

FREEDOM OF SPEECH IN THE NATIONAL MEDIA LANDSCAPE: LOCAL AND INTERNATIONAL NORMS

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MILLIY MEDIALANDSHAFTDA SO'Z ERKINLIGI: MAHALLIY VA XALQARO NORMALAR

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СВОБОДА СЛОВА В НАЦИОНАЛЬНОМ МЕДИАЛАНДШАФТЕ: МЕСТНЫЕ И МЕЖДУНАРОДНЫЕ НОРМЫ

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Abstract. Freedom of speech is being recognized as a worldwide right due to the impact of the digitalization process on the global media landscape. The present paper studies the last reforms on freedom of speech in the Uzbek media landscape based on various legal dimensions. It considers that national norms on freedom are being developed according to the international legal documents for ensuring human rights, especially new trends of the marketplace of ideas such as media freedom, digital freedom, and journalists' safety in the country at the level of global standards. Changes in national legislation to enhance the media's role in deepening democratic reforms during 2016-2021 have been considered. Laws such as "on Mass Media," "on guarantees and freedom of information," and "on the protection of journalism" were compared with international law. The study attempts to shed light on the importance of ratifying or joining the international norms accepted nearly by all world countries. In addition, several parts of certain international documents, still not expressed in national legislation, are investigated.

Keywords: cyberspace; digital freedom; freedom of speech; international norms; national legislation; press freedom.

Annotasiya. Raqamlashuv jarayonining jahon medialandshaftiga ta'siri natijasida so'z erkinligi global huquq sifatida e'tirof etilmoqda. Milliy media makondagi o'zgarishlar va so'z erkinligi huquqini amalga oshirishdagi yangi trendlarning integrasiyalashuvi O'zbekiston hukumat tomonidan qonunchilikka bir qator o'zgartirishlar

kiritilishiga sabab bo'ldi. Maqolada inson huquqlarini ta'minlashga qaratilgan xalqaro huquqiy hujjatlarga, ayniqsa, mamlakatimizda ommaviy axborot vositalari erkinligi, raqamli erkinlik, jurnalistlar xavfsizligi kabi yangi tendentsiyalariga muvofiq so'z erkinligi bo'yicha milliy normalar ishlab chiqilishining dolzarbligi tahlil qilingan. 2016–2021 yillar davomida demokratik islohotlarni chuqurlashtirish jarayonida ommaviy axborot vositalarining rolini oshirish maqsadida milliy qonunchilikka kiritilgan o'zgarishlar o'rganilgan. “Ommaviy axborot vositalari to'g'risida”, “axborot olish kafolatlari va erkinligi to'g'risida” “jurnalistik faoliyatni himoya qilish to'g'risida” kabi qonunlarning xalqaro huquqiy me'yorlar bilan muvofiqligi solishtirilgan. Dunyoning deyarli barcha demokratik davlatlari tomonidan qabul qilingan xalqaro me'yorlarni ratifikatsiya qilish yoki ularga qo'shilishning ahamiyatini o'rganilgan. Shuningdek, ba'zi xalqaro hujjatlarning milliy qonunchilikda hali ham o'z ifodasini topmagan qismlari haqida so'z yuritiladi va buning natijasida kelib chiqishi mumkin bo'lgan muammolarga nazariy munosabat bildirilgan.

Kalit so'zlar: so'z erkinligi; matbuot erkinligi; xalqaro huquqiy normalar; raqamli erkinlik; kibermaydon; milliy Qonunchilik.

Аннотация. В результате воздействия технологий цифровизации на глобальный медиаландшафт свобода слова признается глобальным правом. Интеграция новых трендов и изменения в национальном медиапространстве в реализации права на свободу слова и мнений привели к тому, что правительство Узбекистана внесло ряд изменений в законодательство. В статье анализируется актуальность разработки национальных норм о свободе слова в соответствии с международно-правовыми актами, направленными на обеспечение прав человека, в частности новых тенденций в республике, таких как свобода СМИ, цифровая свобода, безопасность журналистов. Изучены изменения национального законодательства по усилению роли СМИ в процессе углубления демократических реформ за 2016–2021 гг. Проведен сравнительный анализ ряда законов Республики Узбекистан: “О средствах массовой информации”, “О гарантиях и свободе доступа к информации”, “О защите профессиональной деятельности журналиста” с международно-правовыми нормами. Рассматривается важность присоединения к международным нормам, принятым практически всеми демократическими странами. Также обсуждены некоторые международные документы, которые еще не нашли отражения в национальном законодательстве.

Ключевые слова: свобода слова; свобода печати; международно-правовые нормы; цифровая свобода; киберпространство; национальное законодательство.

Introduction. The emerging transformation of societies paves the way toward the globalization of human and political rights. The flash development of information and communication technologies has changed people's attitude toward human rights, especially the right of freedom of speech, “global political behavior — enhancing press freedom”, digital freedom, and journalists' safety. Considering that the information age, which we live in, is reshaping the global media landscape and its paradigms, it will be more evident that freedom of speech is advancing with modern trends, such as media freedom and media pluralism transparency, etc.

Human life is based on exchanging information among surroundings. The right to access information is always controversial despite its political, economic, social, and even national security regime. Professor Akmal Saidov cited that “information and knowledge are the most significant national and global assets, and all systems involved in creating and distributing media products are turning into the leading strategic factors of sustainable development” (9, 3). The stratification of the world's countries in development can be seen in the example of these events. Because the European countries, which took the lead from the earliest stages of supporting information and mass communications, can make progress in all areas in the following centuries. Since the enduring growth of the state and society in many respects depends on the extent to which the needs of citizens for thoughts, ideas, information, and knowledge are met.

“Freedom of speech is widely held to be a moral right, and almost as widely recognized as a legal right” (11, 5). Several reasons can prove freedom of speech as moral, given by God as human's right to live, think, dream, etc. Anyone or any political or social power can not prohibit moral rights, especially the freedom of speech of the citizens or non-citizens. “The freedom of speech which is used interchangeably with “freedom of expression” (6, 156), is protected by state laws and international norms, and this feature demonstrates it as a legal right. Benjamin Franklin wrote, “The freedom of speech is a principal pillar of a free government: When this support is taken away, the constitution of a society is dissolved” (4, 14).

In recent years, the world community has witnessed “democratization of political systems, evolving norms favoring transparency and new technological possibilities to digitize the public domain, which has brought a global upsurge of freedom of information laws” (1, 16) in recent years. While trends in freedom of speech continue to be optimistic regarding the right to seek and receive information, it begins requiring making some changes in international and local legislation to be ready for solving new problems that these trends can appear.

Like other developing countries, the Republic of Uzbekistan has chosen the way of liberalization in any sphere of national policy and society, and the intensive reforms of the years 2017–2021 could lead this process to highly appreciated results such as improving human rights records. Since President Shavkat Mirziyoyev took power in December 2016, a deep understanding of the role of freedom of speech in developing democracy by the Leader of the country this fundamental right considered a necessary condition for the realization of the principles of transparency and accountability of the government. Action Strategy implementation outcomes on five Priority development areas of Uzbekistan 2017–2021 Factbook (3, 26) shows that 548 press services have been created in ministries and departments, local authorities, and influential organizations to ensure transparency and openness of government agencies. The mechanism for accrediting foreign media has been simplified. Currently, the Uzbek services of BBC, Voice of America, Eurasia.net, and Fergana.ru have accreditation to work in Uzbekistan.

On December 29, 2020, President Mirziyoyev supported media freedom in his annual address to parliament, saying, “It should be especially noted that the mass media, along with objective coverage of the large-scale changes taking place in our country, draw the attention of government agencies and the public to the urgent problems on the ground and encourage leaders at all levels to solve these problems. Today, they are increasingly becoming the ‘fourth power’” (16).

These words can prove that the government's attitude is changing toward media outlets and journalists and trying to create a comfortable infrastructure for them, improving state legislation on media according to the international norms.

According to Article 29 of the Constitution of the Republic of Uzbekistan, "everyone has the right to seek, acquire and disseminate any information." It proves that "each citizen has a right to investigate, acquire and disseminate all kinds of information except against the current constitutional order and other limitations provided by the law" (2, 15). Article 67 of the Constitution further provides that "the mass media is free and act in conformity with the law. They bear liability under the established procedure for the truth of information. Censorship is not permitted." All media outlets, including national services of international mainstream and digital media, have the right to act free for covering issues and events in Uzbekistan. Besides, over 20 legal documentations are exercised by the government to strengthen the legal protection of media outlets, publishing houses, information agencies, including the professionals of these organizations.

Rapid technological and economic transformations impact every "corner" of any society or state regardless of geographical location, national policy, military opportunities, and international cooperation approaches. The influence of these factors on the right of freedom of speech and its implementations is considered a root of new trends such as media freedom, media pluralism, media independence, the safety of journalists, and digital freedom in cyberspace. All democratic countries understanding a leading role of freedom of expression and media development in maintaining the rule of law and enhancing good governance are getting in touch with globalization and developing their national legislation according to the international standards. While digital media gives a microphone to every person and a chance to express one's ideas globally, the world community has started to use the right of freedom of speech and access to information as a global phenomenon that should be regulated with international norms.

The study we conducted below will reveal the most specific features of national legislation on freedom of expression, its flexibility to modern trends of this right, and its compliance with international norms.

Methodology. The primary purpose of this study is to analyze our national laws, which are essential for ensuring and protecting the right of freedom of speech in our media landscape, to study their relevance of acceding to international documents and agreements. For this reason, choosing the appropriate methodology is also very important for the proper performance of the tasks set by the research. The qualitative research methodology was used to conduct this survey as a primary tool of research, which would help the author to investigate planned questions and issues. The content analysis method helped design our findings in the context of national and international laws. "This journalistic technique is simple and intuitive. In the opinion of K. Krippendorff, content analysis is "the use of the replicable and valid method for making specific inferences from text to other states or properties of its source." The use of the content analysis method contributes to the fact that the researcher's impressions are replaced by more standardized procedures that often involve measurement. This method assisted us in comparing the context of Mass Media Law of the Republic of Uzbekistan in 2007 with its edited version in 2018 and its similarities and differences with international norms such as the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR).

Analysis. According to Albert Camus, “Free press can be good or bad. The non-free is one-only bad.” A free press is a crucial dimension of the right of freedom of speech in society. Like other developing countries, “Uzbekistan has created great conditions and opportunities for domestic media to become a mouthpiece of public opinion. An effective force in the way of further democratization of all spheres of our lives, to ensure that every citizen of Uzbekistan feels responsibility for the future of our country and seeks to contribute to its further prosperity” (7, 53–57).

National norms on freedom of expression

The establishment and activities of all types of media, both national and international (press, TV, radio, news websites, blogging, and vlogging) in the Republic of Uzbekistan, are controlled by the Republic of Uzbekistan. “The Law on Mass Media (Mass Media Law), adopted by the Uzbekistan Government in January 2007, and subsequently amended in April 2018, for its compliance with international freedom of expression standards” (12). Laws “on publishing activities” of 30.08.1996, “on the protection of professional occupation of journalists” of 24.04.1997, and “on guaranties and free access to information” is exercised by government and citizens. They act free and legally in investigating, acquiring, analyzing, transferring, and disseminating any information. These norms forbid the harassment of journalists who publish critical and analytical articles. In addition, “journalists must comply with laws “on advertising” and “on copyright and allied rights.” Article 20 of a newly passed law “on anti-terrorist effort” regulates the activities of journalists reporting from the sites of armed conflicts” (2, 15). Development of these legal documents on providing the right of freedom of speech, access to information, and security of individuals and state, with the modern requirements of the century, is considered an important trend in the further liberalization of mass media.

The dynamic changes of the global and local media landscape call political actors more careful with legislation and improve or edit laws of the state that regulate information and the mass media sector. In this regard, the government of Uzbekistan is strengthening the legal protection of its information policy with new laws and editing old ones. Law “on the protection of the professional occupation of journalists” was adopted by the Government of the Republic of Uzbekistan in April 1997 and amended in April 2018, which is reshaped again with new additions that make obvious some issues of professional activities of journalists in digitalizing age. Law “on advertising” is followed as a main regulating document for creating and announcing all kinds of advertisements in the country on broadcasting, via the Internet or in the press, edited 15 times (15) from December 1998 until April 2021. Besides, during his welcome speech to press and media workers, the President noted that “over the past years 12 acts of legislation were adopted to strengthen the relevant regulatory and legal framework; the media sphere and the system of information services are being radically updated” (16).

International norms on freedom of expression

“Finding the truth: this is a goal judges share with journalists. They also share values such as independence, transparency, and accuracy — concepts deeply embedded in the work of both professions” (3, 24). While journalists seek, receive and disseminate information, they need to protect themselves with some norms. “As stated in Article 19 of the Universal Declaration of Human Rights adopted in December 1948, the right includes the “freedom to hold opinions without interference and to seek, receive and impart information and

ideas through any media and regardless of frontiers”. It has been reinforced in Article 19 of the International Covenant on Civil and Political Rights” (13, 18) which comprises three core tenets: the right to hold opinions without interference (freedom of thought); the right to seek and receive information (access to information); and the right to impart knowledge (freedom of expression).

From the beginning of the new century, which is often called the “digital age,” “globalization age,” or “the age of new technologies,” freedom of expression has come across with attacks of a variety of modern and challenging sources. For instance, the tremendous growth of social media and new media platforms has decimated the revenue model for independent media, leaving many media houses weakened or bankrupt and unable to play their traditional role of obtaining power to account. This has resulted in a backlash from governments seeking to regulate growing cybercrimes and a flood of misinformation, often to the detriment of freedom of expression and legitimate dissent.

“Article 19 of the International Covenant on Civil and Political Rights stipulates that the right to freedom of expression applies regardless of frontiers and through any media of one’s choice. General Comment No. 34 further explains that article 19 includes internet-based modes of communication. In a 2016 resolution, the UN Human Rights Council (UNHRC) affirmed that: “The same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice, by articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights” (14).

Basic international legal regulations should be accepted by all member countries of the Organization of United Nations, and this union often checks its practice in every representative company.

Results and findings. We tried to analyze both local and international norms of the right of freedom of expression and its new trends, along with the reflection of these recent trends in legislation. We found out that:

- The right of freedom of speech is regulated by “nearly 70 legal documents of United Nations; over 60 of UNESCO; over 160 of European Union; over 30 of OSCE” (9, 3).
- The government and citizens follow over 20 norms based on the Constitution of the Republic of Uzbekistan for regulating and protecting the right of freedom of speech and mass media.
- During the 2017–2021 years, legislation on Mass Media has been improved by 12 new acts.

Changes of the Mass Media Law:

- The Mass Media Law contains some positive features, such as providing for the protection of media freedom, protection of sources, and the right of access to information;
- “The Mass Media Law engages several international human rights provisions that form the basis of the legal analysis in some section. This section identifies those international human rights provisions that are most relevant to the protection of freedom of expression and in particular, the broadcasting regulations” (12).

Some parts of the Mass Media Law should be reproduced:

- As professor Akmal Saidov cited, “20.2 Article of International Covenant on Civil and Political Rights which regulates the right of freedom of speech in cyberspace has not been reflected on our national legislation” (9, 7)

- The Mass Media Law does not contain a separate article about the regulation of blogging, punishment for breaking someone’s right of freedom of speech on social media and regulating actions of cybercitizens toward freedom of speech.

Conclusion. Although most regions, governments, and world leaders cite national security to enhance surveillance and restrict speech, posing challenges for privacy and media freedom, our government chose to reform media and provide the right of freedom of speech in the country. Finding a balance that aligns with international standards is not a widely event, but our President claimed national efforts to supply this fundamental right during the 72nd session of the United Nations: “...The human rights situation has also completely changed. Forced and child labor was fully abolished. The National Human Rights Strategy was adopted. As a result of our large-scale political, social, and economic modernization measures, a new Uzbekistan is formed. Today, the process of democratic transformations in our country has become irreversible. Last year’s parliamentary elections demonstrated the growing political activism of the population and parties, the role of civil society institutions, and the influence of the media” (10). These words of the President prove that Uzbekistan is on the way to providing the right of freedom of speech absolutely to strengthen its civil society and democracy.

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