

Angelos Giannakopoulos, editor

Media, Freedom of Speech, and Democracy in the EU and Beyond



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for International and Regional Studies

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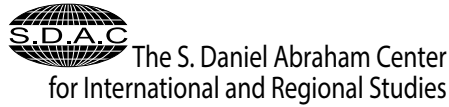
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The Center's founding director is Prof. Raanan Rein. Rein is the Vice President of Tel Aviv University. He is the Elias Sourasky Professor of Spanish and Latin American History, author of numerous books and articles published in various languages and in many countries. He is also a member of Argentina's Academia Nacional de la Historia. The Argentine government awarded him the title of Commander in the Order of the Liberator San Martin for his contribution to Argentine culture. The king of Spain awarded him the title of Commander in the Order of Merit.

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Angelos Giannakopoulos, editor

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Angelos Giannakopoulos Introduction: Media, Freedom and Democracy. Fundamental Aspects Retold

*“The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments, and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable”.*¹

New York Times Co. v. United States, 403 U.S. 713 (1971) was a landmark decision by the United States Supreme Court on the First Amendment of the US Constitution. In their ruling, the judges stated, inter alia:

Our Government was launched in 1789 with the adoption of the Constitution. The Bill of Rights, including the First Amendment, followed in 1791. Now, for the first time in the 182 years since the founding of the Republic, the federal courts are asked to hold that the First Amendment does not mean what it says, but rather means that the Government can halt the publication of current news of vital importance to the people of this country ... Both the history and language of the First Amendment support the view that the press must be left free to publish news, whatever the source, without censorship, injunctions, or prior restraints. In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. *The press was to serve the governed, not the governors* [emphasis mine]. The Government’s power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government ... far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the

¹ Annals of Cong. 434, Debates and Proceedings, 1789–1824,
<https://memory.loc.gov/ammem/amlaw/lwaclink.html>.

newspapers nobly did precisely that which the Founders hoped and trusted they would do.²

This ruling made it possible for *The New York Times* and *The Washington Post* to publish the so-called *Pentagon Papers* (official name, *Report of the Office of the Secretary of Defense Vietnam Task Force*), without risk of government censorship or punishment. Based on the arguments expressed in the US Supreme Court ruling, two dimensions regarding the fundamental relationship between democracy and freedom of the media will be discussed: *power* and *deception*, both addressing those who govern.³

First, a central principle of democracy should be recalled: democracy is merely an open system in which politics should be understood as an *everlasting problem-solving process* by guaranteeing to this deliberative end the *participation* of as many individuals as possible.⁴ It should thus be underlined that democracy is a political system, the purpose of which is to hinder the establishment of *permanent power structures* so that its *problem-solving capacity* can be sustained. However, democratic competition alone, which keeps the system open, is not sufficient. Democratic competition in the form of party struggle is ultimately just a *struggle for power*, and every struggle for power tends in the end to be exclusive (by trying to exclude others from power). Only through strict regulation and limitation of the struggle for power, along with a plurality of opportunities for participation, can the system be kept open and thus effective.⁵ This is precisely the reason why freedom of speech

2 Decided on June 29, 1971. JUSTIA online archives of the US Supreme Court: <https://supreme.justia.com/cases/federal/us/403/713/>, p. 403, U.S. 717). This case brought before the US Supreme Court was reconstructed in the US movie *The Post*, directed and produced by Steven Spielberg, and released on January 12, 2018.

3 Most of the arguments in this introduction are based on Peter Graf Kielmansegg, *Die Grammatik der Freiheit: Acht Versuche über den demokratischen Verfassungsstaat* (Baden Baden: Nomos Verlag, 2013).

4 Theoretical questions concerning the overall aspect of legitimacy in politics, which is connected to this dimension, would definitely go beyond the scope of this introduction. On this issue, see the excellent work by Norman Uphoff, "Distinguishing Power, Authority and Legitimacy: Taking Max Weber at His Word by Using Resources–Exchange Analysis, *Polity* 22, no. 2 (January 1989): 295. On the crucial difference between a mere agenda setting and problem definition, in terms of recognising the real urgency of proper solutions to problems by politics, see David Dery, "Agenda Setting and Problem Definition, *Policy Studies* 21, no 1 (2000),

<https://college.sapir.ac.il/sapir/dept/publicadmin/research/dery4.pdf>. For an overview on this issue, see Hans Keman, ed., *The Politics of Problem-Solving in Postwar Democracies* (London: Palgrave-Macmillan, 1997).

5 It can be argued that it is for this reason that dictatorships of all kinds are bound ultimately to fail, mainly because authoritarian structures significantly reduce the problem-solving capacity of the system by restricting free expression and the access of as many individuals as possible to this end. Put differently: there are undoubtedly many ways to govern without the people, but not forever against them and, most importantly, against the fulfilment of their basic needs, both material and non-material.

is so important to democracy. Freedom of speech fulfills a dual function: it enhances the *deliberative problem-solving capacity* of the political system by simultaneously *controlling power*.

Second, another institution that fulfills a similar vital function in a democracy is the judiciary, especially the *constitutional courts*. The democratic political process is basically an *institutionalized conflict*.⁶ In order to establish an institutionalized and ritualized conflict as the prevalent mode of democratic politics, the conditions and rules of a continuous, violent-free political sphere must be set indisputably. A democratic constitution establishes merely a dispute- and violent-free “zone” within everyday politics; it can be effective only through interpretation, since what should be considered dispute-free in a democratic system cannot be determined in every detail through a mere reading of the text. The *dispute-free zone* must thus be redefined repeatedly according to the specific situation or case at hand. Hence, the democratic principle of participation (all power derives from the people) in a democracy is merged with the constitutional principle (all state power must be bound by law). Since majorities use their dominant power either in their own interest or to maintain power, a strong compensatory power limiting the majority power is needed. Thus, constitutional courts are bearers of a compensatory common welfare responsibility. Constitutional courts embody Montesquieu’s dictum that power can be limited only by power. Finally, constitutional courts represent somewhat the answer to the centuries-old question: *Who will guard the guardians?*⁷

It is no accident, then, that in their struggle to maintain power authoritarian and totalitarian regimes pursue two basic goals: *limiting freedom of speech* and *taking control over the constitutional courts*. If we leave aside developments occurring in countries outside Europe (such as China or Russia) and concentrate on Europe and its neighbors (Turkey, mainly), it becomes evident that current problems related to freedom of speech and independent media cannot be discussed without placing them in the wider context of *authoritarianism*, and especially, *populism*. In general, limitation of freedom of speech should be understood in relation to multiple developments in state and society in Europe today that are tending toward the successive

6 A good case study regarding this very aspect can be found in Marcus Mietzner, “Political Conflict Resolution and Democratic Consolidation in Indonesia: The Role of the Constitutional Court,” *Journal of East Asian Studies* 10, no. 3 (September–December 2010): 397–424.

7 Juvenal, “Quis custodiet ipsos custodies,” satire no. VI, lines 347–8, an issue already discussed by Plato in his *Republic*, VI, Book III, 403b. Plato “expressed a more optimistic view regarding the guardians or rulers of the city-state [than Juvenal just a couple of centuries later], namely that one should be able to trust them to behave properly; that it was absurd to suppose that they should require oversight”; see Leonid Hurwicz, “But Who Will Guard the Guardians?” *American Economic Review* 98, no. 3 (2008): 577.

establishment of authoritarian regimes, which seek, basically, to *regain national control over global developments*. As illusory as this aspiration may be, it should nevertheless be admitted that the *Cordon Populiste* that has emerged from the Baltic to the Adriatic Sea is a fundamentally anti-migration movement, and the only one that,

after the collapse of the left ... albeit in their often rather questionable rhetoric, address[es] the question of socio-economic disparities, thus pointing to the vulnerabilities of less affluent Europeans. The fact that they combine this focus with a counter-cultural language of an uprising against the liberalism of the ruling classes is just another example of how quickly social problems can be reframed in terms of identity and a culture war.⁸

Especially regarding populism not only in Europe but as a global trend in politics today, one cannot but agree with the view of Kostas Ifantis and Dimitrios Triantaphyllou, who state:

Populism has long been a contested concept. Although the academic literature is abundant it remains ambiguous in so far as it is hard to get a consensus on whether “it is a creed, a style, a political strategy, a marketing ploy, or some combination of the above.” Whether it is Donald Trump with his “America First,” or Nigel Farage with his Brexit zealotry, Marie Le Pen, Pepe Grillo, Victor Orban, or Alexis Tsipras, populists emerge as defenders of the

8 See Petr Kratochvil, “A Cordon Populiste from the Baltic to the Adriatic Sea: Is a new populist alliance emerging in the EU? <https://www.iai.it/en/pubblicazioni/cordon-populiste-baltic-adriatic-sea-new-populist-alliance-emerging-eu>. Significantly, Lili Bayer defines the current governments in Poland and Hungary as “the New Communists.”; see Lili Bayer, “The New Communists,” www.politico.eu/article/new-communists-hungary-poland-viktor-orban-jaroslaw-kaczynski/. On increasing economic disparities as a danger to democracy in today’s Europe, see Jagoda Marinic, “Armut ist eine Gefahr für die Demokratie,” <https://www.sueddeutsche.de/politik/sozialpolitik-armut-ist-eine-gefahr-fuer-die-demokratie-1.4120420>. As for concrete policy proposals towards reduced inequality, see Patrick Diamond, “Inequality In Europe: What can be done? <https://www.socialeurope.eu/inequality-europe-can-be-done>. The rise of a type of “authoritarian capitalism” as the result of “neoliberal capitalism’s negative dialectic” is convincingly described in Christian Fuchs’ short essay, “The Rise of AuthoritarianCapitalism,” <http://globaldialogue.isa-sociology.org/wp-content/uploads/2018/12/v8i3-english.pdf>. On the relationship between insecurity, social (in)justice, and xenophobia, see Gerard Delanty, “Fear of Others: Social exclusion and the European crisis of solidarity, *Social Policy and Administration* 42, no. 6 (December 2008): 676–690. Sven Giegold, Member of the European Parliament (Greens/EFA), urges “wir brauchen ein Europa der sozialen Sicherheit” (We need a Europe of social security), https://www.deutschlandfunk.de/gruenen-politiker-sven-giegold-wir-brauchen-jetzt-ein.694.de.html?dram:article_id=433473.

underprivileged, the avengers, and the vigilantes who shall punish the corrupt systemic elites. In reality they are all demagogues who prey on the hardship and the despair of those most hit by the crisis.⁹

In regard to protection of the nation from its cultural alienation through migration and the liberal “dictum,” an identity struggle has taken concrete shape in the successive establishment of anti-democratic regimes, which seek, basically, an *ideological monopoly of the public discourse*, along with *control of the executive over constitutional jurisdiction* that could limit its political power.¹⁰ The most prominent example of this trend in Europe today (besides Turkey which is a specific case in itself), is the so-called Visegrad group of states, namely, Poland, Hungary, the Czech Republic, and Slovakia, and especially the first two.

According to the US-based NGO Freedom House, a “spectacular breakdown of democracy” has been taking place in Poland and Hungary, two countries that stood as models of democratic change after the collapse of Communism in Eastern Europe. Hungary now has the lowest democracy score in Central Europe, and Poland’s is falling. It cited attacks by populist leaders in both countries on their respective constitutional courts and systems of checks and balances, as well as the transformation of public media into “propaganda arms.”

The spectacular breakdown of democracy in these countries should serve as a warning about the fragility of the institutions that are necessary for liberal democracy, especially in settings where political norms have shallow roots and where populists are able to tap into broad social disaffection.¹¹

9 Kostas Ifantis and Dimitrios Triantaphyllou, “Introduction: A note on populism in crisis-ridden Greece,” <http://www.uidergisi.com.tr/source/introduction-ui.pdf>.

10 The author rejects the neologism of “illiberal democracies” regarding neo-authoritarian regimes. Only a liberal democracy can be a democracy. See Nils Meyer-Ohlendorf and Michael Meyer-Resende, Nicht “illiberal” sondern undemokratisch, <https://www.sueddeutsche.de/kultur/framing-check-illiberale-demokratie-nicht-illiberal-sondern-undemokratisch-1.4133775>. On the term “illiberal democracies” in general, see Fareed Zakaria, “The Rise of Illiberal Democracy,” *Foreign Affairs* 76, no. 6 (Nov. – Dec. 1997): 22–43. Regarding a liberal approach to the public sphere Jürgen Habermas’, *The Structural Transformation of the Public Sphere: An inquiry into a category of bourgeois society* (Cambridge: Polity Press, 1989), is still useful. A short overview of today’s global democratic regime crisis can be found in Hauke Brunkhorst, “The Crisis of Democracy,” <http://globaldialogue.isa-sociology.org/wp-content/uploads/2018/12/v8i3-english.pdf>.

11 Nate Schenkkan, “Nations in Transit: The false promise of populism,” <https://freedomhouse.org/report/nations-transit/nations-transit-2017>.

The downward spiral began with the election in 2010 of Hungary's Prime Minister Viktor Orban and his ruling Fidesz party. They re-wrote the constitution, took over the courts, eroded critical media, attacked civil society, and stoked anti-migrant feeling. Poland's ruling Law and Justice Party has taken similar steps since assuming power in 2015, undermining the independence of the Polish Constitutional Court and turning public media into a propaganda tool of the party.¹² The European Commission has launched legal action against Hungary and Poland by activating, for the first time in EU history, Article 7 of the Lisbon Treaty, which could lead to the exclusion of both countries from the EU decision-making process.¹³

Exposing "deception in government" and informing the public about it, is according to the US Supreme Court decision, one of the main purposes of independent and unrestrained media. Against this background, the brutal murder of two journalists in European countries shocked the European public in recent years. They allegedly took place because of the misuse of EU-funds, which these journalists were about to expose. If this claim is proved correct, corruption in Europe has reached new heights. The current restrictions on freedom of speech in several countries, and not only within the European Union, is just such an indication of unprecedented levels of corruption, not only in regard to the misuse of funds but, most importantly, to the abuse of democratic institutions in order to gain or maintain power by whichever non-democratic means are deemed necessary.

With regard to the specific problem of corruption, it should be stated that the political significance of the media for democratic systems is the public which they help to create. The media enact the democratic principle of the visibility of power, which is worn away by the "foul play" involved in corruption. Therefore, the theme of corruption not only has an "entertainment" value for the media and sells well; it also provides media with the opportunity to act out their purported role as the "fourth branch of power in the state" and the representative of societal control of the political system. The media

12 Ibid; see also Czarek Sokolowski, "Watchdog Report: Breakdown of democracy in Poland, Hungary," https://www.washingtonpost.com/world/europe/watchdog-report-breakdown-of-democracy-in-poland-hungary/2017/04/04/ac097a60-1922-11e7-8598-9a99da559f9e_story.html?utm_term=.b82f9d5d43c8.

13 Alice Cuddy, "European Parliament Votes to Trigger Article 7 Sanctions Procedure against Hungary," <https://www.euronews.com/2018/09/12/european-parliament-votes-to-trigger-article-7-sanctions-procedure-against-hungary>; Aleksandra Eriksson, "Poland's Constitutional Crisis Looms Larger," <https://euobserver.com/justice/134625>; Adam Bodnar, "Europe Can Save Poland from Darkness," www.politico.eu/article/poland-judiciary-rule-of-law-europe-must-intervene/; Kim Lane Scheppele, "Hungary and the End of Politics," <http://www.thenation.com/article/hungary-and-end-politics/>. Especially regarding EU policies in the field of media in East European countries, see Beata Klimkiewicz, *A Polyvalent Media Policy in the Enlarged European Union* (Krakow: Jagiellonian University Press, 2014).

discussion invariably revolves around the question of whether corruption should be regarded primarily as a breach of trust in terms of morality, or more technically, as a control problem. Two fundamental questions concerning political culture in a democracy should thus be asked: What distinguishes the political practice of a democracy from that of a non-democratic system? Is it marked primarily by an attitude toward certain values, or by certain technical procedures of exercising power? In both cases, it is ultimately about the legitimacy of the acquisition, the exercise, and the control of power in a community. *Corruption is then understood to be an indicator of the misuse of power and as a failure of the institutionalized procedures of the political system.* For the analytical needs of this introduction it suffices if we take into account that both politicians and entrepreneurs relate the problem of corruption to functional factors such as success and opportunity. By contrast, state and civil actors tend to have a strong normative evaluation of corruption, connected to either their legal framework of action (police, judges, among others) or their status as moral institutions (NGOs, journalists, among others). Both relate to the protection of the “common good” as their ultimate value orientation. This is also true for politics and economy, but in a more indirect manner. Entrepreneurs, managers, and politicians are strategic actors with a strong success motive; morality is seen by them as a functional requisite of economic or political rationality. The former evaluate all means in relation to their economic or political success and by so doing actually view the protection of the common good as a more or less “*unintended consequence*” of their power or profit-oriented actions.¹⁴

Notwithstanding, no political party or politician in Western countries has in fact taken the risk of being labeled “corrupt,” and thus as “undemocratic”; for the most part, the greatest violations of democracy have taken place in its name, and of course, almost always for the sake of the nation. The leading argument justifying violations of democracy is the one pointing out that the liberal elites are not in a position to protect the interests of the nation. Thus, we are observing (yet again) a struggle between the liberal model of democracy, on the one hand, and that of the so-called strong arm, on the other, which seeks to enforce the nation’s will (*Volkswillen*). Seven decades ago the enforcement of *Volkswillen* led to the greatest destruction and tragedy in human history. Nowadays, enforcement of *Volkswillen* takes place just as a dangerous farce. All authoritarian regimes, past and present, have something in common: they gradually replace the democratic principle of peoples’ sovereignty with that of the claim to power of those who, organized as a “people’s” party, profess to know better than anyone else the course, the goal, and the sense of (a nation’s)

14 On corruption as a “social construction” see more in Dirk Tänzler, Konstadinos Maras, and Angelos Giannakopoulos, *The Social Construction of Corruption in Europe* (Farnham: Ashgate, 2012).

history. They, of course, also know better than anyone else against which enemies, both external and internal, this claim to power and sense of national history and fate must be defended. Undoubtedly, one of those enemies in their eyes is the independent media.

Against this background, this book delivers up-to-date information and analysis on freedom of media and democracy in Europe by shedding light on recent developments within European democracies. Additionally, it enhances the ongoing debate on freedom of expression in Europe and its neighborhood. The first contribution to this book by Renate Schroeder explores recent troubling trends in journalism in Europe. Among other factors, it discusses the rise in numbers of murdered journalists, as well as physical attacks against them, the failure to bring the perpetrators to justice, self-censorship, and the decline in working conditions for quality journalism, at a time when traditional media business models are under pressure due to the digital media revolution, and the rise of populism and nationalism. It outlines what the Council of Europe and EU institutions are doing, and points out how member states are failing to implement guidelines and recommendations that could help foster independent journalism.

Attila Batorfy points out that the erosion of press freedom in Hungary is well documented, and the relevant facts are easily accessible to interested international parties. While political science offers competing theories to capture the systemic nature of the underlying political structure in Hungary today, theoretical approaches to understanding characteristics of the Hungarian media are haphazard and thus inadequate. He first describes the Hungarian media system, which the Orbán government that came to power in 2010 transformed, using arbitrary methods that drew on administrative/regulatory, financial (state funding-related), and communications instruments alike. He then proceeds to identify the place of this media system in the space delineated by classical and modern media system theories, and complement existing theoretical observations with new insights. He tries to show that Orbán's authoritarian ideas concerning the media have been apparent at least since his first term in office (1998–2002); he also argues that the Hungarian media system and its mixed features do not fit neatly into any existing media system theories because these tend to sketch, retrospectively, the contours of dynamically changing media spaces. Acknowledging this could help identify media system archetypes as a result of the examination of the relationship between political power and the media. He performs this analysis by discussing the methods used by the Hungarian government during their implementation of the transformations alluded to above, and by describing their impact. He finally argues that in terms of currently prevailing dynamics, the Hungarian media system most resembles what Siebert, Peterson, and

Schramm described as an Authoritarian and a Communist media system, among the broader categories of media systems they identified.

Beata Klimkiewicz argues that the role of the state as a principal actor in media and communication policy in Poland is highly ambivalent. Her chapter examines the changing dynamics of power in media ownership policies between the state and the media in Poland. Unlike in countries with a more proclaimed responsibility of the state for the media (reflected, for example, in a system of direct press subsidies, strong regulation of media industries, and a high level of public financing for public service media), in Poland formal areas of policy intervention by the state remained relatively limited. The chapter examines gradual changes in this trend, particularly after 2015. A conceptual approach used in the analysis assumes that the role of the state in shaping media ownership policies depends on both policy principles and the conditions enabling effectiveness of those policies and their validity. Ultimately, the nature of the relationship between the state and the media hinges on the quality of fulfilment of the conditions for the policy's enactment. The chapter focuses on selected areas of state intervention, including an enabling environment for freedom of speech and the media, media ownership by the state (such as PSM and news agencies), media ownership regulation, media transparency policies, state subsidies, and state advertising. The analysis, based mainly on the relevant Media Pluralism Monitor 2017 indicators, demonstrates that the role of the state has grown in all areas studied and in three in particular: determining/constraining an enabling environment for freedom of expression and the media, public service media independence, and state support for the media. These areas of intervention prove that the power-dependence position of the state vis-à-vis the media has strengthened.

Andrej Skolkay discusses in his analysis the murder of an investigative journalist in Slovakia in the spring of 2018. First, he explores the links between the murder and nation-wide politics, such as the subsequent resignation of a number of top politicians, including the prime minister and that of heads of law enforcement authorities. Additionally, he highlights the notion and importance of partial state capture. He argues that partial state capture plays a key role in the strategic importance of investigative journalism in a country. His chapter therefore assesses the changes in investigative journalism in Slovakia before the murder. It is argued here that advancing methods of investigative journalism threatened the activities of high-level criminal networks which, hitherto, benefitted from the state authorities that were under the control of colluding politicians. In conclusion, the important, and sometimes controversial, role of some journalists, bloggers, and youtubers, quasi private detectives, and political activists in exposing collusion and wrongdoing are revealed. Consequently, they may be called "private investigators in the

public interest.” Carmen Sammut underlines that the murder of journalist Daphne Caruana Galizia in a car bomb on October 16, 2017, rocked the Maltese archipelago, situated in the heart of the Mediterranean, as well as the international community. Her killing highlighted growing concerns around the world with the increase in numbers of physical attacks on journalists and the atrophy of press freedom. The Maltese blogger and journalist was immediately elevated to martyrdom. In Malta, the notions of deification and demonization find fertile ground since these are typical tools of polarization in a society typified by strong party-media parallelism. This chapter argues that the case of the slain journalist reifies Hallin and Mancini’s conceptual framework (2004) of “pluralist polarized” contexts, where even online disrupters operate within a scenario that sustains contending political elites. The decline of political ideology within this democratic state has resulted in the media retaining a crucial role in the construction and reinforcement of bipolar political distinctions. Political and economic interests are juxtaposed here against a weak culture of professional and ethical journalism which, at the local level, contributed to ambivalent responses to Caruana Galizia’s death. While her political supporters and family advanced the grand narrative of anti-corruption journalism, martyrdom, and government impunity which resonated internationally, at the national level, a considerable segment of media players opposed “trials by media,” arguing that investigations and justice need time to take their course and, moreover, that her death did not exonerate her from the politics of odium and divisiveness which she had amplified. Such nuanced explanations were rarely reflected in international assessments of the case.

Ayşe Cavdar argues that since the early 2000s the ruling AKP in Turkey has tried to monopolize media power in many ways. However, the most effective strategy has been to exploit the Achilles’ heel of media investors: their investments in other sectors. Recently, the AKP appropriated the largest media monopoly in Turkey, Dogan Media. The former owner of Dogan Media had an extensive business network, ranging from energy to agriculture. He built most of his conglomerate thanks to the power of his media outlets, serving or challenging the governments or business establishment over the years. Now Dogan Media, which amounts to almost 90 percent of all media in Turkey, is owned by pro-AKP businessmen. It is not clear, however, whether the mainstream media still has any power to challenge or support the government or opposition. Immediately after the AKP’s expensive operation to purchase Dogan Media, several discussions emerged on this question. Against this background Cavdar analyzes how and under what circumstances the media lost its domain as the “fourth estate” in Turkey. In the case of Turkey, the media appear to be the least reliable sector among all

institutions (even less than politicians most of the time). However, the press is still the government's most influential propaganda agency. On the other hand, and paradoxically, as long as the government continues to intervene or appropriate the media, these communication means will lose their power to convince consumers and voters. How, then, is possible to understand and explain the mutual dependence between politicians and the media? Most importantly, how do independent journalists and media consumers react? Is there any chance that a new media experiment, in terms of production and dissemination of news, can flourish in Turkey under growing authoritarian conditions there?

Josef Seethaler and Maren Beaufort state that after a long period of relatively stable market conditions, the Austrian media system is currently undergoing profound changes. In the last decade, the dual system of public and private television broadcasters, introduced as late as 2001, has led to a decline in the market share of the public service broadcaster ORF (although it remains at a relatively high level), and, in 2017, to a merger of the two biggest private TV companies, which are now owned by the German ProSiebenSat.1 Media group. On the other hand, the growing market share of free daily newspapers has intensified competition in the newspaper industry, which is also facing an increasing challenge from online advertising. Revenues in the audiovisual sector, as well as gross online advertising expenditure, are increasing, as is the number of individuals who regularly use social media as a daily news source. It should be emphasized that freedom of expression is protected to a great extent, and the viability of the media market is not at risk. Media authorities work independently and effectively. During electoral campaigns political ads are forbidden in public service broadcasting, and ORF does a fairly good job of representing the parliamentary parties. Equally important, there is a varied and lively community media sector. Moreover, Austria has a well-established system of state subsidies, although it is in need of reform. Media freedom and pluralism are primarily at risk due to lack of protection of the right to information, horizontal and (increasing) cross-media concentration, political and – to a lesser extent – commercial influence over editorial content (not least because of the distribution of state advertising to media outlets), endangered editorial autonomy, threats to the independence of governance and funding of public service broadcasting, limited access to media for women and minorities, and underdeveloped media accountability mechanisms.

Iva Nenadic provides in her analysis an overview of how technology-driven changes affect the ways news is being made, delivered, found, and funded, and what implications this may have for media pluralism. Starting from the broad notion of media pluralism, which goes beyond the market

dimension of media plurality and takes into account, for example, the role of journalists and other players in the news ecosystem, she calls for even broader and more nuanced consideration of players and processes related to news. Trends suggest that news is increasingly produced outside traditional journalistic forms and conventions, and delivered through personalised recommendation systems of online intermediaries, which are not media but carry out some media-like functions and profit from the work done by media. At the same time, these intermediaries are not bound by the same requirements of transparency, impartiality, and diversity, as legacy media.

The chapter by Bill Kappis suggests that the role of media during security crises has seen a dramatic change since the end of the Cold War. While the “CNN effect” gave rise to the notion of media as a new, independent actor in international politics, their gradual encroachment by great powers led to an increasing drive by policymakers to employ media narratives in their security policies, particularly in times of crisis. From the “Global War on Terror” to the liberal internationalist agenda, the United States was at the forefront of this trend, until Russia decided to respond by means of a global media campaign, spearheaded by the RT network, the country’s flagship media outlet. In recent years, the integration of security strategies and the media during crises has reached new levels of intensity and sophistication with the advent of Hybrid Warfare, as seen during the Crimean Crisis. The repercussions for governments and the media are grave, with the former having to reflect on potential policy responses that face the prospect of armed escalation and the latter forced to protect and defend their credibility and integrity.

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Renate Schroeder

Media, Freedom of Speech, and Democracy: Journalists under Pressure in Europe

Before outlining some recent troubling trends in Europe on the state of journalists and media freedom, I will cite some remarks made in 2018 by certain leading politicians in EU member states.

When the populist Five Star Movement (M5S), which is part of Italy's ruling coalition, announced its intention of drafting a law to restrict the activities of publishers, Luigi Di Maio, deputy prime minister and the party's head, referred to the country's journalists as "negligible jackals" and "the true plague of this country." On his Facebook account, fellow party member and parliamentary deputy Alessandro Di Battista labeled Italian journalists "whores who do not prostitute out of necessity." Both politicians were responding to press reportage in the case of Rome mayor and M5S member Virginia Raggi, who was accused and subsequently acquitted of cronyism and abuse of power over a senior municipal appointment.

Such declarations by politicians are unprecedented in the history of postwar Italy, already sullied by former Prime Minister Berlusconi's media empire and his conflicts of interest. After his attack, Di Maio even threatened to discourage large state companies from advertising in newspapers that criticize the government.

According to Gianni Riotta, director of the Data lab at LUISS Guido University School of Government, Rome

The point here is not about not criticizing the Italian press – I do it often. The point is that the Italian constitution gives journalists a role in our democracy, and they are trying to undermine that role; this is what is dangerous, they are trying to run a government without the press checking on them.¹

Di Maio's and Di Battista's attacks coincide with similar declarations made by politicians in Poland, Hungary, Austria and Greece, as well as by Germany's Far Right Alternative für Deutschland (AFD) and by Slovakian Prime Minister Robert Fico, who branded journalists "dirty, anti-Slovak prostitutes." The winds of change have reached Austria, too, with the formation of a right-wing government coalition including the populist Austrian Freedom Party (FPÖ). As a result, independent journalism, and the public service media ORF

1 <https://www.theguardian.com/world/2018/nov/13/italian-journalists-respond-with-fury-to-m5s-insult>.

(Österreichischer Rundfunk), in particular, are under fierce fire. In September 2018, the European Federation of Journalists (EFJ) strongly criticized comments made by Austrian interior minister Herbert Kickl, who suggested that certain journalists “may be under investigation for their reporting on the work of the Austrian intelligence services.” Kickl’s remarks were followed by a leaked email from top ministry spokesman **Christoph Pölzl**, demanding that regional police “restrict communication with these media to only the most necessary (legally required) degree.”²

Even in countries such as Sweden and Germany, where media freedom is well respected, the year 2018 saw further evidence that the rise of populist right-wing politics threatens both the operational freedom of journalists and their traditional role as an important component in the functioning of parliamentary democracy. Indeed, an increasing number of leading European political figures have been demonizing the media. Their willingness to smear journalists rather than debate the facts constitutes one of the major threats to media freedom in Europe today.³

The murder of journalists in Europe

Another phenomenon that has arisen within EU member states is the murder of journalists for doing their job. Since 2015, 18 journalists have been slain (including eight in the horrific terrorist attack on the *Charlie Hebdo* offices in Paris on January 7, 2015), as well as in EU candidate countries. Since early 2018 alone, seven journalists have been killed, four of them in EU countries. Since 1992, over 150 journalists have been murdered in Europe, one every two months. Some were covering conflicts, but most were trying to bring criminal activities and corruption to public awareness. Many of them had requested police protection, but most state authorities ignored their pleas.

One case that reverberated far beyond the confines of journalism was the brutal murder of Maltese investigative journalist and blogger Daphne Caruana Galizia, on October 16, 2017. Only four months later, in February 2018, young investigative journalist Ján Kuciak, together with his girlfriend Martina Kušnírová, was shot dead in their home in Veľká Mača, Slovakia. Kuciak worked as a reporter for a news website that probed tax fraud and corruption. In both countries, investigations have failed to uncover the masterminds behind the killings. In addition, Swedish freelance journalist Kim Wall was slain in August 2017, and her Danish murderer arrested.

2 <https://europeanjournalists.org/blog/2018/09/26/austrian-interior-ministry-attempts-to-restrict-freedom-of-press/>.

3 “Demonising the Media: Threats to journalists in Europe,” November 2018, <https://mappingmediafreedom.org/index.php/demonising-media-threats-journalists-europe/>.

In a declaration issued on behalf of the EU on the occasion of International Day to End Impunity for Crimes against Journalists, on November 2, 2017, High Representative Federica Mogherini said:

We condemn killings, acts of violence, intimidation and harassment against journalists and other media actors in the strongest possible terms. We expect State authorities to uphold their international obligations by protecting journalists against intimidation, threats and violence, irrespective of their source, whether governmental, judicial, religious, economic or criminal. Any alleged unlawful killing, ill-treatment, threat or attack against journalists, whether by State or non-State actors, should be promptly investigated in an effective and independent manner, with a view to prosecuting the perpetrators of such crimes and bringing them to justice. Any impunity for these crimes is a blow to democracy and to the fundamental rights such as freedom of expression.⁴

The European Parliament has also reiterated such demands since the killings. All EU member states have signed Council of Europe Recommendation CM/Rec (2016)4 on the protection of journalism and safety of journalists and other media actors, but many have shown little inclination to implement it. In 2018 the Council of Europe Platform for the Protection of Journalism and Safety of Journalists listed 16 cases of unsolved murders of journalists in member states, as submitted by partner organizations, including the European Federation of Journalists. These cases, which appear under the menu item “End Impunity,” highlight deficiencies in investigations and failure to bring to justice the perpetrators, organizers, or masterminds behind those crimes.⁵

Journalists have been experiencing an increase of physical attacks, harassment, disrespect, violation of protected sources, and hence self-censorship. As of 2015, the Council of Europe Platform for protecting journalists and journalism received over 123 alerts of attacks on their physical safety and integrity.⁶ Moreover, journalists have been subject to detention, judicial harassment, and political and private intimidation in many European countries, often because of supposedly well-intentioned anti-terrorism measures and surveillance laws. According to Mapping Media Freedom

4 https://eeas.europa.eu/headquarters/headquarters-homepage/34778/no-impunity-crimes-against-journalists_en.

5 <https://www.coe.int/en/web/human-rights-channel/end-impunity-for-crimes-against-journalists>.

6 <https://www.coe.int/en/web/media-freedom>.

created by the Index on Censorship, as part of the European Centre for Press and Media Freedom (ECPMF), 220 journalists were detained or arrested in Europe in 2017.⁷ The platform also highlights over 1000 cases of limitations of press freedom, almost 200 criminal charges and civil law suits against journalists, and more than 250 cases of intimidation. Mapping Media Freedom was originally a pilot project, funded by the European Commission, to investigate the full spectrum of threats to media freedom in the region.

Many journalists in Europe resort to self-censorship, as a 2017 Council of Europe survey shows.⁸ The results of the survey are striking and confirm that an effective monitoring mechanism is necessary to measure the “prevalence of unwarranted interference emanating from economic, political, and judicial intimidation of journalists, and particularly to track and address the increasing number of attacks on the physical integrity of journalists, harassment of journalists, the experience of impunity, threats to journalists’ sources, and all measures and acts having a chilling effect on media freedom.”⁹

Along with disrespect for social dialogue, as well as for collective bargaining and union rights, a decline in working conditions and the rise of freelancing are further threats to quality journalism, particularly in central and (south)-east Europe. Given the almost complete lack of successful business models in the digital environment, thousands of job losses in all media, a weakened public service media environment, and powerful media concentration that leaves often only one media organization at the regional or local level, it is not surprising that the overall status of journalism has suffered greatly in recent years.

A decade ago a journalist might write one article a day; today their output might be three or four. When working under such pressure, their mission as “watchdogs of democracy” takes a back seat. A study by the European Trade Union Institute (ETUI) on journalism as an increasingly precarious profession¹⁰ explores the working conditions of journalists and editors, both salaried and freelance, in print and online media. Burn-out; multitasking in a 24-hour news ecosystem where speed replaces quality; extremely low fees; and the de-professionalization of journalism are some key findings that should be taken very seriously. While the economic conditions for flourishing media are indeed dim, the unprecedented level of media concentration, particularly at the local level, is increasingly endangering the people’s right to know, including the people’s right to know who owns what.

7 <https://www.indexoncensorship.org/mapping-media-freedom-annual-2017/>.

8 Marylyn Clark and Anna Grech, “Journalists under Pressure: Unwarranted interference, fear and self-censorship in Europe,” Council of Europe, March 2017.

9 Ibid., 64.

10 *HesaMag* (ETUI’s health and safety at work magazine), no. 15 (spring-summer 2017).

Conclusions

Currently, at the top of the EU political agenda, as well as at the national level, is the battle against “fake news” and propaganda. This can also be called a struggle against a growing culture of lies and complete disrespect for journalism, journalists, and the truth. Unfortunately, this struggle is also misused by politicians to silence media and journalists. We believe that ethical journalism, transparency, efficient self-regulation – including of media platforms – media literacy, and media pluralism, as well as media acting in the public interest, are crucial tools to fight this “virus” of the so-called post-truth era.

Public trust will return only when people have confidence that powerful institutions are accountable and are listening to their concerns. Journalism at its best can do this job. European regulation of the media is limited to audio-visual media services and is influenced by economic regulation of electronic communications and e-commerce, which has a narrow scope of implementation. The EU has no other instruments to regulate media policy; it has to be guided at the national level. Though it is bound by the European Fundamental Rights Charter, and especially Article 11, which stipulates that freedom of the media and pluralism must be respected, the EU has no power besides monitoring and other “soft” support. At the same time, it can be said that following many European Parliament reports and actions, media pluralism and media freedom emerge as policy goals that are recognized by the European Commission as essential for democracy and human rights in Europe. Unfortunately, however, many EU member states block initiatives, as witnessed in the case of the 1994 Draft Whistleblower Directive,¹¹ when member states thwarted a European Commission attempt to regulate media pluralism. One activity supported by the European Union is monitoring violations of media freedom and media pluralism. In 2020, the Centre for Media Pluralism and Media Freedom in Florence will publish its updated Media Pluralism Monitor report, with analyses of all EU member states and applicant countries, including Turkey.¹² The report gives very detailed information about the status of journalists, media pluralism, and social inclusion, and is an excellent advocacy tool for improving a country’s image and a scientific complement to the very PR-oriented RsF World Press Freedom Index,¹³ published annually. Another EU mechanism is financial support for investigative journalism, as well as some pilot projects on cross-border journalism. On the more positive side: recent cross-border investigative journalism projects and important

11 Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law, SWD(2018) 116 final.

12 <http://cmpf.eui.eu/media-pluralism-monitor/>.

13 <https://rsf.org/en/ranking>.

leaks by journalists supported by their media for months or even years has shown the best of today's journalism and the vital role it still has in detecting wrongdoing. Examples are the Panama Papers (2016), the Luxemburg Leaks (2014), the Football Leaks, and the Implant Files (2018).

Numerous news stories under Investigative Journalism for Europe (IJ4EU) grants¹⁴ will be published during 2019, featuring a wide range of topics of public interest. These include, for example, *Lost in Europe*, a project led by Small Stream Media in the Netherlands, which is examining the disappearance of 10,000 migrant children in Europe, thanks in part to a 35,000 euro IJ4EU grant.

However, as long as there is no political will on the part of European leaders to prioritize the protection of journalists and deal with the causes of the media's failure to ensure pluralistic, independent, and quality information – an obligation that is incumbent upon all European governments – we will continue to have to tackle the problem of political trolls, disinformation, and a shrinking public space.

¹⁴ <https://www.investigativejournalismforeu.net/>.

Attila Batorfy

Hungary: A Country on the Path toward an Authoritarian Media System

Introduction

On November 28, 2018, media entrepreneurs affiliated with Hungary's governing party jointly transferred their ownership rights of 476 television channels, radio stations, print and online newspapers, and advertising companies to the Central European Press and Media Foundation (henceforth, KESMA, its Hungarian acronym), which had been created barely a few weeks earlier. KESMA received these media outlets for free. Even before the handover, media scholars had regarded the outlets in question as part of a centrally controlled government propaganda conglomerate. When describing them to international bodies, however, based on hard data at their disposal, they found it hard to substantiate the claim that these enterprises were independent in name only, or that although the rights of these varied outlets were distributed among 14 distinct owners, in reality they were all part of a single massive cluster.

As far as Hungarian media researchers are concerned, the most recent development has created a new situation only insofar as the governing party media concentration is now also manifest in the underlying ownership arrangement, which makes the – often rather tedious – presentation of the aforementioned argument considerably easier. Such a massively concentrated media empire has not existed in Hungary since the monopoly of the Communist single-party regime came to an end in 1989. The aggregate revenues from sales of all pro-government media companies amounted to 35.6 million euros in 2017, which constituted a staggering 43 percent of the total revenues of the entire Hungarian media market (Whitereport-CEU CMDS, 2019). The government swiftly issued a prime ministerial decree classifying the media behemoth that had been created (which has the legal form of a foundation) as being of “national strategic importance” and of “public interest,” a move that was meant to forestall a policy review by the Competition Office. The latter was thus reduced to the role of automatically approving the massive merger. The National Media and Infocommunications Authority (NMHH), which is made up exclusively of delegates nominated by the governing party, did have the authority to launch its own investigation into whether an undue media concentration had resulted that would require it to ban the merger, but chose not to. The public bodies of the European Union, which had previously exhibited an interest in, and sensitivity toward, the situation of

the Hungarian media, failed to react to this new development. An opposition party, the Hungarian Socialist Party (MSZP), and the National Association of Hungarian Journalists (MÚOSZ), appealed to the Constitutional Court to intercede, while the rural news portal *Szabad Pécs* and an NGO, the Hungarian Civil Liberties Union (TASZ), attacked the merger in the Metropolitan Court of Budapest, arguing that the process was unlawful and unconstitutional on several grounds, and that it would further distort the public's right to diverse information. These lawsuits are still pending in court.

In my opinion, the measure discussed above is an excellent illustration of the types of instruments the government is willing to deploy in order to implement its ideas about the media. Such enormous media centralization/concentration not only contravenes European directives (CoE, 2007; cf. Gálik, 2010) but also runs afoul of relevant restrictions in the existing Hungarian media law on significant market influence, as well as on horizontal and vertical concentration (Act CLXXXV of 2010: A67-70). The prime ministerial decree noted above, citing the public interest and the national strategic importance of the merger, was also issued in order to justify the decision to place the operations of the media behemoth under the scope of another statute adopted in October 2013 (Act LVII 2013: A24, A96-97). This act authorizes the government to exempt monopolies and oligopolies that it favors from provisions of the competition law which are meant to forestall unfair market practices, the abuse of a dominant position, and excessive market concentration. The Media Authority, which is governed by a steering body that is made up completely of Fidesz-nominated delegates, also had the option of launching its own investigation, but declined to do so.

There is another important aspect to this case: reference to the nation and to public interest. The following are included among the objectives mentioned in the public notice about the creation of KESMA: promoting activities that can be used to foster national consciousness; supporting local media; the preservation of print media in Hungary; the conservation of traditional Hungarian press culture; shaping a public discourse rooted in national values; and educating a new generation that identifies with national values. The person who was nominated to lead the foundation, former Fidesz MP István Varga (he has since resigned from the position), argued in an interview that the goal behind establishing KESMA had been to create balanced and credible sources of information based on national, Christian, and conservative ideological foundations in order to counter left-liberal dominance in the Hungarian media.

Theoretical background

Media system theories inevitably distort to some extent since they focus on characteristics that certain countries and regions share, and then try to come up with categories based on these observed attributes, while they gloss over obvious differences between the respective systems. Another common feature of these theories is that, fundamentally, they regard free, pluralistic media systems of Western liberal democracies as the norm. This perception is not arbitrary since the level of development of a democracy and press freedom in a given country are interrelated: dictatorships lack independent and critical media that are essential for keeping citizens informed and for helping them make well-considered decisions; in a dictatorship, there is only propaganda.

All system theories are reflections of the period of time when they were created; they can only build on events that have already transpired, and on information that has been observed and recorded. They do not and cannot see into the future. As a result, numerous theories may seem outdated or fragmentary. One problematic aspect of such theories is that they are rarely able to capture the dynamics of change, which is why some of the categories they produce appear inflexible. Another peculiarity of system theories is that they create and assign cases to typologies; that is, they condense, which means their validity is limited and contingent. The aforementioned leads directly to a question raised by Colin Sparks, who asked the following: If media systems are so different, and there are so many problems with their categorization, is it thus even possible to compare them at all (Sparks, 2017)? I believe that even though media system theories should be evaluated with all these caveats in mind, individual media systems, nevertheless, have discernible and distinct features that can be captured and used in order to identify them as belonging to various distinct types of media system.

The first comprehensive treatise on media system theories, which became a classic that served as the starting point of later theoretical works, was *Four Theories of Press*, by Fred Siebert, Wilbur Schramm, and Theodore Peterson. First published in 1956, it has gone through several editions since then. In their historical analysis, the authors identified four press systems: Authoritarian, Libertarian, Social Responsibility, and Soviet Communist.¹ I view these as archetypes because I think that the ideologies the authors identified as the underlying frameworks for these types of media system

¹ Because of the possibilities existing at the time, the authors focused almost exclusively on print journalism, and thus, the categories they identified were generally referred to as press systems. For obvious reasons, these days we refer to media systems, and I also use the categories mentioned above as referring to media systems.

continue to this day, although the strength of their respective presence varies.² It is rare, of course, for any of these archetypes to persist for sustained periods of time within a country. In its purest form, the Soviet-type media system lasted for an extended period only in the Soviet Union, Nazi Germany, Fascist Italy, and in a few other dictatorships. The three other archetypes can coexist in media markets that are basically pluralistic, but – as will be seen below – even certain characteristics of the Soviet-type media system may be virulently present in an otherwise mixed and pluralistic media system.

The other seminal work about media system theories, which is probably also the most cited, celebrated, and criticized, is Daniel C. Hallin and Paolo Mancini's massive tome, *Comparing Media Systems*, published in 2004. The authors investigated whether political regimes correlated with discernible features of the media space in a given country, and if the answer to the foregoing question was affirmative, how strong the underlying relationship was. Based on their observations and data, they distinguished between three different media systems (2004, 89–248): the Mediterranean, or Polarized Pluralist, model; the North-Central European, or Democratic Corporatist, model; and the North Atlantic, or Liberal, model.

It is not the purpose of the current study to present the sprawling body of texts that have analyzed and critiqued Hallin and Mancini's methodology, categories, and theory,³ but it is noteworthy that from a Hungarian perspective, at the time, the authors did not look at the post-Socialist countries of Central and Eastern Europe. Only later, in response to criticism of their treatise, did they begin to extend their theories to other regions and continents (Hallin and Mancini, 2012).

It was in part on account of this deficiency that media scholars in the region itself began subsequently to place the post-Socialist countries on the map, starting from the methodology of *Comparing Media Systems* and taking its ideas further. They found that those systems often exhibited similarities to Hallin and Mancini's Mediterranean/Polarized model. This finding is not without precedent. The Italianization/Mediterraneanization of the region's transforming media markets was already diagnosed by Spichal (1994), and subsequently this line of research was taken up by Jakubowicz (2008), who spoke of Berlusconization. What all the new theories augmenting the original model have in common, however, is that they identified a kind of mixed media system that is teetering on the borderlines separating Western, Eastern, and Southern Europe, resulting in a transitional, Third-Way-type development,

2 Many scholars have since tried to augment the four basic categories. One major contribution in this regard is the addition of the Democratic-Socialist category, proposed by Robert Picard (1985).

3 These critiques were most recently summarized and augmented with new considerations by Colin Sparks (2017, 36-64).

even as numerous differences between the individual countries continue to prevail, and some of these differences are clearly more than mere nuances (Jakubowicz and Sükösd, 2008, Dobek-Ostrowska, et al., 2010, Mihejl and Downey, 2012, Dobek-Ostrowska and Glowacki, 2015, Bajomi-Lázár, 2017).

Theories about the Hungarian media system

At first glance, there appear to be many theories that also extend to the Hungarian situation, or are focused exclusively on Hungary. Some of them obviously discuss Hungary jointly with the media systems of other post-Socialist countries, but several do not approach the issue from the conceptual framework provided by media theories; rather they draw on terms borrowed from political science.

Of these, Dobek-Ostrowska and Glowacki provide the best description of Hungary, in my opinion (2015). According to their categorization, Hungary belongs to the ranks of post-Socialist countries with a Politicized Media, along with Croatia, Romania, Serbia, and Bulgaria. The authors determine that the common features of the respective countries and media systems in this group are weak and unstable democracies; continuously deteriorating performance in international press rankings; mixed foreign and domestic ownership of the commercial media; deep party-political embeddedness of the partisan political press and news media; entanglement of media owners with political parties; and the deliberate decision of foreign media owners to maintain a distance from political content. My view is that even then the Hungarian media shared in part numerous common features with its Russian and Belarusian counterparts, which the authors assigned to the Authoritarian category. Such characteristics include, for example, centralized political power, the sham of competition, the shrinking space of the remaining independent media, and a reinterpretation of the role of journalists as de facto political players. These authoritarian-leaning features have been on the rise in Hungary since Dobek-Ostrowska and Glowacki's study was published.

The academic literature looking at Hungary, produced primarily by Hungarian scholars, operates to some extent with concepts and terminological tools borrowed from the political sciences. The parallels readily lend themselves because of the role of strong political influence in the media; because the fragmented press system that emerged following the collapse of the single-party regime reorganized itself along partisan lines; and because of prevailing political parallelisms. Correspondingly, in analytical descriptions of the Hungarian media we have thus far seen the concepts of *colonization by parties* (Bajomi-Lázár, 2013); the notions of *captive* (Urbán et. al, 2017, Bátorfy 2017) and *crony* media (Martin, 2017), which refer to

the shrinkage and corruption of the pluralistic media market alongside the expansion of governmental power in that market; and theories that compare the governing party's operations with those of a crime syndicate, with *mafia-state* being proposed as an analytical category (Magyar, 2016). Lately, Bajomi-Lázár referred to a patron/client system following the Putinist model in his description of the Hungarian media system (Bajomi-Lázár 2019).

In recent years the pan-European comparative research project Media Pluralism Monitor, coordinated by the European University Institute's Center for Media Pluralism and Freedom in Florence, has become one of the most important sources for media scholars. Although the center itself does not provide a ranking of media systems and has thus far cautiously avoided the construction of system-level categories, the narrative reports about the situation of the Hungarian media, which are based on hard data and verifiable information, consider political influence and diminishing market diversity as increasingly important risk factors (Brouillette et. al., 2017, Bognár et. al., 2018).

It is also worthwhile touching briefly on the categories offered by conventional press freedom rankings. In the 2018 global review provided by Freedom House's Freedom of the Press analysis, Hungary received 44 points, and was assigned to the *partly free* category (Freedom House, 2018). The journalism NGO Reporters Sans Frontières classified Hungary as a "problematic" country, ranking it in 73rd place globally (RSF, 2018); among EU member states, only Greece and Bulgaria performed worse. For all their methodological flaws, these rankings are still useful because they highlight actual trends.

Media policies of the Orbán governments

Prime Minister Viktor Orbán and his governing Fidesz party have come a long way from their early role as everyone's favorite liberals (in the classic European sense) to their present act as right-wing populists. In parallel with these transformations, their views of the media and its role have also shifted radically. At the time of regime transition, Orbán was a celebrated star of the domestic and international left-wing and liberal press. Nevertheless, that same press also began to dig more deeply into privatization issues in Fidesz's orbit which carried the whiff of corruption; in response, Orbán began quite swiftly to treat all independent media as enemies.

The "Christian-conservative" turn of Orbán and Fidesz began unfolding in 1993. Even before their election victory in 1998, their views of the media drew substantially on a narrative advanced by the far-right, neo-Nazi, and anti-Semitic subculture in the early 1990s, which suggested that the Hungarian media had been sold out by the collapsing single-party state to "anti-national,"

multinational capital, and that the ancien régime had used the process of privatization to salvage its information monopoly by transferring it to a post-Communist business and intellectual elite. The first Orbán government position was that post-transition media relations had not been the result of fair competition, and that the Hungarian media market still did not give Christian, conservative, and national ideas space that was commensurate with their weight in society. This moral and economic narrative, which contained truths and errors in equal measure (Juhász 2004: 69–71), formed the basis of media policies pursued by the first Orbán government (cf. Monori, 2005, 278–284; Paál, 2013, 124–125). The main tool for implementing the planned changes was the discriminative use of state resources.

The instruments employed by the first Orbán government to realize its policies differed little from those that successive Orbán cabinets since 2010 have deployed in this area; they were merely more moderate. The government at the time drew on public funds to bolster the flagship conservative daily newspaper, *Magyar Nemzet*, and also used them to launch the weekly *Heti Válasz*, while at the same time it forced personnel changes in order to ensure support from the public media.

Already, then, they strove to domesticate far-right opinions in the conservative/center-right segment of public discourse (for example, by merging the radical right-wing and often anti-Semitic daily *Új Magyarország* with the centrist *Magyar Nemzet*), and they steered state advertising – especially ads by the largest Hungarian state-owned corporation, the public lottery company Szerencsejáték Zrt. – toward their own newspapers (Bajomi-Lázár, 2005, 44–45; Paál, 2013, 285). Ultimately, Fidesz and Viktor Orbán drew the conclusion that they had not been radical enough in this area and that their electoral defeat in 2002 was due to a significant extent to ongoing “left-liberal media dominance” and its anti-government coverage. This perception prevailed in Fidesz circles despite the fact that public media had been taken over entirely by Fidesz; that the two major commercial television channels, TV2 (Pro7Sat1) and RTL Klub (Bertelsmann), which still had immense ratings at the time, were almost all politically neutral (Bajomi-Lázár, 2005, 41); and that the political neutrality and general abstinence from all matters political (Galambos, 2008) of the major German publishers present in Hungary (Axel Springer, Bertelsmann, Gruner & Jahr, Ringier, Westdeutsche Zeitung) was well documented.

Relegated to opposition status between 2002 and 2010, Fidesz began a gradual process of building its media hinterland. They launched a news channel (Hír TV) and two radio stations (Lánchíd Rádió, Class FM), and acquired several outdoor advertising companies. In parallel, a few tycoons who favored Orbán put their own media outlets at Fidesz’s disposal (Magyar

Hírlap, Echo TV, Helyi Téma). It is worth noting here that even in opposition Fidesz enjoyed the unconditional support and biased coverage of many important news and political programs in the public media (cf. Monori, 2005, 285–287). Moreover, after the 2006 local elections, which resulted in a landslide victory for Fidesz, the municipal governments controlled by Fidesz transformed many municipally-funded local newspapers into direct party mouthpieces (Kitta, 2013, 250).

From a media perspective, the time since 2010 can be divided into two phases, marked by an intense split that followed Fidesz's successful re-election bid in 2014. Between 2010 and 2014 the government media had been concentrated around Orbán's secondary school friend Lajos Simicska. This period was characterized by exploitation of the state's personnel and material resources for the purposes of corruption. This is also reflected in academic interpretations of this period, which construe it as falling into the theoretical frameworks of state capture (Bátorfy, 2015, 2017; Urbán, 2015), on the one hand, and crony capitalism (Tóth and Fazekas, 2015, Szeidl and Szűcs, 2017, Martin, 2017), or mafia state (Magyar, 2016), on the other.

What these approaches have in common is the view that between 2010 and 2015 the Hungarian media system was interwoven more strongly than ever before by a network of personal patronage, informal acts involving corruption and the illicit use of publicly funding, and unconditional loyalty to the prime minister, the government, and the governing party, conveyed through the aforementioned. The operation of this system became the subject of intense pressure as a result of the notorious public rift between Orbán and his erstwhile friend Simicska, which erupted openly in spring 2015 when Orbán loyalists departed en masse from Simicska-owned media outlets, leading to the rapid loss of their state advertisers. When the oligarch Simicska finally sold his media outlets after Orbán's third successive electoral victory with a two-thirds supermajority in 2018, the pro-government segment of public discourse celebrated it as the "return" of these (highly unprofitable) media companies to the party.

In the period 2015–18, however, substitutes had to be found for the media owned by Simicska. This was solved by launching new media outlets (*Magyar Idők*, *Lokál*, *Ripost*, 888.hu, Karc FM), by buying out multinational corporations with credit provided by the state (Origo, TV2, regional dailies), and finally, by purchasing Hungarian-owned corporations (Mandiner, Figyelő, Rádió1). The exodus of foreign corporations is especially striking: in those three years the German companies Pro7Sat1, Deutsche Telekom, and the WAZ-Funke group, as well as the American investment company behind the Lapcom publishing house, sold their Hungarian media investments to government-friendly oligarchs (Bátorfy 2017). These three distinct groups – the recently created

or acquired government-friendly media, the media outlets formerly owned by Simicska, and the classic Fidesz media were consolidated into KESMA in 2018, and it was the various holders of the media outlets in this sprawling portfolio that decided at the end of 2018 to transfer their ownership rights to the newly created non-profit foundation – for free.

Instruments

As I see it, the majority of media researchers believe that the media systems of their own countries are unique. While they do not think that these systems are unparalleled in all respects, they can still list many features which they believe apply to no other country than their own. By contrast, none of the features of the Hungarian system are unique and none are novel; nor are the government's methods innovative either. The Hungarian government has not come up with, or deployed, any new instruments of its own invention to bring media outlets to heel since 2010; those that it has used already existed; it merely had to draw on them. Fundamentally, the government resorted to three distinct tools.

Regulatory/administrative

Hungarian media policies and media regulations are not universalistic, but – as Péter Bajomi-Lázár has shown – particularistic (Bajomi-Lázár, 2017). In other words, the government uses the various levels of state administration to improve the market positions of certain players and ideologies, while it seeks to squeeze others out altogether. One spectacular manifestation of this is the use of so-called floating regulations, as part of which the National Media and Infocommunications Authority or the Competition Office interpret the constitution or relevant media laws in an arbitrary manner, rewarding some players in the media while punishing others. Thus, this mechanism was used for the wholesale transformation of the radio market (Nagy 2016a, 2016b), the comprehensive transformation of the outdoor advertising market (Bátorfy 2015), the rejection of merger applications by companies not affiliated with the government party, and the approval of such applications by pro-government media companies. Also included here is the advertising tax levied on the country's largest commercial television channel, RTL Klub, which the government ultimately felt compelled to spread more evenly among all players in the media market once the European Union launched an investigation into this matter.

State funding

The distribution of state funds is also particularistic, and is deployed to either reward or penalize market players. The share of state advertising in the total advertising revenues of the entire media market stood at 30 percent in 2018, which is an incredibly high figure. Looking at average values across all media segments, three-quarters of the money spent on state advertising in 2018 was awarded to government-friendly media companies, but in certain segments of the market this ratio was in excess of 90 percent. Calculated based on list prices provided by the media research company Kantar Media, the pro-government media's advertising revenues were 234 million euros in 2018. Numerous government-friendly outlets generated as much as 75–80 percent of their total turnover from state advertising. State advertising is not only useful in rewarding loyal media, however; it can also be employed to silence critical media that are in a vulnerable position. Recently, state advertising began to re-appear in some left-liberal media outlets that were struggling with major financial problems. However, the underlying goal was not to distribute state resources more fairly or evenly, but to subsume these media outlets into the web of state/government dependence that characterizes much of the Fidesz-dominated media system (Bátorfy & Urbán, 2019).

State-provided loans also played a substantial role in crafting the government-friendly media empire. Credit provided by the state was used to buy Hungary's second largest commercial television channel, TV2, from its German owner, the Pro7Sat1 group; it was also used to acquire one of Hungary's leading online newspapers, *Origo.hu*, from its owner Deutsche Telekom, as well as the major newspaper publisher Mediaworks (Bátorfy, 2017, 20–21). Such enormous state influence in the media market would be disconcerting even without the obvious underlying intention of distorting the market. As things stand, however, pro-government media outlets do not have to compete in the market to win state advertising because the state will even use public funds to compensate for their financial losses, if need be.

Communication

Rhetorical aggression, online harassment, and threats against critical journalists and newspapers have become ubiquitous (Tófalvy, 2017). At the level of communication, this works by way of centralized character assassination campaigns, stigmatization, and Soviet-style *kompromat* campaigns, some of which draw on the resources of law enforcement and the clandestine services (Mills and Sarikakis, 2016). Unsympathetic media are labelled “Soros media” or “fake news factories,” while their journalists are blacklisted and branded as traitors who represent foreign interests, as well as political players, and

are often accused of unlawful and indecent activities. These efforts are closely complemented by the government media's extensive dissemination of disinformation, which follows the Russian pattern (CRCB, 2018). A substantial portion of the campaigns are conducted by pro-government journalists. Thus far no scientific research has described this group, but based on occasional self-definitions that its representatives proffer we can sketch many of their characteristics. A majority of these journalists work for media outlets financed by public funds. They regard their journalistic work as political activity, too. Since these two roles are inherently linked in their professional self-understanding, they cannot conceive of any journalism that is free of political, ideological, or material interests; correspondingly, their journalism is interest-driven. Moreover, they are political players who wish to assert these interests at any price; they do not have the option of compromising on the instruments they use to this end.

Their writing is often characterized by militaristic rhetoric: racist, ethno-centric, and national-chauvinistic ideology; anti-liberalism and anti-Communism; glorification of masculinity and willpower; and a disdain for feminism, efforts at finding compromise, and the acknowledgment of error, the latter of which they consider to be a sign of weakness. They share an anti-scientific perspective on the world; they often rely on arbitrary definitions of conservatism and Christianity, and on certain scientific issues they utilize their own experts to argue against the claims of those they regard as "left-wing/liberal" ones, whom they generally refuse to confront or reach out to.

Conclusion

In my view, Siebert, Peterson, and Schramm already came up with adequate categories to describe Orbán's media ideology back in 1956, except that in the historical situation that prevailed then those distinct constructs were not forced to coexist within the same media system. Instead, each of the countries investigated featured one dominant ideology that was more typical of a given country than the others. According to the power logic reflected in the Hungarian government's operations in the realm of media policy, from the government's perspective the Hungarian media system would operate ideally if it were under an Authoritarian/Communist type of central control. The successive Orbán governments' media policies discussed above and the instruments deployed by them support this claim.

The government-friendly segment of the Hungarian media, along with a portion of the independent/critical media, only continues to exist thanks to the grace of the prime minister and is contingent upon his continued approval. In a manner typical of authoritarian regimes, both public and private forms

of media ownership are present in the market, while foreign ownership of media companies is in decline. But the question is to what extent can the pro-government press even be regarded as privately owned if their financial sustenance is provided largely by the state with public funds, without which these companies would not be viable market players? The government considers that the main function of the media is a mix of presenting its policies and improving their effectiveness; but at the same time it also uses its own media as an iron fist, an agent doling out punishment. As one of the legacies of the Communist-type media system, the present system continues to lean on prohibition of any type of criticism of the prime minister and the government; the hushing up and denial of scandals; surveillance and reporting of critics; innuendo and slander against the latter; and *kompromat* campaigns that seek to discredit and destroy them in public. In terms of administrative instruments, it draws on tools involving economic threats that undermine the financial viability of unsympathetic media. This does not imply that there are no media outlets, journalists, and professional ideals that are typical, respectively, of the Libertarian or Socially Responsible types of media system in the segment of media that is critical of the government. Orbán does not resort to openly repressive and totalitarian instruments to tighten the space available to these media; he draws on economic and administrative tools instead. He bases his efforts on pressure by public authorities, as well as campaigns to discredit critical media institutions.

Orbán and the government-friendly media frequently invoke the national interest when they resort to the use of such instruments. Thus, squeezing multinational corporations out of the market was an act of national interest, as was building up and financially sustaining a pro-government media empire with public money, the showering of loyal journalists with state awards and honors, and of course, the ongoing fight against critical media. Political science often uses soccer analogies for describing Orbán's exercise of power. Accordingly, Orbán has arbitrarily changed the rules of the game and physically transformed the soccer field so that it tilts against the opposition. These types of systems, which do not use openly dictatorial means, are referred to by the political sciences as illiberal regimes, as per Zakaria, or as hybrid/competitive authoritarian regimes, following the nomenclature suggested by Levitsky and Way (Zakaria, 1997; Levitsky and Way, 2010).

These approaches share the assessment that the democratic institutional system still exists, although it no longer operates independently of the government, and that the government can be replaced through elections, even if the rules are obviously structured in a way so as to ensure that this cannot actually happen. In such a competitive situation, the prospect of ousting the authoritarian leader hinges solely on the opposition's creativity

and inventiveness; nevertheless – according to political scientists – there are numerous examples demonstrating that this is not impossible. In this sense, the Hungarian media system is mixed, a hybrid one. Thus, just as media researchers and political scientists cannot foresee the future, scientifically, if they tried, the chances they were right would be 50 percent. If we focus only on the trends and limit our analysis to the situation of the Hungarian media, we can see that since 2010 Hungary has started down the path toward an Authoritarian/Communist type media system, and for the time being there is simply no indication whatsoever that any impediments might arise to stop it from unfolding fully within the European Union.

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Beata Klimkiewicz

Reactivation: Reconsidering the role of the state in media ownership policy in Poland

Introduction

The role of the state as a principal actor in media and communication policy is highly ambivalent. On the one hand, states have been responsible (and are still responsible in many autocratic regimes throughout the world) for constraining freedom of expression and the free operation of the media. On the other hand, they are expected to guarantee these freedoms actively through constitutional and legal arrangements, and other complementary policy measures in the framework of a functioning democracy. While states around the world are complicit in creating the problem of media capture, they seem also to be essential for preventing it (Schiffrin, 2017). Thus, both a dominant and a weak state pose a threat to the development of a pluralistic media system (Voltmer, 2013), which should remain open but at the same time immune to the abuse of state as well as corporate power.

In a rapidly changing media and communication environment, media power has shifted from the legacy media industries to new digital players and new media and communication structures. The state has continued to play an important role in this process. According to some observers, national states support, with their neoliberal policy regimes, “the paralysis of corporate taxation,” and thus, the growing power of new and social media players (Trottier and Fuchs, 2014, 25). Others note that traditional media owners are being replaced by new national or transnational business oligarchs with a great deal of political influence, or even by states or state-owned companies (Schiffrin, 2017). Moreover, governments seeking to control and politicize the media are using increasingly complex ownership structures – whether they be for news content producers, distribution channels such as telecommunications and information technology companies, or advertising agencies – which ultimately limit independent reporting and stifle media as businesses (Foster, 2012, 5).

The aim of this chapter is to examine the changing dynamics of power in media ownership policies between state and media in Poland. The role of the state in shaping media and communication environments has been studied by a number of authors, including among others, McQuail, 1992; Hallin and Mancini 2004; Castells, 2009; Downey and Mihelj, 2012; Voltmer, 2013; and Trottier and Fuchs, 2014. In terms of methodological approach, the chapter

builds on this scholarship, as well as available monitoring tools, such as the MPM (Media Pluralism Monitor) (CMPF, 2018), using selected indicators and areas of analysis. At the same time, it offers a new framework for analysis, contextualized by the impact of transnational media governance (mainly the EU), global and transnational structural media developments (manifested by the growing power of new media firms), political changes, and the rise of nationalist rhetoric.

The state as an actor in media policy

According to Hallin and Mancini (2004, 41), “the state plays a significant role in shaping the media system in any society”; yet the degree of state intervention and forms it takes might be significantly different. In addition, this mediation might be highly dynamic as states currently face changing and challenging conditions. In the view of some authors, states continue “to be largely absent from current analyses in media and communications” (Morris and Waisboard, 2001, ix); yet their role has not lost its importance.

The state as an analytical concept has been frequently used as a monolithic term in media and communication studies; consequently, it has been characterized by a certain degree of confusion or elusiveness. It is not the purpose of this chapter to provide a complex overview of the conceptualization of the state; however, some clarifications concerning the functions, branches, and areas of activities of the state are necessary in order to proceed with an analysis of relations between state and media in the media policy process.

As a starting point, the state functions through institutions that perform specific roles in a given field of activities, crystallizing around interests of social actors. The institutional components of the state include the government – the central executive branch; the parliament – the central legislative branch; the judiciary – the judicial branch, which should be constitutionally independent of the political executive branch and protected from it; local and regional government; and the military and police. The public sector, which accompanies them, reaches beyond the traditional bureaucratic administration of the state and encompasses a large variety of bodies (Miliband, 1969, 47), including media regulatory authorities.

Each of these branches may have a unique engagement with the media and communication environment (Trottier and Fuchs, 2014, 23); in addition, the relationship is deeply structured by a given institution’s performance, such as lawmaking, media market regulation, management of public service media or state-owned news agencies, provision of subsidies, formulation of tax policies, and distribution of state advertising. Thus, media/communication-state relations are complex and multidimensional.

State and media: Mutual dependency

The relationship between state and media can be characterized as one of mutual dependency. In traditional liberal theory, the pivotal role of the media is to act as a check on the state in order to monitor systematically all aspects of its activities, including failures, wrongdoing, and abuse of power (Curran, 2002). Thus, the media's power lies in exposing information that might lead eventually to correction of the improper practices of state institutions (Stiglitz, 2014, 10). Moreover, the media facilitate deliberative legitimization processes in democratic states, but only as long as the media system is "self-regulating" and independent of the social environment (Habermas, 2006, 412), and particularly of the state. Yet, such independence is never absolute. It might be seen as "functional independence" rather than "complete independence," as given norms and standards such as freedom of the media or editorial independence operate within a certain conditionality. In other words, they are defined, and thus also limited, by specific circumstances that characterize the structural power-dependence relationship between state and media.

The power-dependence relationship between state and media might be seen as relatively symmetrical if the survival and welfare of the media system are as contingent upon the resources of the state as the survival and welfare of the state are contingent upon the resources of the media (Ball-Rokeach, 2006, 4). The interdependencies that necessitate cooperation between media and state also give rise to conflicts, as each party in these relations might try to maximize its power position vis-à-vis the other by increasing exercise of its control in areas that make the other parties more dependent (*ibid.*, 5). The power-dependence relationship is conditional. The media depend on the state for judicial protection, clarity of regulation and its fair and impartial implementation, legitimacy (justifying the watchdog role of the media, for instance), and generating conflict and drama by the political system. The state, on the other hand, depends on the media for the inculcation and reinforcement of political values and norms, maintenance of order, mobilization of the citizenry, and controlling and overcoming internal conflict (Gandy, 1982; Paletz and Entman, 1981; Ball-Rokeach, 2006).

The power-dependence relationship between state and media takes shape through relevant policies and conditions under which the former are enacted. The policies usually follow and reinforce public values and principles that may be nationally and culturally specific; at the same time, they can also reflect underlying values shared among and/or transferred from other nations (Pickard and Pickard, 2017, 7).

In Poland, the role of the state vis-à-vis the media was re-conceptualized fundamentally in the early 1990s. One of the crucial pillars of media reform

and transformation after 1990 in Central and Easter Europe was re-shifting the position of the state in controlling sources of information, and de-monopolization of the media (Price et al., 2002). This policy was manifested in the elimination of institutionalized censorship, replacement of licensing of the press by court registration; media privatization; liberalization and deregulation of media concentration and ownership rules; and re-defining state-owned media as public service media. Hence, media ownership was one of the major fields from which the state has gradually withdrawn, at least formally. Unlike in countries with a more proclaimed responsibility of the state for the media (reflected, for example, in a system of direct press subsidies, strong regulation of media industries, and a high level of public financing for PSM), in Poland formal areas of policy intervention by the state remained relatively limited. This chapter examines gradual changes in this trend.

The state and media ownership

In principle, the role of the state in shaping media ownership policies is provisional. The conditions define and influence both relations between media and state and the effectiveness of policies and their validity. The power-dependence relationship between state and media is shaped in various areas of intervention regarding media ownership, such as an enabling environment for freedom of speech and the media, media ownership by the state (such as PSM and news agencies), media ownership regulation, media transparency policies, state subsidies, and state advertising. Each of these areas is backed by principles justifying activities and means used in the policy-making process. Ultimately, the nature of the relationship between state and media results from the quality of the conditions fulfilled for policy enactment. For example, state ownership of PSM is “safe” for these media’s performance as long as the provision of editorial independence is fully respected and sufficient funding from public (not state-controlled) sources is assured.

The table below summarizes selected areas of state intervention regarding media ownership policies, the principles supporting them, and the conditions for their effectiveness and validity.

Table 1: Selected areas of state intervention in media ownership structures

AREA OF INTERVENTION	PRINCIPLES	STATE INSTITUTIONS INVOLVED	CONDITIONS FOR EFFECTIVENESS AND VALIDITY
Enabling environment	Creating viable conditions for respecting freedom of expression and other rights of communication	Judiciary Government	Independence and effectiveness of judiciary
State ownership: PSM	Seeking diversity of providers and types of content Supporting social inclusiveness and representation of minorities and communities with special needs	Independent Media Authority	PSM's editorial independence Sufficient funding from public, not state-controlled sources
State ownership: news agencies	Content availability and diversity of media ownership	Independent Media Authority	News agencies' editorial independence
Media ownership regulation	Preventing growth and abuse of monopolistic media and communications	Competition Authority Independent Media Authority	Functional independence of Competition and Media authorities

Media transparency	Providing media ownership transparency Supporting the public's "right to know" Strengthening media literacy and conscious media usage	Independent Media Authority Competition Authority	Functional independence of Competition and Media authorities
State subsidies	Promoting diversity of ownership in media and availability of diverse types of content Supporting news media viability	Government	Transparency, accessibility, and equity of available schemes
State advertising	Neutrality in distribution of advertising resources	Government State-owned companies	Transparency and proportionality of advertising

Enabling environment

Any media-related policy rooted in a democratic tradition relies on protection of freedom of expression and other rights of communication. In a mutual power-dependence relationship between state and media, freedom of information laws restrict the power of the state and strengthen the side of the media in the struggle over public information (Voltmer, 2013, 140). An imbalance of information and restrictions upon freedom of expression not aimed at pursuing a legitimate goal in accordance with international standards may lead to information asymmetries. Thus, the media play an important role in maintaining "the balance" in a power-dependence relationship by holding

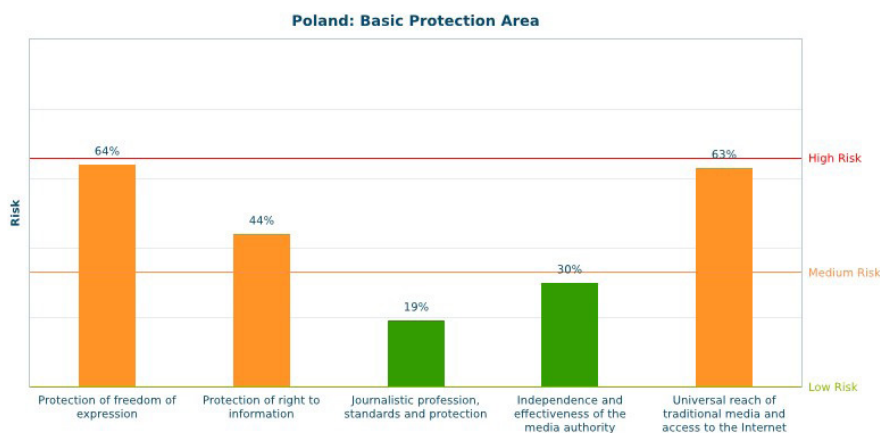
state officials accountable (Stiglitz, 2002, 28). The cornerstone for an enabling environment for media freedom and independence is a well-functioning judicial system, free of political pressures (Voltmer, 2013).

In recent years – as of late 2015 – the Polish judicial system (and in particular, the Constitutional Tribunal, district courts, the National Judicial Council [KRS], and the Supreme Court) has undergone a deep and controversial legal reform. The reform has four key elements: first, in 2016, the composition of the Constitutional Tribunal was transferred to the political control of the current governing party (Law and Justice). As a result, in an unprecedented move, the European Commission launched an investigation into rule of law in Poland. The second step was ending the terms of office of the majority of the KRS, a body that selects judges and has a decisive role in running the courts. The third step was the takeover of broad powers by the justice minister in order to control appointments of the heads of district courts. Finally, the retirement age for supreme court judges was lowered from 70 to 65, except for those reinstated by President Andrzej Duda (see also Śledzińska-Simon, 2018; Szczerbiak, 2018). In response to a ruling of the European Court of Justice ordering Poland to suspend the Supreme Court laws, this last step of the reform was revoked by an amendment passed in December 2018.

The government and its supporters justified the judicial reform by claiming that the Polish courts were too slow, ineffective, and tolerant of corrupt practices. Yet, the changes initiated by the reform weakened the independence of the judiciary severely, rendering it fragile and exposed to political pressures. The implications for freedom of the media have been far-reaching. First, while journalists and media professionals appear to be less certain about the legal consequences of their criticism and coverage of controversial issues, self-censorship seems to have increased (*press.pl*, 2017). Second, as regards protection of freedom of expression, the Constitutional Tribunal plays a pivotal role, mainly in its relation to bodies defined and set up by the Constitution in order to protect or respect freedom of expression and the media, including, first and foremost, the Commissioner for Human Rights (RPO) and the National Broadcasting Council (KRRiT).

The 2017 Media Pluralism Monitor (MPM) rated freedom of expression in Poland as being at medium risk (a high 64 percent) in the Basic Protection Area.

Figure 1: Assessment of protection of freedom of expression in the Basic Protection Area, MPM 2017



Source: CMPF, 2018

State ownership: PSM and news agencies

Among the most common examples of media ownership by the state, especially in Europe, are public service media (PSM) and news agencies. In Poland, PSM were created in the mid-1990s as part of a substantial media reform which removed the principal influence of the state. In this process, former state media were re-defined and legally recognized as public service media. However, political influence has remained strong in shaping PSM governance, and in particular control of the PSM director general, as well as the supervisory and management boards. Moreover, full funding of PSM from public sources – license fees – has never been attained in Poland. Since the mid-1990s, license fee revenues of Polish Television (TVP) have oscillated between 17 and 30 percent. Paradoxically, problems with independent financing, have not affected the PSM's relatively strong position, and that of television in particular, among audience markets. Thus, politicians have remained highly interested in maintaining some form of control over PSM, and reform of PSM has remained high on political agendas and programs of successive governments.

At the end of 2015, the Polish Sejm enacted the Small Media Act (*Mala Ustawa Medialna*) amending the 1992 Broadcasting Act. The 2015 act entered into force at great speed and was aimed at paving the way for the more comprehensive Big Media Act, which has never been passed due to international and domestic criticism. Justifying changes in PSM governance, Elżbieta Kruk, head of the Sejm culture committee, and later member of the

National Media Council, explained: PSM ignore their mission toward the national community. They promote ideological and moral fashions that are not accepted by a majority of society. Instead of creating media exposure to the Polish *raison d'être*, journalists often sympathize with unfavorable opinions concerning Poland. For the good of the national community, this should be changed as soon as possible.¹

Terms such as “the good of the national community” and “the unheard and silent majority” became fundamental to the political argument defending a profound change in PSM in order to support and rebuild its “national” character. The nationalism argument is not new in media policies over the past two decades in Poland, but no previous government or parliamentary majority promoted it so urgently (Klimkiewicz, 2017).

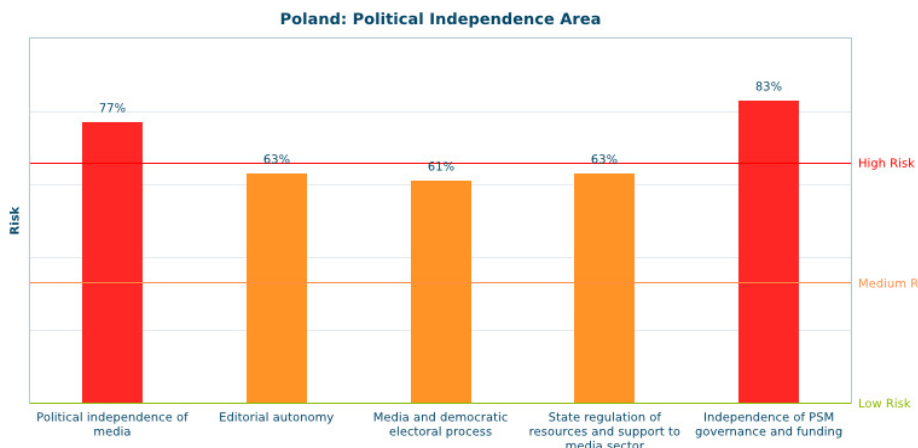
The 2015 Small Media Act – although temporary – created direct dependency between the government (the Treasury) and PSM, and resulted in extending political control to the PSM employment structure. Telewizja Polska (TVP) and Polskie Radio (PR) witnessed massive layoffs from management and supervisory boards, and large numbers of journalists lost their jobs, some after 20 years of work in the public service. The Small Media Act expired on June 30, 2016, but a new act was passed on June 22, 2016, the National Media Council Act (2016), amending the 1992 Broadcasting Act.² Principally, the act created the National Media Council, responsible for appointing the PSM director general, and members of its supervisory and management boards. Membership in the council reflects the power and representation of political groupings. The members (five) of the National Media Council are selected by the Sejm (three) and President (two), who chooses the members from proposals of opposition parties represented in the Sejm. The composition of the body not only clearly demonstrates political party influence, but also allows serving politicians, party members, and MPs to be appointed to it. Indeed, the current composition of the Council comprises three members of the governing political party who are also MPs.³ In the 2017 MPM, PSM governance and funding in Poland scored a high risk level – 83 percent – in the Political Independence Area. According to the accompanying text, growing state intervention in PSM governance was not duly balanced by PSM editorial independence and sufficient funding from independent sources.

1 Sejm przyjął ustawę o mediach publicznych (Sejm passes an act on public service media), *TVP.info*, 2015, <http://www.tvp.info/23383140/sejm-przyjal-ustawe-o-mediach-publicznych-poslowie-pis-skanduja-wolne-media>.

2 Act on the National Media Council (Ustawa o Radzie Mediów Narodowych), adopted on June 22, 2016, *Official Journal*, June 29, 2016, item 929, <http://dziennikustaw.gov.pl/du/2016/929/1>.

3 Rada Mediów Narodowych (national Media Council), http://www.sejm.gov.pl/Sejm8.nsf/page.xsp/rmn_sklad.

Figure 2: Assessment of independence of PSM governance and funding in the Political Independence Area



Source: CMPF, 2018

Currently, criticism of PSM's representation and coverage of political actors has been particularly strong. Although some right-wing commentators describe substantial alterations in TVP news formats as a "good change" (Wybranowski, 2016), oppositional voices are more pronounced. According to the Eurobarometer survey, only 29 percent of respondents agreed with the statement that "Polish PSM media are free from political pressure" (Eurobarometer, 2016). According to the 2017 CBOS survey, positive evaluation of TVP's performance by respondents fell from 83 percent in 2011 to 55 percent in 2017 (*wirtualnemedial.pl*, 2017). The 2018 Digital News Report observes that in terms of media user trust, TVP rated lower than the tabloid newspaper *Fakt*. By contrast, RMF FM and Polsat, whose owners try to avoid political conflict, have higher trust scores (Reuters Institute, 2018, 95).

While exerting political pressure and control over PSM in Poland (and public television, in particular) is not a new phenomenon, recent political bias, especially of TVP news genres, has reached an unprecedented scale. Relating to past political orientations of TVP, commentator Jacek Żakowski noted in 2010: "TVP was governmental or anti-governmental, right-wing or left-wing, but it never stood as public, beyond-party influence" (quoted in Jędrzejczak, 2011). Recent critics of TVP have argued that its main news program includes "hatred against opposition, fake news, and large-scale manipulation" (*crowdmedia*, 2017; *wirtualnemedial.pl*, 2017). According to a TVP journalist quoted in one of the largest Polish news portals: "There is no journalism anymore in TVP, only propaganda. Even journalists who are close to the Law and Justice

party see that all boundaries have been crossed" (*wp.pl*, 2017).

The leading Polish news agency, PAP (*Polska Agencja Prasowa* – Polish Press Agency), underwent substantial changes at the beginning of the 1990s. Formerly owned and controlled by the state, it became independent of the government in its journalistic operations, but was not free of political pressures. In terms of ownership, the agency belongs to the State Treasury. The 1997 PAP Act (*Ustawa o Polskiej Agencji Prasowej*), adopted on July 31, 1997, and amended several times, stipulates that: "The Polish Press Agency cannot find itself under legal, economic, or any kind of control by any ideological, political or economic group."⁴

PAP is subsidized by budgetary sources, with the level fixed by Parliament. The relationship between PAP and political groupings may be described as ambiguous, oscillating between complicity and defensiveness. At the same time, PAP is known for high quality news journalism and journalists who specialize in various fields. Under the National Media Council Act (2016), the Polish Press Agency is defined as part of the National Media, and as such, is supervised by the National Media Council. The National Media Council has the power to "appoint and dismiss members of governing bodies of PAP" (Article 2.1).⁵ In 2017, The National Media Council appointed a new PAP program council, consisting mostly of journalists with a conservative background (*press.pl*, 2017).

Media ownership regulation

Structural and media ownership regulation is relatively limited in Poland. The basis for preventing high horizontal concentration in the press market is the general competition law. The 2007 Competition and Consumer Protection Act does not recognize the media sector specifically⁶; hence, a possible intervention procedure might follow the abuse of a dominant position in a relevant market. Article 4.10 defines "dominant position" as "an undertaking's market position which allows it to prevent effective competition in a relevant market ...; it is assumed that an undertaking holds a dominant position if its market share in the relevant market exceeds 40 percent." In addition, the 2007 act requires notification of intent of concentration. This provision is regulated under Article 13.⁷ In regard to the broadcasting market,

4 1997 PAP Act (*Ustawa o Polskiej Agencji Prasowej*), adopted on July 31, 1997, *Official Journal*, 1997, no. 107, item 687, as amended, <http://isap.sejm.gov.pl/KeywordServlet?viewName=thasP&passName=Polska percent20Agencja percent20Prasowa>.

5 National Media Council Act, 2016.

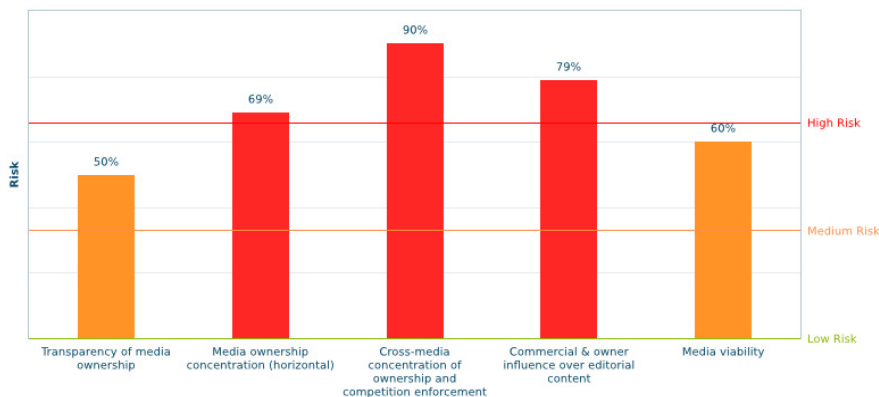
6 Competition and Consumer Protection Act (*Ustawa o Ochronie Konkurencji i Konsumentów*), adopted on February 16, 2007, *Official Journal*, 2007 no. 50, item 331, as amended, <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20070500331> (retrieved January 15, 2017).

7 Competition and Consumer Protection Act, 2007.

in addition to the competition law, the relevant body – KRRiT – may use provisions of the 1992 Broadcasting Act for awarding, refusing, or revoking a license in order to prevent a broadcaster from dominating a position in a given area.⁸ Thus, current media and competition laws do not include specific rules for fostering greater competition or preventing a high degree of cross-ownership between media.

The MPM’s assessment of media ownership concentration in the Market Plurality Area showed a high risk level for horizontal media concentration (69 percent), as well as for cross-media concentration (90 percent). The data available indicate, for example, that in 2016 the top four audiovisual owners together achieved a 79.3 percent audience share and in 2014 and 2013, a 95 percent share of the revenue market.⁹ Market plurality was assessed as being one of the highest risk areas for media pluralism in Poland in both the 2015 MPM pilot edition and the 2016 MPM report.¹⁰

Figure 3: Assessment of media ownership concentration and cross-media concentration in the Market Plurality Area



Source: CMPF, 2018

A high degree of media ownership concentration was a key argument for the planned revamping of media ownership policies in 2017-18. The idea of intervening in the structural composition of the media market by the

⁸ Broadcasting Act, 1992, Articles 36.2; 38.2.

⁹ The National Broadcasting Council (KRRiT) (2017), “Informacja o podstawowych problemach radiofonii i telewizji w 2016 roku” (Information about basic issues concerning radio and television in 2016), <http://www.krrit.gov.pl/krrit/sprawozdania/>.

¹⁰ See <http://monitor.cmpf.eu.eu/> (retrieved January 19, 2017).

current Law and Justice government goes back to the development of the general economic policy of “re-Polonization,” aimed at re-establishing a balance between foreign and domestic capital and strengthening the position of state-owned companies in order to make them more competitive in the EU and global markets (Klimkiewicz, 2017). The concept of re-Polonization was reflected in one of Prime Minister Beata Szydło’s speeches: “We need to rebuild Polish industry, regain the banking sector and the media. We need Polish production.”¹¹

In fall 2017, the first draft of a de-concentration bill (*Ustawa dekoncentracyjna*) was prepared by the Ministry of Culture, yet the text of the draft law has never been made public. In 2018, Culture Minister Piotr Gliński stated that new regulations would ensure broad media pluralism in Poland and his ministry was awaiting the final political decision to proceed with further legal work (*gazetaprawna.pl*, 2018).

Media-specific anti-concentration measures are indeed lacking in Poland, yet equally important are mechanisms providing protection of journalists and editorial content against commercial and owner influence, as well as full transparency of media ownership and financing that is easily available to the public. Without fulfilling the conditions that could validate a change in ownership policy, there is a danger that de-concentration regulations may lead to the abuse of the state position vis-à-vis media companies, in particular, in cases where media outlets (as a part of highly concentrated groups) are induced to sell their businesses to state companies.

Media transparency

Full transparency of media ownership is a crucial prerequisite for the exercise of communication rights and implementation of media literacy. Media transparency stems from conditions under which the media – as organizations – attempt to make themselves reliable, trustworthy, and credible vis-à-vis their users and other agents operating in media markets or in public governance (such as media authorities, regulatory agencies). Media transparency extends beyond mere openness of data, as the information provided may require processing, interpretation, or even explanation, especially when it is incoherent or incomplete (Hood and Heald, 2006, 26), or appropriate contextualization is needed.

In Poland media ownership transparency is not a media policy priority. Although company law requires firms to register in the National Court

11 “Poland seeks to boost state control of economy,” *EU Observer*, 2016, <https://euobserver.com/beyond-brussels/132421>; retrieved January 20, 2017.

Register (*Krajowy Rejestr Sądowy*),¹² media users do not have full and open access to data about media ownership. An aggregating register or archive that would provide such complete data (such as a media register website) is lacking. A difference between downward (disclosure to the public) and upward (disclosure to public authorities) transparency may also be observed. The broadcasting and competition laws provide some disclosure rules for public authorities. The National Broadcasting Council regularly shares data about ownership of the largest media groups. These can be found in regular annual reports and information about basic issues concerning radio and television. It should be stated, however, that there is need for a complete list of media companies, and not only the largest groups, operating in Poland. The MPM assessment of media ownership transparency in the Market Plurality Area (see Fig. 3) showed the country was at medium risk (50 percent).

It would be instructive to add in this context, that according to an *Indicator* study, 57 percent of respondents (in a representative societal sample) declared that they lacked sufficient knowledge of media ownership structures, and 61 percent had insufficient knowledge of media financing. The study shows clearly there are gaps not only in media transparency but also in public knowledge about media: “The respondents have a very meager knowledge concerning media ownership structures in Poland. Most of them know that the owner of Polsat is Zygmunt Solorz-Żak” (*Indicator*, 2015, 76). The study also refers to knowledge concerning media financing: “Information on media financing is not completely known among respondents ... Respondents suppose that they will never know the actual situation of media financing as it is influenced to a great extent by the political parties” (*ibid.*).

Subsidies and state advertising

Media subsidy policies and state advertising are perhaps the most direct test of the power-dependency relationship between state and media. In recent years, traditional news providers (in particular, the press) have faced economic and technological changes that have undermined their viability. According to *The Cairncross Review*, newspapers have traditionally devoted much space to covering the work of the machinery of the state, but with the erosion of press revenues some of that coverage has diminished (Department for Digital, Culture, Media and Sport, 2019, 21). Support policies from the state would potentially balance these developments, yet only under conditions of transparency, accessibility, and equity of available schemes.

12 The 2000 Code of Commercial Partnership and Companies (*Kodeks spółek handlowych*), adopted on September 15, 2000, *Official Journal* 2000, no. 94, item 1037, <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20000941037>.

In Poland, direct state support of the private media sector is fairly limited. For many years, the approach to media markets has focused on deregulatory solutions, and policy makers have not envisaged direct subsidies or other schemes strengthening the various sectors of media markets. Indirect forms of support include, for example, a decreased tax for press and book sales, and modest grants for specialized media. The latter are defined as periodicals focusing on cultural, creative, educational, scientific, social, professional, and methodical activities, regional and local issues, and materials for the vision impaired. In addition, the national minority press and other media are subsidized from the state budget on the basis of the 2005 National and Ethnic Minorities and Regional Languages Act.

The lack of systematic and transparent support schemes does not imply that the state does not support the media via other means. These comprise, in particular, distribution of state advertising and subscriptions to the press by state and public institutions, as well as loans. In addition, relevant ministries have at their disposal funds for specific projects within their area of competence. For example, the Ministry of Foreign Affairs can select, based on competition, projects that would support Polish foreign policy, while the Ministry of Culture can back projects that promote readership. These fragmented channels of direct subsidies are often ways by which some media-related projects have been financed. Unfortunately, there is a lack of transparency in this process and relevant information seems to be highly scattered.¹³

As regards loans, these have been used mainly to support PSM, which do not receive enough funding from license fees. For example, in August 2017, TVP was granted a government loan amounting to 800 million Polish zloty (190 million euro), while in October 2017 the annual state budget was corrected in order to provide Polish Television and Polish Radio with another channel of funding (*gazeta.pl*, 2017).

Newspaper publishers critical of the government claim openly that advertising from state-owned companies has decreased significantly in the last few years and has moved to the right-wing press. Interviewed by *Neue Züricher Zeitung*, Marc Walder, from Ringier Axel Springer Polska (RASP), noted that media favorable to the Polish government were acting against his corporation, and state-owned companies had decreased their advertising spending on RASP media significantly (*wirtualnemedi.pl*, 2017).

Advertising by state institutions and companies has changed direction since 2015. The data available (generated by the Kantar agency) demonstrate, for example, that the media with the largest percentage increase of state

13 In 2016, some media criticized the Ministry of Culture and the Ministry of Foreign Affairs for providing small grants to a Catholic foundation, Lux Veritatis, which operates Radio Maryja and TV Trwam (*onet.pl*, 2016; *rp.pl*, 2016).

advertising include the right-wing weeklies *WSieci/Sieci* (1000 percent growth) and *Do Rzeczy* (700 percent growth), the conservative weekly *Wprost* (71 percent growth), and among the right-wing dailies, *Gazeta Polska Codziennie* (1,900 percent growth). The greatest losers were the dailies *Gazeta Wyborcza* (-79 percent loss), *Dziennik- Gazeta Prawna* (-50 percent loss), and weeklies *Newsweek* (-85 percent), and *Polityka* (-57 percent), while among TV stations – *Polsat* (-79 percent loss) and *TVN* (-51 percent) (*wp.pl*, 2017).

In the 2017 MPM assessment of various aspects of state support for the media under the indicator “state regulation of resources and support to media sector,” within the Political Independence Area, Poland scored a medium risk level of 63 percent. According to the accompanying text, forms of state support for the media, including state advertising, were not sufficiently validated by transparency, accessibility, and equity or proportionality in relation to media actors.

Conclusions

A reconfiguration of the relationship between media and state reflects not only power positions and dependencies between the two actors, but also the quality of democratic functions of communication. The analysis offered in this chapter has shown that the role of the state has grown in all areas studied, and in three of them, in particular: determining/constraining an enabling environment for freedom of expression and the media; PSM independence; and state support for the media. These areas of intervention prove that the power-dependence position of the state vis-à-vis the media has strengthened.

Maintaining a free and pluralistic communication environment needs effective state action and willingness of the government in power to act in the wider public interest (Voltmer, 2013, 135). Yet, an enabling regulatory framework and relevant policies should meet conditions validating state intervention and ultimately ensure the media’s professional quality (responding to democratic needs) and economic viability.

Reflecting on the possible consequences of changes in current media policies in Poland, one could begin with insufficient regulatory and legal certainty (mainly resulting from judicial reform), affecting mainly journalists and media professionals. Second, the PSM reform appears to have started from the wrong end – tackling the issue of appointment procedure first instead of ensuring essentials, such as legal guarantees for PSM editorial independence and autonomy, and stable and long-term modes of PSM financing. Combined with the symbolic renaming of PSM as “national media,” and a proposal for reformulating the public service mission as promoting national tradition and patriotic values, current regulatory changes signal a stronger connection

between the state and PSM. Finally, state support for the media, including state advertising, should be based on transparent, fair, and proportional rules. The state should not prove weak in creating an enabling media environment; it should be strong enough to ground its policy action in public legitimacy which attempts to bridge rather than deepen societal and professional divides (Klimkiewicz, 2017). Media policy should not serve as a field for the reconfiguration of the power-dependency relationship between state and media; rather it should offer a space for policy action where the needs of media users and democratic functions of the media take precedence.

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Andrej Šolkay (with contributions by Joseph Borg and Mary Anne Lauri)

David and Goliath: An investigative journalist versus criminals protected by a partially captured state

In February 2018, Slovakia ended a long period without the murder of a media person when a young investigative journalist, Ján Kuciak and his fiancée, were slain in their home. While in previous instances of journalist disappearances the possibility of murder could not be precluded, lack of evidence makes this case the first. The killing in question, which is regarded as a turning point in the modern history of Slovakia, was the first since the country gained independence in 1993. It strongly suggests that unknown criminals were more afraid of a young, semi-independent investigative journalist than of law enforcement agencies in the country. According to an opinion poll carried out by the Focus agency in the latter part of 2018, the murder of Ján Kuciak and his fiancée was the most important national event of that year. Respondents could name a maximum of two events from a list of suggested items, or suggest ones they considered the most important.¹ Forty-five percent of respondents cited the murder as the key event in Slovakia in 2018. At the same time, half of the poll's top ten most important events in 2018 were associated directly with the killing, or indirectly to its consequences. Leading ones included the resignation of Prime Minister Robert Fico (38 percent), public protests in city squares (21 percent), the resignation of Interior Minister Robert Kaliňák (18 percent), and the imprisonment of Marian Kočner, an infamous entrepreneur (18 percent). Additional political and state authority resignations continued throughout early 2019 (see Hanák, 2019) as new information was leaked from police investigations.

The murder was also discussed among politicians and journalists at the EU level.² It was the second murder of a journalist within the EU and occurred within half a year after the first, the slaying of Maltese blogger and journalist Daphne Caruana Galizia. However, analytical materials on both cases are still lacking. Consequently, we examine the role of the murdered investigative journalist and of investigative journalism in general in Slovakia, within the

1 Focus, N-1019, data collection December 1–9, 2018, face-to-face, quota selection, national sample,

Center for Social and Marketing Analysis, <http://www.ineko.sk/clanky/zneuzivanie-moci-zenie-ludi-k-extremizmu>.

2 European Parliament, *Committee on Civil Liberties, Justice and Home Affairs Mission Report*, November 16, 2018, http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2018/11-19/1169408EN.pdf.

broader political and journalism contexts. First, we assess why some criminals considered the murder of a journalist necessary in a supposedly consolidated country,³ regarded as a relatively prosperous liberal democracy. This specific research question is explored within a national socio-political framework⁴ and is related to the changing role of investigative journalism and independent investigative work worldwide. Second, we examine the reason for the specific murder of Kuciak. Reference is made to the circumstances which rendered a virtually unknown young journalist the target of a well-planned murder.

In effect, we seek to understand the interactions between politics, criminals, the media, and journalists, including the novel group of independent journalists and quasi-journalists we have coined “private investigators in the public interest.” We consider these investigators different from traditional and undercover investigative journalists.

Methodology

According to Yin’s terminology (2013), our approach in this work can be categorized as an *exploratory-evaluative* case study. It begins with an exploratory analysis, and proceeds to describe the underlying processes that governed the Kuciak case and its aftermath. Yin (2013) recognizes case studies as exploratory, explanatory, descriptive, or evaluative. An exploratory case study investigates a given case in detail and may lead toward analytical generalization. An explanatory case study focuses on elucidating a particular case in-depth. A descriptive case study offers a general account of a case, while an evaluative case study can represent any of the aforementioned typology of case studies, coupled with evaluation. Sometimes, all these components can be present in a single study.

The key sources of information included the four main book-format publications on Kuciak and public protests in Slovakia in 2018, the quantitative discourse analysis carried out by Tóth (2018), and our own analysis of coverage of Kuciak’s murder and related events (key word “Kuciak”) at *aktuality.sk*, within the four weeks after the bodies were found. *Aktuality.sk* is the news and current affairs portal that Kuciak worked for. Each week was analyzed separately in order to highlight changing opinions on the perpetrators of the double murder. We identified a total of 178 articles published within the

3 See *Nations in Transit* 2018, “Slovakia Country Profile,” <https://freedomhouse.org/report/nations-transit/2018/slovakia>.

4 Although there is early commentary by Mesežnikov (2018) which seeks to explain the political context of this murder, it is apparently based on media reports and is too short to provide in-depth political context.

referenced period. Subsequently, given that no explicit mention of a motive behind the murder was found, we proceeded to identify six key causal assumptions: the government was to blame (indirectly); criminal background was found (a general assumption, often overlapping with other reason(s) for the murder); verbal attacks on the media by then Prime Minister Robert Fico; grand corruption background with possible political links/support; causes identified as related to the investigative work of the journalist; and, finally, a set of related assumptions which could not be classified.

Furthermore, we were particularly interested in individuals mentioned as suspects, a parameter insufficiently covered in *aktuality.sk*. Hence we made logical inferences from Kuciak's work, especially his unpublished articles. We explain the political context in Slovakia, and lastly, discuss our findings and their implications.

What went wrong in Slovakia in the years leading up to the public protests in 2018?

In 2016, about 40 percent of respondents of an opinion survey considered the quality of democracy in Slovakia to be poor. Only a quarter reported satisfaction. Moreover, 43 percent claimed that the quality of democracy had deteriorated within the past five years, while only 18 percent of respondents believed that it had improved. The main complaints corresponded with the widespread perception that politicians followed their own vested interests, or the interests of businesspersons they colluded with. Citizens shared the view that common property, whether state or municipality owned, was ineffectively managed, and that there was neither equal status before the law nor rule of law.⁵

The connection between this widespread perception of flawed development and the murder is evident from an analysis by Tóth (2018) of almost 50,000 comments on Facebook carried out during the first eight days after the murder. Prime Minister Fico, the key governing party Smer-SD (Direction – Social Democracy, chaired by Fico), were the political actors most frequently mentioned.

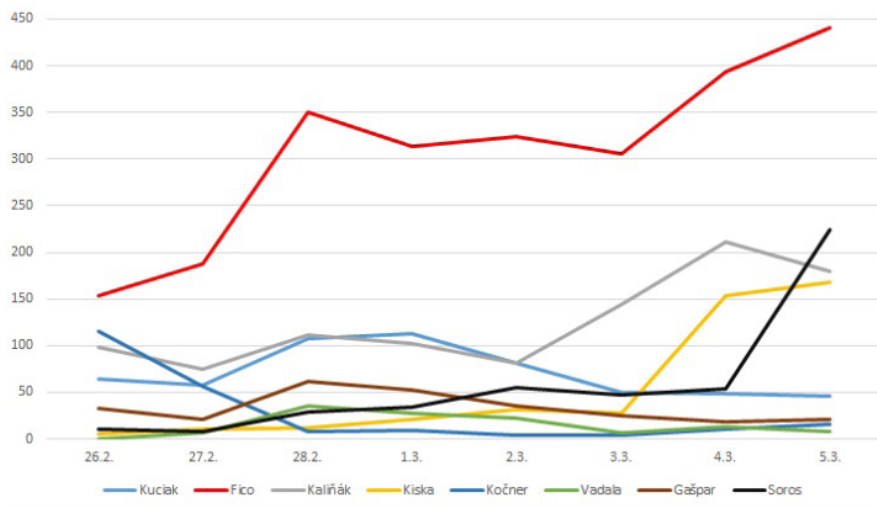
This trend is even more apparent from Figure 1. In addition to Fico, other names, such as Robert Kaliňák (long-term minister of the interior) and George Soros (promotor of the Open Society concept, who manages his wealth in sometimes morally questionable monetary speculations and investments), also emerged. Soros is considered a distraction, introduced by Fico and

5 Focus, N-1090, data collection, October–November 2016, Center for Social and Marketing Analysis, <http://www.ineko.sk/clanky/zneuzivanie-moci-zenie-ludi-k-extremizmu>.

others, and was accused of being the key mover behind public protests and other activities, including speeches by the state president (see Gális and Mesežnikov, 2018, 49). In fact, public protests were organized centrally by a few individuals (see Hríb, 2018), with help from approximately 150 volunteer coordinators nationwide, and supported through transparent crowdfunding (Sedláková, 2018, 19–20, 274–287).

Other suspects included President Andrej Kiska, Marian Kočner, Antonio Vadala, and Tibor Gašpar. Kiska was seen mostly as a positive actor, who was involved in an institutional conflict with the government and, in particular, with Fico. Kočner, probably the key negative actor, is an infamous business figure connected to many political elites and state authorities; he had an ongoing dispute with Kuciak, who had published many articles about him. Vadala was an Italian businessman involved in agricultural ventures in East Slovakia; findings from investigations about his business activities were the subject of Kuciak's last article, published posthumously. Finally, Tibor Gašpar was president of the police force, and a politically appointed civil servant.

Figure 1: Timeline of discourse about the murder on Facebook



Source: Tóth, 2018

Fico, who had ruled the country for the previous eight years, was deemed responsible for the state of affairs that constituted the background to the

murder itself. This general perception, shared among a significant part of the general public, was aptly expressed during the funeral of Martina Kušnírová, Kuciak's fiancé. Marek Forgáč, assistant bishop of the Catholic Church, coined the notion of "diluted evil" during his eulogy, without specifically naming anyone. According to Forgáč, diluted evil is produced and/or committed by individuals who, through their activities, create a mood in society that facilitates various forms of evil to flourish.

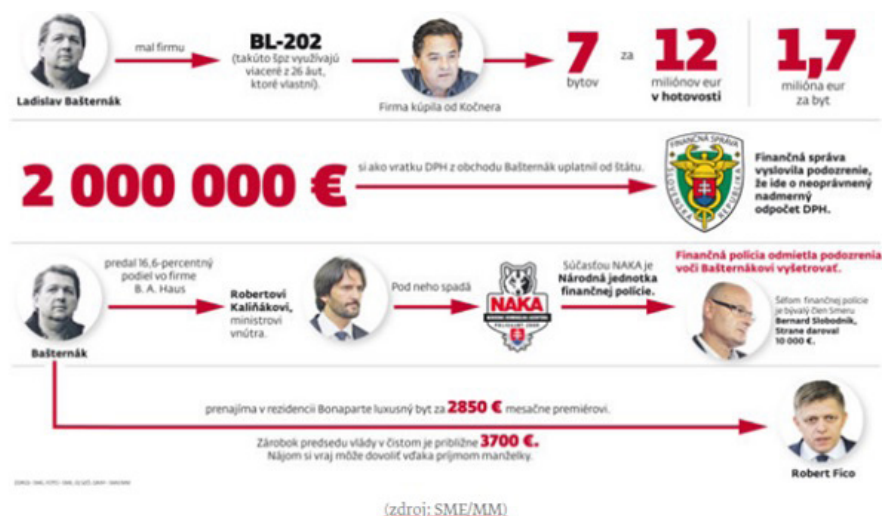
If there are in our society leaders present who through their activities, friendships, contacts, work, or lack of work have been involved in creating such an environment, in which there is room for prosperity for personalized or organized evil, these persons have indirect responsibility for what happened here (Forgáč in Vagovič, 2018, 243–244).

This notion was further emphasized during the trial of Ladislav Bašternák, a shady businessman, who confessed in late 2018 that he had cheated the state of two million euros in a VAT-related fraud scheme (on this scheme and its criminal aspects, see Kantorová, 2017).⁶ Previously, he had been defended publicly by Interior Minister Kaliňák, although the media continuously questioned his business activities (see Makarová and Petková, 2016). Notably, Kaliňák conducted business with Bašternák's company.⁷ A further complication involves Fico who, as the incumbent prime minister at the time, lived in and has continued to live in an extremely expensive apartment rented from Bašternák or his co-owned company, and located in a complex built by that concern. Another controversial businessman, Marian Kočner, was also involved in this scheme at some point. While some opposition politicians criticized this collusion, it had little or no impact (see Rajtár, 2018). This complex scheme, as it was presented to the public by the media, is graphically explained in Figure 2 below. It is no coincidence that two politicians involved in it had to resign, and two businessmen faced legal charges.

6 See "Som vinný, priznal Bašternák v prípade vratky DPH: Dostal 5 rokov nepodmienečne" (I am guilty, confessed Bašternák, in VAT fraud scheme. He was sentenced to five years in jail), *TASR*, November 7, 2018, <https://www.etrend.sk/ekonomika/som-vinny-priznal-basternak-v-pripade-vratky-dph.html>.

7 See Peter Kapitán, "Who is Bašternák and why do they call him 'our man'?" November 8, 2018, <https://spectator.sme.sk/c/20955732/who-is-basternak-and-why-do-they-call-him-our-man.html>; in Slovak; Peter Kapitán, "Čo má Kaliňák spoločné s odsúdeným Bašternákom? Otázky a odpovede," November 7, 2018, <https://domov.sme.sk/c/20955515/kauza-basternak-co-v-nej-robi-fico-ci-kalinak.html#ixzz5cgO3pxYI>.

Figure 2: Dubious business connections between politicians and controversial businessmen



Source: *Sme*, <https://domov.sme.sk/c/20955515/kauza-basternak-co-v-nej-robi-fico-kalinak.html>

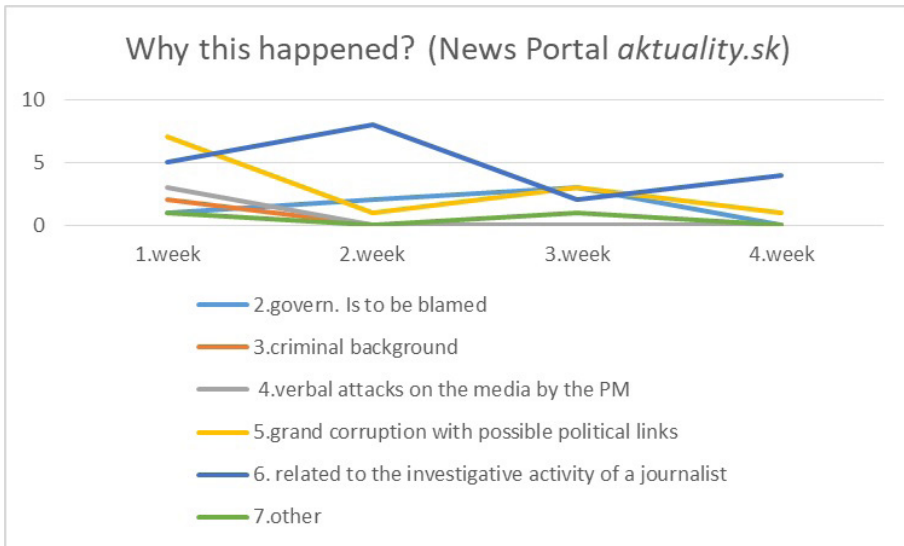
These links substantiate suggestions of collusion between politicians and state authorities on the one hand, and shady businessmen – in fact, confessed thieves (see also Vagovič, 2018, 270-271, 294; Gális and Mesežnikov, 2018, 13-14, 140-141) – on the other. Based on intelligence materials he had read, President Kiska claimed there had been “partial state capture” (Gális and Mesežnikov, 2018, 24–25). State capture constitutes the collective efforts of a small number of firms or groups such as the military, ethnic groups, or kleptocratic politicians, to alter the rules of the game to their advantage through illicit, non-transparent provision of private gains to public officials.⁸ A shorter definition of state capture is the domination of policy making by private, often corporate, power.⁹ Practically, a study by Beblavý, Košťál, Králiková, Rončák, and Suchalová (2009) suggested that state capture, or the failure of state authorities, exists when three types of actors are either inactive or acting with wrongful intentions: a) politicians, b) law enforcement agencies, c) lower rank employees. The general notion of (partial) state capture was reiterated in the majority of public speeches at public meetings held throughout Slovakia

8 [www1.worldbank.org/publicsector/.../STATE percent20CAPTURE1.do...](http://www1.worldbank.org/publicsector/.../STATE%20percent20CAPTURE1.do...)

9 Anne Mette Kjaer, “State Capture,” *Enclopædia Britannica*, <https://www.britannica.com/topic/state-capture>.

following the murder of Kuciak and his fiancé (see Sedláková, 2018). Early media reports, as documented on the web portal where Kuciak worked, clearly express these assumptions, too.

Figure 3: News portal Aktuality coverage of socio-political causes of the murder



Source: Author. Left axis means number of articles.

We made inferences from Kuciak’s work about logical suspects for the murder, and stacked them against conjectures voiced in public opinion. Suspects identified included the Italian mafia, a top local businessman, a personal enemy, “the judicial mafia,” and political actors. We found that responsibility for the murder was largely attributable to the government, followed by widespread “grand corruption,” enabled through political links, and the prime minister’s verbal attacks on the media. The majority of assumptions about the motive for the murder were political. These suggested that government policies or persons of authority handicapped the state authorities in selected cases (cronyism). However, the absence of sufficient guarantees for criminals to operate freely vis-à-vis independent actors such as the media facilitated the decision to kill the only truly independent operator – an investigative journalist (see Figure 3). That is not to say that these assumptions are necessarily correct; they were gathered from an analysis of media coverage and commentaries on a single web portal in Slovakia. Nevertheless, they reflect the general opinion of a significant portion of the public which later participated in mass

protests in the public squares. Obviously, the main motive for the murder was related to Kuciak's investigative activity, which linked grand corruption to government apathy, or possibly tolerance, leading to a lack of activity on the part of the state authorities. Throughout 2018, and especially after the murder of Ján Kuciak, more such stories emerged (or were more clearly documented), and the connections between some politicians, state authorities, and businessmen were frequently exposed. The huge public protests, estimated to have been larger initially than the anti-Communist protests of late 1989, spread throughout the country soon after the murder, and fueled change. They contributed to a transformation in the lackluster attitude demonstrated toward suspicious cases that had previously been ignored, and spurred the partially captured police and prosecutors to begin investigations, to reopen closed cases, or to speed up already ongoing investigations.

On the positive side, the Slovak legal framework, and especially the freedom of information act (Wilfling, 2012), passed or amended by previous center-right governments, enabled access to various data, and facilitated thorough independent investigative work by journalists (Vagovič, 2018, 132).¹⁰ The toxic, colluding political and business environment, coupled with the liberal legal framework for accessing public data, resulted in a much easier independent watchdog role for the media. This was further supported by tips and leaks by dissatisfied and frustrated employees and businessmen who had lost in unfair public procurements. We conclude that these ideal conditions led to better investigative work by emerging data journalists, independent investigative journalists, and bloggers in the country. Consequently, the majority (58 percent) of the population appreciated the role of journalists in Slovakia, although in terms of trust levels, a journalist was positioned, ironically, between a shop assistant and a judge. The main criticism of journalists was the partiality of news reporting and "manipulation," understood as manipulation of public opinion, according to an opinion poll carried out in November 2018.¹¹ Notwithstanding, ongoing change in investigative journalism was demonstrable.

What has changed in investigative journalism?

There are two fundamental differences between standard journalism and investigative journalism: their aims and sources of information. Standard

¹⁰ See <https://www.legislationline.org/topics/country/4/topic/3>.

¹¹ Focus, N-1012, face to face, *CenPress*, November 7–14, 2018, <https://www.cenpress.sk/prieskum-verejnej-mienky-pre-cenpress-76-respondentov-doveruje-pravdivosti-infomracii-ktore-su-prezentovane-v-mediach/>.

news reporting relies largely, and sometimes entirely, on materials provided by others – most often the powers that be. Therefore, it is considered fundamentally reactive. Investigative reporting, in contrast, shows initiative and relies on data gathered through the reporter's own efforts. Furthermore, conventional news reporting is aimed at creating an image of the world as is, while investigative reporting seeks to change the world through the use of facts. Additional differences relate to the work method, manner, and timing of publishing, style, and acknowledgment of sources, among others (Hunter and Hanson, n.d.).

Investigative journalism generally consists of four main characteristics: it is based on the initiative and work of the journalist; it covers matters of public interest; it demands secrecy of information sources; and it has the potential to cause public outrage (Školkay, 2001). It is also typified by lengthy preparation and in-depth research, combined with an analysis of social, economic, and legal issues. Furthermore, the digital age has globalized investigative news reporting. Readers have access to high-quality investigative reports from around the world, often in the local language, due to international cooperation among investigative journalists. As stated by Carson and Farhall (2018), there has been a shift in investigative reporting practice from the old model of a highly competitive single newsroom environment to a new one of multiple newsrooms and countries sharing information in order to expose wrongdoing on a global scale. There is also *the rapid growth and impact of nonprofit investigative reporting* (Birnbauer, 2018). These new trends are in part negatively offset by cuts for funding of investigative news reporting at the local level.

According to investigative journalist Árpád Soltész, Kuciak represented a third generation of post-Communist investigative journalists in Slovakia (in Vagovič, 2018, 178–179). While in the 1990s the first generation of post-Communist investigative journalists, including Soltész himself, were self-taught, the second generation brought a higher level of professionalism to their work. Kuciak could be seen as a representative of an emerging third generation of investigative data journalists, or even in a class of his own. We identify investigative journalism as being independent of the use of computational methods. The investigative journalist does not use computational methods to access stories that cannot be attained by other means (Lavin, 2017). Kuciak did not use computational methods although he utilized data visualization. He was good at accessing various public databases; notably, a considerable amount of data has been scattered in user-friendly databases run by the state. He understood how they worked, what kind of data it was possible to retrieve from them, how to clean and combine such data, and the kinds of analyses it was possible to perform with them. Ultimately, he was good at making sense of data.

Some advocates who consider this change in investigative journalism to be a sequel to the larger transformation of journalism itself call this model “curatorial journalism.” Curatorial journalism places highly complex stories into historical and geographical contexts. As stated by Abramson (2018):

Collating so many disparate facts allows curatorial journalists to establish an overall timeline of events, which in turn makes possible a holistic yet dynamic “theory of the case” – the investigative term for the narrative that best explains an emerging pattern of facts. The result is an understanding of complex events that is at once more retrospective, adaptive and predictive than any one news article or single-source series of articles could ever be.

Clearly, this description of curatorial journalism fits into the framework of work done by Kuciak, but is less applicable to that of Maltese blogger and journalist Daphne Caruana Galizia. Caruana Galizia’s main contribution to investigative journalism was her blog titled “Running Commentary,” which she set up in 2008. It eventually became Malta’s most popular independent news website, and was characterized mainly by her continuous crusade against corruption in public life and politics and against organized crime, and analyses of major political developments. She acted independently of all authorities, political parties, and financial interests. Due to her readiness to publish controversial stories, Caruana Galizia received more tip-offs than any of the large media organizations. Her blog became famous for breaking the news about the connections of Maltese politicians involved in the Panama Papers scandal, the alleged dealings of a former EU commissioner with a fraudster in the Bahamas, the connections of Pilatus Bank with local and Azerbaijani politicians, the dealings of Henley and Partners who were responsible for the sale of Maltese passports to foreigners, and the massive contraband of Libyan oil by various Maltese criminal gangs. Though Caruana Galizia rarely got it wrong, people she targeted resorted frequently to court action in Malta, or to a SLAPP action in the United States. Thirty defamation cases were still ongoing during the writing of this chapter in early 2019.

Tony Papaleo, about whom little is known in Slovakia and abroad, represents another misfit. He is another unique example of a lone-wolf investigative journalist in Slovakia: a quasi-freelance, independent public interest detective who was active during the same time as Kuciak. Papaleo independently uncovered and helped to prevent a serious international money laundering case (Školkay, 2016b). However, claims of state capture, as presented by Papaleo, were only partially substantiated. In fact, he attached more importance to the state legal system than to claims of cronyism

or collusion. For instance, Papaleo alleged that illegal interventions by the supervisory authorities negatively influenced police functioning. However, police investigators were just obeying the law. In any event, Papaleo's endeavors may be classified as *sui generis* quasi-journalistic activity; he first approached the police, and then published his story.

Martin Daňo is another controversial individual worth discussing. He is a journalist, independent blogger and youtuber, political activist, and recently, a self-declared candidate for the Slovak presidency. Although he is considered an investigative journalist, many of his colleagues hate him, and Transparency International Slovakia has criticized him (see Šípoš, 2018). Nonetheless, it is partly thanks to Daňo that there has been an increase in transparency in Slovakia, and he successfully facilitated justice in some cases.

As noted earlier, Maltese journalist Daphne Caruana Galizia could be classified, albeit conditionally, among this new group of independent investigative journalists and public interest detectives. Caruana Galizia and Papaleo were interested in investigating money laundering and other issues such as the sale of EU citizenship. In Caruana Galizia's case, however, social media and her blog¹² optimized the dissemination of her findings, ideas, and suspicions at low cost, but with ambiguous public opinion and legal impact on the criminal suspects she named. No one resigned and no one was sent to jail in the Maltese case. However, there are a number of magisterial inquiries into some of those investigated by Caruana Galizia – such as Minister Konrad Mizzi and Chief of Staff Keith Schembri – but most have not been concluded. According to the only one that has ended, there is no proof that the Panama company Egrant belonged to the wife of the prime minister, as Caruana Galizia had alleged (Borg, 2018).

Both Caruana Galizia's and Papaleo's jobs are difficult to describe. In Caruana Galizia's case, it is even questionable what she was: a journalist, a blogger, an activist, or a citizen journalist. Interestingly, as noted, she called her blogpost "Running Commentary – Daphne Caruana Galizia Notebook." Maltese Minister Mizzi initiated a libel suit against Caruana Galizia, demanding that the court force her to reveal her sources on the grounds that she was not a journalist. Galizia contested this claim and won that part of the case (Mallia, 2019).

Obviously, Kuciak, Caruana Galizia, Daňo, and Papaleo could be called "investigators in the public interest." They became active while public authorities and legislators in some countries were hesitant to adapt to technological changes and their associated legal challenges. At the same time, some politicians were taking advantage of the prevailing partial state

12 <https://daphnecaruanagalizia.com>.

capture, which they had created to a certain degree. These investigators in the public interest kept pace, identified cronyism in public service, and unveiled collusion between some politicians and their private business partners. Consequently, they were seen as a leading threat to the vital interests of high-level criminals, who are best defined as quasi-businesspersons and not necessarily typical mafia types found in southern Italy or Sicily. Within this context we identify an increase in independent investigators of public interest, traditional investigative journalists, and teams operating at media outlets or at the national level, and finally, an expanding trend of international cooperation among investigative journalists (Kabengera, 2017). Nonetheless, the role of the individual within this environment cannot be underestimated, as will be shown in the next section.

What was unique about Ján Kuciak and his work?

In Slovakia, Ján Kuciak was an unknown young journalist (Vagovič, 2018, 183), who became famous only posthumously,¹³ although not among the majority of the population. He had been known among a narrow group of investigative journalists in the country, the Czech Republic, and by a few others he cooperated with in Italy, and in a poll was recognized by only 20 percent of respondents. Kuciak was mainly a data journalist, but his work involved occasional field trips, as well as personal, phone, and email interviews with his targets of investigation. He was just under 28-years-old when he was murdered and his last permanent job was with a small investigative team at an online news and current affairs portal owned by a foreign media house. His personal traits included enthusiasm, passion, and tenacity (Vagovič, 2018, 256). In short, grit was the substance of Kuciak's success. It has been proven that such traits demonstrate a more valid predictive measure of success than IQ and conscientiousness (Duckworth, Peterson, Matthews, and Kelly, 2007).

Kuciak studied journalism at a local university. However, his excellent analytical skills, general knowledge about politics and recent history, and impressive memory had been honed previously (Vagovič, 2018, 70–71, 74, 84). He was deeply interested in investigative journalism at both the theoretical and empirical levels, and was highly critical of the quality of journalism education he received at his alma mater (Kuciak, 2012). It is not surprising that for his first sensitive analytical investigative work as a journalist trainee he tackled the infamous Gorilla case in early 2012.¹⁴ At the time, he was a fourth-

13 Focus, N-1012, November 7–14, 2018.

14 On this topic, see A. Školay, A Case-Specific Instance of Media Capture: The Gorilla case of Slovakia, *Środkowoeuropejskie Studia Polityczne* 16, no. 4 (2018): 6694.

year bachelor of journalism student (Vagovič, 2018, 117–118). Subsequently, his Ph.D. in 2017 focused on the emergence, functioning, and future of investigative journalism in Slovakia (Vagovič, 2018, 88).

Kuciak's investigative work was different from that of other investigative journalists in that he utilized a huge and varied pool of data, including numerous niche sources, such as the registry of companies' blocked legal and material rights, and annual company reports, as well as foreign public databases. He once checked 129 business contracts of a local oligarch within a single month (Vagovič, 2018, 136).

Often, he used infographics to depict corrupt activities among various businesses, in order to make it easier for readers and himself to understand (see, for example, Vagovič, 2018, 144–145, 155). During his short life, he was able to uncover sensitive business operations involving political–criminal collusion, either independently or based on external tips, and to cooperate with other journalists. His most well-known work was probably the so-called Bašternák case. In 2016, Kuciak discovered that Bašternák did business with two ministers who were in charge of authorities that could check VAT reimbursement payments (Vagovič, 2018, 163–164, 191). Eventually, as noted, Bašternák confessed at his trial in late 2018 to cheating the state of 2 million euro. Kuciak also revealed the dubious business activities of another infamous businessman Marian Kočner (see, for example, Kuciak, 2017), about whom he wrote some 20 articles (Vagovič, 2018, 166–177). Kočner was known to have close contacts with leading representatives of the state authorities, including Dobroslav Trnka, the former prosecutor general, as well as with politicians, who aided his dubious business dealings (see Školkay, 2016a). However, Kočner, too, was detained shortly after Kuciak's murder, for various alleged criminal offenses related to his shady business activities. Some media reports speculated that it was Kočner who had ordered Kuciak's killing (Tódová, 2018). This seems illogical, however, considering how public his conflict with Kuciak was. Nonetheless, the state authorities openly raised this accusation in March 2019. Furthermore, Kočner ordered the secret monitoring of some investigative journalists, including Ján Kuciak, with the future goal of discrediting them publicly on a specifically designed YouTube channel and Facebook site.¹⁵

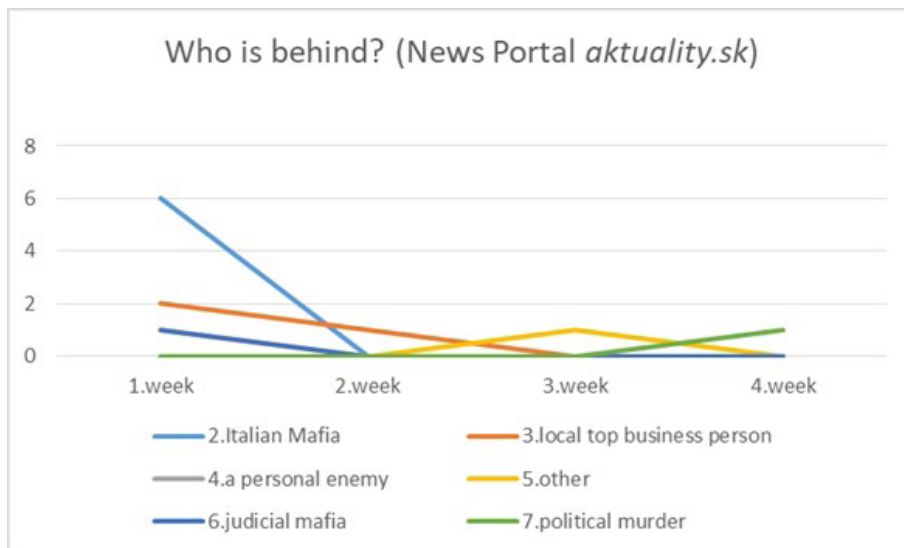
However, it can be argued that Kuciak's most discussed¹⁶ article, published posthumously and titled "Italian Mafia in Slovakia: Tentacles

15 Mk. Kočnerova stránka Na pranieri, cez ktorú útočil na novinárov, je vypnutá. Videá zmizli (Kočner's page Critically, which he used to attack journalists, is offline. The videos, too, have disappeared), October 3, 2018, <https://www.omeiach.com/tv/14034-kocnerova-stranka-na-pranieri-cez-ktoru-utocil-na-novinarov-je-vypnuta-videa-zmizli>.

16 It was read by more than 1.2 million readers at the portal *aktuality.sk* where Kuciak was employed (Vagovič, 2018, 226). Moreover, it was published simultaneously in many other media outlets and translated into English, too.

reaching out to politics”¹⁷ (Vagovič, 2018, 202–211), contained weak allegations about the connection between the mafia and the government. Moreover, this article originated from a tip from security sources (probably the police). Nevertheless, it was believed at first that entrepreneurs of Italian origin who lived in East Slovakia, and had a criminal history which connected them to a *‘Ndràngheta*-type criminal organization in southern Italy, were most likely to have been behind the murder (Vagovič, 2018, 219). This initial and widely discussed source of the order to kill could not be substantiated. In fact, the media have presented many other possible masterminds behind it, including local suspects.

Figure 4: Possible suspects



Source: Author. Left axis means number of mentions of a particular indicator

Kuciak himself openly claimed that Slovakia was a partially captured state, but not a mafia state in the narrow sense.¹⁸ He asserted explicitly that there was collusion between some policemen, prosecutors, and politicians that prevented the enforcement of universal justice in Slovakia (Vagovič, 2018, 192). Referring to the murder of Ernest Valko, a well-known lawyer whose killing in 2010 was initially associated with his work (he worked for the state

¹⁷ <https://spectator.sme.sk/c/20770432/italian-mafia-in-slovakia-tentacles-reaching-out-to-politics.html>.

¹⁸ He did not elaborate on the difference.

and for state-owned companies, as well as for more questionable business entities), Kuciak (2010) wrote:

I believe that Valko himself would prefer that instead of “investigating” his death, [we should begin to discuss] issues to which he devoted his life and which caused his violent death. His departure is a cynical smile on the state of public affairs and [evidence of] lack of rule of law in our state. It is a tragic showcase of features of a society based on financial success, often at the cost of human life.

Apparently, Kuciak left his final moral message long before his premature death.

Conclusion

Kuciak created independently (within the given institutional–organizational setting) a powerful watchdog force, thanks to his personal traits, support from foreign-owned media house, liberal access to data enabled by previous governments and online databases in Slovakia and abroad, and finally, the local conditions of partial state capture. This may explain why Kuciak’s murder was seen as the only available solution for the shady white-collar business figures who masterminded it. However, Kuciak was merely a prototype of a new generation of investigative journalists who are characterized by novel approaches to journalistic work. Like Caruana Galizia, Papaleo, and Daňo, Kuciak represented a special breed of independent public figures, sometimes seen as journalists, who combine several professional proficiencies, including the ability to access and analyze data, and to publish relevant findings on wrongdoings. At the same time, they may be regarded as investigative bloggers, quasi- or real investigative journalists, and sometimes political activists or data analysts. The overlap of expertise and private–public roles demonstrated in these private investigators of public interest may account for their successful replacement of the partially captured state authorities in their hunt for criminals and investigations of grand corruption and money laundering operations. It is suggested that the operational framework for the specific state authorities entrusted with enforcing rule of law was poorly structured (especially since it did not ensure executive independence for lower and mid-level staff) for handling grand corruption, novel, semi-legal criminal schemes, and associated money laundering operations. Consequently, it would require the radical skill set and approaches of Kuciak and like-minded colleagues to curb grand corruption crimes and related political collusion. This

development represents the best evidence that investigative journalists have become more effective custodians of law and order than the state authorities.

In the end, what Kuciak and other journalists could hardly have imagined achieving before the murder was attained after it. Almost all the key negative actors that Kuciak investigated or distrusted resigned from their positions or were sentenced to jail. Previous reports and public protests had rarely led to any political or criminal consequences, although they were usually justified by facts and reliable testimonies about corruption in sensitive places or other politically-backed financial crimes that demonstrated the existence of a partially captured state. In this regard, Kuciak's murder represents, potentially, a positive turning point, long-term, in the evolution of Slovak democracy. For the time being, however, a "mediacracy" has emerged, with the media now strongly influencing many decisions of public authorities and politicians in Slovakia.

Kuciak became and remains a hero at home and abroad. As a local "David," though killed in action, he ultimately won the battle with Goliath. In the end, the semi-captured leviathan suffered its temporary defeat.

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Carmen Sammut

**V. Freedom of Expression, Demonization, and
Deification: Continuities and Disruptions in the
Maltese Media**

Introduction

Journalism, with its traditions and values, is dependent to a certain extent on contextual factors. Idiosyncrasies within borders prevail in spite of all-pervasive disruptive technologies that have shaken some established practices. Broadly, the Maltese media still fit neatly within the “polarized and pluralist” concept presented by Hallin and Mancini (2004), although the islands were not included in their original study (Sammut, 2007). According to Papathanassopoulos (2007), media in southern Europe share common characteristics, such as advocacy reporting, the political instrumentalization of privately-owned media, and the politicization of public broadcasting and regulatory frameworks, as well as limited autonomy and stalled professionalism.

In Malta, party newspapers initially had strong ideological leanings, but from the 1990s ideologies faded incrementally after the main parties adopted a middle-of-the-road position, and they now hold broadly similar views on a number of issues, including social welfare, education, foreign policy, and economic vision. The demise of ideology coincided with the period when parties acquired broadcasting stations, as well as with the emergence of the internet and social media. As a result, media organizations rapidly became the main channels for constructing new forms of “them” and “us” distinctions. To date, they have reinforced and broadened political divisions, and the party brand has become increasingly blended with the image of party leaders. Disconnected from ideology, electoral support is more dependent on persuasion. Political communication tactics are employed to construct dominant narratives and counter-narratives.

Those with the most convincing narrative win. Newspapers in Malta have actually served this role since their nascence. Broadcasting was under the influence first of colonial rulers and then of the Maltese state. With the introduction of pluralism in broadcasting in 1991, the two main political parties, the Nationalist Party (PN) and the Labour Party (PL), as well as the Church, were given a competitive advantage. They were granted broadcasting licenses before anyone else. The pluralistic scenario had promised to increase the number of commercial players, but few were as

successful as the party-owned media. It has been noted that, historically, the development of journalistic professionalism eroded political parallelism and opened the way for the commercial press (Hardy, 2012). Malta's advance toward professionalization and commercialization first evolved under British influence. The main commercial newspaper, *The Times of Malta*, was set up in the 1930s by former Prime Minister Lord Gerald Strickland and sustained by his daughter Mabel, who was a veritable "political animal," but she was unable officially to join the political fray since women's suffrage was granted only in the postwar period (Sammut and Abdilla, 2018). Through newspapers, Mabel Strickland garnered ample clout in Malta, as well as in the UK. In the process she was influenced by her stepmother, Margaret Hulton, an English heiress of a newspaper empire, who poured much money into her husband's newspaper ventures.

Whereas in Britain the commercial media spelt the death knell of the political press (Curran, 1980), in Malta pluralism in broadcasting allowed party media to flourish. They presented audience-driven content, which also brought in advertising money to augment donations and fund-raising from party supporters. Nonetheless, in news and current affairs, the boundary between party and editorial line became non-existent, and journalists are now often the foot soldiers of their party. In fact, the political cradle of both current Prime Minister Joseph Muscat, and the former leader of the opposition, Simon Busuttil, was within their respective party newsrooms where they cut their teeth in politics from a very young age.

Malta also experienced late secularization, but the influence of the Catholic Church over the media remains strong. Historically, the Church had its own newspapers to fight its political battles. It also had power to damage opponents irrevocably by ordering the faithful to boycott newspapers supporting secularization during the politico-religious crises of the 1930s and 1960s. Then, mortal sin was imposed on individuals, which led to their social ostracism. Now, although Church influence has declined and only 51 percent attend mass on Sunday, Church media are still significant players.

The lack of editorial autonomy and self-regulation in Malta has had such an impact on media credibility that Eurobarometer surveys repeatedly convey people's mistrust in the media as among the lowest in Europe. Government, with its pack of coordinated state-funded communication officers, as well as Parliament, registers more trust than the press.¹

1 A Media Trust Index revealed that only 14 percent of respondents in Malta had a high level of trust in the media, 33 percent had a medium level of trust, and 53 percent had a low level or no trust (Eurobarometer, 2017). The percentage of those who trusted the government was 63 percent, the highest among EU states, along with the Netherlands. Eurobarometer, cited in "Trust in Malta Government," 2018.

Efforts to professionalize journalism began in the late 1980s with the establishment of the Malta Press Club, subsequently the *Institut tal-Ġurnalisti Maltin* (Institute of Maltese Journalists). A Code of Ethics was adopted but there is little consensus on the powers of the Media Ethics Committee to enforce its decisions; thus, its legitimacy is often challenged and it has been described as a “kangaroo court” (Vella, 2011). In 2010, a long consultation process began for revision of the Code of Ethics. However, the institute was unable to implement it due to a lack of administrative staff and dependency on the voluntary work of busy journalists. As a result, it lost influence and its role has been reduced to organization of the annual journalist awards.

These endeavors coincided with the setting up of a Communications Department at the University of Malta, which has granted diplomas and degrees since 1985. The university became an incubator of professional aspirations, but there was always a massive gap between normative theories and day-to-day practice.

The Maltese system has some saving graces. Malta’s two pronged information stream guarantees that dominant messages emanating from the state and the ruling party are continuously countervailed by strong dissenting ones from the opposition and non-partisan media. Moreover, information is unshackled by all-out commercialization. News addresses audiences as citizens and voters rather than as consumers. While political literature in many parliamentary democracies now deals with the weakening of political parties, the Maltese media remain channels of nation-wide debates and citizen participation. Moreover, through their media sub-systems Maltese political parties, trade unions, and the Church have remained principal agents of public discourse and key intermediaries between the public and the state.

Deification and demonization

The downside to all this is that polarization remains deep-seated and highly endemic and efforts to deify or demonize are typical traits of Maltese politics. Most voters take these tactics for granted and cast their vote on the basis of deliverables and interpersonal connections with parties and candidates. Clusters of traditional captive voters still exist in the digital era, securely locked in the subjectivities of their respective echo chambers.

To “deify” implies that someone is treated like a god and worshipped with great respect. Lipka (2009), a scholar of ancient Rome, noted that even in classical times deification often meant that after death the divinity of “deities” rose because their human characteristics faded in the memory of worshippers.

On the other hand, demonization renders a person, or a group of people, evil. Normand (2016) observed that demonization is a “narrative-

based” barrier and a psychological dimension of political divisions (2). Such political tactics are aimed at rallying supporters by employing psychological shortcuts that include stereotypes. In most cases, this entails brutal character assassination in order to damage the reputation of rivals.

In a society traditionally very conservative and insular, reputation and honor were always susceptible to the grapevine, with gossip deemed to be a means of social control. The fear of gossip was such that it even became the subject of an anthropological study by Sibyl Mizzi O’Reilly (1994). Social media have rendered people more vulnerable to vicious personal onslaughts.

Disruptive technologies and change

The concept of “media-party parallelism” (Seymour-Ure, 1974) and Hallin and Mancini’s “polarized-pluralist” theoretical framework (2004) have been criticized lately since their focus on conventional media and institutional political actors has rendered them somewhat irrelevant to the digital age. According to Brüggmann et al. (2014), media-party parallelism needs to be explored within the nexus of internet access, social media, and press freedom. It can be claimed in part that in Malta new media platforms are often an extension of old arrangements, with political players adapting to fast-paced technological developments. Mattoni and Ceccobelli (2018) concluded:

Although the rise of ICTs affirmed new media actors such as online-only media companies and the digital versions of older media, these changes have not affected the features of political parallelism. A lack of separating news and commentary, as well as the political orientations of journalists, are dimensions that concern both traditional and online-only media, and both the analogue and digital versions of the former. The advent of a hybrid media system does not imply a clear-cut separation of norms and practices related to older and newer media. Rather, it entails a continuous integration of different types of media and political actors operating under common national beliefs and cultures (545).

Nonetheless, new technologies have provided significant opportunities for individual players to engage and network in public affairs, and user-friendly technologies have permitted individuals, including media exponents, to bypass editorial gatekeeping and upset the system through a reconfiguration of some practices and values.

Daphne Caruana Galizia: A leading disruptor

In this context, some individuals have attempted to personalize forms of news production and commentary to compete with established set-ups. In Malta, one such leading disrupter was Daphne Caruana Galizia. New technologies enabled her to convey her observations in real time in a blog, aptly named “Running Commentary.”² The blog had a transparent political orientation with her personal views even enhancing those of the Nationalist Party which she openly endorsed. Her role is probably best explained by the Elite Theory, whereby a small group of individuals assume entitlement to power not merely because of their material privileges but also because they claim intellectual and moral superiority (López, 2013).

Her stories came from her “army” of sources on the ground, as well as politically well-placed moles.

This “crowd” became participants by sending her photos of potential targets engaged in routine activities like having lunch, which were then published on her site. This triggered a mechanism of social exclusion which inevitably left a residue of resentment among those who found themselves hounded, sometimes just by dint of being associated with Labour (Debono, 2018, n.p.).

The blog addressed a gap in the market by adopting the “clickbait culture” which increased her political influence. In the process she hurt many people, including private individuals and other journalists. There are many poignant accounts of people who suffered because of Caruana Galizia’s blogs, which were aimed clearly at destroying their reputations or otherwise altering their private or public conduct. Saviour Balzan, editor and managing director of *MaltaToday*, branded her “the queen of bile” and refused to refer to her by name. “She lied and hurt my family and those closest to me ... Some people were led to despair at seeing themselves blithely being turned into a topic of online gossip over the weakest of transgressions” (Balzan, 2015, 19). In 2008 he lost his wife after a long illness. Instead of offering collegial compassion, Caruana Galizia described him in her blog as “the holier-than-thou newspaper editor who began dating another woman when his wife was not yet cold in her coffin and people were still writing her obituaries and eulogies.” Balzan refused a rapprochement when she turned up at his office after he sued her for falsely alleging that his newspaper was being sold to the General Workers’ Union, owner of the competing publisher Union Press and ally of the Labour Party (Balzan, 2015).

2 “Running Commentary,” Daphne Caruana Galizia’s notebook, <https://daphnecaruanagalizia.com/>.

Many of her attacks targeted Labour women, which is rather paradoxical when she herself was a lone woman who challenged powerful men and patriarchal/misogynistic systems (“Witches, Misogyny,” 2018). At times she decimated women merely on the basis of their dress choice and taste, while relentlessly hitting at their families and circle of friends. According to Julia Farrugia Portelli, MP and former editor of the newspaper *Illum*:

Daphne Caruana Galizia worked tirelessly to prop up an undignified and elitist perception of women who identified with the Labour Party. After Agatha Barbara’s death, the widely popular blog gleefully described her as a “butch dyke” inviting followers to trade insults towards a politician who sacrificed her life to deliver public service. Other Labour female decision-makers, including the current President of the Republic, were described as “a perambulating embarrassment to our gender ... inarticulate and incompetent.” As she exercised her freedom of expression, she liberally reinforced a narrative that portrayed us as monsters and whores (Farrugia Portelli, 2018).

Given the nature of the material she published, her blog became so successful that by the time the Labour Party won the 2013 election, after almost 25 years on the opposition benches, *alexa.com* listed her “notebook” among the most popular blogs (Caruana Galizia, 2013). For many years powerful allies provided her with a safety net and immunity from significant legal retribution. None of her opponents in politics had the punch of her pen. In his book *Saying It As It Is*, Balzan (2013) alleged that Caruana Galizia was “backed to the hilt by the Nationalist Party,” and even went so far as to hint that members of the judiciary feared her lest they suffered the same fate as that of a magistrate who had upset her and found “the most intimate aspects of [her] ... life, both past and present, her marital troubles ... including pictures of her parties” revealed in the blog (198).

After a massive electoral blow in 2013, the PN commissioned a “Defeat Report,” which partly blamed “sympathisers writing in their own blogs ... whom the PN should have repeatedly disassociated itself from when such blogs dealt with comments of a personal nature” (Partit Nazzjonalista, 2013). The document did not refer explicitly to Daphne Caruana Galizia, but the media and members of the public read between the lines. Yet, personal attacks and demonization efforts continued.

At a technical level, her blog shattered some traditional boundaries. She embraced the values of immediacy, interactivity, and participation in a way

the legacy media were unable to do. While the latter were cautious in adopting new technologies, she was quick to grasp the shifts and threats triggered by globalization and their social implications, including the fast encroachment of secularism and rapid transformations in the social fabric resulting from European and third-country immigrants. Still, her narratives and methods were deeply embedded in old partisan divides. Whenever “moral panics” were employed, she raised or lowered the morality bar according to her agenda.

Caruana Galizia’s blog became even more audacious in early 2016, when she broke a series of stories derived from the so-called Panama Papers, after a whistleblower from the law firm Mossack Fonseca turned over 11.5 million documents to the newspaper *Süddeutsche Zeitung*. The International Consortium of Independent Journalists (ICIJ) released a full list of companies and individuals with offshore accounts in Panama. These included 140 politicians from more than 50 countries (ICIJ, n.d.). Caruana Galizia’s son Matthew worked for the ICIJ and she soon linked these revelations to offshore companies owned by a government minister and the prime minister’s chief-of-staff. The ICIJ findings, which she cited, exposed the global infrastructure of offshore tax havens. It was these news stories that earned her the posthumous title of “anti-corruption journalist”; the political elite, however, referred to her as a mere blogger. While several investigations are underway, as of writing, there have been no resignations in connection with this case.

Daphne Caruana Galizia and her son Matthew both embodied the fluidity of the contemporary definition of “journalism.” While in one libel case against her, lawyers claimed that as a blogger she did not have the right to claim “reporter’s privilege,” through ICIJ Matthew Caruana Galizia “made the documents searchable and available to everyone, securely.” Initially, he claimed a modest role within the consortium. A graduate in international relations, he proceeded to study journalism at postgraduate level and along the way he appears to have taught himself “data engineering” or “data mining.” Still he did not call himself a journalist because: “I do no reporting and have little time to do investigative work” (“I Ran a Search on Malta’s MPs,” 2016). Eventually, after April 2017, he rebranded himself “a Pulitzer Prize-winning journalist and software engineer.”³

Matthew was at home when his mother’s car exploded on October 16, 2017. A bomb had been planted under the driver’s seat and it was he who first arrived on the scene. It was largely thanks to his persistent efforts that the slain journalist is now known internationally as a martyr for press freedom

3 According to his portfolio: “He worked at the International Consortium of Investigative Journalists (ICIJ) for five years, where he founded the organisation’s Data and Research Unit in 2014 and was a lead engineer on six major investigations including the Panama Papers, and Paradise Papers,” <https://hrdworldsummit.org/portfolio-item/matthew-caruana-galizia/>.

and the European Parliament renamed its Strasbourg press room in honor of her memory.

The journalist's murder shocked the nation, both admirers and those who resented the tone of her work. There was a national outpouring of grief and all the newspapers dedicated their front page to her memory. Yet, the solidarity and balance that was most needed at this delicate moment was soon tipped once a new grand narrative emerged: one that linked her death to corruption and impunity, a subject that resonated with the international media. In a study that coincided with Caruana Galizia's murder, researchers looked at the implications of impunity and the experience of fear and self-censorship among 940 journalists from 47 member states of the Council of Europe. The study revealed that 800 journalists, media workers, and producers had been killed in the previous ten years, 41 percent of whom had lost their lives outside armed conflict zones (UNESCO, cited by Ulla Carlsson and Reeta Pöyhtäri, 2017). An international anti-impunity effort was encouraged to promote a justice cascade. This grand narrative provided fertile ground for the events that followed the murder of Caruana Galizia.

Days after the murder, the editors of six European newspapers, the BBC, and *The New York Times* asked the European Union to examine Malta's media independence and to remind the nation of its obligations to guarantee a free press: "The murder of Daphne Caruana Galizia demonstrates the danger that journalists face in the pursuit of truth ... It also demonstrates the fear that the corrupt and powerful have of being exposed" (Gladstone, 2017). An article entitled "Murder in Paradise" described Malta as the EU's smallest member, which is "fast becoming its most troubled" (*The Economist*, 2017). It set the annual average GDP rate at almost 7 percent, achieved under current Prime Minister Joseph Muscat against a background of corruption allegations that "mostly emanated from Ms Caruana Galizia's blog." As Maltese audiences followed international media reports, many felt that as a nation Malta was better than the way it was being represented. The international press relied on a small pool of sources and invested little effort in understanding local nuances.

Thus, at the national level, Caruana Galizia remained as divisive in her death as she was during her lifetime. While some of her claims are still under investigation, her most prominent story was shot down by an in-depth and thorough magisterial investigation, the conclusions of which were accepted consensually by most quarters but are still questioned by her family and a small group of prominent supporters.

Hours after the assassination, allegations were made that the hidden hand behind it was probably the prime minister, a minister, or a senior politician. The prime minister was mentioned because in early spring 2017

Caruana Galizia had published a very grave accusation that revolved around an anonymous shell company called Egrant, which emerged in the aftermath of the Panama Papers. Although the documents did not expose the owner of the company, Caruana Galizia alleged it was Michelle Muscat, the prime minister's wife. The blogger's source was a former employee of Pilatus Bank, a Russian woman named Maria Efimova, who claimed she had seen a declaration in which Michelle Muscat was named as Egrant's owner. Caruana Galizia also alleged that a payment of over one million dollars had been made to Egrant by the ruling family in Azerbaijan.

The story aroused a fierce political furor in Malta. The leader of the opposition, Simon Busuttil, banked his political career on the claim because it corresponded with his battle cry of corruption and impunity, employed once the Labour Party won power in 2013. However, as soon as Busuttil endorsed the Egrant allegations, he inadvertently reinforced public perceptions that his party was in cahoots with the blogger, who was out to destroy a massively popular prime minister.

In the wake of the allegations, the prime minister requested an independent inquiry into himself and his family, and during the May Day celebrations he called a snap general election for June 3, 2017. During the campaign, the prime minister focused on his economic achievements and on electoral pledges, whereas the opposition party assumed it could return to power merely on the basis of milking the Egrant story. As a result, the prime minister was re-elected with a wider majority, a historic 55 percent of the vote. The opposition had banked its credibility and electoral destiny entirely on the Egrant allegations, even though a thorough magisterial inquiry was still under way. When the Nationalist Party was beaten, the leader resigned his position and his backers lost their influence to newcomers, whom Caruana Galizia had bitterly opposed during the harsh leadership race that ensued in September 2017. "It was wrong before the 2017 election to state, without much hesitation, that [Egrant] belonged to Michelle Muscat. It was profoundly wrong to call a demonstration in the wake of this allegation when there was no hard evidence backing it up," wrote a key PN exponent in retrospect.

During the 15-month-long inquiry into Egrant, Magistrate Aaron Bugeja conducted 477 interviews in Malta and around the world. The investigation, which cost 1.2 million euros, was backed by international forensic experts, who concluded that some of the documents used to support the allegations and that had been published in newspapers were falsified. The interviewees included Daphne Caruana Galizia herself and the Russian whistleblower. The magistrate found that during their respective testimonies Caruana Galizia and Efimova contradicted each other on important details. The conclusions of the magisterial inquiry, published on July 22, 2018, exonerated the prime minister

and his family. The magisterial findings prompted a series of reflexive articles by leading Maltese journalists, who explored how they had failed to question a narrative that was not based on facts (Mallia, 2018; Vassallo, 2018). Yet, internationally the prime minister's clearance made less noise, particularly among media organizations that had alleged outright that the journalist's death was a political assassination that implicated the prime minister directly.

The narratives of corruption and impunity that escalated after Caruana Galizia was slain bear not only professional and democratic implications; they also reinforce the notion of "Mediterraneanism" that underlines implicitly the deficiencies and challenges of the southern European periphery (de Pina-Cabral, 1989). The notion of PIGS, an acronym used to refer in a derogatory way to the economies of southern European countries, was also exploited by media players. The portrayal of southern Europeans tends to be colored by sensationalism and over-simplicity through the instrumentalization of stereotypes that are extremely partial, such as Simon Reeve's series *The Mediterranean*, broadcast globally in 2018 and aimed at capturing the "wild extremes that lie behind the tourist veneer."⁴ Such representations may attract an audience but contribute little to inform and empower people.

Conclusions: Threats to media freedom

The case of the media in Malta and the assassination of Daphne Caruana Galizia are reminders of the complex nature of the threats that journalists face. The murder happened in a polarized, pluralistic context with democratic credentials: notably, Malta was among three West European nations to move up the Democracy Index (EIU, 2018). While at the national level condemnation was unequivocal, the allegations that surround Caruana Galizia's death have amplified political divisions. Internationally, the responses were not adequately nuanced, balanced, and verified. This was probably the result of the myriad challenges confronting contemporary journalism, which are not only political but also economic.

The financial demands facing media organizations have political implications. Across the world bona fide news organizations must tackle serious commercial problems, among them a reduction in the number of journalists: newsroom employment dropped nearly a quarter in less than ten years (Grieco, 2018). Moreover, Balzan (2019), who set up his newspaper in 1999, noted that Google and Facebook now control some 60 percent of the

4 https://www.dailymotion.com/video/x6v572n?fbclid=IwAR0pS3UJWctR79XnSBfY3WSd6aRcdvB03V6TS3dxsvG_j0B619B7cYIJ8Bw_

world's digital advertising market and are "focused on engagement – which means that when you click or share, you are increasing value to advertisers. It has nothing to do with the news or the values."

Indeed the "clickbait culture" has widened the credibility gap, a euphemism for exaggerations and lies. Such tactics are eroding the public's trust in the media, as revealed by the Eurobarometer survey cited above. How can journalists hold the state to account when some governments enjoy significantly higher trust ratings than the media? Trust diminishes when:

- Media organizations become instruments of deification and demonization, since they stir raw emotions leaving little opportunity for rational deliberation.
- The Fourth Estate does not aspire to attain what Bob Woodward (2018) termed "deep background," and therefore depends heavily on select and partial sources.
- News relies too much on opinion. Pulitzer Prize winner Seymour M. Hersh (2018) observed: "I am a survivor from the golden age of journalism ... when there were no televised panels of 'experts' ... who began every answer to every question with the two deadliest words in the media world 'I think'. So now we are sodden with fake news, hyped-up and incomplete information, and false assertions" (3).
- "Citizen journalism" renders the reputation of individuals extremely vulnerable. A century and a half before the advent of the internet, Alexis de Tocqueville predicted that despotism in modern democratic nations might assume different traits from those led by tyrants because it would "be more extensive and more mild; it would degrade men without tormenting them" (Alexis de Tocqueville, 1835/2012). Social media trolling has exposed individuals to greater risks as some people seek to create discord by posting inflammatory messages that often trend and go viral.
- "Trials by media" and "tabloid justice," marked by popular, trivialized, and sensational reportage, has opened the way for the post-truth era, which in turn helps breed populism. According to *The Economist*:

Post-truth politics has many parents. Some are noble. The questioning of institutions and received wisdom is a democratic virtue. So is the skeptical lack of deference towards leaders ... But democracies have institutions to help, too. It is independent legal systems that have mechanisms to establish truth.

Thus, undermining the legitimacy of institutions undermines the rule-of-law and democratic practice.

While the watchdog role of the media is essential, we have reached such dystopic levels that politicians are portrayed as self-serving, malevolent, and corrupted by power in most democratic settings. Having the audacity to hope is an important attribute to keep people engaged and interested; without it, they will retreat inward into the microcosm of their own private lives.

The fates of freedom of expression and democracy are intertwined. If democratic institutions are disparaged on the basis of the race for clicks, democracy will decay. Early in the current millennium Samuel P. Huntington rejoiced that “between 1974 and 1990” the world experienced a third wave of democratization when the number of democracies doubled. Since then democracy has been in retreat “and turning inward ... abandoning earlier dreams of reshaping the international system in their image” (Kagan, 2015, n.p.). The Global Strategy for the European Union launched by Federica Mogherini, concedes that the European project, which has brought unprecedented peace, prosperity, and democracy is now being questioned (EEAS, 2018).

Glaser (2018) points out that in recent years figures such as Donald Trump and Nigel Farage have gained power by distancing themselves from “the establishment” and portraying politics as the enemy of the people. It is therefore worthwhile exploring whether the media have contributed to the apathy of anti-politics, which was manipulated and exploited to bring the political Right to power – although in the world view of the Right, the media themselves are “the establishment.” It is also probably time to revisit the value of social responsibility and re-introduce some of the best practices of the past in order to facilitate productive citizen engagement, both of which are critical for the functioning of a democratic society.

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Ayşe Cavdar

The Media in the “New Turkey”: Old diseases versus new energies

When in 1787 Edmund Burke characterized journalism as the fourth estate he attributed to this profession a public, and hence, a political function; he stated that newspapers were fulfilling this role by spreading news about the other three estates – the legislative, executive, and juridical institutions governing society (Baker 2007, 5). In the political environment of the eighteenth century, the press was already reaching the public with a simple, cheap invention which, however, was incomparable with the means available today. Since then, the power of the media to influence public opinion has become both attractive and frightening for political actors competing for hegemonic power. Throughout the centuries, media technologies have evolved and been transformed into sophisticated and expensive networks. Nevertheless, can it be said that there is always a direct correlation between the size of investment in the media and its power to influence public opinion?

In a departure from recent developments in Turkey’s media landscape, I will contend in this chapter that the public and political functions of the media contradict each other and that this conflict results in an erosion of the fourth estate’s eligibility for media outlets.

For purposes of my argumentation, I utilize the concept of the public in its broadest sense, and the notion of politics in its narrowest. I follow Geuss’ (2001) approach to deconstructing the fictional contrast between public and private. When we consider that the content of information produced and disseminated by the media has no boundaries, understanding these two concepts as opposing realms seems unreasonable. Geuss suggests that even if we insist on defining public and private as two different domains, we need first to examine our reasons for making such a distinction (104), and second, to be aware of the inconsistencies in all possible definitions of this fictional pair (109). Bearing Geuss’ warning in mind, in this chapter the concept of *public* refers to every process and form related to collective everyday life; in turn, any collectivity also aggregates the privacy of its constituents at various levels. Next, I define *media* not as a differentiating and intervening party in the broadest sense of public, but as part of the everyday forms and contexts of the collectivity. In the widest conceptualization of the word, *politics*, again in its most common definition, arises from the fundamental need of the public to assume all the practices and performances of negotiating all the features of the collectivity on every platform via any means. As such, the media can be

anything that functions both as a participant and a facilitator in these endless public mediations. Thus, the media has the potential to be the fourth estate thanks to its capacity to carry out these two roles concurrently. At the same time, the term media signifies both an instrument and an environment for politics, where the public is both subject and audience.

In its narrower definition, however, politics implies a contest among parties and groups that purport to govern society. The media, because of its tremendous ability to influence public opinion, is also potentially an instrument within the realm of politics. However, within the narrower sense of the term, the media can serve as an instrument only if its functions are diminished, or at least delimited. A media scene that loses its ability to disseminate information, due to censorship, which destroys its capacity to reflect the pluralism of the public, cannot function as the fourth estate. This is what happens under authoritarian regimes.

Based on the case of Turkey, I will suggest in this chapter that the conventional and expensive media networks have proved relatively dysfunctional as propaganda machines within the country's political power struggles. Meanwhile, alternative news sources have appropriated the fourth estate function of the press in politics. This description does not bode well for the future of news media. In contrast, while a political party such as the Justice and Development Party (AKP), which has ruled Turkey for 17 years, has monopolized the mainstream media, alternative news sources (mostly internet media) have also been in a tricky situation due to both economic conditions and political pressure. In this environment, the mainstream media has lost its power to monitor administrative apparatuses, and therefore its function as the fourth estate, as per Burke's conceptualization. This situation has led to the normalization of several anomalies, such as corruption of institutions, human rights violations, and partial judicial procedures (Senior 2006, 177–180).

Turkey is a compelling case when we observe that the replacement of the news media with a series of expensive propaganda machines has sufficed to get public consent for an authoritarian regime. Even in the 1990s, when the first signs of the current monopolization tendencies began taking root, there was a comparatively pluralist environment; at least, almost every political group could produce their own media outlets, and all kinds of news could find a way to reach the public.

According to Sözeri (2015, 7), the media has never been free in Turkey; however, the monopolization of media assets by one party, and sometimes by the leader of that party, has increased the pressure more than ever. Since their early years in government, the AKP have taken the mainstream newspapers and television stations completely under their control via the exploitation of

two main trends in media ownership that emerged in the 1990s: the media's power to influence public opinion for the purpose of non-media investments; and concentration of media ownership. In their first years in power, the AKP began to take control over media owners by threatening them via their non-media investments¹; later, those media monopolies were appropriated by pro-AKP investors who received financial support through credit given by state banks.²

Bilge Yeşil, a media culture specialist at CUNY, New York, summarizes how this process reflected on the content of news in media outlets:

If you look at 2007-8, that was a key turning point. The media back then learned that certain corruption or bribery scandals must not be covered [up], particularly after [the] huge tax fines levelled against the Doğan Media Group for reporting on such issues. Then again, during the Ergenekon and Balyoz coup plot trials, the media learned there was another red line regarding the military and the Gülen movement. In 2013, with the Gezi Park protests, new red lines emerged, and after the corruption scandal of December 2013 more red lines emerged. Now with the [July 2016] coup attempt, there are even more red lines. As the enemies and friends of the government shift depending on political and economic conjecture, so [too] do the media's red lines.³

According to Yeşil, the red lines do not mean that relevant news cannot reach the public. On the contrary, alternative news sources (such as non-mainstream newspapers and TV channels, news sites, and social media) continue to report and disseminate commentary. The disparities have destroyed the public's confidence in mainstream media. Hence, when pro-government investors took over the mainstream media, they appropriated a series of outlets that had already lost the public's trust.

1 For a valuable source about media owners and their investments in other sectors, see "Networks of Dispossession: An initiative monitoring monopolisation in media, construction, mining and energy industries," <http://mulksuzlestirme.org/turkey-media-ownership-network/>.

2 "Media Ownership Report by Reporters without Borders," <http://turkey.mom-rsf.org/en/owners/>.

3 William Armstrong, "Interview: Bilge Yeşil on the Turkish media, past and present," August 20, 2016, <https://bit.ly/2UteKYP>.

The AKP appropriates the fourth estate: *Sabah* and *Hurriyet*

The power of the fourth estate attributed by Edmund Burke to the press stems from its function of monitoring society and its institutions. This role is intrinsic to the nature of reporting, because an event or a phenomenon has value only if it can attract public attention. The dynamic of attention may not always be in the public interest. A report on an amusing or strange event may well spread faster than any economic or political news. While the public interest is the constant fundamental dynamic of news reporting since it has the power to change ideas, the fourth estate is not necessarily immune to the maladies of society. On the contrary, in many cases, the media can turn into a mechanism that spreads the diseases of society and its political institutions. This, indeed, is the case in Turkey. When the government’s tone became more authoritarian and it began taking over the media, corruption spread, and the mainstream media lost their ability to report. When this process normalized corruption and authoritarianism, the public looked for fresh news sources, and finally, an alternative mainstream emerged in the media landscape.

In 2002, when the AKP came to power, the mainstream media in Turkey consisted of six major groups: Dogan, Cukurova, Uzan, Sabah, Ihlas,⁴ and Dogus (Adakli, 2010). The Bilgin (Sabah) and Uzan groups were already collapsing due to the economic crisis of 2001. “Between 2002 and 2006, the TMSF [Savings Deposit Insurance Fund]⁵ had under its control three major dailies, three national television channels, and several radio stations” (Yeşil, 2016, 83). In the following, I outline how the media regime established by the AKP since the late 2000s works, via two examples, the Sabah and the Dogan (Hurriyet) groups. Both were known as the largest conglomerates in Turkey even before the rise of the AKP government. The owners of these two groups invested in almost all types of media (several dailies, TV channels, magazines, news agencies, publishing houses, and most importantly, media distribution companies and networks), as well as in sectors requiring a close relationship with the government, particularly in terms of the high added value they generated, such as banking, construction, the automotive industry, and energy. In fact, during the 1990s, the owners of both groups (like many others) gained investment privileges in profitable economic sectors by using their media power (Sözeri, 2011).

4 Belongs to a religious community named Isikcilar. In 2013, it was restored through AKP’s financial assistance.

5 The insurance authority to which deposit and participation funds in Turkey are entrusted, <https://tmsf.org.tr/en-us/Tmsf/Mevduat/mevduat.sss.en>.

The Sabah group

The structure of media ownership began to alter in Turkey in the 1990s. However, the main actors of this transformation had emerged in previous decades. One of them was Dinç Bilgin, a media investor from a journalist family in İzmir. The Bilgin family owned one of the oldest local newspapers in Turkey, *Yeni Asır*. In 1985 Dinç Bilgin decided to move his media investments to Istanbul, the media center of Turkey, and established the daily *Sabah*. Immediately after its launch, *Sabah* became the most popular daily in Turkey, thanks to Bilgin's success in attracting quality journalists and columnists to the paper, as well as technological innovations. Within a few years, Bilgin began to publish popular magazines as well. By the end of the 1980s, the Sabah group had become one of the leading actors on the mainstream media scene. However, following his main competitor in the industry (the Dogan group), he also invested in the banking sector, buying Etibank, which was privatized by the state. Bilgin's fall began with this investment. A couple of years later, Bilgin was charged with transferring Etibank's assets to his other companies, and was given a heavy penalty. In 2000, Bilgin was forced to sell his entire group to Turgay Ciner, a businessman, who had built his fortune from scratch by investing in the automotive industry and mining, among other sectors. However, the government canceled this transaction, because Bilgin's corruption involved a former state-owned bank. Bilgin was arrested about two months later. After his release following ten months in prison, he paid all the fines he owed. In November 2003, Bilgin leased the Sabah and ATV (TV channel) trademark and franchise rights to Ciner's Merkez Media company for 10 million dollars annually. In 2005, Ciner bought Sabah and ATV for 433 million US dollars. In 2007, however, Bilgin confessed that he had made a secret deal with Ciner and that their partnership was about to make media investments. The TMSF seized all the media assets related to Sabah and ATV based on Bilgin's admission.

Since 2007, the AKP has undergone a radical political transformation. The reason for this change lies probably in the election of Abdullah Gül as president, despite the objections of military and secular groups (Balta-Paker and Akça, 2013, 77). Although they had lent great importance to consensus among their allies, the AKP began to signal that they would choose to enforce agreement via oppressive means if necessary. The media was the first sector where this new policy became visible. The process whereby Sabah was sold to a pro-AKP group was a sign of the party's determination to take the media under its control by using state resources. The CEO of Çalık Holding, the only company established and registered by the TMSF, was Berat Albayrak, currently (in early 2019) minister of the economy and the son-in-law of Tayyip

Erdogan, prime minister during that period. Çalik borrowed 750 million dollars of the money needed to purchase the Sabah group from Vakifbank and Halkbank,⁶ both state-owned banks. The remainder of the financing came from Lusail International Media, a Qatari investment company.⁷ This transaction involved three dailies, two TV channels, several weekly and monthly magazines, a publishing house, a news agency, and most importantly, one of the biggest press distribution companies – one of two such companies in Turkey.

Çalik has huge family assets dating back to the early 1980s. The family invested in numerous industries, including energy, construction, mining, and communications. As Jenkins notes, the Calik family’s assets more than quadrupled after the AKP came to power in 2002.⁸ In 2013, another company, Kalyon Construction, owned by Orhan Cemal Kalyoncu, a close confidante of Tayyip Erdogan, bought the Sabah group.⁹ The Kalyon group began its business life in 1974, in Gaziantep, and grew via infrastructure investments not only in Turkey but also in Qatar, Russia, Libya, the UAE, Saudi Arabia, and Iraq. The secrets behind all these transactions came to light in December 2013, when a dispute broke out between the AKP and the Gulenists,¹⁰ involving the secret services, the police, and judicial institutions. The Gulenists disseminated several tapes, including a phone conversation between Erdogan and his son Bilal, discussing what to do with a tremendous amount of money stocked in the latter’s house in the event of a police raid. These tapes, which were published almost every evening on Twitter, depicted the flow of unregistered money stashed in shoeboxes in the houses of Erdogan’s sons and his ministers. A telephone conversation regarding the sale of the Sabah group was also revealed in this process. According to records, Erdogan was seeking a buyer for Sabah among businesspeople close to him. For this purpose, he promised

6 “Sabah-atv parasi Katar ve devlet bankalarından cikti,” *Hurriyet*, April 23, 2008, <http://www.hurriyet.com.tr/gundem/sabah-atv-parasi-katar-ve-devlet-bankalarindan-cikti-8765369>.

7 “Katarlı ortak ATV hisselerini devrediyor,” October 24, 25, 2013, <https://t24.com.tr/haber/katarli-ortak-atv-hisselerini-devrediyor,242633>.

8 Gareth Jenkins, “Turkish banks make huge loans to friend of Erdogan,” April 24, 2008, *Eurasia Daily Monitor* 5, no. 78, <https://jamestown.org/program/turkish-banks-make-huge-loans-to-friend-of-erdogan/>.

9 “Sabah ve ATV’yi Kalyon infaat satın aldı,” *Aljazeera Turkey*, December 20, 2013, <http://www.aljazeera.com.tr/haber/sabah-ve-atvyi-kalyon-infaat-satn-aldi>.

10 A religious community established by Fethullah Gülen in the 1970s. The Gulen community served the AKP until 2013, providing manpower thanks to its wide education network. However, already in 2010 many problems had emerged between the allies, and finally, in December 2013, when the Gulenists launched a corruption investigation against four ministers of Erdogan’s cabinet, the relationship turned into open hostility. Erdogan considers the Gulenists responsible for the failed coup attempt of July 2016. Since then, thousands of officials, military personnel, journalists, and businessmen have been charged with being members of the Gulen community, which was declared a terror organization by the AKP government.

privileges in public tenders in exchange for investing in the group.¹¹ Although members of the government have defended themselves and Erdogan, claiming that the tapes were fabricated, the opposition found these recordings valuable evidence for convincing the public of the AKP's and Erdogan's corruption. At that time, I was working on another study in neighborhoods supportive of the AKP and Erdogan. The topic was the changing image and content of religiosity in Turkey, especially among the middle classes. Of course, I asked questions about this case in order to find out whether the interviewees still trusted Erdogan's leadership. Most said that the money stashed in shoeboxes had been donated by pro-AKP businessmen, and did not indicate corruption. Erdogan and the AKP had received the money in order to finance projects that they could not carry out due to legal obstacles instituted by the secularist state. Thus, they claimed, since Erdogan and his ministers were not working to further their own personal interests, no harm had been done. AKP voters of a lower socio-economic status had their own version of the situation: the money was the amount needed for the declaration of a Sharia state headed by Erdogan as caliph. According to the opposition media, the money was collected by Erdogan to help Kalyon pay their debts to Calik for the Sabah group. Therefore, the money revealed in the tapes was a "pool" to finance the transaction between Calik, Kalyon, and the Sabah Media Group. Since then, the opposition has referred to the pro-AKP media as the "pool media" (*havuz medyasi*).

The Dogan group

The sale of the Dogan Media Group before the elections of June 24, 2018, was far more painless for the AKP and Erdogan. Dogan, whose media had been the most popular opposition to the Erdogan administration for many years, failed to win his trust despite their support for the leader on many occasions, including following the coup attempt on the night of July 15, 2016.

Aydin Dogan, the founder of the Dogan group, was a businessman with investments in many sectors, primarily energy, automobiles, food, and construction. Although he retired some time ago and turned over the business to his daughters, he could not convince Erdogan that he would not harm his administration. According to Adaklı et al. (2003),¹² Aydin Dogan was the

11 "Kalyon Group," in *Media Ownership Monitor Turkey* (a website initiated by the Bianet independent news network and Reporters without Borders), <https://turkey.mom-rsf.org/tr/medya-sahipleri/sirketler/turkey/company/company/show/kalyon-group/>.

12 Gulseren Adakli, Turk Basinindan Turk Medyasina, Hakim Medya Gruplarinin Kisa Tarihi, December 27, 2003, *bianet*, http://bianet.org/system/uploads/1/files/attachments/000/002/078/original/Turk_Medya_Sektorunun_Kisa_Tarihi.pdf?1521805944.

first representative of the trade- and industry-based bourgeoisie without any journalistic background. Dogan established his business in 1959 and invested in various sectors, including real estate, the car industry, marketing, tourism, and finance. He entered the media industry by buying the daily *Milliyet*, established by the Karacan family, which had a journalistic background. Further, in 1994, he purchased the daily *Hurriyet* from the Simavi family. The Dogan Media Group followed a balanced policy regarding Erdogan and his government until 2004. However, after Erdogan's success in the second election in 2004, their tone became more oppositional. In particular, Dogan's media outlets played a leading role in the Republican rallies initiated by the Kemalist groups in 2007. Erdogan's victory in the general elections once more, despite the army's disapproval, was the beginning of the end of the Dogan group.

Erdogan first tried to control the Dogan group with tax penalties. The first confrontation happened immediately after the Deniz Feneri scandal in 2008.¹³ When the trial regarding this international corruption case began in Germany, Dogan's newspapers and TV channels kept the news on the agenda for a long time. Erdogan, who was prime minister during this period, responded by calling on his supporters to boycott the Dogan group in every way. According to Sozeri and Guney (2011, 47), two months later, the group was fined a total of TRY4.2 billion in taxes (about 280 million US dollars) for misreporting the sale of Dogan TV to the German Axel Springer in 2006. Immediately afterward, the group decided to downsize their media investments. The penalty increased initially due to interest rates, but then decreased thanks to a general tax amnesty given by the government. Finally, in September 2012 the Dogan group paid a total of TRY490.5 million (about 290,000 US dollars) (Saran, 2014, 366). Shortly before the June 2018 elections, it was announced that Dogan had been sold to the Demiroren group, another pro-Erdogan company mentioned in the tapes published by the Gulenists in December 2013. This sale was actually a long-awaited development because of pressure from the AKP government. However, the real reason remains obscure, with rumors continuing to circulate, including additional tax penalties and demands from the government to silence opposition commentators and journalists. Like the Sabah sale, the Demiroren group obtained the amount

13 Deniz Feneri was a charity foundation established by some Islamist investors in 1990s. It also had a branch in Germany. The trial in Germany ended with a decision that the managers of the charity had used donations not for their declared reasons (helping the poor in Turkey, Pakistan, and Palestine) but for investing in real estate in Turkey. This scandal rocked Turkey and the AKP as many of the managers of Deniz Feneri in Turkey were members of either the AKP or its predecessor, the RP (Welfare Party), which was banned by a court decision in 1997. For more information, see "German court hands down jail terms in Islamic charity scandal," *Deutsche Welle*, September 17, 2008, <https://www.dw.com/en/german-court-hands-down-jail-terms-in-islamic-charity-scandal/a-3652266>.

needed to purchase Dogan's media assets via loans from a public bank, namely Ziraat Bankası.¹⁴ Immediately before this transaction, the Dogan group controlled 41 percent of the media industry, including four dailies, five TV channels, two digital TV platforms, four production companies, three radio stations, a news agency, a publishing house with bookstore chain, news websites, several weekly and monthly magazines, and a press distribution network. Erdogan Demiroren established the Demiroren group in the 1950s, investing in the automotive and energy sectors. Later, he became a player also in the education, tourism, and production industries. In 2011, Demiroren bought *Milliyet* and *Vatan* from the Dogan group. In March 2014, a tape leaked to the media revealed a conversation between Tayyip Erdogan and Erdogan Demiroren. In it, Erdogan scolded Demiroren because a reporter, Namik Durukan, had published the minutes of a meeting between Abdullah Ocalan¹⁵ and leaders of the Kurdish BDP in *Milliyet* and demanded that the reporters involved as well as the editors be fired. Demiroren complied immediately.¹⁶

Consequences of the media regime in the "New Turkey"

Media ownership in Turkey became more complex from the 1980s. Arrangements facilitating newspaper owners to invest in other sectors laid the ground for a series of relationships that could easily be defined as corruption between government and media owners. The decline of journalist unions and professional organizations caused severe erosion in the public nature of news. In other words, the seeds of this last period, during which the Erdogan administration took the media completely under its control, were planted in the 1980s and 1990s. The mainstream media lost its function of monitoring the other three estates on behalf of the public and became the voice of the ruling party. However, can such media remain as the fourth pillar?

According to Baris Yarkadas, a former opposition deputy and journalist, with the sale of the Dogan group the share of pro-AKP investors in the media sector reached 90 percent.¹⁷ However, can it be said that this share has translated into a dramatic increase in votes for the AKP? Although the

14 Gonca Tokyol, "675,000,000 dolar! Devletin Dogan Medya Grubu'nu satin alan Demiroren'e verdigi kredi," *T24*, April 7, 2018, <https://t24.com.tr/haber/675000000-dolar-devletin-dogan-medya-grubunu-satin-alan-demirorene-verdigi-kredi,599949>.

15 The leader of the armed organization PKK (Kurdistan Workers' Party), who has been in jail since 1999.

16 "Demiroren'i ağılatan konuşmaya ait ses kayıtları," *Evrensel Daily*, March 6, 2014, <https://www.evrensel.net/haber/79786/demiroreni-aglatan-konusmaya-ait-ses-kayitlari>.

17 "CHP'li Yarkadas'tan Dogan Medya Grubu Yorumu: Bu satistan dolayı yargılanacaksınız," *Sputnik*, March 22, 2018, <https://tr.sputniknews.com/turkiye/201803221032746511-chp-yarkadas-dogan-medya-grubu-yorumu/>.

latter have won all the elections and referendums since 2010, the electoral gap between the AKP and the opposition has diminished.¹⁸ Thus, the AKP’s media power appears to work not to convince voters of their policies but to obstruct and censor what the opposition says.

Table 1: General and local elections since 2007

	July 2007 – general elections	March 2009 – local elections	June 2011 – general elections	March 2014 – local elections	June 2015 – general elections	Nov. 2015 – general elections	June 2018 – general elections
AKP	46.58	38.39	49.83	43.32	40.87	49.49	42.56
MHP	14.27	15.97	13.01	17.63	16.29	11.90	11.10
CHP	20.88	23.08	25.98	25.59	24.95	25.31	22.64
HDP ^a		5.70 ^b	6.57 ^c	4.64 ^d	13.12	10.76	11.70

a. The HDP was established by the Kurdish opposition in 2012

b. The Kurdish opposition was represented by the DTP

c. The Kurdish opposition represented by independent candidates to overcome the 10% threshold

d. The Kurdish opposition was represented by the BDP.

Table 2: Referendums for constitutional amendments since 2007

Constitutional referendums	October 2007	September 2010	April 2017
Yes	68.95	54.87	51.41
No	31.05	45.13	48.59

Table 3: Presidential elections*

Presidential elections	August 2014	June 2018 –
AKP	Erdogan – 51.80	Erdogan – 52.59 ^b
MHP	Ihsanoglu	
CHP	– 38.45 ^a	Ince – 30.64
HDP	Demirtas – 9.76	Demirtas – 8.40

¹⁸ Information for the three tables showing the election results was gathered from *HaberTurk* election pages, <https://www.haberturk.com/secim>.

Table 1: General and local elections since 2007

	July 2007 – general elections	March 2009 – local elections	June 2011 – general elections	March 2014 – local elections	June 2015 – general elections	Nov. 2015 – general elections	June 2018 – general elections
IP			Aksener – 7.29				
* Prior to 2014, the president was elected by parliament and not directly by voters. a. The nationalist MHP allied with the CHP b. The MHP allied with the AKP							

The second and more interesting fact is that media outlets that were transferred from relatively independent investors to pro-AKP bodies immediately lost their audience. During the week April 9–15, 2007, just before the TMSF seizures, the average circulation of the daily *Sabah*, one of the Sabah group's assets, was 506,957; during the week August 30–September 5, 2010, it decreased to 331,913 per day. As of writing (April 2019), the average daily circulation of this newspaper was 270,034.

The Dogan group followed a similar trend. During the week March 26–April 1, 2018, just before the transfer, *Hurriyet*, the flagship of Turkish journalism, sold 307,178 copies per day. However, it lost nearly 5,000 readers each week following the sale. In January 2019, circulation was around 249,571 per day. However, there is also a convincing argument that most of the copies of those newspapers that belong to the government's "pool media" have been purchased by government agencies (offices of the ministries and municipalities) in order to keep the sales and advertising revenues of the newspapers at a certain level.¹⁹

The loss of popularity of media outlets has been admitted by pro-AKP writers and media managers. Mehmet Soysal, the new CEO of the Demiroren Media Group, often writes about the crisis that the Turkish media industry is experiencing in his column in the daily *Milliyet*:

... the sector is still unaware of the crisis it is in. The traditional media, which think that they are shaping the world and the country, are unable to defend their own rights ... they [media professionals] do not take any steps to minimize the damage; instead they pretend to direct politics, to advise ministers from their columns. They cannot unite for their own legal rights and force politicians

19 All the sale statistics are obtained from <http://gazetetirajlari.com/HaftalikTirajlar.aspx>.

to enact a law in parliament.²⁰

However, in the remainder of his article, rather than demanding a law that provides guarantees for the rights of journalists and for press freedom, he proposes a regulation requiring payment for use of news websites, claiming that advertising revenues of conventional media have fallen as a result of free dissemination of news on the internet.

Columnist Aydın Unal, who worked as a speechwriter for Erdogan for years, claimed that the AKP is unable to control news flow even if they do control all the mainstream media: “We should also see that the new order in the media and social media brings more risk to the AKP. Even the pro-AKP public try to get news from the opposing media.”²¹

According to a Reuters Institute report, the most trusted news source in Turkey is Fox TV, which belongs to the global Murdoch Group, and has often been targeted by the Erdogan administration because of its commentary and news reports criticizing the government. The least trusted sources of information are those known to be closest to the government, as well as the Anadolu Agency (state news agency, established during the 1920 Independence War) and TRT (established as a public broadcaster in 1964).²² A recent survey conducted by GENAR, a pro-AKP survey company, indicates that 67 percent of Turkish youth prefer social media to conventional media as a news source.²³

The Turkey Journalists Trade Union (TGS) reports that as of the July 2016 aborted coup attempt until the end of that year, 178 media outlets were shut down by the government. These included newspapers, TV channels, radio stations, news agencies, news sites, children’s television channels, and niche publications.²⁴ The AKP government continued to close down broadcasting networks in the subsequent period. According to the TGS, about 10,000 journalists and media workers lost their jobs in this process. Today, Turkey is ranked third in the world in number of jailed journalists. The Committee to Protect Journalists reports that 68 journalists are in prison.²⁵

20 Mehmet Soysal, “İlkesiz Duruslar,” *Milliyet*, November 30, 2018, <http://www.milliyet.com.tr/yazarlar/mehmet-soysal/ilkesiz-duruslar-2786857/>.

21 Aydın Unal, “Yerel secim ve riskler,” *Yeni Safak*, November 19, 2018, <https://www.yenisafak.com/yazarlar/aydinunal/yerel-secim-ve-riskler-2048176>.

22 Servet Yanatma, *Digital News Report 2018: Turkey supplementary report*, Reuters Institute & Oxford University, 21-25, <https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2018-11/Digital%20News%20Report%20-%20Turkey%20Supplement%202018%20FINAL.pdf>.

23 TGSP (Türkiye Gendlik STK'lari Platformu) Türkiye'nin Gençleri Arastirmasi, September 2018, 63.

24 “TGS basın gozlem raporunu acikladi”, January 10, 2018, *Haber 21*, <http://www.haber21.com/diyarbakir/tgs-basin-gozlem-raporunu-acikladi-h8923.html>.

25 Zehra Yıldız, “Gazetecileri Koruma Komitesi: Mesleğini yaptığı için tutuklanan gazetecilerin sayısı rekora kosuyor”, December 14, 2018, *Euronews*, <https://tr.euronews.com/2018/12/13/gazetecileri-koruma-komitesi-tutuklanan-gazetecilerin-sayisi-rekora-kosuyor>.

Is an independent mainstream emerging?

On the other hand, all these developments do not mean that journalists and the public have given up on news. On the contrary, while the government monopolizes the former mainstream media, audiences have begun to follow smaller, cheaper, independent news sources. The internet has played a partial role in the slippage of mainstream media from big, expensive networks to independent, flexible news outlets and collectives. While some already established news outlets continue to report, new websites and TV channels have emerged, among others, the dailies *Evrensel*, *Birgün*, and *Yeni Yaşam*; the ArtiTV, Mediascope, and Tele1 channels; and news websites such as Bianet, T24, Diken, and Duvar, which have become the new addresses for non-government-supporting news seekers. Thus, it might be suggested that the fourth estate function of the media has moved from heavily invested groups to cheaper, independent, and more flexible journalist collectives. In addition, many foreign news outlets, such as the Russian Sputnik, German Deutsche Welle, and British BBC have invested in Turkey by hiring local journalists. This process has brought a degree of pluralism back to the media landscape, with in-depth discussions on the traditional as well as emerging issues of news reporting and press freedom, such as journalism ethics and the need for labor unions specific to the media sector. Alternative financial sources for news reporting, and citizen journalism have also begun to appear on the new media landscape agenda.

Especially under current political and economic pressures, the vibrant alternative and low-budget media landscape in Turkey is far from finding practical solutions to these issues. Beyond international funds for journalism, these emerging media collectives are also trying to develop ways to obtain support from citizens, the users. On the other hand, considering all these developments together, it is evident that by controlling the “old mainstream,” the AKP is monopolizing mainly the problems of the previous media environment. If the government does not destroy all their efforts with even more violence, the mainstream journalism of the future in Turkey²⁶ will continue to grow in these emerging media outlets.

26 This expression has been borrowed from Celal Başlangıç, the editor in chief of ArtiTV (with *artigercek.com*), an independent media initiative established by journalists who were forced to leave Turkey due to the threat of execution, and who broadcast to Turkey from Cologne, Germany. I also contribute to this initiative by commenting and producing TV programs.

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Josef Seethaler and Maren Beaufort

Recent Developments in Media Freedom and Pluralism in Austria

Historical background

The role played by the mass media in public communication depends largely on the cultural, social, and political order of the nation state in which they operate. As a result of the economic success of printing technology, the media began to play a role in the late eighteenth century Habsburg Empire. At first, media such as broadsheets and pamphlets enhanced the possibility of critical thought simply by establishing, preserving, and spreading the knowledge base. However, for state and church authorities this was sufficient reason to restrict circulation and content. A new role arose out of an emerging bourgeois-public sphere, whose original function as a space for open discussion of private matters was broadened and transformed by literary and so-called moral journals, which helped to connect the various segmented arenas of partly public, partly private communication by establishing a common basis of discussion and common frames of reference. In 1781, Emperor Joseph II acknowledged, at least in part, this social function of the press and instituted limited press freedom for the first time in the Habsburg Empire. With the newly established platforms of debate, public reasoning was introduced as a new principle of political legitimation and a powerful tool for the people to participate in processes of shaping public opinion and political decision making.

According to Eisenstadt (1989, 460), introduction of these two principles – public accountability of rulers and political participation – can be regarded as the “great institutional achievement of Western modern civilization.” Both depend heavily on free and open public debate which, in an industrial, and even more so in an information society, is closely connected to media freedom and pluralism, as well as to fair access to information and opinions (Klimkiewicz, 2010). In Austria, the first, albeit timid, attempts to institutionalize freedom of the press were short-lived. Joseph II died in 1790, and a new phase of repressive politics began. Six decades later, the 1848 revolution brought another glimpse into what freedom of the press could mean to society – but again, only for a short time. After the suppression of the revolution in late 1848, it took almost another 20 years until freedom of speech and freedom of the press – but not freedom of information – were recognized in Article 13 of the December Constitution of 1867. Nevertheless, many repressive measures against the press (such as the newspaper stamp

tax and prohibition of colportage) lingered on until the twentieth century (Melischek and Seethaler, 2006; Olechowski, 2004).

It can be hypothesized that the late and half-hearted establishment of freedom of the press had a significant influence on the development of Austrian media and journalism (Hallin and Mancini, 2004; Seethaler and Melischek, 2015). Among the consequences and implications were:

- a lack of transparency in the work of the state's power apparatus;
- the acceptance of strong state intervention in the media, which is reflected in today's "politics-in-broadcasting" system;
- late emergence of the mass press, which coincided with the birth of modern political parties at the turn of the twentieth century, thus promoting a considerably high degree of press-party-parallelism, but also a high market concentration, because no financially strong and broadly diversified private media industry could develop in Austria;
- only a gradual awareness of the concepts of accountability and responsibility, both at company and civil society levels.

This chapter examines the extent to which these elements can still be ascertained today, what traces they have left behind in the Austrian media system, and to what degree they impair media freedom and pluralism.

The Media Pluralism Monitor

Analysis of the current state of media freedom and pluralism in Austria is based mainly on the 2017 report of the Media Pluralism Monitor (Seethaler, Beaufort, and Dopona, 2018). If more recent data became available, the information in this chapter was updated. The Media Pluralism Monitor, funded by the European Parliament since 2013, is a diagnostic tool designed to provide a broad understanding of the risks to media pluralism in EU member states.¹

The Media Pluralism Monitor assesses the risks to media pluralism using a set of twenty indicators covering a broad notion of the concept, and encompassing political, cultural, geographical, structural, and content-related dimensions. The risks are measured in four areas: basic protection, market plurality, political independence, and social inclusiveness. Thus, the monitor applies a very broad and differentiated definition of "pluralism" rather than a purely economic one.

The 2017 data indicate that media pluralism in Austria was at medium risk in all but one area of investigation (basic protection). These

1 See the chapter by Iva Nenadic in this volume.

results correspond roughly to the EU average in all four areas. However, countries with comparable media structures, such as Germany, Belgium, the Netherlands, Denmark, and Sweden (Hallin and Mancini, 2004), score better than Austria. What does this mean in detail?

Basic protection

As noted, both the rights of freedom of expression and a free press are enshrined in the Austrian constitution, but not freedom of information. All three freedoms, however, are protected by the European Convention on Human Rights, which was ratified by Austria in 1958 and became part of the constitution six years later. In addition, Austria ratified the International Covenant on Civil and Political Rights in 1978, but its implementation has yet to be regulated.

Currently, legal remedies for violations of freedom of expression and the press may be considered mostly, but not entirely, effective. In past years, the European Court of Human Rights overturned a considerable number of national court decisions (Holoubek, Kassai, and Traimer, 2014). Between 1959 and 2017, Austria committed 34 violations of freedom of expression, according to the European Court's rulings (European Audiovisual Observatory, 2017). Even today, one can find several verdicts of national courts holding that lower courts had not considered freedom of expression in their decisions. Most of these cases deal with libel and privacy. In fact, there is a separate "insult" law in addition to libel laws, and Article 111 of the Austrian Criminal Code allows for an increased prison sentence for defamation and insult, when defamation has been made accessible to a wider public by means of the mass media. Due to the extensive legal protection of the honor and reputation of government officials and politicians (Article 116 of the Criminal Code), several of them have filed defamation suits in recent years. On the other hand, Austria is one of only two EU countries that currently provide statutory caps on non-pecuniary damages in defamation cases involving the media, and Articles 29 and 31 of the 1981 Media Act provide not only specific clauses protecting journalists from liability as long as they have adhered to basic journalistic standards, but also, and even more importantly, strong protection for the confidentiality of journalists' sources (International Press Institute, 2015).

In this context, it should be noted that while access to the journalistic profession is free and open, journalism is not an easy job. Due to fundamental changes in the media environment, traditional media companies are being confronted with economic demands and competition from new media markets, leading to increased pressure to produce sensational news and a reduction in the amount of time available for journalistic research. Further, job

insecurity is on the rise and the credibility of journalism is declining (Seethaler, 2017). Only 41 percent of Austrians trust the media in general, and 55 percent trust the news media they themselves use most of the time (Gadringer et al., 2018) – although it should be noted that political actors enjoy even less trust (Beaufort, 2017). Freedom of the media is also endangered by offensive and threatening speech, particularly against female journalists and journalists working at the Austrian public service broadcaster ORF (Vogt, 2017; Index on Censorship, 2018). However, despite the “satirical” Facebook post of Vice-Chancellor Hans-Christian Strache, the leader of the Austrian Freedom Party (“There’s a place where lies become news – it’s the ORF”), ORF is the most trusted media outlet in Austria, followed by the two quality newspapers *Die Presse* and *Der Standard*. According to the 2018 Reuters Report, two-thirds of the population trust ORF’s news (Gadringer et al., 2018).

In recent years, no systematic violations of freedom of expression online have been reported in Austria, thus confirming a statement made by the European Court of Human Rights in December 2012, according to which in Austria internet access is protected by constitutional guarantees (Benedek and Kettemann, 2013). Moreover, Austria is included in a UN Human Rights Council Report (2015) highlighting countries that have implemented legislation to protect anonymity and encryption of information (into a form unreadable by anyone except the intended recipient), both of which can be regarded as safeguards for freedom of expression online. Of course, authorities try to restrict access to websites containing information that violate the law, such as neo-Nazi and child pornography sites. Nevertheless, the European Commission against Racism and Intolerance (2015) criticized Austria for its unsystematic monitoring of hate speech on online forums.

The counterpart of freedom of expression is the right to information. Both are equally important for a democratic society, since transparency of state entities and public bodies promotes accountability, deters abuse of power, and strengthens trust in the functioning of the democratic system (Seethaler, 2018). However, Article 20(3) of the Federal Constitution states that the obligation of administrative authorities to maintain secrecy takes precedence over that to disclose information. According to the Austrian government, secrecy is “in the interest of maintaining public peace, order and security, comprehensive national defense, foreign relations, in the economic interest of a public body, in the preparation of a decision, or in the major interest of the parties, unless otherwise laid down by law” (OSCE, 2008, 43). This is a rather broad list of restrictions to freedom of information, and does not conform to UN recommendations. The Austrian authorities are not obliged to provide information to the public. As a result, Austria came in second last in a recent survey of 123 countries on the global right to information carried out by Access

Info Europe and the Centre for Law and Democracy.² Up to today, successive governments have been unable to agree on certain provisions of a proposed freedom of information law; consequently, the official secrecy policy remains in place. This is a serious restraint preventing transparency in the work of the state's power apparatus. At least, Austria has an effective regulatory framework in relation to whistleblowers, which can be considered as part of the protection of the right to information. In order to combat corruption and economic crime, the Austrian government implemented an online platform to enable and protect whistleblowers in 2016.

Market plurality

Market plurality is at medium risk in Austria. In the last two decades, the dual system of public and private broadcasters, introduced as late as 1998 and 2001, respectively, has led to a decline of audience share of public service broadcasting, although ORF is still the market leader, obtaining almost 34 percent of the national television market and 60 percent of the radio market (RTR, 2018). On the other hand, the growing market share of free daily newspapers (2017: 37 percent) has intensified competition in the newspaper industry. Nevertheless, media concentration, which has a long history in Austria, is still high (Trappel, 2019).

Legislation for the audiovisual and radio sectors contains specific restrictions regarding areas of distribution in order to prevent horizontal concentration. These restraints, however, are not very tight since, according to the Private Radio Law and the Audio-Visual Media Services Act, a media company is allowed to acquire as many radio or TV stations as it wants – as long as their areas of distribution are not overlapping – and can even cover the whole of Austria. Besides certain rules concerning plurality of the media defined in cartel law, there are no specific thresholds or other limitations in media legislation aimed at preventing a high level of horizontal concentration of ownership in newspaper publishing. In sum, Austrian media and cartel law has been ineffective in preventing mergers of media companies – from the Mediaprint deal in 1988 (a joint venture of the owners of the two then-biggest newspapers, *Kronen Zeitung* and *Kurier*) to the 2017 merger of the two biggest private TV stations, ATV and Puls 4, both of which are now owned by the German ProSieben-Sat.1 group. In terms of audience share, two-thirds of the audiovisual media market is controlled by the top four owners (65 percent). The market share of the top four radio owners is 80 percent, and of newspapers 83 percent (all data, 2017). Among the top four TV owners,

2 <https://www.rti-rating.org/country-data/>.

ORF is the only Austrian enterprise; all others are based in Germany. This corresponds to a long-term trend of an increasing market share of non-Austrian channels operating in Austria, which now accounts for more than 57 percent (RTR, 2018).

As for cross-media concentration, only legislation for the audiovisual sector contains specific thresholds (regarding areas of distribution and market share). According to the 2001 Audio-Visual Media Services Act, media companies that control more than 30 percent of the national newspaper/magazine or radio/cable market are not permitted to own a TV station. The same applies to media companies that control more than 30 percent of two or more media markets (newspaper, magazine, radio, cable) in a certain region. No similar legislation is in place for any other media sector or for regional markets. As a result, in almost all Austrian provinces newspaper publishers have acquired regional and local radio channels. Therefore, there is a considerably high degree of cross-ownership, particularly in the radio and newspaper sector. Based on 2017 revenues, the market share of the top four owners across different media markets is 64 percent (Fidler, 2018).³ Similarly, the audience share of the top four internet content providers is 57 percent – with bullish tendency.⁴ All these measures of media concentration are far too high to be acceptable from a democratic point of view. Most are much higher than in most West European countries and a real threat to media pluralism.

While newspaper companies, in particular, are facing increasing competition from online advertising (RTR, 2018), viability of the media market (which requires that the overall economic and business environment provide conditions conducive to independent media operations) is not at risk. Revenues in the audiovisual sector (regarding the GDP trend, see Fidler, 2018) as well as gross online advertising expenditure have risen in recent years (again, mostly to the benefit of the audiovisual sector; see RTR, 2018), as has the number of individuals who regularly use the internet, and particularly mobile devices for accessing internet on the move. Moreover, Austria has a well-established system of state subsidies. Regarding the print media, the Press Subsidies Act of 2004 provides special subsidies for the preservation of diversity in regional daily newspapers, as well as distribution subsidies for all newspapers and grants for journalist training. There are also subsidies for private television and radio stations, as well as for non-commercial community media – with the latter allocations being by far the smallest (which is hard to understand).⁵

Another question in this context is whether and to what extent there is commercial and owner influence over editorial content. In spite of a short

3 This percentage is based on data on Austria's 19 biggest media companies.

4 <http://www.oewa.at/plus/medienanalyse>.

5 Subsidies are also available for accelerating digitalization of the broadcasting sector, in particular for introducing DAB+.

statement in the Journalistic Code of Ethics stipulating that economic interests of the media company owner should not influence editorial work,⁶ there are no explicit regulatory safeguards stating that decisions regarding appointments and dismissals of editors-in-chief have to be made independently of the commercial interests of media organizations. According to the results of the most recent *Worlds of Journalism* survey, almost 10 percent of Austrian journalists (particularly those who work for private radio and TV stations and weekly magazines) reported pressures from the owners of news organizations or from advertisers (Lohmann and Seethaler, 2016). Not surprisingly, in 2016, the holder of the private Servus TV, which also owns the Red Bull company (known for its energy drink), temporarily considered shutting down the channel because of the possible establishment of a workers' council. Servus TV is not the only example of a media organization owned by a newcomer to the trade. In November 2018, the German Funke group sold half of its stakes in two of the biggest newspapers, *Kronen Zeitung* and *Kurier*, to the owner of a real estate empire, who now controls about 25 percent of both companies. It seems that the media business is becoming more about profit than ever before.

Political independence

The freedom of journalists and editors to make decisions without interference not only from owners but also from outside political pressures should be a paramount condition for a free and pluralistic media environment. Unlike in many West European countries, this is not fully the case in Austria. As a result of a long history of press-party parallelism (Plasser, 2010; Seethaler and Melischek, 2006), political independence in general is at medium risk, and, more specifically, editorial autonomy is even close to the high risk band (which in the European Union applies only to Bulgaria, Italy, Luxembourg, Poland, Slovenia, Spain, and the United Kingdom).

According to the Austrian Broadcasting Corporation Act, independence from political parties, political and economic lobbies, and other politically related actors is not only a right of the public service broadcaster but an obligation as well, while in all other media sectors there is no legislation in place that regulates ownership matters regarding their entanglement in the political realm. Ironically, in contrast to the spirit of the law, attempts by political parties to influence appointment procedures for the director general and other high officials of ORF occur frequently. This is because of the 35 members of its supervisory board, the *Stiftungsrat*, 15 are appointed by the federal government, including six representing the proportional strength

6 https://presserat.at/show_content.php?hid=2.

of the political parties in parliament. Moreover, each of the nine Austrian provinces nominates a representative. This so-called “politics-in-broadcasting system” (Kelly, 1983) is again in line with the long tradition of political parallelism between parties and media organizations in Austria (Hallin and Mancini, 2004; Seethaler and Melischek, 2015).

Nevertheless, there is a legal obligation to provide impartial and pluralistic information not only on the part of the public broadcaster ORF but also of commercial broadcasters. However, no broad and effective monitoring of this requirement through independent agencies is in place. According to the Reporters without Borders’ World Press Freedom Index for 2018, uncertainty about future funding of Austria’s public service broadcaster “threatens press freedom.”⁷ Up to now it has been funded from the license fee paid by TV and radio set owners, but the Freedom Party and the powerful tabloid press want to abolish this fee, which would force ORF to turn to parliament for funding each year. Thus, ORF would become more vulnerable to both fiscal, and consequently editorial, interventions.

Regarding commercial media (in particular, the print media), experts argue that political influence is especially evident in a kind of barter arrangement, whereby advertising investments are traded for privileged reporting. The 2012 Media Transparency Law, which forces the government, public bodies, and state-owned corporations to disclose their relations with the media, does not provide rules on a fair distribution of state advertising to media outlets. Today, a large share of state advertising goes to tabloids (Koziol, 2018). While state subsidies for the media amount to 40 million euro per year, state advertising reach almost 170 million euro (data from 2018; see Fidler, 2019). Thus, the ratio is more than 1:4.

Finally – and crucially – only TV and radio stations are obliged to have editorial statutes that guarantee editorial independence. All other media are allowed, but not required, to establish editorial statutes. It comes therefore as no surprise that the two largest tabloids (*Kronen Zeitung* and *Heute*) refrain from self-regulatory measures, and are not members of the Austrian Press Council (which supervises ethical standards). No overarching instruments of self-regulation have been established in the audiovisual and online sectors. In contrast to the strong regulatory role of the state and the interfering role of political stakeholders, accountability mechanisms at the industry, sector, and company level are underdeveloped.

7 <https://rsf.org/en/austria>.

Social inclusiveness

With regard to social inclusiveness, two-thirds of European countries are in the medium risk band – Austria among them. However, the results in this area are very mixed.

On the one hand, most minorities, be they recognized or not by law, do not have access to airtime on commercial broadcasters, and on the public service broadcaster the airtime of recognized minorities⁸ is disproportional to the size of their populations. Only non-commercial community TV channels and radio stations provide airtime to minorities. The Austrian public service broadcaster is required by law to provide access to media content for the disabled, and although the legal text is non-committal in its wording, ORF has decided to gradually increase the share of programs with additional features for them. Nevertheless, there is a continual imbalance between media access for the hearing-impaired, which is rather well developed, and for the visually-impaired, which is less so.

On the other hand, when it comes to access to media for local and regional communities, Austria is among only four European countries at the minimal possible risk level (the others are Germany, Portugal, and Spain). This is because, first, the law grants regional and local media access to media platforms, and the right to use radio and TV frequencies is regulated via public tendering. Second, the public broadcaster operates regional broadcasting studios in all nine federal states, thus providing nine regionally broadcast radio programs and TV newscasts. Third, subsidies for private radio and television companies are contingent explicitly upon the provision of regional and local programs, with private commercial radio acting mainly at the regional level and non-commercial community media at the local level. When considering media offerings for local communities, as well as minorities, non-commercial media in particular are doing an absolutely essential job. Nevertheless, and against the recommendation of the European Parliament (2008), Austrian broadcasting laws still lack consistent legal recognition of community media as a third broadcast sector (Seethaler and Beaufort, 2017). As civil society organizations that facilitate active citizenship and political participation, and

[in] a context where freedom of expression and access to information are increasingly endangered by concentration of ownership in the media field and by the spread of disinformation, community-run projects, whether online, radio or TV, are indicators of media pluralism. Through creativity, debate and learning they enable social gain and

8 The law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minority groups.

vibrant, sustainable local economies (Council of Europe, 2018).

One of the most disappointing results of our study is that women's access to media is at medium risk. While Austria is among only eight European countries – Belgium, Denmark, Finland, France, Germany, Sweden, and the United Kingdom – where public service media have a comprehensive gender equality policy that covers both personnel issues and programming content, the law is implemented only in part. On the one hand, women make up 43 percent of all personnel, and this corresponds roughly to the legal threshold for the desired share of women working at ORF (45 percent). On the other hand, this rule does not apply to the management board, where only one out of four members is female. Among members of management boards of private TV companies, the share of women is even lower: only 10 percent. It is therefore not surprising that, according to a study based on a representative sample of more than 20,000 Austrian media reports in 2014, women accounted, on average, for only 14 percent of all people who appeared in news stories as subjects or as sources in traditional media, and for 18 percent in online media (Seethaler, 2015).⁹ The proportion of news stories with NGOs as subjects or sources was even lower: 7 percent in traditional as well as online media. Awareness of civic responsibility has yet to be developed in Austria.

Conclusions

Based on these findings and taking into consideration the role of the state in providing fundamental conditions for a democratic media environment without interfering in journalistic work, we recommend several measures for enhancing freedom and pluralism of the Austrian media.

- *Amending the laws on the right to information.* Presently, the relevant law regulates the right to apply for information, but does not guarantee right of access. Hence, state bodies can refuse to provide information without having to justify their decision. In order to address this legislative lacuna, the Council of Europe Group of States against Corruption (2013) has recommended that Austria develop precise criteria for a limited number of situations in which access to information can be denied, and that they ensure such denials can be challenged.
- *Imposing stricter information obligations on entities in the various media sectors.*

9 According to the 2015 Annual Report of the Global Media Monitoring Project, women accounted for 21 percent of all people who appeared in news stories as subjects or sources in traditional media, and for 16 percent online. This study, however, was based on only one day of media coverage (WACC, 2015).

Since much of the data considered necessary to carry out our Media Pluralism Monitor assessments is not easily available to the Austrian public, including information on the share of the state's contribution to the advertising expenditure of certain media companies, and (in some cases) on ownership and financing structures, addressing this lack of transparency would increase confidence in the media and media policy.

- *Eschewing intervention in and attempts to influence management policies or journalistic autonomy of the public service broadcaster.*
- *Requiring the implementation of binding self-regulatory measures that foster editorial independence and internal plurality for all media outlets in all sectors.* In recent years, the Austrian media system has become more diverse and media market concentration has been declining (although it remains at a relatively high level). However, the growing market share of online platforms and some regulations in private radio law encourage cross-media concentration; moreover, little is known about the possible impact of commercial entities, particularly banks, on editorial autonomy and media content, for example, through the allocation of advertising and attempts to influence appointment procedures for management and editorial functions in media organizations.
- *Revising the current system of media subsidies towards supporting and subsidizing journalistic quality* (Haas, 2012).
- *Systematic monitoring of hate speech as well as online attacks against journalists.* One aspect of this monitoring should deal with online discussion forums. Although a few Austrian media outlets have taken measures recently to professionalize their community management departments, most newsrooms lack structures and clearly communicated guidelines for dealing with these problems.
- *Developing measures to improve both representation of women on management boards of media companies, in newsrooms, and in the news, and the legal environment for the expansion and functioning of minority media.*
- *Demanding more government support for community media.* This is because openness to the idea of community members participating in the creation of media content and, in doing so, in societal processes of decision making and accountability will be a highly important topic in future media production, in light of the transformation in people's views on the meaning of democracy (Jandura and Friedrich, 2014; Beaufort and Seethaler, 2018).

Finally, it should be emphasized that the use of online media, particularly of online social network services, is rising dramatically. Some 70 percent of people under the age of 35 use social media as one of their primary daily news sources, and for 31 percent of young people aged between 18 and 24

social media are the main news source (Gadringer et al., 2018). This change in media use underlines the need for comprehensive political efforts to establish media literacy as a key component of the mandatory school curriculum for all children and schools. More measures are needed not only to raise awareness of the role of journalists in news production, but to develop and enhance basic communication skills, particularly in using social media, and to protect children as well as adults from the effects of implicit media – and advertising – messages (Beaufort, 2019), which are becoming more pervasive in today's media environment.

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Iva Nenadic

**To Understand Media Pluralism Is to Understand
Changes in News Media and Journalism Advanced by
Digital Technologies**

“The freedom and pluralism of the media shall be respected,” says Article 11 of the Charter of Fundamental Rights of the European Union. Still, according to the results of the Media Pluralism Monitor, which has been conducted for several years in all member states of the European Union in order to evaluate the state of play of media pluralism and media freedom, no country in the EU is free from risks. Furthermore, the latest findings suggest that conditions are worsening. Media pluralism in the EU faces many threats, including political interference in editorial autonomy, a lack of transparency and plurality of media ownership, shortcomings in diversity inclusiveness and gender balance, and deficiencies in ensuring safety of journalists (CMPF, 2018). In addition to these relatively old pressures, media pluralism is today at a crossroads of challenges and opportunities arising from the ways the application of new technologies is changing the news environment and communication patterns.

The continued acceleration of technological advancements has been re-defining what journalism is and how it is being carried out. Media organizations no longer have a privileged position in society as information gatekeepers and public sphere providers; much of this has now been taken over by social media platforms. Media editors no longer serve as the main filters in deciding which event becomes news and what is left unreported; nor are journalists the only ones with access to broad audiences. Even if an item is not reported by the mainstream media it can still be circulated widely. Internet infrastructure, and in particular social media platforms, has created opportunities for ordinary people to engage in potentially global information exchange and for journalism to take place outside legacy media institutions.

This chapter provides an overview of how technology-driven changes affect the ways news is being made, delivered, found, and funded, and examines the implications for media pluralism. Some of the measures established to assess the state of play of media pluralism in traditional media systems prove inadequate for evaluating the situation in digital information environments. Furthermore, some key concepts, such as how we define “media” and denote the entities that compete in media markets, need to be reconsidered. Although it is beyond the scope of this chapter to solve these conceptual and methodological problems, it is nevertheless an attempt to contribute to this effort by exploring the available evidence and mapping the relevant changes in relation to how news is being made, delivered, found,

and funded, as well as identifying the key players involved in these processes. The understanding of media pluralism employed in this chapter derives from the Media Pluralism Monitor project,¹ which looks not only at the market dimension of this concept but takes into consideration also the social, political, and legal conditions that exist in order to make impartial information and diverse viewpoints accessible to everyone.

News making

Who is making the news, and how is news being made? Each of these questions may once have been easily answered, but today this no longer seems to be the case. News is increasingly produced outside traditional journalistic formats and conventions, and much reporting on events is done far faster than journalists can produce. This section discusses how user-generated content posted and shared via social media has redefined the key roles of journalists and its implications for media pluralism.

User-generated content (UGC) is broadly defined as any content created and shared online by users or amateur journalists. It has become an important source for professional journalists, especially in times of crisis (Rauchfleisch et al., 2017), or during an emergency when journalists are not immediately at the scene but eyewitnesses with their smartphones are. It is not uncommon for the first reports of accidents or natural disasters to be sent out by the very people affected by those events. One just needs to be equipped with a smartphone, a solid internet connection, and access to social media platforms or messaging apps that serve as publishing and dissemination channels with a viral potential. It is estimated that in 2017 more than 32 percent of the global population used a smartphone, and in Western Europe and the United States it was double that, at around 64 percent (eMarketer, n.d.). According to data on internet usage, more than one-half of the world's population used the internet in 2018, while in North America, for example, this figure rose to 95 percent (Internet World Stats, 2018). As of the last quarter of 2018, Facebook had 2.27 billion active users monthly (Facebook), which is close to one-third of the world's population. Various sources provide estimates on the amount of information shared via social media platforms in just one minute,² clearly showing the willingness of people in this regard. For example, when

1 The author has been affiliated with the Media Pluralism Monitor (MPM) project since 2016, as a researcher involved in theoretical and methodological efforts to advance the understanding and monitoring of media pluralism to digital news ecosystems. The MPM is run by the Centre for Media Pluralism and Media Freedom at the European University Institute in Florence, Italy.

2 See for example, <https://www.smartinsights.com/internet-marketing-statistics/happens-online-60-seconds/>.

Hurricane Sandy hit the United States in 2012, users of the photo and video sharing site Instagram were posting ten photographs of the devastation per second, leading to half a million images posted overall (Laird, 2012). During the day of the terror attacks in Brussels in 2016, the Crisis Centre in Belgium even urged citizens to communicate via social media because of the overloaded telephone network (Mirbabaie and Zapatka, 2017). In situations like this, social media platforms serve as an important source of news for both citizens and journalists. However, here, and more generally, social media can also serve as fertile ground for the dissemination of disinformation.

Not only is not all content shared online news, not all is truth

For the past several years disinformation – creating and spreading false information with an intention to deceive (Kumar and Shah, 2018) – has been the subject of worldwide debates, policy concerns, and research agendas. Despite disinformation or, so called, “fake news,” not being a new phenomenon, technological progress and online infrastructures have accelerated and amplified its reach. As Vosoughi et al. (2018) show, disinformation spreads faster and further than the truth due to technological possibilities, but also due to human nature which is more likely to share something novel and exciting, which disinformation often is. UGC can enhance pluralism by bringing more diverse information and perspectives to the public space, but it can also diminish it through disinformation. The question is: what role should journalists play? If they are no longer either the first or the only information providers, and if the growing challenge has become to locate the news in the noise and to distinguish between true and false, the key role for journalists shifts toward verification and content curation.

From news providers to news curators and verifiers

According to Isaac Newton’s third law, for every action there is an equal and opposite reaction. The first reaction of journalists to the increasing activity of users in providing and sharing content was to attempt to maintain their gatekeeping role (Lasorsa et al., 2012; Lewis et al., 2010). As Lewis (2012) stated: “for much of the twentieth century, both the business model and the professional routines of journalism in developed nations were highly stable and successful enterprises because they took advantage of scarcity, exclusivity, and control.” It therefore comes as no surprise that the weakening of this control has resulted in tensions between maintaining professional authority and opening the news-making process to user participation (838).

Technology has changed the very nature of communication by extending “communicative agency to many” (Jensen and Helles, 2017, 22), not by undermining the agency of journalists but by shifting its focus. If many can now act as information providers, journalists have to distinguish themselves and re-claim their authority in society on other grounds. This means that if journalists try to compete with all other participants in the online information environment in speed and immediacy, it is a lost battle. Of course, it is still important to be quick, but what is even more important is that journalists be correct. Trust in journalism is at a very low level but is still much higher than trust in news that people find on social media (Newman et al., 2018). This leaves some space for journalists to increase trust, not by competing over who will be the first but by distinguishing themselves from other information providers by offering complete, balanced, and credible information; hence, the need for them to serve as information verifiers and curators of relevant content in an environment characterized by information abundance.

Gateway to news

Not only is news being made in a different way, it is also being found in a different place. People increasingly find their news online and outside news media organizations that are bound by legal and professional principles. Furthermore, as indicated by the 2018 Digital News Report (Newman et al.), they increasingly access it through intermediaries rather than directly via a news website or mobile application. Some 65 percent of respondents from 37 countries covered by the study said they preferred to access news through search engines, social media, news aggregators, emails, or mobile alerts, and the proportion was even higher (73 percent) for people younger than 35 (Newman et al., 2018). While these intermediaries are not media organizations in a traditional sense – they do not produce content of their own – they perform some media-like functions, including news recommendations (such as Facebook’s newsfeed).

Unlike the legacy media, where news is selected and ranked mainly by human editors, intermediaries have fully automated the process and personalized the offer. Recommender systems are applied in various areas and therefore different methods are used for their construction. Due to its specificities and democratic importance, the news area is one of the most challenging, as the recommendation system needs to take account of the huge amount of articles published every hour, popularity, recentness, connections between different pieces, and balance between user’s general preferences and individual needs related to democratic citizenship (Özgöbek et al., 2014). There has been much concern that news recommenders might have

a negative impact on media pluralism, and ultimately on democracy, by exposing people only to “news on subjects they are interested in, and with the perspective they identify with” (High Level Expert Group on Media Freedom and Pluralism, 2013). On the other hand, if recommendation systems are designed in a diversity-sensitive way, and if they are transparent and open about recommendation settings (providing, for example, options that may result in different suggestions), they may also increase user satisfaction and broaden exposure (Helberger et al., 2018).

Gatekeeping

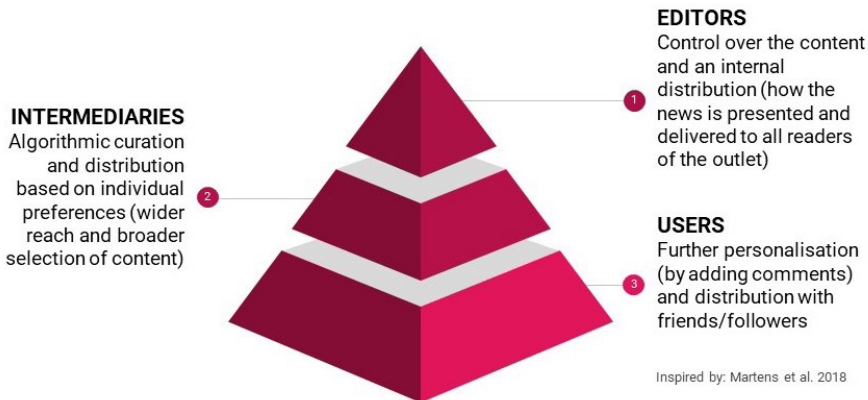
For decades, journalists, editors, and media organizations were “the ones who decide what the public needs to know, as well as when and how such information should be provided” (Domingo et al., 2008, 326). This gatekeeping process was at the core of what media and journalists did. However, with the digital transformation of communications and information exchange, the exclusive position of media and journalists as gatekeepers has been challenged. First, the gates to potentially global audiences are now open to almost everyone due to infrastructure provided by social media platforms. At the same time, these platforms, as well as other intermediaries, have also created another layer of gatekeeping through the application of news recommenders.

Since 1950, when it was first applied to journalism, gatekeeping was seen as a complex process, reflecting both individual (journalistic) and organizational (media) biases (Pearson and Kosicki, 2017). The digital age has made it even more complex, introducing new layers of gatekeeping in addition to those already existing within a news organization, and between the news organization and society at large (Shoemaker and Vos, 2009). As Shoemaker and Vos emphasized: “We must conceptualize readers as having their own gate, and they send news items to others in the audience when the interaction between newsworthiness and personal relevance is strong enough” (124). Singer (2014, 57) called this “secondary gatekeeping,” explaining that “in selecting items for re-dissemination, users make editorial judgments about what may be of interest to an audience made up of other users.” And users choose from what has been offered to them increasingly through the news recommendation systems of online intermediaries, rendering them another layer of gatekeeping.

As Martens et al. (2018) explain, and as shown in the figure below, editors serve as a first layer of gatekeeping, retaining control over what news is reported, and how it is presented to readers within the specific outlet. They are the first filter in prioritizing certain topics over others: first, by deciding

what gets covered by their outlet and what not, and then by deciding how it is presented and in which order. However, as elaborated above, a majority of people do not access their news directly via news sites but increasingly via intermediaries and their recommendation systems, which mix articles from different publishers and rank them according to their own set of criteria. Intermediaries thus form a second layer of gatekeeping. While the first – editorial layer – provides a news offer that, in principle, is the same for all, the second – algorithmic layer – provides a personalized offer that varies for different users. The third layer of gatekeeping lies with users themselves. When they decide that something is newsworthy and of interest to their friends and followers, they share it, usually with a comment and context, which contributes further personalization and increases the visibility and importance of the piece. They are advertising the news (Martens et al., 2018).

Figure: Three layers of news distribution/gatekeeping



Collaborators and competitors

Online intermediaries affect how news is made, and how it is found; they also have a profound impact on how it is funded. Media markets are often seen as “two-sided” (Anderson and Gabszewicz, 2006), providing (or selling) information to citizens and selling the citizens’ attention to advertisers. While traditional media business models are based on this logic, it hardly applies to the digital environment. Online intermediaries can offer more diverse information to users (sourcing from different publishers), and can offer wider reaching and more efficient targeted selling to advertisers (due to personal data

of users they collect and process). This results in intermediaries dominating online advertising while the legacy media is left with the crumbs (Rose, 2018). In a way, they profit from work done by the legacy media but pay very little in return. Nevertheless, it seems that, currently, the legacy media cannot afford to withdraw from social media. Even if the latter do not contribute much to their revenue (Moses, 2018), the legacy media gain attention and much of their traffic is driven via social media gates.

The relationship between legacy and social media is one of collaboration but also competition (Lindskow, 2018). Social media provide the legacy media with valuable access to users, but at the same time rely on content produced by those media to improve their own offerings to their users and advertisers. However, while vying for the same slice of online advertising, they are hardly competing at the same level.

To understand media pluralism today is to understand the roles played by intermediaries

The previous sections demonstrate a shift towards more intermediated and personalized news delivery and identify several areas of relevance for assessments of media pluralism: de-institutionalization of news making, intermediation in news access, personalized news recommenders, and market relations between news media and intermediaries. While each of these areas may contain both opportunities and risks for media pluralism, they all clearly involve online intermediaries. This suggests that in order to understand media pluralism today it is important to understand the roles played by intermediaries at different stages of the news process.

So far, media pluralism has been assessed against standards established in theoretical principles, in international documents and conventions, and in laws, especially case law. Such standards include protection of freedom of expression, access to information, transparency, plurality of media ownership, political independence of media, gender and other equality in media, and media literacy. Measures for adequate tackling of disinformation, and diversity-supporting recommendation systems, for instance, are still not agreed upon. Moreover, online intermediaries are generally not bound by the same requirements for transparency, impartiality, and diversity, as the legacy media are. This lack of available benchmarks against which to evaluate the impact of the activities of intermediaries on media pluralism makes this task more difficult, but undoubtedly more important than ever before.

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Vassilis (Bill) Kappis

What Role for Media in Security Crises?

Introduction: Security crises and the potential role of media

Security crises are often overlooked in the study of armed conflict because of their less dramatic consequences compared to wars. Wars, however, rarely arise out of the blue. They usually constitute the “final episode” in a process that begins with a conflict of interest, leading to disputes, then crises, and ultimately, armed conflict (Bremer and Cusack, 1995). According to Vasquez, wars “do not break out unless there has been a long history of conflict and hostility between disputants” (Vasquez, 1993, 75). A crucial underlying assumption here is that suspicion and threat perceptions are enhanced during crises. Bolstered by the increasing influence of hardliners domestically, conditions become ripe for the onset of hostilities. Political scientists have not reached an agreement on the definition of security crises, but Lebow suggested three operational criteria for identifying crisis episodes, which appear to be satisfied across the majority of case studies in the relevant literature (Lebow 1981, 10-12):

1. Policymakers perceive that the action, or threatened action, of another international actor seriously impairs concrete national interests, the country’s bargaining reputation, or their own ability to remain in power;
2. Policymakers perceive that any actions on their part designed to counter this threat (capitulation aside) will raise a significant prospect of war;
3. Policymakers perceive themselves to be acting under time constraints.

Security crises constitute instances where psychological variables cannot be ignored. Holsti (2006) suggested that cognitive approaches would be most useful when employed in situations characterized by stress, or by complex, ambiguous, or unanticipated circumstances. If one or more of these conditions are met, decisions are likely to be heavily affected by “cognitive maps,” the set of psychological predispositions of decision makers. Conditions characterized by stress:

increase cognitive rigidity, reduce the ability to make subtle distinctions, reduce creativity, and increase the selective filtering of information. Stress also affects search, and results in the dominance of search activity by predispositions, prior images, and historical analogies rather than by a more balanced assessment of the evidence (Levy and Thompson, 2010, 156).

In a nutshell, theory suggests that:

1. actions of states during a crisis determine whether the incident actually escalates to open warfare (Fearon 1994); and

2. crisis decision-making is particularly vulnerable to misperception, and thus miscalculation, which may lead to inadvertent conflict.

Possessing accurate perceptions, therefore, during a tense crisis can be paramount to avoiding unwanted hostilities. Considering the intrinsic characteristics of crises, however, scholars are understandably pessimistic regarding the potential for rational thinking that could lead to de-escalation.

There is an undeniable role for the media in this delicate process. Leaders pay particular attention to media outlets during crises in an effort to collect as much information as possible from open sources. While intelligence from state services and allies plays a crucial role in reaching decisions, the impact of electronic and social media in shaping leadership perceptions is increasingly hard to ignore. The fact that governments have access to “accurate” intelligence should mitigate, in principle, the danger of misperception arising from erroneous media reports. Nevertheless, we have no way of limiting the potential “contamination” of leadership perceptions by inaccurate media information. Intelligence, after all, may be inconclusive, or assessments could themselves be affected by factors such as hostile images of the “other” engineered by the media. Moreover, public opinion may have an indirect impact on the country’s political and even military leadership.

It should be stressed, however, that while misperceptions in crises may well be pervasive, they may also be unrelated to media-engineered images and beliefs. There is an extensive literature on misperception arising from organizational, historical, and even cultural factors. Confronted by the recurrent inability of governments to respond effectively to warnings of an impending strike, scholars examined such instances as the Japanese attack on Pearl Harbor and the outbreak of the Korean War to produce a voluminous empirical literature on intelligence failures (see, for example, Whaley 1973; Handel 1977; Betts 1978). In 1962, Roberta Wohlstetter’s *Pearl Harbor: Warning and Decision* focused on a single historical event. The core tenet was that the Pearl Harbor surprise occurred not because intelligence was absent, but because signals, although received, had been either ignored or erroneously interpreted. In 1940, British military planners were so certain that Germany would not challenge their naval superiority that they ignored information coming from German soldiers themselves that they were on their way to attack Norway.

Finally, the outbreak of hostilities is not necessarily associated with misperceptions. International relations theory posits that there are instances where state leaderships might simply feel “compelled” to escalate. Rival countries could, for example, detect “windows of opportunity,” or threatening trends in relative capability terms, from which they could try to benefit or to tackle, respectively, before they ceased to exist or became irreversible.

Ultimately, accurate, unbiased information does not eliminate completely uncertainty over the motivations and capabilities of the “other,” rendering escalation a probability (Fearon, 1995). In this regard, propaganda campaigns could perhaps accelerate events, but we should be cautious not to blame media outlets unduly for either misperceptions or escalation, however tempting this may be.

The 1990s and the emergence of the “CNN effect”

The 1990s are undoubtedly characterized by the so-called CNN effect. Before the Cold War ended, technological innovations and the vision of Ted Turner led to the establishment of CNN as the first truly global television network, which capitalized on an extensive satellite network and real-time, round-the-clock coverage of events. This qualitative transformation went largely unnoticed by scholars of international politics until the First Gulf War erupted. Sensationalized televised images that closely followed the advance of American forces in Iraq, and a dramatized depiction of the battlefield, had a profound effect on public opinion, and through public opinion on Washington DC. While Vietnam’s horrific images had a tangible impact on Washington many years before CNN came to American homes, the psychological impact of CNN’s Gulf War coverage was unprecedented. Viewers across the world could witness war-making in real-time. The so-called CNN effect was born, spearheading a wave of scholarship on the influence of televised images on policy making (Seib 2002; Feist 2001; Neuman 1996).

Policy makers were anything but immune to the CNN effect. Former British Prime Minister John Major is said to have been decisively affected by televised images in Iraq, prompting him to consider setting up safe havens in the northern parts of the country (Bahador, 2007, 21). Before the 1992 Somalia intervention, President George H.W. Bush claims to have been disturbed by images of starving children he saw on television, along with his wife Barbara. He apparently summoned Vice-President Dick Cheney and Chairman of the Joint Chiefs of Staff Colin Powell, pleading, “Please come over to the White House. I-we-can’t watch this anymore. You’ve got to do something” (*The Houston Chronicle*, October 24, 1999).

These were only the beginning in a long series of “televised” crises. According to former Secretary of State James Baker III: “In Iraq, Bosnia, Somalia, Rwanda, and Chechnya, among others, the real-time coverage of conflict by the electronic media has served to create a powerful new imperative for prompt action” (Gilboa, 2005, 28). The combination of liberal democracy and technological advancements led a number of scholars to the conclusion

that global media radically changed international politics, by “democratizing” the diplomatic arena. Political outcomes would now be determined by the public who would have access to real-time, comprehensive information about every major crisis in the world (O’Neill, 1993).

More sober analyses, however, revealed a rather mixed picture. Colin Powell was right in pointing out that “live television coverage doesn’t change the policy, but it does create the environment in which the policy is made” (McNulty 1993, 80). In that sense, the CNN effect on policymaking appears to be indirect (since it is channeled through public opinion), and potentially exaggerated. According to Anthony Lake, Bill Clinton’s national security advisor, public pressure stemming from televised images had an impact on decision-making, though policy planners were informed by other factors in their decisions (Hoge 1994, 139).

To complicate matters further, numerous contributions on the CNN effect blurred the line between the normative and empirical aspects of the phenomenon, veering more toward what the media should do in crises, as opposed to what the media actually do during them (Rotberg and Weiss, 1996; Gow, Paterson, and Preston, 1996; Girardet and Bartoli 1995). Gilboa, in his exemplary overview (2005) of the relevant literature, concludes that “studies have yet to present sufficient evidence validating the CNN effect, that many works have exaggerated this effect, and that the focus on this theory has deflected attention from other ways global television affects mass communication, journalism, and international relations” (29).

In this first wave of scholarship, the majority of contributions treated global media as an independent variable, a newly emerging actor in international politics, competing with established interest groups, such as governments, elites, and international organizations for influence in the international political arena. There is relatively little attention paid to the potential use or manipulation of the media by those in power. There are, of course, exceptions to this rule. According to the “indexing hypothesis,” reporters “index the slant of their coverage to reflect the range of opinions that exist within the government” (Gilboa, 2005, 32). By employing this framework across a range of security crises since the Cold War years, Zaller and Chiu (1996) suggested that the media had operated as a tool in the hands of policymakers for a long time. Similarly, the neo-Marxist “manufacturing consent” theory suggested that powerful economic interests were in a position to exert control over the media which they would then employ to mobilize support of governmental policies (Herman, 1993).

Throughout the 1990s, the overall picture portrays the media predominantly as the “new kid on the block” in international politics. There was widespread optimism that the openness and directness of televised

images spread across the world in real time would have a beneficial effect on policymaking, constraining governments that would otherwise care little about the impact of their actions, and more crucially, “forcing” them to act in situations they would otherwise avoid. The gradual realization of the power of real-time crisis coverage led the world’s only superpower, the United States, to start thinking about the impact of the media during crises. But in a unipolar system where the United States possessed an overwhelming military advantage, there was little urgency to employ the media in the American “arsenal.”

In 1993, elite US forces were pinned down by hundreds of Somali fighters in an intense battle in Mogadishu, which ended in the killing of 18 service members. More than 120 members of the Delta Force, Army Rangers, and Air Force Pararescumen were tasked with capturing two advisers to Somali clan leader Mohammed Farrah Aidid, whose actions undermined the United Nations humanitarian mission in the country. The images of that battle shocked the world, including journalist Mark Bowden, whose definitive work, *Black Hawk Down*, has become the name most associated with the incident. Global audiences were horrified to see slain US soldiers being dragged through the streets by Aidid’s fighters, and the US government subsequently withdrew its forces from the country.

American military decision makers would learn a questionable lesson from this bitter experience. In a highly controversial showcase of American military prowess, NATO fighter jets targeted the Belgrade headquarters of Radio Television of Serbia (RTS) on the eve of April 23, 1999, leaving several dead and wounded. Then British Prime Minister Tony Blair insisted from Washington that the attack was “entirely justified” and other officials offered a similar rationale, asserting that the station broadcast Serb propaganda, which demonized minorities and legitimized actions against them (*The Guardian*, April 24, 1999; de la Brosse, 2005). Arguments alluding to the dual use of Serbian radio and TV infrastructure seem rather weak in retrospect, and the disruption of RTS coverage did not appear to alter public opinion greatly among Serbs. Nevertheless, the message conveyed was loud and clear. Competing narratives during security crises and wars could not be tolerated and all media promoting them would be deemed legitimate targets for American and allied forces.

The 2000s: The Global War on Terror and the “freedom agenda”

The televised terror of 9/11 spearheaded a reappraisal of the role of the media, since images can act as a force multiplier for otherwise disadvantaged groups,

with terrorist organizations capitalizing on the latent power of global media outlets. As the political analyst Bruce Hoffman put it: “Only by spreading the terror and outrage to a much larger audience can the terrorists gain the maximum potential leverage” (*Huffington Post*, November 11, 2015). Groups engaging in asymmetrical warfare (whether terrorism or insurgency) had developed an appreciation of the psychological impact engendered by media coverage long before 9/11. In 1956, the Algerian insurgent Ramdane Abane wondered if it was preferable to kill ten enemies in a remote village “when no one will talk about it,” or “a single man in Algiers, which will be noted the next day” and thereby influence decision making through public opinion (*The Guardian*, February 24, 2016). A relative weakness of such groups in military terms would lead inescapably to a campaign emphasizing the emotional dimension. And what better way to generate an emotional reaction than to perform a strike on live television?

What is novel after 9/11, however, is the conscious effort by the United States, and subsequently of other administrations across the world, to control the narrative in a way that is conducive to the pursuit of the national interest. The advent of the “global war on terror,” and the promotion of the so-called axis of evil countries (Iran, Iraq, and North Korea) by the Bush administration was perhaps the first systematic effort by a state to embed a global communication strategy in its security policy. While containment during the Cold War featured an equally powerful media narrative, the War on Terror after 9/11 was in essence an effort to integrate not a grand scheme, such as that used in the Cold War, but a single military campaign with a media narrative.

The ensuing operations in Iraq and Afghanistan showcased the power of this approach in terms of affecting public opinion across the globe, but also raised major concerns. Indeed, scholars and analysts concur that misperceptions during that time led to erroneous estimates (Kull, Ramsay and Lewis, 2003). The American and Western publics were operating under mistaken assumptions about public sentiment in targeted countries, and there is little doubt that the Global War on Terror narrative contributed to the “silencing” of voices casting doubt on the magnitude and imminence of the Iraqi WMD threat. As the West “sleepwalked” into the 2003 Iraq War, only a handful of media outlets scrutinized properly the dominant narrative emanating from the neo-conservatives and their European allies.

The re-emergence of Russia and the new media “geopolitics”

All developments discussed thus far, beginning with the First Gulf War and culminating in the Global War on Terror and the 2003 Iraq military intervention, took place against the backdrop of a unipolar international

system. Not only was the United States in a position of military supremacy relative to all existent or potential competitors, but was also at the forefront of technological and organizational developments in the global media sphere. While exporting liberal democracy by force had proven to be an unviable option, the “battle of the narratives” in Eastern Europe appeared to be a victorious one for the West. Liberal democratic values were embraced by the publics of these nations, as were media outlets promoting them.

In some cases, however, the transition to liberal democracy was far from seamless. A number of revolutions, beginning in Serbia in 2000, followed by the Rose Revolution in Georgia in November 2003 and the Orange Revolution in Ukraine in November 2004, paved the way for deep political reforms, but also signaled a realignment of these countries, which once belonged to the Russian sphere of influence. A common feature of these revolutions can be said to be the role played by alternative or social media, which promoted opposition narratives. Often, these outlets constituted the medium through which political action was organized and coordinated at the street level. Relations between these groups were consolidated through the sharing of media and organizational knowledge, among others (Herd 2005, 16).

While the financial and political backing of these groups (and associated media) by Western actors is well-established, the degree to which Western governments controlled them is debatable. Nevertheless, the view from Moscow was that activist groups, backed by US sponsored media, were hijacking the legitimate political process in those countries. According to a Russian commentator, “the US Ambassador Richard Miles ... managed to do his job both in Belgrade and in Georgia” (Netreba, 2004). A chain reaction pattern was anticipated by Russian analysts who proclaimed that “Russia cannot afford to allow defeat in the battle for Ukraine. Besides everything else, defeat would mean velvet revolutions in the next two years, now following the Kiev variant, in Belarus, Moldova, Kazakhstan, Kyrgyzstan and possibly Armenia” (*Rossiyskaya Gazeta*, December 1, 2004). Western media and their local partners were perceived to be instrumental in promoting political upheaval with a view toward political change that would lead to Euro-Atlantic integration. Russian fears concerning Ukraine would soon be realized. The Orange Revolution in 2004 was perhaps the biggest moment in the country’s political history since it gained its independence from the Soviet Union in 1991. As thousands of protesters flocked onto the streets of Kiev in support of pro-Western presidential candidate Viktor Yushchenko, Ukraine seemed to be at a crossroads. International pressure, including widespread media coverage of protests and clashes in Kiev, led Ukrainian authorities to agree on holding a new round of elections, which were won by Yushchenko. The newly elected President was committed to moving Ukraine away from

Moscow and closer to the EU and NATO, organizations that the country aspired to join eventually as a full member (*The Independent*, January 24, 2005; *The Washington Post*, September 4, 2014).

This was a major blow to Russia. The history and culture which Russians felt they shared with Ukrainians, as well as the sizable community of ethnic Russians in Ukraine, meant that Russian elites were emotionally attached to Ukraine, especially in areas like the Crimea, where ethnic Russians were a majority (Hajda, 1998, 22). The Crimean dispute was further complicated by the status of the Sevastopol naval base and the Black Sea Fleet anchored there, in what is essentially Russia's only warm-water port located in an area of importance for naval power projection in the Black Sea and the Mediterranean. Russia felt its legitimate concerns were not being accorded proper attention. The Russians also felt that the Western propaganda campaign had turned their Ukrainian "brothers" against them.

At the same time, Russia was reasserting itself as a global economic and military power. Oil and gas prices enabled its economy to recover swiftly from the traumatic 1998 crisis and the country's military modernization program was making progress by the mid-2000s. Russia, however, was losing the information, or perhaps more appropriately, the narrative war. This was about to change. The Russia Today channel grew out of a governmental initiative in 2005, in an effort to compete as equals with the West in the emerging "battle of narratives." RT (as it was renamed in 2009) was beamed from Moscow but was not aimed at domestic audiences. Targeting international viewers, first and foremost, Moscow tried to reshape the global media discourse in a manner favorable to Russian interests. In 2013, RT became the first news organization to gain more than one billion views on YouTube, and in 2017, the US government classified the RT network as a foreign agent (Newsguard, 2018).

The Russo-Georgian war of 2008: Winning the battle, losing the media war

Western or liberal-oriented media narratives continued to win hearts and minds, and in 2008, as tensions rose in the Caucasus, Russia proved, once again, incapable of dominating the media discourse. In 2003, the Rose Revolution had brought Mikhail Saakashvili to power in Georgia. Saakashvili, a US-trained lawyer, was the lead figure of the peaceful demonstrations in Tbilisi against the efforts of then President Eduard Shevardnadze's Citizens Union of Georgia (CUG) party to force a fraudulent election result (Cooley and Mitchell, 2009, 28). Protestors managed to secure Shevardnadze's resignation

and, in January 2004, the newly elected Saakashvili promised to reassert Georgian control over the secessionist provinces of Abkhazia and South Ossetia within his first term (Hewitt, 2009, 19). For Georgia, reintegrating its separatist provinces was not simply a matter of national pride. The porous borders of these regions facilitated illicit trade and exacerbated asymmetrical threats, compromising the nation's security.

Both Abkhazia and South Ossetia were aligned with Moscow, however, and the Kremlin was not prepared to reduce its footprint in an area geopolitically vital to Russian interests. To make matters worse, the "frozen" conflicts of Abkhazia and South Ossetia undermined the Georgians' effort to secure candidate status with both NATO and the European Union. The stakes were high for Moscow and the effort, at least initially, was to "win back the hearts and minds" of the Georgian population. Nevertheless, Moscow's media campaign was highly unsuccessful. Saakashvili promoted liberal reforms with ease, enjoying substantial support from the Georgian electorate, which appeared to be on board with the country's realignment with the West. Within a couple of years, Georgian public opinion had endorsed the prospect of acceding to both the European Union and NATO, with Brussels encouraging this prospect (Socor, 2005). While in April 2008 NATO did not accord Tbilisi a Membership Action Plan, the Council¹ affirmed that both Georgia and Ukraine would eventually become members and that NATO member states would "now begin a period of intensive engagement with both [countries] at a high political level" (NATO, 2008).

RT's exposure of the South Ossetian crisis in the summer of 2008 was indicative of the importance of the issue. The Russians felt, once again, that they were not being heard and Dmitry Medvedev, who was President at the time, sought to expose his frustration to the Western press: "Only a madman could have taken such a gamble. Did he [Saakashvili] believe Russia would stand idly by as he launched an all-out assault on the sleeping city of Tskhinvali, murdering hundreds of peaceful civilians, most of them Russian citizens?" (*Financial Times*, August 27, 2008). In early 2007, Vladimir Putin had given a memorable speech during the Munich Security Conference, in which he criticized the United States for its desire to monopolize international relations. Russia was clearly drawing its red lines and was trying to convey its message as clearly as possible, but its narrative remained unattractive, despite the growing influence of its RT network. Meanwhile, while NATO's defense plan was to place missiles near Russian borders, the declaration of Kosovo's independence in 2008 exacerbated Russian fears of American indifference, if not hostility, to "legitimate" Russian concerns. Russian deterrence, which was

1 The North Atlantic Council is the principal political decision-making body within NATO, and comprises high-level representatives of each member country.

at its height during the Cold War years, was apparently failing to convince even weak challengers such as Georgia to tread carefully. Moscow would have to flex its military muscle in order to be heard.

On August 7, 2008, Saakashvili ordered the country's forces to launch a military operation in the breakaway province of South Ossetia. Initially, the Georgian foray was successful, with the government announcing the capture of Tskhinvali on August 8. In the meantime, however, Russia had launched a full-scale counter-offensive that soon expanded beyond the territory of South Ossetia. Within a matter of days, Russian forces had pushed Georgian forces out, opening a second front in the country's other separatist province of Abkhazia. On August 10, Georgia declared a ceasefire and begun withdrawing its forces from South Ossetia. Georgian military bases and assets were either captured or destroyed and the country's infrastructure sustained heavy bombing by the Russian air force. At the same time, more than 100,000 Georgians were displaced because of the conflict. The number of casualties on both sides remains, to this day, highly contested and unconfirmed. The war ended officially on August 12, 2008, with a mutually agreed "six point plan," establishing a ceasefire between Russia and Georgia, mediated by French President Nicolas Sarkozy.

While there is little doubt that the Russian army won the war against Georgia, Russia's first major military foray in another country since the invasion of Afghanistan in 1979 was a public relations disaster. During and after the short conflict, Russia was viewed widely as an aggressor, which had attacked a nascent liberal democracy aspiring to join Western institutions in its effort to create a better future for its citizens (CNN, August 8, 2008). Meanwhile, the lackluster performance of the Russian army in the first hours of battle projected the image of an aging and uncoordinated military machine that targeted civilian infrastructure and caused widespread suffering (Lowe, 2008). It was entirely clear to the Russians that they needed to improve their act, both in terms of battlefield performance and narrative effectiveness. The advent of hybrid warfare would enable them to achieve both – until that point – elusive goals.

The 2010s: Hybrid wars and the weaponization of media during security crises

The Arab Spring, a revolutionary wave of protests and civil wars that swept the Arab world, captured Moscow's attention because of the media dimension of the uprisings, with social media coordinating political mobilization in Tunisia and Egypt. Meanwhile, Russian diplomatic support of Libya's secular,

though oppressive regime did not prevent the ouster of Muammar Gaddafi, following the 2011 NATO-backed military strikes against his forces. Moscow's rather legitimate objections in terms of the country's security outlook were disregarded and the Russians felt they were once again isolated. The civil war in Syria transferred the "battlefield" to an area of prime concern to Moscow, threatening Russia's closest ally in the region: the Assad regime. In the run-up to and during the Syrian civil war, Russian diplomats supported Assad in the United Nations and other fora, deflecting decisions and policies deemed harmful to Damascus (Tilghman and Pawlyk, 2015). Russia would soon demonstrate that it had learned some valuable lessons from past encounters, as crises and upheavals began affecting countries of great significance to Moscow, with Ukraine coming again to the fore because of its renewed drive to accede to Euro-Atlantic institutions.

This time, the information and the military campaigns would be integrated in an unprecedented way. The seizure of Crimea by the Russian Federation in 2014 was catalytic in bringing the hybrid warfare concept to the spotlight, as it constituted a highly successful, and for this reason, alarming case study of the Russian capacity to wage a new kind of war. The Crimean annexation began as a covert military operation, combining a disinformation campaign and surprise at the operational level, with masked gunmen storming government buildings and a full invasion of the peninsula taking place thereafter, using Russia's airborne, naval, infantry, and motor rifle brigades. While the conventional instruments employed were well known to Western analysts, the artful use of mainstream and social media for propaganda and disinformation purposes, as well as the level of integration of irregular forces (mercenaries and local militias) with regular elements of the Russian army, caught everyone by surprise (*The Washington Post*, February 28, 2014; *NBC News*, February 20, 2015).

The term "hybrid warfare" is employed to describe a novel type of combat, characterized by seamless integration of conventional and irregular operations, "sponsorship of political protests, economic coercion and a robust information campaign" (Kofman and Rojansky, 2015). The Russian information war in 2014 was a multifaceted and coherent operation. Russian military activities were actively supported by a media campaign that undermined the Ukrainian authorities, using a multitude of arguments aimed at mobilizing the Crimean population. A defensive narrative was promoted, depicting the government in Kiev as the aggressor, and labelling its supporters "fascists," a term which proved to be effective among Russian-speaking audiences for historical reasons. During the Crimean crisis, Russia technically ensured that certain messages reached specific audiences and others did not, by controlling, for example, TV and radio towers and mobile

phone operators, among other facilities (NATO, 2016). A crucial feature, overall, of the hybrid warfare concept seems to be the employment of media strategies at the tactical, as opposed to the operational (war on terror) or the strategic (containment), level. At the tactical level, the requirements are far greater, as the needs of the battlefield are reflected in media strategy. If a narrative is not effective enough, it is immediately revised or replaced and the propaganda campaign has to be flexible and adaptable to new situations. But benefits are also greater, as successful hybrid operations can deliver results swiftly with few, if any, casualties.

In recent years, the communication domain has become a central pillar of NATO and EU thinking, with initiatives such as the NATO Strategic Communications Centre of Excellence in Riga and the EU anti-propaganda unit, aimed at countering Russian narratives that could render Western nations vulnerable to political manipulation by the Kremlin. Moreover, the disposition of the Russian army to combine regular and irregular forces in its doctrine led the West to adapt its military posture accordingly. Countries such as Estonia and Sweden (although the latter is not a NATO member) began emphasizing training in irregular warfare, while the alliance bolstered its rapid reaction capabilities through the forward deployment of NATO assets in Europe (BBC, May 14, 2015).

On a final note, maintaining accurate perceptions in an environment where disinformation, fake news, and propaganda are pervasive is undoubtedly a demanding task. We can already see governments mobilizing to ensure that reliable intelligence and impartial coverage exist in the broad, but gradually integrated, spectrum of military and civilian information spheres. Indeed, this is a challenging mission for governments, which will have to exercise effective oversight across media outlets in the future. Nevertheless, the “weaponization” of electronic media remains a controversial development, since the credibility and integrity of media organizations are affected dramatically. Ultimately, it is up to professionals in the media to defend their field and ensure that global audiences have access to impartial coverage of security crises.

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- **Andrej Školkay** heads the research team of the School of Communication and Media (SKAMBA) in Bratislava, Slovakia. He has published widely on various aspects of the media and political sciences, and is the author of *Media and Globalisation* (Bratislava: SCM, 2009) and *Media Law in Slovakia* (The Netherlands: Kluwer Law International, 2016). Recently, he published a chapter on Slovakia (as a key author and co-editor) in the volume *Comparative Media Law Practice - Media Regulatory Authorities in the Visegrad Countries*. Dr. Školkay was a member of the Press Council of Slovakia in the years 2005–2008. He obtained his Ph.D. in 2000 from Comenius University in Bratislava, Slovakia.

This volume provides insight into the situation regarding freedom of expression and the media across Europe today. Renowned European scholars and practitioners in the field analyze specific problems and threats that the media, in general, and journalists, in particular, face in Europe, as well as in selected countries (Hungary, Poland, Slovakia, Turkey, Malta, and Austria). In addition, the book provides an overview of how technology-driven changes affect the ways news is being made, found, delivered, and funded, and examines the implications for media pluralism. It also takes a ground-breaking look at the growing role of the media in managing security crises. The book as a whole is inspired by the fundamental view still vital to democracies that the role of the press is “to serve the governed, not the governors.”

The European experts that have contributed to this book include: Renate Schroeder, director of the European Federation of Journalists; Attila Batorfy, award winning journalist at Atlatzo, an independent investigative journalism center in Hungary; Beata Klimkiewicz, associate professor at the Institute of Journalism, Media and Social Communication, Jagiellonian University, Krakow, Poland; Andrej Skolkay, head of the research team of the School of Communication and Media, Bratislava, Slovakia; Carmen Sammut, associate professor at the University of Malta; Ayse Cavdar, visiting scholar at the Center for Near and Middle Eastern Studies at Philipps University, Marburg, Germany; Josef Seethaler, deputy director of the Institute for Comparative Media and Communication Studies, Austrian Academy of Sciences; Maren Beaufort, junior researcher at the Institute for Comparative Media and Communication Studies at the Austrian Academy of Sciences; Iva Nenadic, research associate at the Centre for Media Pluralism and Media Freedom of the European University Institute in Florence, Italy; and Vassilis (Bill) Kappis, lecturer at the Centre for Security and Intelligence Studies of the University of Buckingham, United Kingdom.

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