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PERCEPTION OF HATE SPEECH IN THE OF FREEDOM OF SPEECH CONTEXT - GEORGIAN MEDIA CULTURE EXAMPLE

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ABSTRACT

The hate speech, generally, considers expression of intolerance towards a definite group and very often such communication provokes a kind of violence. Stimulation of abhorrence refers to a group of persons determined on the basis of race, ethnical identity, nationality, gender, religion, sexual orientation, as a rule, it refers to minorities. However, all countries have their own unique contexts that complicate a vivid determination of so called "hate speech". In some cases, all kinds of negative expressions being humiliating, insolent, slanderous or discriminative ones towards anybody are perceived by the community and/or separate groups as a hate speech.

Unclearness of perceiving of the hate speech was demonstrated by discussions on media regulation of Georgia held in 2019 when the government expressed

a desire, motivated by necessity of regulation of the hate speech, to change a system of media self-regulation existing in Georgia. Many initiatives were expressed and they were targeted to make the hate speech applied in media punitive and regulatory.

The research is conducted using a qualitative methodology. We have analyzed a practice of self-regulation of the hate speech in Georgia within the year of 2019, and selected cases which were high-sounding in TV media outlets resulted in broad discussions and which had been discussed by the self-regulatory authorities.

In addition to analyzing of the cases and observing of decisions made by the self-regulatory authorities, we have also used a method of profound interviews.

As we have mentioned above, we have selected two high-sounding cases in the most interesting period of the research (2019). For both periods of the research it was an author text of the anchor man of the national broadcasting company "Rustavi 2". The first case was considered personally by the self-regulation council of the Rustavi 2 as well as by the Georgian Charter of Journalistic Ethics. We have analyzed two different approaches applied by both self-regulatory councils.

We received similar results of radically different interpretations of self-regulatory authorities as a result of conducting of deep interviews. Representatives of parties consider that the text expresses a hate speech towards Christians, but representatives of civil organizations and academic fields of universities do not consider that the text had been discriminative towards anybody. One of the explanations was as follows: "The given example is unlikely in compliance with a definition establishing the hate speech. It represents a subjective opinion of a definite journalist. I think that it does not collide with constitutional norms of freedom of speech, neither is considered as a humiliating act against religious feelings as the religious passage was devoted to discretion of a definite politics and not for the discrimination of this confession.

Analyses of both examples demonstrated that understanding and perception of the term of hate speech are not clearly formed neither in a general society, nor in professional circles of Georgia. The hate speech is often put on the same level with the humiliating and indecent expressions. Approaches and explanations of media self-regulatory boards are quite different.

The present research partially confirmed a hypothesis that stakeholders interpret the hate speech with a broad understanding which considers indecent and humiliating expressions. It was also completely confirmed that interpretation and regulation of the hate speech with a broad understanding in practice bears definite risks for freedom of medial in fragile democracies.

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Perception of hate speech in the context of freedom of speech - An example of the Georgian media culture.

A target of the present research is to analyze perceiving of the hate speech in the context of freedom of speech in the countries having transient democracy where the community has not reached a final agreement yet on what the hate speech does represent.

The hate speech, generally, considers expression of intolerance towards a definite group and very often such communication provokes a kind of violence. Stimulation of abhorrence refers to a group of persons determined on the basis of race, ethnical identity, nationality, gender, religion, sexual orientation, as a rule, it refers to minorities. However, all countries have their own unique contexts that complicate a vivid determination of so called “hate speech”. In some cases, all kinds of negative expressions being humiliating, insolent, slanderous or discriminative ones towards anybody are perceived by the community and/or separate groups as a hate speech.

Unclearness of perceiving of the hate speech was demonstrated by discussions on media regulation of Georgia held in 2019 when the government expressed a desire, motivated by necessity of regulation of the hate speech, to change a system of media self-regulation existing in Georgia¹. Many initiatives were expressed and they were targeted to make the hate speech applied in media punitive and regulatory.

As for the present research, it takes its theoretic roots from the explanation of the term of “hate speech” implemented by the recommendation adopted by the Board of Ministers of the Council of Europe in 1997, mainly: “Hate speech considers all forms of expression which spreads, supports, stimulates or justifies racial discrimination, xenophobia, anti-Semitism or other forms of hostility based on intolerance, including nationalism, ethnocentrism, discrimination and hostility expressed towards minorities or migrants.”².

The research is conducted using a qualitative methodology. We have analyzed a practice of self-regulation of the hate speech in Georgia within the year of 2019, and selected cases which were high-sounding in TV media outlets resulted in broad discussions and which had been discussed by the self-regulatory authorities. The above-mentioned cases included was a text of the anchor man of the well-known program “Post Scriptum” of the top Georgian TV company “Rustavi 2” Giorgi Gabunia, when he, in the program broadcasted on the 18th of March, 2019, while representing of the footage said: “Jesus Christ committed a huge mistake when he appeared in Israel for preaching 2000 years ago. It would be better if he appeared in Adjara 2-3 years later and he wouldn’t be crucified on the cross as there would not be any tree in the region by that time. By that time Bidzina would have already moved all trees to his garden”. The same anchor man, while representing of his program broadcasted on the 7th of July, 2019, made invective and indecent statements toward the Russian President. Both cases led to a wave of indignation of a definite part of society, including in the form of protesting actions; however, one part of the society shared and supported the anchor man. Conclusions on these cases made by different self-regulatory authorities were very interesting and contradictory. This practice repeatedly had activated a debate on necessity of media regulation. Accordingly, namely these “cases” had been selected for the present research.

In addition to analyzing of the cases and observing of decisions made by the self-regulatory authorities, we have also used a method of profound interviews.

For the purpose of analyzing of the practice, based on the form of relations existing between the interviewer and respondent, we have underscored a profound mailing interview. In other words it is called a “narrative”, “focused” or “qualitative” interview. Conducting of such kind of interviews represents an optimal tool for reviewing of one’s opinion.

Proceeding from its structure and type of questions, for the purposes of our research, we have selected a partially structuring interview which occupies an intermediary position between the structuring and non-structuring interviews.

Our target was to obtain a detailed, profound and subsequent information from the respondents which have been selected under a preliminary established logics concerning to their experience and perception that would enable us to determine definite social regularities and make conclusions having a general character.

¹ Mediachacker (2019) Protecting society from slander or trying to restrict freedom of expression? <https://bit.ly/31IC4sn> - last visited on 21.03.2020

² Georgian Charter of Journalistic Ethics (2019) Fighting Hate Speech - Guidelines for the Media - <https://bit.ly/3oGk0dC> last visited on 21.03.2021

For the purpose of conducting of a detailed interview in a qualified and efficient manner we had developed a so called “discussion plan”, serving as a kind of working tools which assisted us in controlling of the process of interview to prevent missing of significant issues by respondents and to enable us to receive a maximal information on all interesting issues from our respondents.

A depth interview was generally conducted based on “open” issues; it means that we had not suggested probable variants of answers to the respondents. While giving answers on such kinds of questions, all respondents had a maximal freedom while expressing of their own opinion.

Proceeding from the targets of the present research, we have selected our respondents according to the following groups: representatives of the civil organizations working on development of media, representatives of educational institutes with a journalistic direction, representatives of self-regulatory authorities and acting politics from the governing as well as from the opposition parties. In addition to the above-stated, respondents had an opportunity to give an interview anonymously. Finally, we received anonymous responses from representatives of political parties. In sum, we have conducted 6 profound interviews in frames of our research.

Critical conceptualizing of theoretic grounds.

Researchers connect “incorrect behavior of media” generally with culture of a separate nation’s culture¹. They mention other determinative factors such as political regime and a level of economic development of the state. On top of all, it is considered that international dialogue being conducted for decades has a focal impact on perception of the “media’s behavior”.

A local context, history, traditions and culture, being key factors for determination of the “hate speech” are underscored by UNESCO in its special edition²: “National and regional bodies have sought to promote understandings of the term that are more rooted in local traditions. Against this backdrop, the possibility of reaching a universally shared definition seems unlikely, a shared interest to avoid violence and protect human dignity has made debates on hate speech a moment for different stakeholders to come together in original ways and seek locally relevant solutions”.

With the account of the above-mentioned, UNESCO considers that general perception of the “hate speech” is difficult to reach, particularly in the countries having diversified culture and history.

“Hate speech is a broad and contested term. Multilateral treaties such as the International Covenant on Civil and Political Rights (ICCPR) have sought to define its contours. Multi-stakeholders processes (e.g. the Rabat Plan of Action) have been initiated to bring greater clarity and suggest mechanisms to identify hateful messages. And yet, hate speech continues largely to be used in everyday discourse as a generic term, mixing concrete threats to individuals’ and groups’ security with cases in which people may be simply venting their anger against authority”.

Many researches and scientific sources justly associate perception of the “hate speech” and forms of struggling with it (regulation, self-regulation) with historical experience of a definite state. For example, in Europe, generally, while talking about forms of regulation of the hate speech always make reference to Nazism and negative experience connected with it. Absolutely different context exists, for example, in India, where, “norms of journalistic activity” forbid application of the following terms “Scheduled Caste”³ and “Harijan”. On top of all, it is underlined⁴ that “commercial” application of names of fortune tellers, predicants is not in compliance with ethics and morality”.

A broad discussion on necessity of regulation of the hate speech had been launched in the period of the second world war and after its completion that was conditioned by spreading of Nazism and totalitarianism and results received from them. With the account of the stated practice, a large majority of European countries selected a way of regulation of hate speech, except for the USA where the hate speech became an integral part of the democratic process.

¹ Bertrane (2004) Media, Ethics and Accountability Systems (Quality Control). Georgian Translator: Manana Gigauri. Freedom Institute. Tbilisi. (Chapter 3).

² UNESCO (2015) - Countering online hate speech – <https://unesdoc.unesco.org/ark:/48223/pf0000233231> - last visited on 1.03.2020

³ “God’s people”, “untouchable people” are the terms applied by Gandhi while talking about people from a low social layer.

⁴ Press Council of India (2010) Norms of Journalistic Conduct - <http://presscouncil.nic.in/OldWebsite/NORMS-2010.pdf> - last visited on 15.03.2020.

Georgian media system represents a homogenous mixture of European and USA's models¹, and cultural experiences. Here, discussion about the hate speech is not new; however, approaches generally support self-regulation of the hate speech².

A discussion on non-allowance of the "hate speech" is mostly connected with a democratic political culture, however, the widespread and recognized "media's four theory"³ (1. Authoritarian; 2. Libertarian; 3. Of social responsibility; 4. Soviet-communistic) are not sufficient for our research, as well as examples recognized by its revision, such as, for example, simultaneously seen media systems of Hallin's and Mancini's political systems in the form of democratic conservatism's, liberal and polarized pluralism's models. We adopt that perception of non-acceptance of the "hate speech" and practices of regulations of different complicity represent characteristic features for all these models and political systems and as it was mentioned above they are closely associated solely with historical experience, traditions and culture of a definite state.

The research shares an assessment that all models of the above-mentioned four theories of media, in fact, proceed from... one of the theory existing inside of four theories (Berone, 1995.21). On its turn, non-acceptance of the "hate speech" is, first of all, a part of the "classical liberal" culture.

The first case.

Analysis of the practice of self-regulation.

As we have mentioned above, we have selected two high-sounding cases in the most interesting period of the research (2019). For both periods of the research it was an author text of the anchor man of the national broadcasting company "Rustavi 2". The first case was considered personally by the self-regulation council of the Rustavi 2 as well as by the Georgian Charter of Journalistic Ethics. We have analyzed two different approaches applied by both self-regulatory councils.

Few words about the self-regulatory authorities. The so called "Council of Ethics" of self-regulation of the broadcaster (in this case "Rustavi 2") represents an obligatory self-regulatory authority acting on the basis of the Law on Broadcasting and Code of Conduct of the Broadcaster. As for the Georgian Charter of Journalistic Ethics, it represents a voluntary association of journalists which considers a disputable context on signed as well as non-signed journalists.

The self-regulatory council of the TV Company "Rustavi 2" was the first who considered the authorial text broadcasted by the anchor man Giorgi Gabunia on the 18th of March, 2019 and according to its decision, Giorgi Gabunia's text was discriminative. We made an effort to obtain an official act of the above-mentioned decision in frames of the research; however, we could not find and obtain any official document neither in relation of the first nor of the second case (which had already been considered by the self-regulatory council of the broadcaster). Proceeding from the above-stated, our analysis is based on explanations which were made publicly by the bodies authorized for representation of the channel.

Next day after the disputable appearance of the anchor man Director General of the channel Nika Gvaramia made the following explanation⁴: "This morning the Ethical Council of Rustavi 2 has considered a statement which was related to insulting of religious feelings of concrete bodies due to the statement made by Giorgi Gabunia. And, I would like to recall to all people that the Christ is not a property of the Orthodox Church; he is the property of all Christian confessions and statements made in his connection insult personal religious feelings of all members of all Christian confessions.

The Ethical Commission had conducted a discussion on this issue and made a decision to express a pretension towards a journalist Giorgi Gabunia due to the fact that expression of his opinion had insulted personal religious feelings of Christian believers. Especially in the circumstances when there is no any legitimate and critical grounds, the journalist had to restrain himself from the stated action."

It is remarkable, that the self-regulatory council of the Rustavi 2 had to consider this case according to the Code of Conduct of Broadcasters where a similar content was covered only by the Article 31 "A principle of diversity, equality and tolerance".

¹ N. Kuprashvili (2017) The Audiovisual Mediascape in Georgia and Cooperation with Europe - <https://bit.ly/3DJ22vp> - last visited on 6.04.2021

² Georgian Democratic Initiative (2018). Eliminating Hate Speech in Political Discourse - From criminal liability Towards self-regulatory mechanisms. <https://gdi.ge/uploads/other/0/192.pdf> - last visited on 13.03.2020.

³ Hallin, Mancini (2004/2012) "Comparison of media systems". Cambridge University Press. ISBN:9780511790867 (Chapter 5).

⁴ Mariam Bogveradze (2018) Netgazeti. Rustavi 2 apologizes for joking about Christ, Gabunia reprimanded <https://bit.ly/2YZIy4l> - last visited on 6.04.2020

“A broadcaster is obliged to refrain himself from publishing of a kind of materials which intensifies hatred or non-tolerance on the basis of one’s race, language, gender, religious belonging, political opinions, ethnic, geographical or social origin.”

Unfortunately, the General Director, in his public statement made on behalf of the channel did not determine which argument was used as a basis by the self-regulatory council of Rustavi 2 that the stated principle had been breached and why the detailed text rose hatred and non-tolerance by a religious belonging.

The case is interesting to the largest extent proceeding from the fact that the self-regulatory board of Rustavi 2 made a decision which is absolutely different from the decision made by the Georgian Charter of Journalistic Ethics. A citizen Tornike Kakalashvili appealed to the Charter’s Council expressing his opinion that Giorgi Gabunia in the authorial text made on the 18th of March, 2019 was breaching the Article 7 of the Charter, mainly that “a journalist must understand a risk of stimulation of discrimination by the media; accordingly, he/she should make all efforts to avoid discrimination of any body on the basis of his/her race, gender, sexual orientation, language, religions, political and other approaches, national or social origin or any other belonging.

The Charter’s Council considered that there had not been any discrimination of the person by any belonging and his placing into an unequal state. There had not been any hate speech. The interpretations made by the Charters are rather interesting¹: “The Council considers that the disputable text is directed not against the Christ and Christianity; Giorgi Gabunia just wanted to criticize a public body- Bidzina Ivanishvili. No one could read, in his text, any negative or humiliating attitude towards the Christian religion. He, for the purpose of criticizing of Bidzina Ivanishvili, used a comparison which probably had not been relevant and on top of all did not insult Christian believers. A believer may think that mentioning of the Christ in a non-sacral context is not admissible, but in an automatic way it does not consider any humiliation”. According to the discussion the Council of Charter of Journalistic Ethics deemed that the Article 7 had not been breached.

A statement by the Charter’s Council had been in full compliance with an interpretation which was personally made by the anchor man Giorgi Gabunia: “In case if any of you had been insulted due to my statements (and it is not the first time) it does not mean that I have insulted anybody. Accordingly, I consider that there is no reason to apologize. Perhaps my existence is humiliating for anybody and it does not mean that I have to apologize as I am still alive? I will never do this. I am not going to apologize” – stated Giorgi Gabunia on the 20th of March, 2019.²

Results of detailed interviews.

We received similar results of radically different interpretations of self-regulatory authorities as a result of conducting of deep interviews. Representatives of parties consider that the text expresses a hate speech towards Christians, but representatives of civil organizations and academic fields of universities do not consider that the text had been discriminative towards anybody. One of the explanations was as follows: “The given example is unlikely in compliance with a definition establishing the hate speech. It represents a subjective opinion of a definite journalist. I think that it does not collide with constitutional norms of freedom of speech, neither is considered as a humiliating act against religious feelings as the religious passage was devoted to discretion of a definite politics and not for the discrimination of this confession. (7.03.2020).

The second case.

Analyzing of the practice of self-regulation.

On the seventh of July, 2019, while representing of the program Giorgi Gabunia cursed the Russian president and the authorial text of the anchor man was full of indecent expressions. Similarly with the first case, the latter case had been considered by the self-regulatory council of the Rustavi 2 and the channel published its resolution with a special statement designed for the society³.

“The Regulatory Authority of “Rustavi 2”, on its own discretion, considered the authorial text prepared by the journalist Giorgi Gabunia and made in the very beginning of the program “Post Scriptum”

¹ Georgian Charter of Journalistic Ethics (2018) Case Decision - Tornike Kakalashvili v. Giorgi Gabunia - <https://www.qartia.ge/ka/gadatsyvetilebebis-dzebna/article/50231-gadatsyvetileba-saqmeze-thornike-kakalashvili-giorgi-gabunias-tsinaaghmdeg> - last visited - 4.04.2020.

² Dato Kokoshvili (2018) Netgazeti. If I exist, can I apologize for that?! - Giorgi Gabunia - <https://netgazeti.ge/news/261530/> - last visited 5.04.2020.

³ Rustavi 2 (2019) "Rustavi 2": The self-regulatory body suspended the authority of Giorgi Gabunia for 2 months <http://rustavi2.ge/ka/news/138514> - last visited on 5.04.2020.

on the seventh of July. Under the resolution of the Self-Regulatory Authority of the channel liabilities of the journalist Giorgi Gabunia had been suspended completely for two months; this restriction covers all programs being prepared and/or anchored by the stated journalist (“Archevani”, “P.S.”). A well-grounded text of the resolution will be published later on the official web-site of “Rustavi 2”.

Despite of the promise, the well-grounded resolution had not been published on the official web-site of “Rustavi 2” and on top of all this document had not been found in frames of the stated research. Accordingly, argumentation of the self-regulatory board still remains to be obscure.

The “Georgian Charter of Journalistic Ethics” responded on the stated case. However, the Council had not considered the case on the basis of a reference, the Charter in its special reference underscored a lack of ethicality in the text and evidence of „distribution of the hate speech”.

“Unethical statements made today, on the seventh of July, towards the Russian President by the anchor man of the program “Post Scriptum” of the TV Company “Rustavi 2” Giorgi Gabunia infringe not only “Rustavi 2”, but the Georgian ethical media as well, stimulates decreasing of belief and respect to the media and journalists, distribution of the hate speech, hinders establishment and development of democratic principles in the state. Primarily, responsible and ethical media is the key tool in the struggle for preservation of freedom of speech and manifestation”, - says a special statement of the Board.

Results of profound interviews.

Explanations of experts and specialist of the sector are different from explanations made by the self-regulatory councils. Here, representatives of the academic community as well as civil organizations explained that there had been evidences of abruptly indecent expressions, but in this case we do not deal with the hate speech. Perception of politicians was different from their ones, they named the stated example “a vivid expression of hate speech” which “complies with the hate speech as it supports creation of negative opinions, rises hostile attitudes”.

General findings.

➤ Analyses of both examples demonstrated that understanding and perception of the term of hate speech are not clearly formed neither in a general society, nor in professional circles of Georgia. The hate speech is often put on the same level with the humiliating and indecent expressions. Approaches and explanations of media self-regulatory boards are quite different.

➤ The present research partially confirmed a hypothesis that stakeholders interpret the hate speech with a broad understanding which considers indecent and humiliating expressions. It was also completely confirmed that interpretation and regulation of the hate speech with a broad understanding in practice bears definite risks for freedom of medial in fragile democracies.

➤ Current processes being recently implemented by the Georgian Charter of Journalistic Ethics turned to be very interesting for the research, - in 2019 the general meeting of the Georgian Charter of Journalistic Ethics started discussions on addition of a new principle which would provide self-regulation of so called “indecent” in media. As a result of the above-mentioned, the Charter’s principles may have separated humiliating indecent expressions very soon and receive non-admission of the hate speech – discrimination (Article 7). This approach had already been unambiguously and positively assessed by all interviewers.

➤ Approaches of participants of the research concerning probable regulation of the hate speech in Georgia are quite different. Representatives of political circles consider that regulation of the hate speech is obligatory. As for the representatives of academic and civil communities, they unambiguously consider that transferring of the hate speech from the medial self-regulation to the regulation will create danger for freedom of speech and manifestation and media independence within the country. In addition to the above-mentioned, the same respondents think that increasing of efficiently of activity of the self-regulatory authorities is necessary: “Actually, mechanisms of self-regulation of broadcasters do not work in Georgia. However, with the account of a context of our country we have to work over strengthening of mechanisms of self-regulation but not over transferring of this issue to the field of regulation. For the country with a transient democracy, such as Georgia, regulation will only have a negative impact on the standard of freedom of speech and will be a lever in hands of the government against media.” (05.03.2020).

#	A list of questions to be discussed
1	How do you understand the hate speech?
2	What is the extent of compliance of the first example with interpretation of the hate speech? Why do you think so?
3	What is the extent of compliance of the second example with interpretation of the hate speech? Why do you think so?
4	In the year of 2019 representatives of different branches of the government, mainly Administration of the President, Chairman of the Parliament and some representatives of the majority talked about a necessity of regulation of the “hate speech”. The National Commission of Communication represented a legislative initiatives, including transferring of the Article on so called “hate speech” existing in the self-regulation into the part of regulation. How do you assess these processes?
5	In 2019, a general meeting of the Georgian Charter of Journalistic Ethics launched discussions on addition of a new principle, which will make “indecenty” in media self-regulatory. How do you assess this initiative?
6	In which extent indecenty and humiliating expressions are included into the category of hate speech?
7	How do you think what is the extent of necessity of changes on hate speech in media self-regulation and/or regulation? Please explain your answer in details.
8	Additional comments in connection with the topic.

#	Profound interviews
1	Mariam Gogosashvili – Director of the Georgian Charter of Journalistic Ethics
2	Nino Simonishvili – Head of the media program of the Georgian Young Lawyers’ Association
3	Manana Shamilishvili – Professor of Journalism and Mass Communication of the Faculty of Social and Political Sciences of the Ivane Javakishvili Tbilisi State University
4	Zaza Tsotniashvili – Professor of the Caucasian International University
5	One of the leaders of the leading party “Georgian Dream – Democratic Georgia” (anonymous answers)
6	A representative of the opposition party “European Georgia” (anonymous answers)

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