INFLUENCE OF THE POLITICS ON FREEDOM OF THE MEDIA

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In this article the authors provide theoretical overview of terms media, politics, international politics, of the state as a subject of international law, the freedom of information, as well as the impact of the politics over the state. The state is the supreme organization of humanity today. In every country, the creation of a public opinion occupies a significant place. Function-bearers, depending on the degree of democracy, also depending on the political system and constitutional order, in their own way tend to ensure the favour of the public opinion in order to rule over a longer period and in a safer manner. The public opinion is a complex social and political phenomenon. Rights and freedoms on the one hand are basic criteria and a measure of the position and the role of the people and citizens in the society, and democratic regime (the system) on the other. They are an instrument to limit the power and disable its arbitrariness and abuse. Knowing that the public opinion creates courts for modus operandi of the community and appreciation for the actions of the government, it is expected that the political rulers seek to impose their influence on the creation of public opinion in order to retain or maintain the power. Public opinion as a form of political consciousness is associated with the political system as an institutional base of the political process.

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INTRODUCTION

The freedom of expression and the freedom of the media represent the

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cornerstone of every democratic society. The role of the media is to inform. Everyone has the right to receive and communicate information without interference by the authorities. This right is guaranteed by all relevant international documents ratified by Republic of Macedonia, such as the United Nations Universal Declaration of Human Rights from 1948, International Covenant on Civil and Political Rights from 1994 and European Convention for the Protection of Human Rights and Fundamental Freedoms from 1997.

Another important role of the media is the control which is accomplished by requesting a report by the authorities on the manner of governance. The essential function of the media is the obligation to encourage debate in the society about important issues of public interest. Moreover, they play a representative role, by giving a voice to those who are powerless in the society.

The Constitution of Republic of Macedonia guarantees the civil rights and liberties and the rule of law. Also Article 16 guarantees the freedom of expression and the freedom of the media. “The freedom of belief, conscience, thought and public expression of thought is guaranteed. The freedom of speech, public address, public informing and the establishment of institutions for public informing is guaranteed. The free access of information and the freedom to receive and communicate information are guaranteed.”\(^1\) The same article from the Constitution guarantees the right to reply and correction as well as protection of sources of information. According to the last provision of this article the censorship is expressly prohibited. This liberal concept in the constitution that guarantees freedom of the media is operationalized in the media’s legislation. Article No. 3 of the Law on Media\(^2\), along with other matters, guarantees the freedom of information transfer for informing of the public as well as the pluralism and diversity of media. In Republic of Macedonia, similar guarantees for freedom of the media are provided with the Law of Audio and Audio-visual Media Services, which was adopted in 2013\(^3\) which was adjusted with the EU Directives. It also incorporates the standards of EU member-states. Article 3 of the law insists that the public broadcasting service, the Macedonian Radio Television and the regulating body of media are to be transparent, independent, and efficient and accountable. High professional

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standards and principles for journalists in the public service are established. Article 111 of the aforementioned Law processes the standards of the Council of Europe in details, referring that journalists and editors of public service in the production of programs should be guided by the principle of truthfulness, impartiality and comprehensiveness of information. The same article incorporates the principle of political independence and autonomy of journalists, making a clear distinction between information and attitude, political balance and pluralism of views. In this sense, the International Federation of Journalists and the Code of Journalists of Macedonia (Articles 14, 15, 16) are warning that the journalists should avoid external interests and connections that might harm their reputation for impartiality, fairness and integrity. Prominent journalists such as leading columnists in newspapers and popular presenters of TV programs, should particularly take into account their impartiality and balanced reporting, to provide professional distance from the political subject, to nurture the culture of speech, to preserve the dignity of their profession, to avoid using their medium for confronting people, including their own colleagues and refuse the task if it is contrary to the principles of the journalistic profession and the Code.

I. ABOUT THE MEDIA, PUBLIC AND PUBLIC OPINION

In every country, creating public opinion takes significant place. The function-bearers depending on the degree of democracy, the political system and constitutional order, all on their own manner tend towards providing affection on the public opinion in order to rule for a longer period and in a safer manner.

Media’s freedom is a liberal value that comes from the philosophy of freedom and equality of citizens that is enshrined since liberalism. Back then it was discussed about the freedom of the press, because other media appeared later. It is an expression of the democratic aspirations of the citizens for greater political rights and establishing political control over political power. There is no absolute freedom of the media, as there is no absolute free human activity. Freedom of the press (media) does not mean absolute freedom of the media to provide and publish any type of information. Even the most democratic societies do not allow the media to

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publish sensitive information that endanger state security or child pornography. The philosophy of freedom of the media is to determine the boundaries of that freedom or to establish a balance between media freedom and freedom of expression. In real life there are situations when it is in the public interest to limit the principle of maximum speaking the truth due to higher social interests⁶.

The public opinion is a complex social and political phenomenon. According to Habermas, the public opinion as a concept was firstly created by the physiocrat Louis-Sebastien Mercier with meaning of enlightened result of a common and public reflection on the foundations of social organization⁷.

According to other authors the term *public opinion* is of Anglo-Saxon origin and was firstly used in England when the public opinion as a support to the Parliament was mentioned by the famous English statesman and author John Salisbury in 1159. Later Shakespeare mentions the Henry’s IV statement: “Opinion, which did help me to the crown”⁸. Machiavelli also emphasizes that the constant concern of the ruler should be winning the favour of public opinion, if it wants to preserve power and personal security⁹.

When defining the term *public opinion*, the conceptual determination of the terms mass, publicity, public and political public are to be put on mind.

The *public* is a social and political space, in which public opinionarises and acts. It is a benefit and requirement of political democracy. Public exists where the audience is.

The *audience* consists of large number of people with common interests or share a common position on an issue. Thus, readers of a newspaper, students, members of a club, etc. can serve as an example for the public. What keeps the public linked is intellect, and what connects the mass of people is emotion. The mass of people gathers in one place, and the crowd is dispersed¹⁰.

The *mass* of people is a latent social force, and the audience is more capable factor for social events. The audience can survive like structure only if there are so-called own creative centres such as the editorial staff of the mass media, theatres, sports clubs and so on. The connection between the

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audience and the individual is of psychological origin and is constituted by the activity of one of these centres, and by their actions they establish the connection between people close to affinity, taste or interest, due to which the types of audience differentiate\textsuperscript{11}.

## II. FREEDOM OF INFORMATION AS CONSTITUTIONAL ORIENTATION

Rights and freedoms are basic criteria and a measure of the position and role of people and citizens in society on one hand, and democracy of the regime (the system) on the other. They are an instrument to limit the power and disable its arbitrariness and abuse. Why discussing fundamental freedoms? Because they crawl out of the very nature of man, not the will of the state government. “People are born free and equal”, was said by Rousseau, and repeated by the Declaration of Independence of the United States in 1776.

The rights are acts of a certain degree of development of civilization, the fruit of the new age understanding of the world and life. The theoretical dimension of rights and freedoms is closely linked with the theory of natural law with the rise of the constitution as a written document and the construction of a single international order\textsuperscript{12}.

According to Siljanovska-Davkova (2001: 24), “the theory of natural law connects the freedoms and rights of justice as a value, while the theory of positive law of the rights and freedoms is seen as a product of the sovereign state power.”

The theory of natural law in 17th and 18th Centuries will be represented by John Locke\textsuperscript{13} and Thomas Jefferson. According to both everyone is, by nature free and equal and possess inalienable rights and inviolable rights that state government can only protect but not limit or repeal. Whilst the representatives of the theory of Positive Law believe that freedoms and rights are direct creation of the state authority. Therefore freedoms and rights are not natural human capacity, but category of the state order.

The idea of human rights and freedoms was established in ancient Greece, ancient Rome and medieval period known after numerous charters for privileges of certain classes and groups.

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\textsuperscript{11} Djordjevic Thomas, Political Public Opinion, Novi Sad, 88 (1975).
\textsuperscript{12} SILJANOVSKA DAVKOVA G., T. TRENDAFILOVA & TRENESKA R., HANDBOOK FOR PASSING INTERMEDIATE EXAMINATION, 24 (Foundation Open Society Institute 2001).
\textsuperscript{13} More in: John Locke (1632-1704), English Philosopher, “Two Treatises of Government”.
Great Charter of Freedoms (Magna Carta Libertatum) of 1215 in certain determinations is still a valid document of common law jurisdictions with which the English feudal lords adopted certain privileges for themselves and King John Lackland. Article 40 reads as follows: “The right and justice shall not be sold, abridged or delayed to anyone.” In the 12th Century in England Petition of Rights of 1628 and the Bill of Rights of 1689 are adopted and especially the famous Habeas Corpus Act (1679) as the basis and inspiration for all future documents of such nature. It highlighted that no one without authorization can get arrested, be jailed without a proper court order, and the right to life, liberty and property rights became positive rights. Here are two particularly important declarations. Declaration of Independence of the United States from 1776, by which 13 British colonies bid farewell to the British king invoking to the political rights of the people elaborating the reasons for rejecting the colonial yoke.

The Bill of Rights of 1776 is the first systematic document on Human Rights, proclaimed in 1776 in the state of Virginia. It declared “the rights and freedoms of the individual” as an introduction to the Constitution of Virginia. However, the Declaration of the Rights of Men and of the Citizens from August 28, 1789 is ideological and political platform and program of all major revolutionary movements. Article 1 of the Declaration reads as follows: “People are born and live free and equal in their rights.” Freedom is the ability to do anything that does not harm the other.\footnote{SILJANOVSKA DAVKOVA G., T. TRENDAFILOVA & TRENESKA R., HANDBOOK FOR PASSING INTERMEDIATE EXAMINATION 25 (Foundation Open Society Institute 2001).}

After World War II, when the attempts at discrimination and destruction of man were exposed, the United Nations (UN) was created in 1945 in San Francisco and the General Assembly adopted the Universal Declaration of Human Rights. In Republic of Macedonia, fundamental freedoms and rights of man and citizen are constitutional. Pursuant Article 8 indent 1 of the Constitution, freedoms and rights are fundamental to the constitutional order of the Republic of Macedonia.

In the corps of political rights and freedoms, the Constitution of R. Macedonia lists freedom of public speech, freedom of information, freedom of political association, the right to vote, the right to peaceful gathering.

*Freedom of public speech and public performance* refers to right of people to express their thoughts, not only with words but also with other means of expression.

*Freedom of informing* includes free access to information, freedom to receive and communicate information. The Constitution guarantees freedom of establishment of institutions for public information, the right to reply in
the means of public informing, the right to protect a source of information in means for public informing and prohibit censorship.\footnote{Ibid, at 29.}

However, freedom of expression in democratic societies cannot be absolute. For example what happens when two individuals in the name of the right to freedom of expression inadequate and unverifiable tell lies about each other, express offensive words? Or, sticking posters on each other during the election campaign of the political parties? By limiting the freedom of expression it is necessary to enable to exercise other rights and freedoms: freedom of movement, right to privacy, the right to association, etc.\footnote{Majhoshev A., \textit{Professional Standards of the Journalistic Profession, Yearbook 2013/2014}, 4 FACULTY OF LAW 208 (2014).}

\section*{III. The Influence of Politics on the Media According to the Political Systems}

For centuries, politicians devoted much of their time trying to “hear” a thing called \textit{VoxPopuli}. Well-known is the story about Harun al-Rashid, the caliphate from “Thousand and One Nights” dressed as a beggar walked through their caliphate Baghdad hearing to listen to the conversations on the streets, to learn about the real opinion of the people he ruled and perceive the conditions from a certain angle, which gave the opportunity their more authentic presentation. This is a romantic version of what nowadays is a real practice in every country. Today, even more, politicians are trying to follow the dictates of public opinion, but at the same time, they try to shape and manipulate with it. No government can afford the “luxury” to ignore public opinion, which at the same time is a subject of interest as well as a product of practice.

Politics is somehow a skill of winning over the social community or neutralizing its resistance. The relationship between public opinion and authority figures is a two-way: public opinion is shaping politics and politicians are shaping public opinion.\footnote{Klimovski S., \textit{Constitutional and Political System, PROSVETNO DELO AD 995—996 (2001).}}

Knowing that public opinion creates judgments about manner of action of the community and assessment of the actions of the government, it is expected that political rulers should try to impose their influence on the public opinion in order to retain or maintain power.

Public opinion as a form of political consciousness is associated with the political system as an institutional base of the political process.
The democratic political system as a totality of forms of organization through which the political life is happening, consciously directed activity becomes the most important condition for the formation of a free public opinion. Democracy exists when there are channels to achieve constantly freely and legally recognized influence of social forces of public authority. Democratic decision-making would not be possible without free formed and informed public opinion, which has the ability to freely impose their critical attitude for work on any of those in power\textsuperscript{18}.

Hence features of public opinion in democracy are: independent decision-making, critical judgment on how to perform general work and evaluation or indication of the pros and cons of conducting of authority or this critical view of society determines the nature of public opinion. Yet this determination of public opinion in a democracy is an ideal-approval of type design. In reality, public opinion appears with all its virtues and flaws\textsuperscript{19}.

Public opinion has had its reflection in liberal democratic systems, while the totalitarian systems are characterised by “an organized lying”, which most clearly portrayed Hannah Arendt.

Totalitarianism rejects discussion as “landmark of flabby liberalism” (Schmidt) and his parliamentarism opposes the dictatorial decision which is absolute\textsuperscript{20}.

The totalitarian system centrally manages the public opinion. The dictator and his party through party decrees determine in advance what and how to think. An authority which relies on cheers and acclamation stands behind this opinion that contains uncultivated and principled superior knowledge. Noisy propaganda and the so-called “plebiscitary confirmation” of the decisions of the leader serve as a substitute for the public and legitimize the usurping government\textsuperscript{21}. Totalitarian systems despite the propaganda and manipulation do not exclude torture and violence as a way to come to reason the plebiscite.

Unlike them, in democratically organized societies one basic assumption is the presence of active, free, creative public opinion. Public opinion becomes an indispensable tool to immediate democratic control of power by the public. However, public opinion from one side conducts the daily activity of the holders of public authority, but on the other hand does not give blank authority to rule i.e. manage as they wish.

\textsuperscript{18} Ibid, at 996.
\textsuperscript{19} Vladimir Milic, The Social Character of Political Public Opinion in BIRTH PUBLIC OPINION AND POLITICAL PARTIES 100 (Belgrade 1992).
\textsuperscript{20} LJUBOMIR TADIC, PUBLIC OPINION, ENCYCLOPEDIA OF POLITICAL CULTURE 463 (Belgrade 1993).
\textsuperscript{21} Ibid.
Different “models” of public opinion are shaping the preferences of those in power. Two basic elements of these models are: the percentage of the population that have opinions and the direction and intensity of the opinion.

**CONCLUSION**

The findings in this paper suggest that the creation of the public opinion takes a significant place in every country. The rulers depending on the degree of democracy, political system and constitutional order, historical circumstances, all tend towards securing the favour of public opinion in order to rule longer and safer. Public opinion is a complex social and political phenomenon. Rights and freedoms are basic criteria and a measure of the position and role of man and citizen in society on the one hand, and democratic regime (the system) on the other. They are an instrument to limit the power and disable its arbitrariness and abuse. Knowing that public opinion creates judgments about mode of action of community and appreciation for the actions of the government, political rulers are expected to try to impose their influence on the public opinion in order to retain or maintain power. Public opinion as a form of political consciousness is associated with the political system as an institutional base of the political process. Machiavelli also emphasizes that the constant concern of the ruler should be winning the favour of public opinion, if preservation of power and personal security is desired.

When defining the public opinion conceptual determination of the terms mass, publicity, public and political public should be taken into consideration. Rights are acts of a certain degree since the development of civilization, the fruit of New Age understanding of the world and life. The theoretical dimension of rights and freedoms is closely linked with the theory of natural law, the emergence of the constitution as written document. In the core of the political rights and freedoms, the Constitution lists freedom of public speech, freedom of information, freedom of political association, the right to vote, the right to peaceful gathering.

Freedom of public speech and public performance refers to the right of people to express their thoughts, not only in words but also with other means of expression. Freedom of informing includes free access to information, freedom to receive and communicate information. The Constitution guarantees freedom of establishment of institutions for public information, the right to reply in the public informing means, the right to protect a source of information in the media and prohibit censorship.
Knowing that public opinion creates judgments about manner of action of community and appreciation for the actions of the government, political rulers are expected to try to impose their influence on the public opinion in order to retain or maintain power. Four known theories of mass media with its features have provided a clearer picture of historical development, as well as the impact that the state government or the business community can have on media freedom. Public opinion as a form of political consciousness is associated with the political system as an institutional base of the political process. The democratic political system as a totality of forms of organization through which the political life is happening, and as consciously directed activity becomes the most important condition for the formation of a free public opinion. Unlike them, the totalitarian systems centrally manage public opinion. The dictator and his party through party decrees determine in advance what and how to think. An authority which relies on cheers and acclamation stands behind this opinion that contains uncultivated and principled superior knowledge. Noisy propaganda and so-called “Plebiscitary confirmation” of the decisions of the leader serves as a substitute for the public and legitimizes the usurping power. Hence the conclusion is that the type of political system and the level of democracy of authority undoubtedly influence the development of media’s freedom. In terms of democratic development the media should provide openness to different opinions and political views, unbiased reporting on political parties and political actors, and to refrain from hate speech and discrimination on any grounds, particularly on the basis of political affiliation. Impartiality, apropos indicates that the media, especially electronic media, in news reports may not express views for or against a political party, nor to act as representatives of particular political views in the current political debate.