

THE PRINCIPLE OF PROTECTING PRIVATE LIFE IN THE CODES OF JOURNALISM ETHICS: A Case of Lady Diana

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Basın Ahlak Yasalarında Özel Yaşamın Korunması İlkesi: Lady Diana Örneği

Bir çok ülkede, basın ahlak ilkeleri içinde ele alınan konulardan biri de özel yaşamın korunması ilkesidir. Geçmiş yıllarda dünyada bu konunun gündeme gelmesini sağlayan en dikkat çekici olay, Lady Diana'nın ölümü ile sonuçlanan otomobil kazası olmuştur. Magazin türü gazetecilik, okuyucu kitlesinin dikkatini çektiği sürece böylesi gelişmelerin devam edeceği, ayrıca paparazzilerle ünlü kişiler arasındaki mücadelenin de süreceği anlaşılmaktadır. Özel yaşamın korunması amacıyla yalnız ulusal ölçekte değil, aynı zamanda uluslararası boyutta da basın meslek ilkeleri yayınlanmıştır. İçinde özel yaşamın korunması ilkesi yer alan bazı uluslararası metinleri şu şekilde sıralamak olasıdır: Uluslararası Gazeteciler Federasyonu'nun kabul edip yayınladığı 1954 tarihli Bordeaux Deklarasyonu, Uluslararası Basın Enstitüsü Deklarasyonu ve Avrupa Ekonomik Topluluğu (şimdiki adı Avrupa Birliği) Bildirgesi'dir. Tüm bunlara ek olarak, dünyada ABD'den Burma'ya kadar hemen her ülkede özel yaşamın korunması ilkesine yönelik olarak basın ahlak ilkeleri yayınlanmıştır. Bu konuyla bağlantılı olarak, ülkemizde de özellikle son yıllarda Basın Konseyi ve Türkiye Gazeteciler Cemiyeti tarafından yayınlanmış basın meslek ilkeleri içinde "özel yaşamın korunması" kavramı yer almıştır.

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Introduction

“Private life of the individual” that is emphasised to be handled and protected in the texts of journalism ethics in many countries is one of the main points of ethical codes of journalism. People’s lives, as long as they do not harm others or “public interest” does not necessitate making public, personally belong to themselves. The main point is to be loyal to the concept of “public interest” and obtain an approach to the matter by taking it as a reference.

One of the most significant events that occurred in recent years is the death of Lady Diana in a car accident, which was caused by photo magazine reporters -paparazzi- who are the members of the actual magazine press. This event has put the necessity of re-discussing the interference of the press and journalists in personal rights and also journalism ethics concept into the agenda, once more again. As a matter of fact the principle in journalism ethics about the protection of private life, has occupied a stable place in lots of international and national ethical codes of journalism up to now.

Some Articles From National and International Regulations

In the “Declaration of the Duties of Journalists” which was approved and put into practice in 1954 by “International Journalists Federation” and also named as “Bordeaux Declaration”, the necessity of not to use incorrect methods to obtain news, photograph and document was emphasised. 1

Another international text is “The Declaration of Duties of Journalists” which was prepared and began to be applied by International Press Institute (IPI) and also approved by “Journalists Association” during the general assembly dated February 14, 1972, in Turkey.

The 7th article of this text is drawn up in such a way: It is forbidden to make news and interpretations about a person’s private life in a manner harming the person’s honour and fame. However, the publications for the sake of the country and the public are out of this prohibition... 2

1 Zeynep ALEMDAR, *Oyunun Kuralı*, Bilgi Yayınevi, Ankara, 1990, p.147.

2 Murat ÖZGEN, *Gazetecinin Etik Kimliği*, Türkiye Gazeteciler Cemiyeti Yayınları: 53, İstanbul, 1998, p.236.

The 5th article of “Duties Declaration” part of “The Declaration on the Rights and Duties of Journalists”, which was approved on 24-25 November 1971 in Munich by the representatives of journalists’ unions from the 6-member countries of the “European Economic Community”, expresses the following rule: “Respecting private lives of individuals” occupies a stable place among the journalist’s duties while researching, writing and commenting events. 3

Another international text is also emphasised on “the protection of private life” in the 23rd article of the official decision numbered 1003, which the “Parliament of the European Council” approved on July 1, 1993,4 indicates that: The individual’s right to keep his/her private life secret must be respected. People with official duties have the right to keep their private lives secret as long as ‘state affairs’ are not affected. People with such kind of duties cannot be deprived of the right to keep their private lives secret merely for this reason.5 Codes of journalism ethics about the protection of personal rights are arranged as in the following way in some countries:

German code of journalism ethics approved by German Press Council declare: The press protects the individual’s private life and its secrecy. If the private behaviour of a person is to the benefit of the public the publication of it in press becomes possible. Under such circumstances, attention should be paid not to harm a third person’s secrecy. 6

Japan code of journalism ethics on protecting private life is stated as in the following: The criticism toward the individual must be limited by making the critique directly to the related person him/herself. The honour of the individual, exactly the same as in other basic personal rights, must be respected and protected. The person who is criticised should be given the right of defence him/herself.7

Irish code of journalism ethics says: Reporters and photo correspondents are not going to humiliate or harm innocent people who

3 Z. ALEMDAR, Op. cit, p.149.

4 Süleyman İRVAN (Ed.), *Medya Kültür Siyaset*, Ark Yayınları, Ankara, 1997, p.283.

5 *Basın Konseyi Faaliyet Raporu (1993)*, Basın Konseyi Yayınları, İstanbul, 1994, p.148.

6 Mahmut OKTAY, *Kitle İletişim Araçlarının Uluslararası Sorumluluğu ve İletişim Ahlak Kuralları*, İstanbul Üniversitesi Sosyal Bilimler Enstitüsü

(Yayınlanmamış Doktora Tezi), İstanbul, 1990, p.47.

7 M. OKTAY, Op. cit., p.47.

have suffered loss or been led to disaster in some ways while obtaining news or photograph. 8

Another interesting example is, also, from Burma. Code of Burmese journalism ethics declares: The individual's right to protect his/her prestige and integrity is to be respected. Publicity, which violates private life's sacredness, is to be avoided as long as public interest does not necessitate to do so. 9

In the 6th article of codes of journalism ethics that was approved and applied by the American Society of Newspaper Editors -ASNE- protection of private life is also stated. It declares: "VI- Fair Play. A newspaper should not publish unofficial charges affecting reputation or moral character without opportunity given to the accused to be heard; right practice demands the giving of such opportunity in all cases of serious accusation outside judicial proceedings.

1. A newspaper should not invade private rights or feelings without sure warrant of public right as distinguished from public curiosity.

2. It's the privilege, as it is the duty, of a newspaper to make prompt and complete correction of its own serious mistakes of fact or opinion, whatever their origin."10

The following is emphasised in the "Codes of Journalism Ethics" approved by "Press Honour Council" in 1960. Paragraph (c) in the 2nd article of the Codes of Journalism Ethics, which came into force as an autocontrol mechanism in Turkey, declared: Private lives of individuals cannot be exhibited by humiliating people, unless public interest is necessary to do so.11

The 5th article of "Codes of Press Craft" approved and declared by the "Press Council" that started its duty on February 6, 1988 arrange the "Immunity of Private Life" in the following way: Private lives of individuals cannot be subjects of any publication, except for some circumstances public interest requires.12

Final example is from an arrangement in our country: "Turkish Journalists' Declaration of Rights and Responsibilities". The following is emphasised on private life in one of the articles of the declaration

8 M. OKTAY, Op. cit., p.47.

9 M. OKTAY, Op. cit., p.47

10 Philip MEYER, **Ethical Journalism**, Longman, New York & London, 1987, p.248.

11 M. ÖZGEN, Op. cit., p.225.

12 Mahmut İhsan ÖZGEN, **Basın Ahlak Kuralları ve Yasaları**, Kardeşler Basımevi, İstanbul, 1988, p.197.

mentioned above with the subtitle of "Rules of Journalists' Correct Behaviour"¹³ (For more detailed information see appendix).

"The Board of Directors of Turkish Journalists Association" approved and put into practice the study on November 18, 1998, and is a product of an important and valuable effort declares that: "The basic principle is the protection of public interest... the private information made public should be directly related to subject. It should be considered to what extent the private life of the person in question affects his or her public activity."¹⁴ (For more detailed information see appendix).

In addition, there is another concept which must be pointed out is the fact of "public's curiosity" about people's lives of the elite group of the society. Mumtaz Soysal, considering the Lady Diana's car accident and her death, wrote the following in *Hürriyet*, a Turkish daily, on September 2, 1997:

Living a life away from scandals has become a kind of 'official duty' for her. From this point of view it is natural that the defects occurring from her duties can be now accepted as 'scandal'. Therefore, one can get angry at neither the journalists who have been watching his/her every moment in order to catch a scandal photograph nor the readers and the newspapers which have been publishing the photos taken by the journalists.¹⁵

Ergun Balcı wrote about Lady Di's death in his article dated September 2, 1997 in *Cumhuriyet*, which is a Turkish daily, and claimed pointing a different side of that dramatic fatal car accident. He wrote that the system had changed news into merchandise and must have been accused of. In the article he made the criticism below by focusing on the existence of the big capital in the media.

In his column Balcı stated that: Because the big capital is behind the media, namely, the foundation of the system. And depending on the rule of capitalism, profit comes before humanly values and personal rights.¹⁶

13 Turkish Journalists' Declaration of Rights and Responsibilities, Turkish Journalists Association Publics: 54, Istanbul, 1998, p.22

14 Ibid, pp.27-28

15 *Hürriyet*, 2.9.1997.

16 *Cumhuriyet*, 2.9.1997.

Conclusion

From this point of view, in order to mention our personal opinion, we can say that -especially in 1990s- commercial broadcasting, despite some idealistic rules/principles, has widened its activities gradually and this result is not against the nature of the capitalistic system. On the other hand, public service broadcasting has lost its importance and activity against private broadcasting sector step by step during the 1990s.

Seemingly, the private sector and the capitalistic system have a tendency that the margin of profit is at the maximum degree. Consequently, we have to say that, the entrance of such a conception into the media is the main result of idealistic and moralistic corruption within our media, in spite of the traditional codes of journalism ethics.

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Appendix

TURKISH JOURNALISTS' DECLARATION OF RIGHTS AND RESPONSIBILITIES

Preface:

Every journalist media organisation should defend the rights of journalists observe professional principles and ensure that the principles defined below are followed.

Those who are not journalist but participate journalistic activities in media organisations under different forms, and those who target audiences in Turkey from abroad or audiences abroad from Turkey also come under responsibilities defined here.

The executive directors of media organisations, chief editors, managing editors, responsible editors, and others, are responsible for the compliance with professional principles by the journalists they employ an the media product they produce with professional principles.

Journalists' rights constitute the basis of the public's right to be informed and its freedom of expression. Professional principles, on the other hand, are the foundations of a reliable and accurate communication of information. Professional principles presuppose the self-control of journalists and media organisations. Their primary basis for judgement is their own conscience.

A. Human and Citizen Rights:

Every individual has the right to be informed, have access to news, freedom of thought, expression and the right to criticise freely.

Freedom of press and publication, which is the main tool of freedom of thought and expression, is one of the basic human rights.

It is a general rule that these rights should be guaranteed by the constitution in a democratic state.

B. Definition of A Journalist:

Any individual whose job is to gather, process, communicate news or express ideas and views regularly at a daily or periodical printed, video, audio, electronic or digital medium employed on a full-time, contractual or copyright basis and whose main employment and means of livelihood consist of this job, and who is defined as such by the legislation that covers the functioning of the organisation at which he or she is employed is a journalist.

All enterprises functioning in the field of press and publication are obliged to recognise the rights granted to journalists by law.

C. Responsibilities of Journalists:

The journalist uses press freedom conscientiously and honestly to further the public's right to be informed and have access to accurate news. For this purpose, the journalist should fight all kinds of censorship and self-censorship and inform the public concerning this question.

The responsibility of the journalist to the public supersedes all other responsibilities, including to employer and public authorities. Information, news and free thought are of a social nature that separates them from all other commercial commodities and services. The journalist carries all responsibility for the news and information he or she makes public.

The limits and contents of journalists' freedom are primarily determined by their responsibility and professional principles.

D. Journalists' Rights:

1-Journalists have the right of free access to all sources of information and the right to observe and research all phenomena that affect public life or are of interest to the public.

Obstacles, such as secrecy or classification, brought against journalists should be based on law in matters concerning public affairs and convincing reasons in private matters.

2-Journalists must take into account the basic policy line of the media organisation that should be included among the terms of their employment contract.

3-Journalists have the right to reject all sorts of suggestions, proposals, requests and instructions that remain outside or conflict with or are not openly described in that basic policy.

4-Journalists cannot be compelled to defend an opinion that they do not share or perform any assignment that violates professional principles.

5-Journalists, especially those who are employed at an editorial and managerial level, should be informed about important decisions that affect and determine the functioning of the media organisation; wherever it is necessary they should take part in making these decisions.

6-Relevant to their function and responsibilities, journalists have the right to organise. They also have the right to sign contracts

individually to safe guard their moral and material interests. The journalists should be paid a salary commensurate with their social role, their skill and the amount of work required. Their salaries also should also guarantee their economic independence.

7-According to the principle of protection of sources, the journalist cannot be compelled to reveal his or her sources or testify about them. This principle may be waived with of the source's consent. The journalist may reveal the identity of his or her source in cases where he or she has been clearly misled by the source.

E. The Basic Duties and Principles of the Journalist:

1-According to public's right to information, the journalists has to respect facts and accurate information whatever the consequences from his personal point of view.

2-The journalist defends, at whatever cost, the freedoms of obtaining information and news, and making comments and criticism.

3-The journalist defends the universal values of humanity, chiefly peace, democracy and human rights, pluralism and respect of differences. Without any discrimination against nations, races, ethnicities, classes, sexes, languages, religious and philosophical beliefs, the journalist recognises the rights and respectability of all nations, peoples and individuals. The journalist refrains from publishing material that incites enmity and hate among individuals, nations and human societies.

The journalist should not make the target of direct attack the cultural values or beliefs (or lack of beliefs) of any human society or of an individual.

The journalist should publish or broadcast material that justifies or incites violence of any kind.

4-The journalist should refrain from publishing or broadcasting news and information the source of which is unknown to him or her. In cases where the source is not known, he or she is obliged to warn the public.

5-The journalist cannot destroy or ignore relevant information, alter or falsify texts and documents. He or she must refrain from publishing material that is incorrect, falsified or misleading.

6-The journalist cannot resort to misleading methods in order to obtain information, news, visual images, audio material or documents.

7-Even if the person in question is a public figure, unless journalists obtain permission, they cannot violate privacy for purposes that are not directly related to the public's right to information.

8-Journalists are committed to the rule that any inaccurate information published should be corrected in the shortest possible time. Every journalist respects the risks to respond on condition that it is not misused or abused.

9-According to the rule of professional secrecy, journalists under no circumstances can reveal the sources of information and documents entrusted to them unless allowed by their sources.

10-Journalists should refrain from purloin, slander, insult, distortion, manipulation, rumour, gossip and groundless accusation.

11-Journalists cannot seek material or moral advantages from the publication or withholding of a piece of information or news. Professional principles are the main guide of the journalists in conducting their relations with people or institutions constituting sources of information, from the head of state to the members of parliament or from businessmen to bureaucrats.

12-Journalists should not mix their profession with advertising, public relations activities or propagandism. Journalists cannot accept suggestions, advice or material benefits from sources of advertisement.

13-Whatever the subject matter is, journalists cannot use information for personal interest before it is fully made public. They cannot use their profession to obtain any form for personal privilege (outside the rights given by laws and regulations).

14-Journalists cannot resort to blackmail or threat to obtain information. Journalists should resist all pressure to obtain information by such means:

15-Journalists must reject all kinds of pressure and should not accept instructions regarding their job from anyone except the executives of the media organisation employing them.

16-Anyone who is entitled to be called a journalist is committed to abide by professional principles fully. While observing

due respect to the laws of the country, journalists should rebuff all interference from the government and similar official institutions. Professionally, journalists take into account only the judgement of the public or other colleagues and verdicts of independent jurisdiction.

17-Journalists function according to public's right to information, not to prejudices regarding domestic and international policy issues shaped by the people in the administration of a country. The journalist is guided only by basic professional principles and concerns for a free democracy.

RULES OF JOURNALISTS' CORRECT BEHAVIOURS

News-Commentary:

The distinction between news and commentary or editorials should be made clear to enable the readers or the audience to discern easily the difference between them.

Photography-Visual Images:

Any photography or visual image used should be clearly marked to show whether it is actual or an enactment or simulation. The audience should be allowed to discern easily whether the image is actual or a representation.

News-Advertisement-Announcement:

The texts and visual elements of news and editorials should be clearly separated from the texts and visual elements of advertisements and commercial announcement to leave no room for confusion.

Judicial Reporting:

During the preparatory investigation of a legal case, news and commentaries that might influence and weaken the legal process should not be disseminated. News during the trial should be supplied free of any prejudice or inaccuracy. The journalist should not become a party in any legal process about which he or she is reporting.

No defendant should be represented as guilty before the legal verdict is finalised. No defendant should be implied as guilty in news and commentaries unless found guilty at the end of the legal process.

Minors:

Full identities and visual images of minors as defendants, witnesses or victims in criminal or sexual assault cases should not be printed or made public.

In cases where the personality and behaviour of minors could be affected, journalists should not interview or take the visual image of a minor unless they obtain prior permission from the family or an adult responsible for the minor in question.

Sexual Assault:

The visual images and identities of the victims of sexual assault cases should not be printed or made public except for instances where there is a clear public interest in such publication.

Identity and Special Cases:

An action or an offence committed by an individual should not be attributed to his or her race, nationality, religion, sex or sexual choice, any disease or physical or mental disorder unless there is relevance or evident public interest. These special character traits should never be the subject of ridicule, insult or prejudice.

Health:

Sensationalism in health issues should be avoided. Dissemination of information that would incite desperation or create false hope should be prevented. Rudimentary findings of medical research should not be presented as final and definitive. Before suggesting the use of a particular drug, an expert scientist should be consulted.

Any journalist who is conducting research work at hospitals should openly declare his or her identity and enter prohibited areas only with the permission of hospital authorities.

Journalists should not take visual images or audio recordings at hospitals without the permission of hospital authorities, the patient or relatives in charge.

Gifts:

Journalists should reject personal gifts and material benefits that would create doubt or prejudice in the public over the contents of a particular news item or information and the decision to make it public.

Company Interests:

The rights, responsibilities and duties of journalists described in "The Declaration of Rights and Responsibilities" determine how they function within a media organisation. Within this professional framework, the

journalist should not take part in activities not relevant to the policies of the media organisation, either voluntarily or by compulsion, even though such activity maybe in the company's interest.

Self-criticism:

Journalists and media organisations should correct their mistakes and engage in self-criticism beyond their legal obligation to respect the right to response and denial.

Being a Party:

Journalists and media organisations should clearly announce their positions in cases where they are parties in a dispute or a contract.

Any media organisation or commentator can disseminate comments a long the lines of their political, economic and social affiliations. In such cases, the nature of the affiliation should be clearly stated and clear distinction between commentary and news should be made.

Privacy:

The basic principle is the protection of public interest. Situations under which the privacy principle does not apply include:

- a) Research and publication on major crime or corruption cases;
- b) Research and publication on conducts that would have negative effects on the public
- c) Cases where public's security or health is at stake;
- d) To prevent the public being misled or deceived or from committing mistakes because of the actions or statements of the person in question.

Even in these situations, the private information made public should be directly related to the subject. It should be considered to what extent the private life of the person in question affects his or her public activity.

Information-Documents:

Journalists should not take documents, photography, audio recording or visual images without the consent of the person in possession of these except in cases where public interest is at stake. This principle can only be waived in cases where there is clear public interest and the journalist has firm conviction that the material cannot be obtained otherwise.

Payment in Exchange for Information:

The journalist should not offer or give money in exchange for information, documents or visual images, to defendants of a criminal case or to witnesses or to their associates.

In Cases of Shock and Confusion:

When there are people in distress, sorrow, danger, disaster, destruction and shock, the journalist's approach in research should be humane and respectful of privacy. He or she must refrain from exploiting feelings.

Relatives and Associates of Defendants:

Journalists should not expose the relatives and associates of defendants or convicted persons unless they are directly related to or essential for a correct perception of the events that transpired.

Suicide Cases:

In cases of suicide, publishing or broadcasting information in an exaggerated way that goes beyond normal dimensions of reporting with the purpose of influencing readers or spectators should not occur. Photography, pictures, visual images or film depicting such cases should not be made public.

Economic and Financial Information:

(Inside Information)

Even if the law does not ban it, the journalist should not use economic and financial information he or she obtains for personal interests before making it fully public.

Journalists should not disseminate information about securities, stocks, shares and other valuable papers they or their relatives or associates hold, without accurately informing their superiors at the media organisation about such ownership.

Journalists should not indulge in the dealership either directly or indirectly of real estate and other valuables that they choose as the subject matter of their news and commentaries.

Embargo-Preview-Off-the-Record:

Journalists should comply with the publication date set by the source of a piece of information or a document unless they have obtained such information independently.

Journalists have no commitment to let anyone, including the source, preview the drafts of news stories, interviews, commentaries or visual images of material they are preparing to publish or broadcast, except responsible persons at the media organisations employing them.

Journalists should not publish or broadcast off-the-record information or statements.

Competition:

Journalists must refrain from deliberately causing professional harm to their colleagues even for reasons of competition. They should refrain from acts that would prevent their colleagues material from teaching the public.

Sourcing:

Journalists should give credit to the sources of information, including from agencies, other colleagues or other publications.

Non-journalists:

The actual titles and professions of those who perform journalistic activities at media organisations periodically or occasionally should be clearly announced so as to inform the public.

Question of Identity:

Whatever the speciality of a journalist, his or her main job is journalism. Police reporters should not act or disseminate information as policemen or police spokespersons. Likewise sports reporters are not spokespersons for sports clubs nor are reporters assigned to a political party members or spokespersons for that party.

