>5</sup> méconnaît donc totalement la portée conceptuelle du choix scénographique effectué par les Guignols.

En France, comme dans les autres pays de démocratie "avancée", la confusion est telle entre pouvoir médiatique et pouvoir politique qu'il est difficile d'appréhender l'un sans l'autre, à telle enseigne qu'on a pu parler à ce propos de "médiacratie", voire de "médiaculture". L'appréhension du politique ne peut se faire que par le biais du médiatique, comme en témoignent plaisamment, mais non sans profondeur, nos Guignols nationaux.

Nul doute cependant que dans quelques années, si la situation en Russie évolue conformément à celle des démocraties occidentales, les Kouklis ne s'inventent à leur tour un PPD national...

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## Notes

1. Supplément radio-télé du Monde daté des 10-11 mars 1996, p. 3.
2. Outre le procès intenté à l'émission, c'est NTV elle-même que le pouvoir menace de nationaliser.
3. Espagne, Allemagne, République Tchèque, Hongrie, Pologne, Chili, Colombie etc. constituent quelques uns des pays diffusant des émissions satiriques où l'homme politique est représenté par le biais d'une marionnette.
4. In Le Monde du 6 novembre 1993.
5. A. Cojean, art. cit.