

Study on the Significance of News Legal Education from "Case of Selmani and Others Indicting the Former Yugoslav Republic of Macedonia"

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Abstract—This paper studies the incident "Case of Selmani and Others v. the Former Yugoslav Republic of Macedonia", and makes analysis from the angles of the right to express opinions from opposition members, the legitimate right to express as a journalist, and the right to know of corresponding public. Then the significance of news reports on legal education is presented. As a journalist, it is necessary to make clear the legitimacy of journalists' freedom of speech and expression while observing professional ethics, so that the consciousness of the press law can be infiltrated into daily news activities, and implement the democratic scientific rule of law thought of turning one-sided prohibition of pre-event management into post-event management, so that it can represent the trust of a country, a social group or an organization to its members, and reflect the credibility and ability of the organization. This also reflects the necessity of journalists to accept the news legal education.

Keywords—press law; journalism education; freedom of speech; freedom of expression; legal awareness

I. INTRODUCTION

"Case of Selmani and Others v. the Former Yugoslav Republic of Macedonia"¹ is about the fact that when the Republic of Macedonia discussed the issues related to the state budget in the parliament, six journalists with opposite opinion raised doubts, so they are forcibly evicted and the names are removed. The journalists then filed a lawsuit in accordance with article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) as the journalist authorized to report to the National Assembly. From this, it can be seen that it is reasonable to attend the budget meeting and propose opposite opinions.

On December 24, 2012, Former Yugoslav Republic of Macedonia held a parliamentary procedure for the 2013 Budget Law of the country. Six journalists, along with other journalists, reported in the Plenary Hall ("Conference Hall") where the Parliament is located. Because each party stick to their argument on whether the conflict between journalists' opposite opinions and members is in line with the legal process, the debate on the approval of the national budget has attracted a lot of public and media attention.

During the proceedings, the opposed members of the parliament approached the Prime Minister, began to make noise and slapped his table emotionally. Shortly thereafter, parliamentary security officials entered the conference hall. They pulled the speaker out of the conference hall and began to forcefully expel the parliamentarians who have opposite view. At the same time, according to four government officials, other security guards entered the parliamentary gallery and began to expel litigants and other reporters. The Government stated that the security officer had informed the personnel in the gallery that they had to leave for security reasons. Six journalists denied the reason for their removal. Although some journalists abide by these orders, the six people refused to leave. Because the situation in the Chambers was escalating, they think that the public had the right to know what happened at any time. However, security personnel forced the six people to go out of the conference hall.

II. THE ISSUES AND SIGNIFICANCE OF NEWS LEGAL EDUCATION IN THE CASE OF MACEDONIA

Since modern times, the history of development has been the history of diversified thoughts and speech. Any country or group will inevitably have different opinions, and when faced with differences or even tit for tat, the attitude of the dominant group will undoubtedly show the people the degree of democracy in society or the environment. This also reflects the process of human civilization from the side. It can be peaceful solution to seek common ground while reserving differences, a violent suppression with fists and feet, or even expelling the opposite voice from the scope of agreement. Different choices represent different attitude of environments and degree of progress in the country.

At the legal level, the freedom of speech and the right to know are mentioned in most national laws. This is a topic that has always been the focus of attention in modern times. At the same time, it is also an important part of the discussion of freedom. In 1789, Article 10 of the France's "Declaration of the Rights of Man and of the Citizen" clearly stated: "as long as the publication of opinions does not interfere with the public order stipulated by the law, no one can be interfered because of his opinions or even the

opinions of religious belief. In the same year, Amendment of the Bill of Rights⁴ also stipulated: "Congress must not enact laws to enforce people to believe in state religion or prohibit religious freedom. Congress does not have the power to pass laws restricting civil liberties in speech, publishing, gatherings, and petitions." And similar regulations are also covered in the broadcasting laws and other laws of the Republic of Macedonia.

Talking about freedom of speech and the right to know will certainly conflict with managers, and the meaning of pre-event management and post-event management is quite different. Pre-event management realizes the common way of speech management today, and content that people are required to avoid saying is cumbersome. If the proportion of post-event management can account for a certain proportion, it represents the trust of a country, a social group or an organization for its members, and also reflects the credibility and ability of the organization.

From this incident, the first thing we need to pay attention to is the right of opposition senator to express their views. Second is the reasonable and legitimate right to express as a journalist, and the corresponding right to know of the public. From these three perspectives, this paper believes that this typical case still has important practical significance for now, and it also reflects the necessity of journalists to accept the general education of journalism and legal system.

A. The Core of the Six Reporters' Litigation Is the Realization That Their Freedom of Expression Has Been Deprived

Any social facts or social phenomena are born in a specific social soil, and they all came into being because of the social environment. Summarizing the whole incident, we can summarize the elements of time as part of media representatives filing suits because the opposition members and the media reporters who are present were expelled out of the hall by the majority of parliamentarians and the upper levels of the parliament in order to prevent opposition members expressing opposite opinions. This case has important reference significance both in terms of time and space.

In terms of time, the litigation time is from 2014 to 2017, which is a recent event. The reporters filed lawsuits for they should not be expelled because of the voice of the opponents. The public has the right to know the relevant state budget. This shows that in today's world, it is still not uncommon that the government or the governing body relies on violence to prohibit expression. It has a certain importance in the longitudinal angle.

From a spatial perspective, the case of Former Yugoslav Republic of Macedonia also represents the speech environment of many countries in the world. There are still many countries that rely on similar violent means to control the right to speak and think. The practice of some countries in the implementation of management is far from the terms stated in the national laws, which is also worth thinking about.

As journalists, their identity is a social instrument, and they have the obligation to satisfy the audience's right to know. Therefore, we can assume that if journalists do not have the concept and consciousness of press law, the information that many people want to know and must know will be grasped by the ruler or leader, and the news media will become a tool for propaganda. Only by accepting the education of the press law can journalists be able to clarify their rights and obligations and respond appropriately when the exercise of their powers and obligations is hindered.

B. The Way Journalists Use the Law as Proof of the Core of the Press Law

The following points were mentioned in the case: first is a letter from the litigator to the media. It writes: "The opposition faction does not allow the passage of the Budget Law, and if the bill is passed, there will be protests. According to Article 43 of the Parliament Act, the Parliamentary Security Service ensures that appropriate work is carried out at this session. I want to emphasize that the parliamentary security bureau arranges and implements the necessary measures... Considering that the parliamentary auditorium is part of the plenary session, the parliamentary security bureau considered this fact and should vacate the library to avoid large-scale incidents. As a speaker, I regret that this measure has been taken against journalists..."

Secondly, the case involved two levels of speech control. The first layer was a ban on opposition members, and the second layer was a ban on the news media to inform the public.

The litigant filed a constitutional appeal with the Constitutional Court, claiming a violation of the rights set forth in article 10 of the Covenant. They suggested that parliamentary debates and related events concerning the approval of the national budget are of particular public interest. Interventions by parliamentary security personnel and applicants expelled from parliamentary seats are neither "legitimate" nor "necessary for a democratic society". With regard to the legality of the measures taken, the complainant argues that article 43 of the Act cannot be interpreted as allowing parliamentary security officials to expel the journalists from the parliament gallery. In any case, this provision is not fully predictable. Regarding the necessity of these measures, they said that they had been in the parliament gallery at the crucial moment and did not come into contact with the speaker or the private members. Therefore, they did not and could not contribute to the riots in the Chamber. In addition, they also questioned the agency's argument that there were unauthorized persons in the parliament gallery, and the protests in front of the parliament building proved the reasons for their forced eviction. They urged the court to hold a public hearing in accordance with rule 55 of the Constitutional Court Rules and found it violates the item 16 constitutions and item 10 of the Covenant.

The accused party stated that on December 24, 2012, before the beginning of the parliamentary debate, a group of parliamentarians disrupted the technical equipment in the

conference hall. They prevented the access to the platform, surrounded the speaker, prevented him from performing his duties, and insulted and threatened him. Due to security risks, the spokesperson was taken out of the conference hall by security personnel. The riots in the room continued.

According to Article 43 of the Parliamentary Law, the spokesman ordered the police officers responsible for the security of the parliament to restore order in the conference hall so that the debate can begin in an orderly manner. Security personnel believe that it is necessary to vacate the parliament gallery to ensure the safety of the people in the parliament gallery and the conference hall. All personnel in the parliament gallery, including the appellant, were asked to leave the press center for security reasons. Most journalists have complied with this directive. A small number of people, including appellants, when facing security officials, ignored their orders, and actively and passively resisted. As a result, a security officer injured his leg.

The appellant and other journalists, after being expelled from the parliament gallery, remain in the parliament building and are able to obtain information from other places, such as in the press center hall next to the gallery, in accordance with live broadcast debates. At the same time, in front of the parliament building, two opposing crowds gathered together. Several people were injured in the process. The parliament's plenary debate on December 24, 2012 was open, which is live broadcast on national television and broadcast on the Parliament's website. When the debate is over, video material is provided to the public on the website.

It can be seen that the plaintiff and the defendant each hold a word, and the reflected process is very different. Therefore, the focus is on restoring the specific process and using this as a basis to judge the motive of the official, thus determining the nature of the case.

C. Key Points Involved in This Case

Throughout the appeal and judgment process initiated by the six journalists and the final result, we can clearly see the following points in the incident:

- Begin to expel applicants and other journalists. The Government stated that the security officer had informed the personnel in the gallery that they had to leave for security reasons. The applicant denied the reason for their removal. Although some journalists abide by these orders, the applicants refused to leave. Because the situation in the Chambers was escalating, they think that the public had the right to know what happened at any time.
- The government proposed that, according to official records, the first applicant forcibly seized identity documents from a security officer and injured his chest and legs. They said that after the incident, litigants and other reporters were allowed to follow the events in the conference hall of parliament by means of live broadcasts in the parliament press room and adjacent halls.

- The reporters who filed the lawsuit argued that when the opposition members were expelled, there was a live video by the camera mounted on the wall. Journalists should reasonably and objectively determine whether their reporting rights and freedom of speech and expression are violated. News law education can enable journalists to learn to protect their rights and interests, and let them know the certain legal force has certain restrictions, so that they can use the law scientifically to avoid such disputes.

III. RESULT OF JUDGMENT AND ITS RATIONALITY

On June 14, 2013, the President of the Republic of Macedonia established an ad hoc investigation committee on the National Parliament Event of December 24, 2012. It consists of five national members, two of whom are parliamentarians. It also includes two non-state observers appointed by the European Union. The Commission drafted a report on August 26, 2013, in which the relevant content reads as follows: "The lack of appropriate guidelines for dealing with this situation, including the lack of media response in crisis situations, led to the expulsion of journalists from parliament gallery. This situation violates their freedom rights, public information and reports of parliamentary work. In terms of freedom of the press, the parliament should pay special attention and open speech, which is the best practice for Europe...". The judicial procedure is that the originator of the lawsuit alleges that the defendant violated the rights set forth in Article 10 of the Covenant. The Committee suggested that parliamentary debates and related events concerning the approval of the national budget are of particular public interest. Interventions by parliamentary security personnel and applicants expelled from parliament gallery are neither "legitimate" nor "necessary for a democratic society". With regard to the legality of the measures taken, the complainant argues that article 43 of the Act cannot be interpreted as allowing parliamentary security officials to expel the journalists from the gallery. In any case, this provision is not fully predictable. Regarding the necessity of these measures, they argued that they had been in the parliament gallery at the crucial moment and did not come into contact with the speaker or the private members. Therefore, they did not and could not work on the confrontation. In addition, the lawsuit sponsors also questioned the arguments of the parliamentary officials: there were unauthorized persons in the parliament gallery, and the protests in front of the parliament building proved the reasons for the forced eviction of parliament officials. The litigant urged the court to hold a public hearing in accordance with rule 55 of the Constitutional Court Rules and found it violates the item 16 constitutions and item 10 of the Covenant. At the hearing held on April 16, 2014, the Constitutional Court rejected the applicant's complaint because of the absence of the appellee. The relevant part of the decision is as follows: "Based on the evidence submitted by the Constitutional Appeal and the reply of the Parliament of the Republic of Macedonia, the Court determined the fact that, given the importance of the national budget, the public and the media are increasingly interested in the parliamentary process, and before the lawsuit in November

and December, there was a long-term, and tense discussion between opposition party and ruling party members on the budget draft. On December 24, 2012, before the beginning of the parliamentary debate, a group of parliamentarians disrupted the technical equipment in the conference hall. They prevented the opposite side from accessing the platform, surrounded the speaker, prevented him from performing his duties, and insulted and threatened him. Due to security risks, the spokesperson was taken out of the conference hall by security personnel. The riots in the room continued. According to Article 43 of the Parliamentary Law, the spokesman ordered the police officers responsible for the security of the parliament to restore order in the conference hall so that the debate can begin in an orderly manner. Security personnel believe that it is necessary to vacate the parliament gallery to ensure the safety of the people in the parliament galley and the conference hall. All media workers in the parliament gallery, including the appellant, were asked to leave the press center for security reasons. Most journalists have complied with this directive. A small number of people, ignored the orders, when facing security officials, and actively and passively resisted. As a result, a security officer's leg was injured. The parliament's plenary debate on December 24, 2012 was open, which is live broadcast on national television and broadcast on the Parliament's website. When the debate is over, video material is provided to the public on the website. The "Parliamentary Law" and the "Parliamentary Rules" stipulate that if there is chaos, security personnel can take the measures of warnings, refusing the right to speak, and excluding members. The rules on order in the proceedings of the parliament involve all those attending the meeting. The court held that they claim that expelling them from the gallery is the interference in their freedom to perform professional duties and to inform the public of events that the citizens have considerable interest in. For Macedonia Parliament's approval of the 2013 national budget, the public has great interest in the following and informed situation. The legal basis for the court to collect evidence and judge is the 43 section of the Parliament Act5, which stipulates a special security unit that is responsible for maintaining the order of the parliament building, and authorizes the speaker to have the right to make an expulsion when members and other outsiders involved in parliamentary work interfere with the order.

As for the necessity of taking measures at the scene of the incident, it is necessary to review the activities carried out in the parliament building's conference hall and the chaos outside the parliament building according to the specific circumstances of the case. It is supposed to take into account whether the tense atmosphere in the conference hall prevented the normal start and proceeding of the procedure. In this regard, it should be pointed out that a large group of parliamentarians attacked the speaker, which led to some reporters on the scene being expelled from the conference hall by security officials. Subsequent damage to the table and other objects eventually led to the object in the room being thrown into the gallery. In this case, the Parliamentary Security Bureau believes that in order to protect journalists in the parliament gallery, they should be transferred to a safe

place where they are not in danger. Such an assessment should not be seen as a conflict with the right of journalists to attend parliamentary proceedings and to report incidents they witnessed. In fact, the journalists — most of them submitted and published their reports in evening newspapers of their press on that day, which shows that their freedom of speech wasn't violated.

The action of the Security Officer is the standard approach to these and similar situations when hazard occurs, namely protecting media representatives, while reporting from crisis locations, demonstrations and other possible dangerous events...

Since the morning of December 24, 2012, journalists have appeared inside and outside the parliament building and have reported on incidents, confirming that despite the tense signs and expectations of discussing budget approvals, they are allowed to enter the parliament building and parliament gallery in order to perform their duties and inform the public about the debate. Therefore, there is no preconceived idea to prevent reporters from reporting debates. After they left the parliamentary gallery, the so-called appellants and other media representatives were allowed to stay in the parliament press center, where they could see the parliamentary website and the dedicated television channel live.

Due to the escalation of chaos, it is necessary to clear the reporters from the parliament gallery to protect them and ensure the order of the chambers, rather than restricting their freedom of speech or preventing them from performing their functions, i.e., informing the public. At the same time, the judge of the Constitutional Court, N.G.D., pointed out in the objection: "... my objection is mainly about the inability to finalize the case objectively. I think that the written materials, facts and evidence provided by the court are insufficient. Among them, what journalists should realize through relevant learning is the rationality of the clarification and interpretation of the Constitutional Court, the circumstances and reasons for the assessment, and the necessity for the reporter to be taken away from the parliament gallery. The reason that prompts the security officer to delete the evidence must be determined, though undoubtedly, it is that all events and chaos in the parliamentary hall clearly want to keep journalists away from disputes. But it is clear that the reporters themselves did not feel threatened; therefore, they did not seek and expect any protection.

The legal provisions on which the case is determined are as follows:

- The political freedoms and rights of citizens in Constitution 6: Article 16: "The freedom of individual beliefs, conscience, thoughts and public expression of ideas shall be guaranteed." Freedom of speech, public address, news and the establishment of public information agencies are guaranteed. Free access to information and freedom to obtain and convey information should be guaranteed. The freedom of speech of the media is guaranteed. The media's right to protect the confidentiality of the source is guaranteed. The media is prohibited from being censored. The Constitutional Court of the

Republic of Macedonia guarantees the freedom and rights of individuals and citizens in the freedom of belief, conscience, thought and public expression of ideas; political associations and activities and the prohibition of discrimination between citizens on the grounds of gender, race, religion or national, social or political faction.

- Section 43 of the Parliament Law: “Maintaining the Order of the Parliament Building” (1) The Special Security Service ensures the order of the Parliament Building and other places. The emblem of the parliament must be clearly displayed on the clothing of the security officer. (2) Without the approval of the Speaker, authorized public officials shall not enter the places of the Parliament and take measures against Members or others. (3) No person shall carry a weapon other than a person authorized to maintain order in the Parliament. (4) The speaker decides the responsibility after prior negotiation with the deputy speaker and coordinator of the member group, and takes measures when members of parliament or other people involved in the parliament cause parliamentary disturbances...”
- Section 142 of the 2001 Obligation Law provides general rules on monetary and non-monetary damage. Article 189 provides that if human rights and freedom are violated, they have the right to claim non-monetary damage.
- The Administrative Disputes Law 7 provides in (1) 56 that, any person who claims that a state official has acted in violation of his human rights and freedoms may seek protection according to the procedures provided in this Law, unless such protection is provided by other judicial examples. (2) 58 (1) provides that claims for compensation of the protecting human rights and freedoms may be filed while the related action is in progress. (3) 62. If the claim for compensation is well established, the administrative court will prevent further action. It will also specify other measures that must be taken to restore legitimacy. (4) The decision of the administrative court may appeal to the Supreme Court.
- The Rules of Procedure of the Parliament are as follows: (1) Article 91, Section 1; “The spokesperson is responsible for maintaining order in the parliamentary procedure. (2) Article 93: The spokesperson said: "When he or she is warned and denied the right to speak, disturbs order or uses inappropriate language that is detrimental to the dignity of the parliament, the speaker can exclude the member. Members who are excluded should leave the meeting room immediately. If the loudspeaker is unable to maintain order, he or she will be ordered to take a short break. (3) Article 94: "The rules concerning order in the parliamentary procedure apply to all participants in the lawsuit. (4) Article 225: “The Parliament ensures that the public understands

its work”. (5) Article 227: “According to the rules of internal order in the parliament, the media is allowed to participate in parliamentary procedures and working groups in order to inform the public about the work of the parliament. (6) Article 228: "Media representatives" provide (имсставаатнарасполагање) acts discussed and reviewed by the parliament, as well as materials and documents discussed in parliaments and working groups ... unless the parliament or working group decides to review the issue with no media representatives present. (7) Article 229: “The manner in which media representatives exercise their rights, duties and obligations in Parliament shall be controlled by a decree passed by the Speaker of the Parliament.”

- Rule of the Constitutional Court 9 stipulates in (1) 55 that: The legal procedure for the protection of human rights and freedoms shall normally be decided by the Constitutional Court after a public hearing. In addition to others and representatives of institutions, the parties of procedure and the inspectors can be summoned to attend the hearing if necessary. If properly summoned, a public hearing can be held in the absence of legal proceedings or an inspector. (2) Article 82: If the Constitutional Court determines that the violation of the freedoms and rights set forth in Article 110, paragraph 3 of the Constitution, the Constitutional Court will determine the way of the consequences of the violation. (3) Article 84: The publicity of the work of the Constitutional Court is ensured by the presence of litigants, other persons, institutions and organizations, and media representatives...”

IV. CONCLUSION

According to these laws and regulations, the court made such a judgment. The court first noticed that both parties mentioned the relevant issues in their opinions, namely the lack of verbal and public hearings.

The Court took note of Article 55 of the Constitutional Court Rules, but as a rule, in accordance with Article 110, paragraph 3, for individual constitutional complaints submitted, public hearing will be held in the presence of the parties. Due to the special role of the Constitutional Court and the specific nature of the refusal proceedings, it was justified that no oral hearings were conducted in the case, and it did not address any factual issues of dispute between the parties.

The case involved the claimant’s complaint that forcibly removing them from the parliament gallery violated their freedom of speech. The court held that it only involved legal issues and is only the government's arguments. On the contrary, the conclusions of the Constitutional Court regarding the necessity and suitability of measures depend on the facts that the court must ascertain. Although the applicant who was expelled from the parliament gallery did not have a dispute between the two parties, the decision of

Constitutional Court was based on the facts of the objection filed by the applicant and obtains the result of the case.

Therefore, litigants have the right to have oral hearings before the Constitutional Court. In the applicant's case, the judicial work will be better served, giving them the right to explain their personal actions at the hearings heard by the Constitutional Court. The court held that this factor exceeded the speed and efficiency that the government relied on when submitting documents. However, even if the applicant has made a clear request, no oral hearing was held. In addition, the Constitutional Court did not give any reason for believing that there was no need for a hearing. In view of the above considerations, the court rejected the preliminary objections of the government and believed that there were no exceptions that could be excused from the oral hearing. Since the complainant did meet the "victim" but the defendant's purpose was for security reasons, so it was decided to award a compensation of 5,000 euros to each person and the complainant's other claims were rejected.

According to the jurisprudence of this case, as a journalist, it is necessary to make clear the legitimacy of journalists' freedom of speech and expression while observing professional ethics, so that the consciousness of the news legal system can be infiltrated into daily news activities, and implement the democratic scientific rule of law thought of turning one-sided prohibition of pre-event management into post-event management, so that it can represent the trust of a country, a social group or an organization to its members, and reflect the credibility and ability of the organization. This also reflects the necessity of journalists to accept the news legal education.

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