

Everyone has the right to
**Freedom of opinion and
Expression**; this right includes
freedom to hold opinions
without interference and
to seek, receive and impart
information **and ideas**
through any **Media** and
regardless of **frontiers**.
in transition

Studies and Reflections in the Digital Age

Edited by Ulla Carlsson

NORDICOM

Freedom of Expression and Media in Transition

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Foreword

The 1993 UN General Assembly proclaimed the 3rd of May to be *World Press Freedom Day*. This was a response to a call by African journalists, who in 1991 produced the landmark *Windboek Declaration* on media pluralism and independence.

The day celebrates the fundamental principles of press freedom: to monitor press freedom around the world, to defend the media from attacks on their independence and to pay tribute to journalists who have lost their lives in the exercise of their profession.

In 2016, UNESCO and the Government of Finland are co-hosting the World Press Freedom Day's main event in Helsinki, 3-4 May – for the first time in the Nordic Region. This year, 2016, also marks the 250th anniversary of a Swedish fundamental law – *The Freedom of the Press Act*. This law prohibited censorship and guaranteed public access to official records, and was the first in the world to do so. Both these celebrations can be seen as appropriate background scenarios to this new book.

In 2009, Nordicom published *Freedom of Speech Abridged? Cultural, legal and philosophical challenges*, an anthology focusing on the traditional concept of individual freedom of expression. A few years later, Nordicom published *Freedom of Expression Revisited. Citizenship and journalism in the digital era*. The current publication, published by the UNESCO Chair at the University of Gothenburg in collaboration with Nordicom, may be seen as a follow-up to these earlier titles. It is based on research in the Nordic countries, but many of the studies are global in nature and the results of collaborations between researchers from many parts of the world. Several of the articles also contain valuable reflections and second thoughts.

It is hoped that these articles by Nordic researchers will contribute to knowledge development in the field as well as to global and regional discussions about freedom of expression, press freedom and the role of journalists, and communication rights in contemporary societies – in an era of globalization and digitization.

Finally, I would like to thank all those who have contributed their research findings and reflections on the complex and often controversial issues related to freedom of expression, media and the digital culture.

Göteborg in March 2016

Ulla Carlsson

Freedom of Expression and the Media in a Time of Uncertainty

A brief introduction

Ulla Carlsson

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Finally, it is also an important right in a free society *to be freely allowed to contribute to society's well-being*. However, if that is to occur, it must be possible for society's state of affairs to become known to everyone, and it must be possible for everyone to speak his mind freely about it. Where this is lacking, liberty is not worth its name. /.../

These words were written by Peter Forsskål, born in 1732 in Helsinki, Finland, which at that time was part of the Kingdom of Sweden. He was a philosopher, theologian, botanist and orientalist, as well as one of Carl Linnaeus' disciples. Forsskål wrote these words in 1759 in the last paragraph of 21 in his publication *Thoughts on Civil Liberty*.

Another of the most challenging statements in *Thoughts on Civil Liberty* is paragraph 9, where Forsskål states that the only alternative to violence is freedom of the printed word.

§ 9

/.../ Freedom of the written word develops knowledge most highly, removes all harmful statutes, restrains the injustices of all officials, and is the Government's surest defence in a free state. Because it makes the people in love with such a mode of government /.../ A wise government will rather let the people express their discontent with pens than with other guns, which enlightens on the one hand, appeases and prevents uprising and disorder on the other.

In these paragraphs, Forsskål foreshadowed the modern understanding of freedom of expression, including freedom of information, in which the media were to play a crucial role – media as a public sphere.

Forsskål's belief in the power of the free word must have seemed wholly unrealistic at that time. Unexpectedly, Forsskål was given permission to print – a censored edition – but soon all copies of this book were banned and confiscated. Harassed and threatened to death, he was forced to flee the country.

Forsskål was not to experience when Sweden's freedom of the printing press was protected by a fundamental law in 1766. Forsskål died 1763, at 31 years of age, of malaria on the Arabian Peninsula. But he managed to do a great deal in his short life – working in various disciplines and at several universities in the world. His list of rights in *Thoughts on Civil Liberty* was impressive and contains nearly all of the rights that would be found thirty years later in the French Declaration of the Rights of Man and the Citizen, in 1789, the year of the French Revolution.

This year, 2016, marks the 250th anniversary of the first Freedom of the Press Act in the world. Anders Chydenius, scientist, political writer and at times Member of Parliament, is attributed with being the person who pushed the law through, but it was Peter Forsskål who formulated the underlying principles.

In the long-term perspective, Forsskål was right. Development of societies and freedom of expression – and freedom of information – are connected and affect each other. Historical perspectives are fruitful in many respects – and this is why his words still make sense. But we must be careful not to use the tracks of history to create myths about today – when pessimism prevails about the future, it is tempting to use history to say something about the present.

The issues raised by our contemporary global and multicultural societies are complex. In an age of globalization and digitization, market paradigms based on the principle of accumulation of private gains have come to be the driving force behind and organizational basis for social life in almost every country in the world. State power is under reconsideration in an emerging power structure within and across nation-states – in all spheres, be they public, private or civil in nature. Age-old institutions are losing their grip. Climate change, economic problems, conflicts and poverty with flows of refugees and migrants, terrorism, radicalization and extremism are issues that concern almost all of us in these uncertain times. (Grin et al. 2010; Rothstein 2011; Charron et al. 2013; Altvater 2013; Beck 2008; Beck et al. 2014)

It is vital that the research community contribute to improving our understanding of the current problems and crises that trouble our societies. The challenge is not only to explain these problems, but also to come up with solutions – to communicate with those in power so that research findings will make a difference.

Media researchers are no exception. We need to improve our understanding of what current developments in our increasingly 'wired' societies imply, perhaps most urgently their implications for democracy and human rights.

And we can learn from the kind of spirit, 'bildung' and courage that guided Peter Forsskål 260 years ago.

Freedom of expression in transition in the digital culture

Society changes, but certain democratic principles hold true. Among these are freedom to think, speak, listen and write – to express oneself and communicate with others – as proclaimed in Article 19 of the UN Universal Declaration of Human Rights.

But there are multiple obstacles to overcome. Not all citizens are in the position or condition to exercise their rights, due to extreme poverty, social injustice, poor education, gender discrimination, ethnic and religious discrimination, unemployment, or lack of access to health care – as well as lack of access to information and knowledge. More than half of the world's population has no access to the Internet (ITU 2015). Access to information for all – which requires Internet access for all – is an essential issue on the 2030 Agenda adopted by UN in September 2015. People in war zones and regions of unrest are especially vulnerable. Millions of people today have been driven from their homes and have no civil rights whatsoever.

Globalization and digitization connect people and economies across great distances. Horizons have broadened, but parts of the world also seems to further retreat. Some people feel the need to defend their identities, and when common cultural platforms can no longer be maintained, stockades are raised around local cultures, religious beliefs and communities. Transcendence of boundaries and defence of boundaries are twin features of the globalization process. (Anderson 1991; Jonsson 2001)

This is a context we have to understand, recognizing that globalization, geopolitics and new information technologies exert strong formative influences on freedom of expression in the modern-day society.

Several researchers studying social development agree about the importance of quality of governance, with a focus on good institutions, interpersonal trust, and freedom of expression (Norris 2004, 2012; Charron et al. 2013). Freedom of expression is democracy's praxis. It is a right, but it implies responsibility and respect for the rights of others. Limits of freedom of expression are not constant – they are marked by its cultural and social context. But, there must be no doubt as to where the responsibility lies. Freedom of expression has legal, ethical and moral dimensions; ultimately, it is a question of the fundamental idea that all human beings are equal. (Rønning 2009, 2013)

But, it seems, as always, that almost everyone is prepared to declare their support for human rights and freedom of expression – as long as there is no cost in the form of discomfort, power or money. What is more, freedom of expression is complicated; both good and bad arguments can be used to limit it.

Freedom of the press under pressure

The media are the lifeline of freedom of expression; freedom of the press is crucial. The pluralism and independence of the media are essential to democratic rule – regardless of whether publishing takes place offline or online. The media have long been considered central, shared sources of information, ‘watchdogs’ and the fora of public debate – in short, to constitute a public sphere – based on the nexus between media, democracy and civic engagement (Askenius and Østergaard 2014).

Every day we see threats to freedom of expression – and freedom of the press: new forms of state censorship and repression, self-censorship, surveillance, monitoring and control, hate speech, gatekeeping, propaganda-disinformation, acts of terror, anti-terror laws and organized crime. And freedom of information is a critical issue in many countries, but especially in zones facing social, ethnic and political stress, armed conflict or emergency situations emanating from disasters.

There are even cases of outright murder in which journalists or their sources have been targeted. More than 700 journalists, media workers and social media producers have been killed during the past ten years. Local journalists, in particular, are the targets of threats ranging from intimidation and harassment to arbitrary detention, including misogynist attacks on women journalists (UNESCO 2015; Pöyhtäri 2016). This is in several respects a consequence of an extensive transition process involving politics, the economy and, not least, information technology.

Digitization and globalization – with growing commercialization and far-reaching media convergence in their wake – have changed our communication systems with regard to time, space and social behaviour – they have changed functions as well as management practices and markets. In other words, the context of freedom of expression has shifted.

Today’s communication society has tremendous potential. We have access to knowledge and an awareness of events that only ‘yesterday’ were far beyond our horizons. And we can communicate and interact as never before. Media and communication represent social and cultural resources that can empower people, in both their personal development and their development as democratic citizens.

From that perspective, our opportunities to express ourselves freely have never been greater, largely as a consequence of social media. Yet this applies only to people with access to the Internet. Human experience tells us, however, that although new technologies almost always bring about significant benefits, they also entail risks (Ellul 1964; Winston 1998; Livingstone and Haddon 2009).

The expansion of media output has led to increasing differences between groups in terms of the extent to which they use various media – especially the

news media. For those who are interested in politics and society, the opportunities to find news items and quality journalism have never been greater, and many take advantage of this by increasing their news consumption. For those who have no interest in politics and society, it has never been easier to more or less refrain from the various news media – or to be misinformed. According to Western researchers, this implies a risk of greater knowledge gaps, increased participation gaps and reduced social cohesion – with increasing inequalities between the social classes (Norris 2012; Lee et al. 2013; Strömbäck 2013, 2014; Bennett et al. 2012; Ekström et al. 2014; Fenton 2014).

New types of transnational media companies such as Google and Facebook are enormously powerful actors from an individual perspective as well as from industrial and political perspectives. Many parts of society today have become heavily dependent on these companies. They make it possible to consume and exchange vast amounts of information and knowledge and to use a variety of services, some of which offer great benefit and enjoyment. But, at the same time, these companies are collecting vast amounts of data on their users – data that can be used for everything from advertising, consumer control, to actual surveillance. Power over the users is exercised by changing algorithms, terms and guidelines without transparency. It is about having a monopoly on information – on data. And the domestic media find themselves facing an entirely new situation of fierce competition. (Fuchs et al 2013; Fuchs 2014; Freedman 2014; Syvertsen et al 2014; McChesney 2015)

The openness that makes the Internet so immensely valuable also leads to vulnerability. Offering such a means of communication also creates new opportunities to express hatred, to harass and to threaten. Privacy and security are critical aspects of using the Web. But providing security without impinging on either privacy or freedom of expression involves striking a delicate balance. The fact that the digital public sphere is beyond national control – when services are operated by foreign-based companies with global reach – has profound consequences for people in many countries.

There is increasing international recognition of the importance of global solutions to public problems – agreements that are formulated globally and implemented nationally. Unfortunately, such declarations are often ignored – now active mobilization of such agreements is extremely important. But, in order to make real progress there is an urgent need for a new approach to global governance on a strong multi-stakeholder basis. There are many challenges facing policy, business, civil society, academia, philanthropy, etc., at the local, national, regional and international levels. This is primarily a question of will – from a democratic point of view. (Beck 2006)

Future sustainability: Education and knowledge in focus

When discussing the future of democracy and freedom of expression, many consequences need to be taken into account. Changes in the relationship between the political power and the market with tendencies towards shifting from public institutions to the individual, are a concern. These shifts, in turn, affect the fundamentals on which the freedom and independence of the media stand. A sense of cohesion is crucial to the health of any democracy, and if that sense not rests with institutions, it will have to rest to a greater extent with its citizens – if new institutions are to be created (Habermas 1989, 2006; Castells 2009; Beck 2008; Charron et al 2013; Beck and Cronin 2014; Svallfors 2015).

These circumstances underscore the fact that today's complex society requires competent, educated and critical citizens if democracy and freedom of expression are to be maintained. Offering good schools to everyone – girls and boys – is crucial here. (UNESCO 2013, 2015; EFA 2014; Putnam 2015)

In this societal context, media and information literacy has to be emphasized – it is a core competence for engaged citizenship in a participatory democracy. Investments in media education to inform citizens and improve their abilities can promote a healthy and constructive media environment. (UNESCO 2013; Mihalidis 2014; Carlsson 2015). Or as one researcher recently concluded: “The promotion of media literacy is one way of creating public value, as it goes beyond the interests of individual consumers and benefits society as a whole” (Radoslavov 2014).

From this point of view, there is also an obvious need for more knowledge and new approaches if we are to understand the processes at work. Given the challenges contemporary society poses with respect to freedom of expression, media and digital culture, it is imperative that the research community engage actors at the national, regional and international levels and encourage them to work together across ethnic, cultural, religious and political boundaries.

Globalization processes force us not only to focus more on transnational phenomena in general, but also to note and explore transnational differences. For instance, it is crucial that we understand how principles of freedom of expression, freedom of information and freedom of the press are adopted in very different cultures – with very different state organizations and very different ideas about the role of the individual in society (Price 2015). Concepts are not entities unto themselves; they acquire their meaning from the contexts in which they are applied.

This is particularly important in developing new approaches that can help implement and further advance the international rules that provide for basic human and civil rights, such as freedom of expression in a number of new contexts.

Having well-established international, regional and national research platforms – with a sense of the history of the field – is more important than ever. As researchers, we need platforms where we can consider the relevance of the questions we formulate – working with concepts like power, hegemony, equality and justice, where we are more judicious in our choice of theoretical perspectives, contexts and methods, and where we can evaluate the validity of our findings and the conclusions we draw from them.

It is time to test our capacity to propose and imagine models that contribute to more holistic paradigms of civilizations – this is a matter of our accumulated knowledge, our ability to take a critical approach, our creativity, our integrity and our ethics – and especially our will. To put it very simply, we must dare to do more and we must do it together!

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Rethinking the Nordic Media Model:
A Challenge to Democracy

The Media Welfare State

Nordic media in times of change

Trine Syvertsen, Gunn Enli, Ole J. Mjøs & Hallvard Moe

Abstract

In this chapter, we discuss media in the Nordic countries, historically and in the light of recent changes, and present key characteristics of what has been conceptualized as the *Media Welfare State* (Syvertsen, Enli, Mjøs, and Moe 2014). We present four historical characteristics of Nordic media and relate these features to the societal concept of *the Nordic Model*, arguing that the future development of the welfare state depends not only on economic and social factors, but also on the organization of media and communication systems in the region. Moreover, we point to potential disruptions related to digitalization, globalization and fragmentation, and exemplify how these developments pose challenges to the welfare states, media structures, as well as to the conditions for freedom of speech in the region. In conclusion, we briefly discuss potentially stabilizing factors. Innovation and reorganization are not new phenomena, and current changes in the Nordic media are thus not imposing a 'crisis', but rather a process of adaption.

Keywords: Nordic model, media welfare state, media systems, freedom of speech, digitalization, globalization, fragmentation

Introduction

Forces such as digitalization, globalization and fragmentation signal radical change, and are often found to lead to greater similarity across borders. At the same time, studies have shown that even in periods of radical change, national and regional characteristics continue to matter. To understand the conditions for freedom of speech and media structures, we need to pay attention to the relations between social and political systems and their media systems. Starting from a Nordic perspective, in this chapter we present the concept of the *media welfare state*. The concept is based on the analogy between the organizational and societal principles of Nordic welfare states, often epitomized as the Nordic model, and key features of the Nordic media.

We begin the chapter by introducing the concepts of the Nordic model and the media welfare state, before discussing how recent developments connected to digitalization, globalization and fragmentation are challenging the welfare state, as well as media structures and the conditions for freedom of speech in the region. We then discuss future prospects for the media welfare state, and to what degree adaptability to current changes is possible without diminishing its key characteristics.

The Nordic model and the media welfare state

Although the Nordic countries have a great deal in common with other wealthy Western societies, they have more in common with each other (e.g., Andersen, Holmström, Honkapohja, Korkman, Söderström, and Vartiaine 2007: 14). Particularly since World War II, Nordic societies have attracted interest for the way they have combined economic growth and competitiveness with a strong public sector and egalitarian social structures. Although politicians and other societal stakeholders currently use the concept of the Nordic model frequently, it originated in academic comparative studies back in the 1980s. These studies traced the model to the last decades of the 19th century, which saw the introduction of early social policy schemes (Alestalo, Hort, and Kuhnle 2009: 1,10). These schemes laid the foundation that allowed respect for individual liberty and traditions of collectivism and community to flourish in parallel, within an ethnically homogenous population.

The question remains as to whether *the Nordic model* continues to be relevant in the light of challenges such as neoliberalism, globalization, aging, immigration, and European integration. The fear that the welfare state may be overstretched – that the demands on it have become too great and the contributors too few – has given rise to public commissions and policy measures. Following the 2015 refugee crisis, such questions have also dominated public debate in the Nordic societies. While these challenges are important, it is not the first time that the welfare state has been faced with international constraints and possibilities, demographic change, and questions of legitimacy and cohesion. Within the Nordic welfare states, there has always been a mix: protective policies defending internal coherence and solidarity combined with relatively open economies and a high level of international participation and exchange. The welfare state is not static, but a "work in progress" (Ásgrímsson and Enestam 2008: 5).

The argument we will make in this chapter is that the further progress of the welfare state depends not only on economic and social factors, but also on the Nordic countries' organization of their media and communication systems. The institutions of media and communication are not only important in their

own right, they are also crucial to the negotiation of norms, values and challenges in complex societies. Furthermore, media and communications are key to achieving social cohesion, whether one looks historically at the construction of “imagined communities” (Anderson 1992) or at today’s societies, where the social base becomes more diverse and fragmented.

In our book, *The Media Welfare State: Nordic Media in the Digital Era* (Syvertsen et al. 2014), we present four characteristics that have historically linked the structure of the Nordic welfare state with media policy measures, which together make up the concept of the media welfare state.

The first is the strong feature of *universalism*. Universalism is often identified as the key feature that distinguishes the Nordic from other welfare state models. It implies that welfare state provisions include everyone, rather than being attached to class or status, or serving as a minimal safety net for the poor (e.g., Esping-Andersen 1990: 27). In communication policy, universalism has been a continuous goal since the early educational and communication services of the 19th century, through to the organization of public broadcasting, press support systems, and the obligations imposed on selected private broadcasters in the 20th century. During the 21st century, public investment in infrastructures and universal service obligations are among the explanations for the Nordic countries’ early and broad access to the Internet (Storsul 2008: 210).

A second important characteristic of the Nordic welfare state is that of strong individual liberties, which are associated with the principle of *editorial freedom* in the media. The institutionalization of editorial freedom is not specific to Nordic societies, but these principles have had a comparatively stronger position there; for example, Sweden has the world’s oldest constitutional provision for freedom of expression, dating back to 1766. The long history of press freedom is considered a key trait of the Nordic region, based on the comparative analysis made by, for example, Hallin and Mancini (2004: 145), whereas Maier-Rabler (2008: 58) argues that: “Because of their liberal tradition, Scandinavia has the most advanced constitutional framework delineating the free access to information”. Although comparative indexes are contested, it is notable that the Nordics tend to cluster at the top of rankings of comparative press freedom worldwide (see, e.g., Reporters Without Borders Index 2002-2015).

A third characteristic is the strong emphasis on *cultural policy* as a vehicle for transforming society. During the 20th century, cultural policies were adopted with a clear welfare-state stamp, where notions of citizenship, equality and solidarity were crucial elements (Bakke 2003: 150). Skirbekk (1984: 306) argues that while the large European states developed a “non-popular tradition of enlightenment” and the United States developed a “non-enlightenment

tradition of popularity,” the Nordic countries developed a uniquely egalitarian tradition of popular education based on mass movements. Arguably, the most important cultural institution in the welfare state is public broadcasting, which in the Nordic countries has been informed by the twin ethos of egalitarianism and enlightenment. Also film policy, press subsidies, and even computer game policy have been informed by similar principles, as the state intervenes in the market to safeguard diversity, equal access, domestic production and quality.

A fourth feature of the welfare state is *consensual policy formation* (Alestalo et al. 2009: 7). In particular the three Scandinavian countries lie close to the so-called “consensus democracy” model (Lijphart 1968 quoted in Jónsson 2014: 513), where “all those who are affected by a political decision should have the chance to participate in that decision”. With regard to media policy formation as well, we see a preference for consensual and cooperative policies, rather than clear-cut statist or market-led solutions. Nonetheless, cooperation does not mean that private companies are overly restricted in their operations; Nordic companies take advantage of global market opportunities, not least seen in the high and early penetration of the Internet, broadband and smart phones. In addition to factors such as public investment in infrastructure, high educational levels, and open economies, this can also be explained by the factor of all relevant stakeholders having a shared commitment to using and developing information and communication technologies.

Challenges for the media welfare state in times of change

Key forces such as digitalization, globalization and fragmentation entail challenges for the media and communications, both in the Nordic countries and elsewhere. In this part, we discuss and exemplify recent challenges to each of the four principles of the media welfare state (for further explanations, data and examples, see Syvertsen et al. 2014). However, we will also point to stabilizing forces and local and regional ‘filters’ that reduce the impact of the forces on the media system in the Nordic countries.

First, new cultural differences and cross-national media make it difficult to operate within the same framework of *universalism*. The ideal of universalism is historically related to the nation-state, and given the present fragmentation of media output, as well as the popularity of global media services, the ideal of universalism seems to be under threat. Nonetheless, the impact of these changes should not be overestimated, as there are also significant tendencies towards stability. The national contexts are still very important both for media consumption and for product innovation. Globalization does not only result in more imports of traditional television programming, but also leads to an increase in national versions of global formats such as *Pop Idol* and scripted

television dramas such as *Himmelblå*, the Norwegian version of the BBC series titled *Two Thousand Acres of Sky*. These television formats and drama versions, in turn, help to sustain a national universalism. Moreover, there are major overlaps between societal groups in the use of specific media such as news and information, and in general, user patterns are still fairly egalitarian.

Second, the traditions of editorial freedom and freedom of speech are being challenged by new and unpredictable threats, because norms and traditions developed within a fairly homogeneous region are difficult to promote globally. One example is the controversy around the Danish newspaper *Jyllands-Posten's* editorial decision to publish the Mohammed cartoon drawings in 2005, ten years prior to the 2015 Paris terrorist attack on the satirical newspaper *Charlie Hebdo*. The Danish newspaper's publications in 2005 triggered protests and a political and diplomatic crisis between the Nordic region and several Muslim countries. The conflict demonstrates that editorial decisions may be understood by stakeholders and long-term residents of the country, but questioned by new residents as well as users in other parts of the world. Yet the principle of *editorial freedom* has been reaffirmed and extended to online media, in the sense that the mandate of the self-governing bodies and regulations has been extended.

Third, two parallel developments have entailed challenges for the existing measures of *cultural policy*, which is a key characteristic of the media welfare state: First, media output consists increasingly of niche products and services, particularly online (Anderson 2006; Turow 2011). Second, the makeup of the Nordic populations is becoming more ethnically and culturally mixed, and due to the high level of freedom of speech, we see an increase in different views and expressions being distributed in the region. If, in turn, the popularity of the region's media institutions is in decline, it becomes difficult for policy-makers to legitimize existing policy measures, such as the subsidizing and VAT exemptions or reductions enjoyed by many Nordic newspapers (Lund, Raeymaeckers, and Trappel 2011; Ohlsson 2015: 26-29) as well as the license fee that finances public service broadcasting. Even in light of these changes, traditional public broadcasters in all of the Nordic countries continue to occupy a central position and maintain authority as *the* national broadcaster as well as to have strong political support. This is evident in the renewal of the PSB remit to include pluralism in a media 'ecosystem' approach (Enli and Syvertsen, forthcoming). Likewise, the efforts made to extend VAT exemptions to online newspapers demonstrate a degree of protection of the existing cultural policy (see EFTA Surveillance Authority 2016 for Norway).

Fourth, *consensual policy formation* is being challenged by players who are uninterested in taking part in cooperative processes. The consensus among stakeholders, regulators and the media industry in Nordic countries implies a willingness to participate on multi-party cooperative arenas, despite diverging

interests. New actors such as Netflix and Facebook, without having any formal or regulatory relationships with the Nordic governments, are challenging the principle of consensual policy-making. These global players are pressing for standardized regulatory frameworks that function in the same way across national settings and that do not take part in traditional forms of dialogue such as public hearings and formal meetings. These challenges are, however, difficult to resolve on a national or Nordic level, and regulators therefore participate in transnational efforts, such as the efforts by the EU and other supra-national bodies to regulate transnational companies. These efforts are being spearheaded by Margrethe Vestager, European Commissioner for Competition, who has taken on the difficult issue of taxation of Google (Henley 2016). The new platform economy is increasing to a level where it has disruptive influences on employment; traditional employers and labour organizations are uniting and making a concerted effort to create new regulatory frameworks (Sættem 2016). These frameworks may also influence the new media players, and may serve as an indication that, although specific policy measures are contested and changed, the overarching principles remain important for guiding policy in the digital age.

Conclusion: Stability and change in the media welfare state

In this chapter, we have demonstrated how the media systems in the Nordic countries are characterized by a set of common features, thus supporting the claim that there is a Nordic model for the media (Hallin and Mancini 2004; Alestalo, et al. 2009; Syvertsen et al. 2014). One key advantage of comparing media systems is that it allows us to identify characteristics and traits across borders over time, which shows us how continuity can serve as a counterforce to change.

Media studies, particularly media policy studies, tend to be more interested in and focused on change than stability. There is a great interest in studying disruption, which is often conceptualized as a “crisis”. However, there is a danger that dramatic concepts of this nature will mask the fact that change is a normal aspect of media development as well as that changes occur to a different degree and at a different pace in different parts of the world.

One key premise of our analysis of the media welfare state is that interest in *continuity* should be stronger within media studies. Continuity does not mean the absence of change, but that existing measures may be adapted and innovated, so as to continue to serve certain social goals.

If we move the focus from the media system to a broader perspective on the welfare state, we see that innovation is not only taking place in technology and platforms, but also in regulation and governance. Like companies and

users, regulators and the state also adapt to changes. Rather than a dramatic break with the past, there are a number of micro-decisions that the welfare state, as well as the media welfare state, imposes, which demonstrate the possibilities for reorienting policy-making and strategy. For example, in the Nordic countries, there is considerable interest in how we can develop the welfare state and the public sector using new models of social innovation, entrepreneurship, co-governance and increased public participation (Norden 2016).

The global interest in the Nordic model is not just because the Nordic countries cluster at the top of rankings of economy, social health and happiness, it is also because, as *The Economist* points out, “To politicians around the world – especially in the debt-ridden West – they offer a blueprint of how to reform the public sector, making the state far more efficient and responsive” (2013). While the strong influence of the state is often thought of as a distinguishing feature of Nordic media, just as important is the Nordic states’ pragmatic relationship with private businesses and their ability to reform through a public-private mix.

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Communication Rights and Public Service Media

Changing ecosystems, changing 'publicness'

Minna Aslama Horowitz & Hannu Nieminen

Abstract

This commentary addresses the need for public service media (PSM) institutions to re-think their framework of legitimacy. It proposes that PSM re-align their remit with the broader issue of communication rights, in order to safeguard those rights in the new complex digital media ecology. It further posits that the Nordic public broadcasters, as harbingers of digitalization in their respective countries, would be well-aligned to adopt a rights-based mandate.

Keywords: communication rights, human rights, public service media

Introduction

In the Nordic countries, public service broadcasting (PSB) and, later, its multimedia variation public service media (PSM) have traditionally played a key role in informing, entertaining, and educating citizens. They have functioned as the protector of minority voices and guarantor of content diversity in terms of media markets. The public service ethos has been an important part of what has been called the Nordic "Media Welfare State" (Syvertsen et al. 2014).

Today, it could be argued that communication and the media play an even broader role in serving the public, and PSB and PSM are not alone in tackling the task. The media ecosystem of content providers, platforms, and audiences looks very different than it did when public service broadcasting was instituted. The so-called legacy media couple with, and compete with, the Internet, social networks, and mobile communications.

While proliferation of content and providers has been drastic, audiences' ability to create, participate in, and choose from media content has perhaps seen an even more dramatic development. Mass audiences are now masses of individuals: people's needs for content can take local, national, global, or

issue-driven, borderless forms, and they increasingly seek different outlets to meet these needs. That is why some have noted that the forms of public media in the digital era will need to be “people-centric” and, in some way, broaden their national focus (e.g., Aufderheide and Clark 2009). Or, as Ingrid Voltmer (2015) noted, the entire notion of “publicness” has shifted:

We need to understand ‘publicness’ within these broadly connected discursive spaces: mobile communication, blogs, social networking, television, radio and other media. This kind of publicness is an inclusive, thematically ‘authentic’ structure of discourse mediated through transnational public ‘localities.’ In such an advanced transnational communication ecology, interdependent ‘publicness’ relates to the connection of trans-societal interlocutors and the processes of ‘linking’ these public engagements to local forms of deliberative practice.

The above entails significant conceptual and practical challenges for public service media institutions in the Nordic countries, and elsewhere. As national institutions that serve the public, they no longer address a national mass audience, but serve numerous publics and individuals. To do so, they have also begun to add global commercial online platforms to their media mix, thus succumbing to the challenges that this shift brings about. So how can their national, institutional role be legitimized?

In this commentary, we argue that public service media have de facto exited the realm of merely safeguarding content diversity at the structural level. We suggest that they need to embrace the new idea of publicness and enter the field of supporting individuals’ rights. In other words, instead of a market-based view of PSM “filling in the gap” left by (national) commercial competitors, in this commentary, we view PSM from the perspective of an individual citizen-consumer engaging in local as well as trans-societal communication.

Concept: Rights

How can we understand a rights-based approach in terms of media ecosystems? The first step, or layer, is to understand the media and communication in the framework of human rights. One apt definition is offered in the Issue Paper by the Council of Europe (2011: 32) on public service broadcasting and human rights:

A rights-based approach is a conceptual framework for a process of development that is based on international human rights standards and directed at promoting and protecting human rights, analyzing inequalities, and redressing discriminatory practices and the unjust distribution of power.

Arguably, human rights and communication rights are both elusive concepts: they have many context-based variations, they have evolved over time, and they are operating on the complex cusp of theory and praxis (Goodale 2013). Amartya Sen (2004) argued that human rights are not principally legal constructs, but rather related to the freedoms that have special significance to societies and individuals. He also underlined that human rights are related to “survivability in unobstructed discussion” (op. cit. 320) and hence their formulation alone requires a communicative right, freedom of expression, as well as a right to take part and to be heard in a dialogue. The same context of digital ecosystem that creates our increasingly mediatised societies, facilitates borderless participation and offers individuals new communicative opportunities, also heightens the challenges regarding freedom of expression, access to technologies and content, and privacy, as well as the very concept of authority in the digital era and the democratizing potential of the media in non-democratic contexts (e.g., Ziccardi 2013).

Following the above line of argumentation, basic human rights intersect with communication rights, and today perhaps more than ever. Typically found among the rights that are included in communication are principles such as freedom of speech, freedom of expression, freedom of information, popular education, etc. Special emphasis is often given to the rights of minorities and subaltern groups, including women, different ethnic and cultural groups, and people with disabilities. In the digital era, new rights such as the right to be forgotten are being formalized.¹ And, just as is the case with broader human rights, communication rights are represented in a number of different approved and ratified conventions and agreements (Calabrese and Padovani 2014: 1-13).

In addition to this “first layer,” that is, the framing of a process around institutionalized human rights, media ecosystems are faced with a “second layer,” in other words, with the specific issues that relate to communication. One way to understand these specific communication rights is to map them under five distinct operational categories (see Nieminen 2009: 14-15):

Access is a matter of citizens’ equal access to information, orientation, entertainment and other contents that serve their rights. *Availability* indicates that relevant contents (of information, orientation, entertainment and others) should be equally available to all citizens. *Competence* means that citizens should be educated with the skills and abilities necessary to use the means and information available, according to their own needs and desires. *Dialogical rights* concerns the availability of public spaces that allow citizens to publicly share information, experiences, views, and opinions on common matters. Finally, *privacy* is related to two different things: first, everyone’s private life must be protected from unwanted publicity, unless its exposure is in the public interest or the person decides to expose it to the public; and second,

protection of personal data means that all information gathered by authorities or businesses must be protected as confidential.

Application: Rights and PSM in the Nordic Countries?

Can we apply communication rights to PSM? Many would argue that there exists a certain conceptual riff between PSB and communication rights: Public service in the media sector has, in most of the relevant literature, been linked to democracy theories and, in practice, democratic societies. While rights-based approaches “share a commitment to the ideal of equal political dignity for all,” and while realization of human rights requires democratic government, the ideals of democracy and rights point in different directions (Donnelly 2013: 222-223). The former ideal concerns collective empowerment – the latter ideal concerns individuals. Related to this is the traditional practice of PSB: The paternalistic, one-way flow of communication from one center that disseminates information to anybody within its reach. And yet, in practical terms, PSBs have been used as vehicles in realizing certain communication rights, not least that of access to information/content.

We have also already established that, in the current media landscape, PSM are not alone in serving the public, in the Nordic countries or elsewhere. Given the global multi-platform environment, many have suggested that public service functions can also be performed by what could be called public media *de facto*, ranging from community media to networked projects and events (e.g., Bajomi-Lazar et al. 2012). A commercial TV channel may have a particularly important and engaging political debate program or news website; a community radio station may address issues of a region in more depth than does the national PSB; and citizens may inform each other (and the world) on social media about current affairs more effectively than any legacy media news outlet can.

Furthermore, because PSM exist on the same platforms as their commercial competitors, the result may be compromises in terms of intermediary liability, especially regarding privacy and freedom of expression (e.g., MacKinnon 2010). And, conversely, as Ziccardi (2013: 39) observed, digital communication and its platforms may have the potential to enhance international human rights, but this process is continuously being interrupted by nation-states and their interests. How would PSM organizations react to those challenges?

Still, if we take an overall view of the responsiveness of different actors in the media ecosystem to communication rights, PSM are faring very well. For example, community media may not have the resources, and commercial media may not have the incentive, to guarantee access, availability, and dialogical opportunities to everyone. Spontaneous, or temporary, media phenomena,

including citizen journalism, may require more competence than many citizens have – as regards creation, consumption, and participation. In today's media ecology, privacy is famously compromised both by commercial legacy media (tabloids – celebrities) and by commercial online platforms (user data). Public service media *de jure* could indeed be the trusted protector, and pro-active creator, of communication rights. And, because the concept is about public service media, not merely broadcasting, the institutional public service is in a particularly powerful position to serve communication rights in the digital era.

The original (although implicit) role of PSM in guarding communication rights is clearly present and can be enhanced. No other media outlet has had that kind of on-going, sustainable commitment and obligation. Today, the Nordic institution of PSB can be said to embody many of the rights of information and communication, especially in relation to citizens' access to and the availability of relevant information. It is also important to remember that, albeit relatively foreign in the Nordic context, rights-based approaches to communication and development have been on the international agenda for decades.

Conclusion

These are crucial times for PSM and all communication rights. As Henry Jenkins (2001) argued, a medium may change in terms of its content, audiences and social standing, but it will continue to exist in the media ecosystem – so public service will most likely continue to exist. But will it matter or be marginalized? And as Voltmer (2013: 160) summarized the situation: We are now at a historical moment where different realizations, both established and new, of public service broadcasting worldwide are under threat owing to digital convergence, audience fragmentation, and deregulated markets – and we may simply need to come up with new ways to ensure the values of independency, impartiality, and integration via the media.

It would thus seem that making communication rights something this is promoted and enabled by public service media could be one way to re-legitimize, and reposition, PSM *de jure*. The idea of PSM is still rather descriptive, even in the Nordic countries, and seems only to extend the existing PSB, using the Internet, into the era of new technology. A rights-based approach could provide benchmarks for what might be considered PSM – regardless of the production modality, organization, and distribution channel. It also seems that PSM organizations, if they take the call seriously, may be the best (most effective) promoters of communication rights. At the same time, a rights-based approach could offer a tool for measuring accountability, as well as an advocacy tool in the climate where communication rights are given great visibility.

The Nordic countries – which have so profoundly advocated public service and the “Media Welfare State” (Syvertsen et al. 2014), and which have, for instance, legal guarantees for universal broadband access (Finland as the first nation in the world in 2009) – would seem to be the perfect pioneers for a rights-based public service media. All Nordic public broadcasters have been digital forerunners in their respective countries (op. cit.). But despite their pioneering work with developing the PSM, even the Nordic countries still have a long way to go to fulfill the promises of full information and communication rights – not only to have freedom of speech and expression, but also the right to be heard and taken seriously.

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Note

- ¹ See, e.g., Court of Justice of the European Union PRESS RELEASE No 70/1, Available at: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-05/cp140070en.pdf>.

In Transition:
Freedom of Expression, Media and
the Public Sphere

Free Speech at an Intersection¹

Notes on the contemporary hybrid public sphere

Risto Kunelius

Abstract

This essay starts from the assumption that the notion of hybridity has become an increasingly influential part of the way we think about our societies. The chapter then asks: What are the consequences and lessons of this ascending “social imaginary” for our debates about free speech? This question is reflected on these issues by taking a concrete, contingent moment in Paris, in December 2015 as a starting point. It offers an example of an intersection where terrorism, security and civic action for global climate change management came together. The chapter suggests that, in addition to the current boom of analyses of *institutional* and *technological* hybridization, understanding the challenges of free speech (and free speech theory) calls for paying more attention to the *political* dimension of hybridization in the globalizing contexts of conflicts. Some pressing challenges for uses of free speech in the context politically hybrid problems are then suggested. Drawing from the example, such challenges relate, for instance, to the intersection of multiculturalism and security, the validity of evidence and witnessing, and the tension between the ideals and the material conditions of privacy.

Keywords: free speech, hybridity, public sphere, privacy, security, climate change, social imaginaries

Introduction

It is a chilly November morning in Paris. A small children’s playground on Rue Voltaire is packed with film crews and journalists. They are huddled in small clusters inside which representatives of indigenous peoples are giving interviews. This is the first global action day in the Paris COP21, the global summit that is supposed to deliver a shared roadmap for managing future climate change. We are not here by coincidence. The fringes of the park fence are covered with worn out flowers, pictures of young people smiling for the camera, small pieces of sad poetry, and French flags. Across the street is *Bata-*

clan, a concert arena and a restaurant where 87 people died two weeks ago in a terrorist attack. The marque still spells out “Eagles of Death Metal.”

The media moment in the park is consciously planned to take place in this disturbing intersection of global terrorism and freedom, of security and the right to be heard. The fact that journalists are present shows that the plan works. At the same time, the emotional force of the mass murder suggests many associations, some of which are disturbing. Should I allow myself to compare the victims of the Bataclan murderers to the people living on islands threatened to be drowned by the rising seawaters? Or should I take this media-availability-act as a critique of the French government, which has reacted to the terrorism by declaring a state of emergency and forbidden public protests during the ongoing summit? Or both?

The rising imaginary of hybridity

Recent decades have been flooded with books and essays on the promises and warnings that come with the transformation of our communication infrastructures. Are we entering an era of increasingly pluralist, interactive, multi-modal, and richer public debate and new kinds of logics of civic action? Or is the seductively easy mobile Internet access luring us into local echo chambers inhabited by narrow-minded, redundant identities – that are being surveyed more effectively than ever? The answer, predictably, is not *either or*, but *yes*.

One conceptual shortcut for trying to make sense of this volatility is the notion of *hybridity*. Drawing from biology and the idea of “cross-breeding,” hybrid creatures carry with them both the fascination of something new and the fear of breaking the “laws” of nature. Identifying and analyzing hybrid objects simultaneously both confirms the existing cultural order and threatens it. The downpour of neologisms trying to capture and promote the digital age – “prosumer”, “netizens”, “hackaton”, “eThis”, “iThat”, etc. – is a constant reminder of this, as is the irritation these terms cause.

Theoretically, as Bruno Latour (1993) once suggested, the element of hybridity has always been a crucial but partially silenced element of the constitution of the “Modern” identity. In modern societies, he claimed, the general trend toward differentiation, and the subsequent work of keeping institutional boundaries and roles clear, feed a counter force: a need to find boundary-transgressing practices and modes as well as moments of translation. While this translation activity and hybridity is important for the functioning of institutions, the public legitimization discourse of modern institutions – from science to journalism, for instance – has favored a language that emphasizes these boundaries. It has highlighted the autonomy of institutions and importance of guarding their borders rather than celebrating those people, moments and locations where leaps from one institutional logic to another take place.

Thus, hybridity has not been as explicitly hardwired into our consciousness, as some earlier modern social imaginaries, such as ‘objectified economy,’ ‘sovereign people,’ or the ‘public sphere,’ (Taylor 2004). But the increasing sense of living in an intensively interrelated and more complex world seems to have offered some boost for hybridity as an influential figure of thought. Like other social imaginaries, it expresses itself in theoretical debates as well as in practical, everyday discourse. Latour’s own recent work (2013), for instance, seems to offer a suggestion for a new language that would enable social institutions to defend themselves in the current conditions of intensively felt hybridization and the importance of boundary zones. Also, more generally and vernacularly, the idea of hybridization has become a powerful metaphor that shapes how we value what we do. By doing so, it may also be posing new questions related to what free speech means and how we think about it.

Hybridity of the “third kind”

There are several clearly detectable versions of the hybridization narrative. Obviously, a *technological* narrative of digitalization points to the growing interactivity and complex proliferation of communication channels. New media forms and formats, when combined into a network infrastructure, have come to facilitate action and influence across previously “natural,” often materially structured, borders. The everyday wonders and incredible features of mobile digital Internet access have no doubt strengthened beliefs in the creative power and progressive potentials of hybridity in general. In recent analyses of media and politics, this technology is often claimed to facilitate – both materially and symbolically – creative transgressions of earlier logics, modes, practices and identities (see, e.g., Chadwick 2013; Bennet and Sederberg 2014; Carlson and Lewis 2015; Russell 2016).

Partly overlapping with the technological narrative, current uses of the concept of hybridity also have an important *institutional* reference. Institutional hybridity presents itself as heightened attention to the translation between familiar institutional borders. We increasingly celebrate the virtues and necessity of interdisciplinary work; we want to build new interfaces, and facilitate encounters as well as highlight the boundary work and contact zones as object of study. Intense interaction and communication – rather than detached autonomy – between institutions have become desired goal and a necessity. A good institutionalized example of such a trend comes from the field of climate change, where the *Intergovernmental* Panel for Climate Change is a unique creature, not only as a distinctive *transnational* and multidisciplinary organ – but more to the point here – as an amalgam between science and politics (see Funtowitch and Ravetz 1993; Hulme 2009). As an institution of

“post-normal science,” it exemplifies the need for institutional hybridity. At the same time the IPCC is symptomatic of an even larger, overarching and existential hybridization narrative of the Anthropocene, the global collapse of the imagined nature-culture distinction (see, e.g., Dryzek et al. 2013: 112-128, also Latour 2013).

Such versions of hybridization serve well to locate interesting moments and developments that are reframing the way we think about the condition of free speech and public discourse. But a richer link between the changing landscape of social imaginaries and free speech could also extend the notion of hybridization further, to the actual *issues* that are at stake when we debate the question of free speech. It is in this connection that the 2015 November morning in Paris is a provocative moment. As a concrete, contingent intersection of *terrorism*, *climate change* and heightened *security discourse*, it provides a clue to yet another kind of hybridity. For lack of a better term, I will call this “third kind” of hybridity *political*. In brief, and suggestively, political hybridity refers to the way in which concrete and contingent political problems converge in a given moment in a given context and how that convergence produces new kinds of political alliances and associations. Such intersections, or politically hybrid moments, can also make us reflect on the current conditions of free speech and the ways we think about it.

Free speech and multiculturalism

It is impossible to talk about Bataclan without talking about Charlie Hebdo and the “Je Suis Charlie” meme, and hence, without talking about the Muhammad cartoons controversy of 2005-2006 – and consequently, without talking about Huntingtonian claims concerning the “clash of civilizations.” Indeed, during the past decade, the free speech vs. multiculturalism debate has increasingly become a key factor in constructing and deconstructing political alliances in general. It has fed the rise of political populism in many democratic countries, and carried new parties into power. In the public sphere, and for our definitions of free speech, it has strongly emphasized a logic whereby *identity* comes first. The January 2015 spring meme, fittingly, was “JE SUIS” – I am.

The strong affective public outrage was not, of course, the wrong reaction to the mass murder in the Hebdo editorial offices. But while recognizing this, it is also important to see how the heightened security reach of the state in France was put into effect with the backing of this very same emotional energy – energy that was supposedly defending free speech.

Is this a paradox? Protecting free speech demands an effective surveillance of citizens?

From a distance, the enhanced surveillance laws may indeed seem like an act against freedom. However, inside the borders and the logic of an identity-driven free-speech doctrine, a “strong” state easily claims a key position in free speech discourse. Such a state redeems itself as a necessary precondition of freedom, as a practical solution to the identity game. If you are one of us, you are protected and free to have a say. This may well give us a sense of clarity, but how much does it help us negotiate the pressing question of freedom and *tolerance* in a multicultural and complex world where differences are not disappearing. How much room is there for saying “I could be Charlie” or “You could talk me into being Charlie”?

Free speech, evidence and power

A second stream of meanings flowing through the Bataclan morning was, of course, the narrative about climate change. At first, it might seem a bit remote for a discussion of free speech. However, it should also remind us that *despite* identities and cultural constructions, we also live in a common material realm where problems are, well, *real* and materially shared – albeit not equally suffered from.

Reading the final Paris COP21 accord from December 2015, and the commentaries on it, makes it tempting to deride the celebrated global deal as mostly a complicated, acrobatic act of linguistic diplomacy. However, one can also think of it as a weak but positive example of the power of providing public *evidence*. What is relevant in the global climate debate from the point of view of free speech, then, is the – however partial – success of the strategies of the global civil society actors. It is worth noting that this struggle has increasingly been driven by claims that there is *both objective* evidence that demands action *and pressing value issues* that demand recognition. Keeping these two sides on board has allowed their practice of *witnessing* (both as a record of experience and as an act of hearing the experience of others) to make a powerful, integrated claim about truth and justice.

It would be naïve to suggest that the Paris agreement proves the strong power of witnessing in the transnational public sphere. The cruel fact is that while the COP process has, for a couple of decades, been tossing around the target of a “2-degree limit,” the real carbon emissions have soared, and the current, actual business-as-usual trend is committing the world to a much more dramatically unpredictable future than the hopeful target. At a minimum, however, one can say that the pressure of evidence, produced both by hybrid, systemic institutions such as IPCC (integrating political power and claiming expert scientific evidence) and by the life-world knowledge from

civil society (integrating facts of lived experience with claims to justice and basic solidarity), was able to create an *opening* from which to continue. The facts that the Paris accord commits to a 2-degree limit, that it recognizes a more ambitious target of 1.5 degrees, and that it embraces the idea of transparent monitoring of targets and achievements are, at this point, merely rhetorical. But potentially, the hard discrepancies between these commitments and future realities will also provide the power to produce new, critical evidence.

Free speech, privacy and security

A third stream of free speech issues that was unavoidably present on that Paris morning was the intensified and intertwined debate about digital *surveillance* and *security*. Limiting public action in the name of security – as the Paris state of emergency during the COP21 did – opens up the core question of free speech, and exposes the collective trade-off between the state and its citizens. It also introduces the image of enemies within our ranks, the potential need for mutual suspicion. It both highlights the issue of the *legitimacy* of the state and its power and asks almost baffling questions about free speech and *individuality* and privacy.

The legitimacy debate seems clear enough. Obviously, the state should not be able to know everything you do or say in private encounters, not even at the level of meta-data about where you are, when and with whom. We instinctively know that privacy, in this sense, is a constitutive element of the public (sphere): without the secrecy of privacy, publicity – in the modern sense in which we apply it – loses its representative claim of producing legitimacy. Protecting privacy, thus, is protecting the *possibility for the state to defend itself* discursively in public and the right of citizens to hold the state publicly accountable. Compromising privacy, in this perspective, undermines the possibility of the state to earn its legitimacy through the public.

However, when this figure of thought is set into the context of security and surveillance, problems and paradoxes surface: If security demands surveillance, can such surveillance – ever – be transparent? Would overall transparency even be a benefit to more benign institutions (see, e.g., Schudson 2015)? Logically, there is perhaps disturbingly little solid ground for such arguments to stand on. Is it possible to have public oversight mechanism of surveillance in general, and of digital, massively effective surveillance in particular? No wonder that in everyday conversations we are fond of detaching ourselves ironically from the whole issue (making fun about being watched) or by declaring, “I have nothing to hide.” As the figure of the *deep state* becomes apparent, it is best to think that you are too uninteresting for it to bother with – or that it is indeed a benevolent deep state.

Beyond the oversight claim, there is yet another fundamental element of free speech that exposed – and is at stake – in the privacy-security debate. As we are more and more effectively digitally tracked and targeted and as we come increasingly aware of this (and willingly submit to it), the borderline between private and public becomes – again – porous and blurred. Whether we want to call this boundary activity a yet another example of hybridization does not matter. What matters is that does raise the possibility of individuality becoming a *less* plausible core ground on which a free speech theory stand on. Thus, exposing the effectiveness of the meta-data analysis of our life-choices can potentially also lead to an *eroding of the imaginary of individuality*. Indeed, the conditions in which we have thought that individuality – and its boundaries – is constructed and safeguarded are undergoing a fundamental structural change. The paradoxes of “transparency”, and the discrepant frames in which we come to solve them in the unfolding discussion about surveillance, are about to be having their effect on your ways of thinking (see, e.g., Kunelius et al. 2016)

Lessons of political hybridity

We can take the three converging discourses above – multiculturalism, climate change and security-surveillance – as *examples*. As such, they underline the importance of *not detaching* free speech considerations from the substantial, political issues that activate them. A debate about free speech is always about *something* other than merely free speech – even when it claims to be only about free speech itself. Because issues in our increasingly interdependent world are more intensively co-present, it is becoming more difficult to formulate universal clarities. This is a good thing, as it requires more consideration and reflection. It is healthy to be reminded that when we declare free speech to be sacred, we are partly defending a worthy cause, but at the same time – in some political estimations – we are also running the risk of giving the fundamentalists what they want: a world where identities rule and the demand for *conversion* replaces conversation.

We can also look at the three intersecting streams as *more than examples*, and read them as challenges to our theorizations about free speech. In doing so, at least three tasks emerge. I will end by sketching them in a slightly normative manner.

First, we need a notion of free speech that helps us live in a culturally and politically hybridized world. It must be possible to defend free speech and remain considerate to others and their values. If ‘others’ are represented within securitization discourse, this becomes increasingly difficult.

Second, we need to defend the epistemological value of free speech, one that recognizes facts as constructions that can be defended with *evidence* as well as with value commitments. It must be possible to speak about incorrect arguments by claiming that evidence proves some facts as not being true or accurate, and that some speech acts are unjustified.

Third, we will need to develop a more nuanced understanding of the boundary between the private and the public. It is difficult to see how a theory of free speech could function without the political fiction about individuals being the essential building blocks of democracy. But it is equally difficult to see how any of us can sustain a belief on such a democratic fiction without a profound sense of irony. After all, we seem to have entered a world where you are told you must not protest because it might compromise the very values that you should protest for.

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Note

- ¹ This chapter will also be published as Kunelius, Risto (2016, forthcoming). Free speech at an intersection. Notes on the contemporary hybrid public sphere. In: Kramp, Leif/Carpentier, Nico/Hepp, Andreas/Kilborn, Richard/Kunelius, Risto/Nieminen, Hannu/Olsson, Tobias/Tomanic Trivundža, Ilija/Tosoni, Simone (eds.). *Politics, Civil Society and Participation*. Bremen: edition lumière.

On Press Freedom and Other Media Freedoms

Helge Rønning

Abstract

This article takes its point of departure in a brief discussion of whether freedom of expression and freedom of the press are interchangeable terms, or whether press freedom is one of many freedoms covered under the principle of free expression, which is in theory a fundamental human right. The discussion then turns to how the principle of free media and citizens' participation in a free and open debate can be secured in an open public sphere, referring to a clause in the freedom of expression article in the Norwegian Constitution that is called the "infrastructural principle" and that encompasses both a defence of free media against state intervention as well as regulations that ensure pluralism and independence. The next discussion concerns the role of new communications technologies and the challenge they imply in relation to communicative freedoms and ethics. The position is that the same legal rules and ethical considerations must apply regardless of the technology used to convey messages as well as that all forms of expressions fall under the protection of free expression. The last part of the article deals with how we can relate to statements that the majority might find abhorrent, and that many will find insulting. The article ends by calling for tolerance – even for expressions one does not respect. Tolerance and respect are not identical, and limiting the principle of free expression in all media is tantamount to undermining democracy.

Keywords: freedom of expression, media, public sphere, social media, tolerance, abhorrent

Introduction

When we use the concept of freedom of expression it encompasses all forms of utterance, be they private or public, such as speech, petitions, demonstrations, actions that demonstrate an opinion, art, all forms of media messages, and many more. This raises the question of whether freedom of expression and freedom of the press are equivalent, or whether freedom of the press

should be interpreted as *one* of the many freedoms falling under the concept of freedom of expression, albeit a very important one. Is the press as an institution entitled to greater freedom from regulations and restrictions than are institutions and individuals that claim to represent the public in the same way the “press” does (particularly in the form of news media)? There is no doubt that the press plays a critical role in all societies, particularly in defending and promoting democracy and citizens’ right to be informed and to debate. But should the press have different privileges for accessing information from the government than individual citizens or the general public have?

Freedom of expression and the right to access to information are both citizens’ rights. Freedom of expression articles in constitutions around world may or may not mention freedom of the press specifically. This may be interpreted as a possible “conflict” between freedom expression clauses that protect individuals only and press clauses that provide special protection for press corporations, but such is not the case. Constitutional freedom of expression pertains to expressions regardless of their source, be it individual or mediated. Such constitutional defence safeguards public access to discussion, debate, and dissemination of information. While many constitutions such as the Norwegian provide special protection for political speech, and this is often invoked by the press, there is nevertheless no doubt that freedom of expression governs all forms of speech.¹ Furthermore, it is essential to differentiate between what is permitted legally and what may be offensive ethically. Law and ethics are not the same, even if the two are related.

The role of the press in relation to the legal rules for protection for freedom of speech and ethical considerations may be illustrated by the practices of independent press councils and their codes of ethics. It is essential that press ethics not be mistaken for legal regulations; ethics and laws have different functions. The rulings of press councils can thus not be used as arguments in a legal case, and it is assumed that by leaving the decision to the council, the parties will not bring the case to court but instead abide by the rulings of the council. This is generally respected, but not always. A comparison of the different international codes of ethics shows that they largely contain the same rules and provisions. The question is, however, how they are practised and whether press councils are respected and possess sufficient legitimacy.

Good rules are not sufficient if they are not followed, and if the rulings of councils are not respected and do not have any consequences. In this context, the is question whether the media, with reference to their duty to uncover wrongs and power abuse in society at large, should not be more vigilant in focusing critically on their own transgressions. After all, this is what a respected system of self-justice is all about. In a wider context, we must bear in mind that defending the independence of press councils and maintain-

ing the difference between ethics and law also imply protecting freedom of the press from undue influence, be it from the state or corporate attempts at censorship. This balancing act of defending freedom of the press as a legal principle and the ethical values of a free press exercised by independent press councils is essential to a free and democratic media situation.

An open and enlightened public discourse

The sixth paragraph of Article 100, which is the freedom of expression article, of the Norwegian Constitution contains the following wording: “The State authorities shall create conditions that facilitate an open and enlightened public discourse”. I am particularly proud of this formulation, as I was a party to writing it when I was a member of the Norwegian government-appointed Freedom of Expression Commission during the period 1996-1999. The Commission’s mission was to examine all laws pertaining to freedom of expression in Norway, analyse them from a theoretical and international perspective, and come up with a proposal for a new freedom of expression article for the Constitution.

The principle outlined in this paragraph is called “the infrastructural requirement”. It means that the state has the responsibility to ensure that individuals and groups are actually given opportunities to express their opinions as well as given access to relevant information. Maintenance and development of the public sphere are invoked as major public responsibilities. It also emphasizes that the right to freedom expression is more than anything a right that is exercised in the public sphere. This means that it is necessary to establish an institutional framework that can provide for and secure multiple, diverse and independent media organizations. Here, independence refers to independence both of the state and of monopolistic commercial interests. But more than anything, it implies that the principle of editorial independence is respected. These principles combine the traditional liberal emphasis on media being independent of state power, on the one hand, and a newer interpretation according to which the market for communication enterprises must be regulated to prevent monopolies that threaten diversity and pluralism, on the other. The concentration of political, economic and symbolic power represents an undermining of the principle of free speech and access to multiple forms of information.²

Originally, freedom of expression was viewed primarily as a freedom in relation to the power of the state and public authorities. It was a guarantee against the abuse of power. However, the responsibilities of the public authorities have changed over the course of history. Citizens have acquired civil, political, economic, social, and cultural rights that go beyond pure rights

to freedom. This implies that public authorities have developed into a many-headed creature that often has mutually conflicting responsibilities. Thus, the obligations of public authorities have been extended from merely not standing in the way of free speech to actively providing for a free public discourse and access to a free flow of information.

Since the late nineteenth century, interest in the relationship between mass media and political developments has been growing, and it has increasingly been at the centre of the debate over democracy and free speech. On the one hand, the debate has concerned whether the media promote a rational discourse or only serve propagandistic and commercial interests. There has always been a perceived potential conflict between mass media and the development of democratic self-governance. The growth of the mass media and the mass consumer, and thus the advertising market, go hand in hand. This is related to several issues. One has to do with the issue of ownership and control. The fear is that those who own and control the media, be they large corporations or the state – depending on the type of society in question, will use their control to create skewed interpretations and promote one-sided views and agendas to the detriment of a pluralist public debate. In such a situation, democratic communication will suffer. The second issue concerns the fact that important and alternative information will be omitted and limitations will be put on who has the right to speak. A third issue is that the content of the media will be steered entirely by ratings and commercial interests. Entertainment will supersede critical debate, and the offerings of the dominant media will be more or less the same from channel to channel. Moreover, alternative forms of expression will only find their way to minority and niche media.

Regardless of communication technologies

Freedom of speech implies the liberty to express opinions and ideas without hindrance, especially without fear of punishment. It is obvious that these principles must apply to communication systems of all sorts, thus also to the Internet. These fundamentals are technology neutral. Despite the constitutional guarantees of free speech in many of the world's legal systems, even the most democratic of societies have never treated freedom of speech as an absolute. The liberal tradition has generally defended freedom of the sort of speech that does not violate others' rights or lead to predictable and avoidable harm, but it has been fierce in that defence because a free interchange of ideas is seen as an essential ingredient of democracy, although there have to be some limits. Such limits, however, must be very narrowly defined.

Though freedom of speech is basically an individual right, it is at the same time collective, and it is this duality that is the basis for analysing and defend-

ing freedom of expression as something essential to democracy. However, in relation to the arguments for free speech, there has always been an overemphasis on the political and rational elements of free expression at the expense of its wider cultural implications. Thus in the Norwegian constitution, the basis for freedom of expression is given in the following manner: “the seeking of truth, the promotion of democracy, the individual’s freedom to form opinions”. This formulation may be criticized for emphasizing political issues as well as rational discourse more than other forms of speech. On the other hand, it is important that the formulation emphasize the importance of the personal autonomy of the individual as a precondition for free speech. The obvious question that arises from this is: What is an individual and what is person?³

Furthermore one of the basic arguments in relation to dealing with freedom of speech in modern society is that it is a right, which is principally in the public not the private realm, and it is intrinsically linked to the development of mass media and technological means of communication, from the printing press to the Internet.⁴ Thus, the old formulation in Article 100 in The Norwegian Constitution from 1814 was “There shall be freedom to print”, which was a reflection of the communication technologies that existed at the beginning of the 19th century. The fact that this was later interpreted as encompassing other forms of mediated speech created problems. Thus, up until the new Article was passed, there was no media-neutral way of looking at freedom of expression. For instance, even moving pictures for mature and autonomous individuals were subject to censorship. For the Freedom of Expression Commission, this was a basic challenge and something that had to be solved.

This legacy also implied another problematic obstacle to looking at mediated communication in relation to arguments for free speech. The role and importance of popular culture has been downplayed in arguments for free speech, if not looked upon with downright suspicion. The reasons for this are many. Elites have regarded popular culture as being lower in value than art. Thus not so very long ago, something that was regarded as art in one context would be pornography in another. Thus, what has been regarded as mass and low culture has more often been subject to stricter forms of regulation than has individual and high culture. However, if the intention is to promote a truly democratic culture, it is necessary to be just as concerned with speech related to public issues as with forms of expression that have nothing to do with rational and public debate, but instead speak to our emotions. This applies to popular and mass cultural forms of expression, however vulgar they may seem to some. There are countless examples of such expression in the traditional mass media and perhaps particularly in the new interpersonal media, that for some reason are called *social media*.⁵

How can we relate to the abhorrent?

Freedom of speech is concerned with the freedom of autonomous individuals to consume, create and distribute cultural expressions of any form, as long as these expressions do not conflict with other laws. Freedom of expression is also about disagreeing with the mores and aesthetics of a society's dominant cultures with regard to taste. It is not only the elites who should have the opportunity to participate in, create and consume the culture of their choice. Cultural expressions help to develop the constitutive meanings of communities and sub-communities. Making and listening to creative expressions of all kinds are part of the cultural mix in which people live. Such expressions are linked to both interpersonal forms of communication and mass communication. A blurring of these forms of communication is currently taking place in the new digital technologies, and they create new challenges and opportunities in relation to freedom of expression. People's expressions in the form of day-to-day utterances in the most mundane sense – conversation, accusations, insults, denials, complaints, gossip – are at the margins of public speech, and should not be controlled. One of the problems associated with laws against hate speech is that they may constitute an invasion of the private sphere of individuals.

The digital communication technologies represent a new challenge to the debate over freedom of speech. They open up for “[...] a new set of conflicts over capital and property rights that concern who has the right to distribute and gain access to information”.⁶ The Internet community and defenders of freedom of expression are fighting to hold on to freedom of speech on the Net, and to extend its use as a democratic and free medium. They are coming up against attempts at censorship and control on the part of states, corporate interests, political groups, and other kinds of organizations – among others, religious. The Internet contains all manner of content. The objectives of censorship attempts are to control not only the content, but also the potential of the Net to serve as a free and democratic arena for communication. But this also raises dilemmas concerning the relationship between ethics and judicial issues. There are forms of expression that, from a legal point of view, must be regarded as being within the limits of free speech, but that nevertheless are ethically abhorrent.

To illustrate the dilemmas that we are faced with let me turn to the situation after the 22 July 2011 terror attacks in Norway when it became clear that Anders Behring Breivik, the murderer behind the attacks, had communicated widely on various Net-based fora with racist, xenophobic and potentially violent groups and individuals. It then suddenly dawned on the official media that there exists the vast number of hate-mongering websites with extremist opinions of all kinds, quite a few of them actually predicting violent acts.

Since then, the sophisticated communication activities of Islamist groups such as IS have illustrated how Net media are being used to spread hatred and recruit terrorists.

At this point, a question arises: What should we do with such offensive opinions? And how can we, using a liberal concept of freedom of expression, tolerate such pronouncements? Should they be censored even in a liberal society? Can we foresee the awful things that are going to happen by interpreting signs and warnings even if we really do not understand them? And when do the signs that something is going to happen become so strong that it is possible to act upon them?

Related to this is also the question of who is editorially responsible for the content posted on the various obscure and less obscure websites, blogs, chat-rooms, Facebook groups etc. Fora that express extreme right-wing opinions about the possible takeover of Europe by an Islamic conspiracy, working together with European multiculturalists, represent a bizarre counterpart to the equally hate-mongering websites dominated by extreme Islamists advocating terror in the fight against what they perceive to be the decadent and godless way of life in Western societies. In many contexts, the very existence of these fora has resulted in demands for increased surveillance and restrictions on what can be published on the Net.

The Net is full of offensive and irresponsible material disseminated anonymously, in the form of rumours, falsehoods, and defamations for which no one can be held responsible. Thus, it undermines the link between the right to free expression and the requirement that there be a responsible entity or judicial person who can be identified as the originator of the message.⁷ There is no doubt that there are many communicative spaces that are filled with obnoxious expressions and opinions, there is also no doubt that the different forms of Net-based, often isolated communication groups and sects pose a danger that we have seen lead to abhorrent acts of violence.

Tolerance and free speech

The problem is of course where to draw the line between what can be legitimately monitored and when scrutiny transitions into forms of control of free communication. Furthermore, there is continuum between extremist Net fora and other communicative spaces, on the one hand, and partisan web-logs where participants only communicate with those with whom they already agree and where all communication seems to be an echo of arguments made repeatedly by the same people, on the other. It is under such conditions that conspiracy and paranoia thrive. Calls for restrictions on time-honoured rights and customary liberties arise. Should the right to privacy and to express

oneself freely, and even anonymously, be curtailed in order to prevent the unexpected from taking place? The situation calls for analyses and criticism of the technological and social conditions that create the possibilities for such communication, so that we can be prepared for and confront the abhorrent face to face through free communication. But this also implies that the relationship between law and ethics must play a central role when we argue that free media constitute an essential critical institution in society.

This means that an open, inclusive and pluralistic public sphere must also be open to expressions that are affronts to ethical and decent norms. It must also accommodate the opinions of those who object to the principle of free speech. This implies being tolerant of the intolerable. But it does not mean a tolerance that is synonymous with respect for abhorrent expressions. Tolerance and respect are different concepts. Tolerance implies that one must stand up for the values one believes in, and not on the basis of a misunderstood form of respect that self-censors certain forms of expression because they might insult others. Tolerance means that the public sphere is not closed to any expressions, but also that everyone is free to express their opinions, regardless of which group they belong to. The claim that one feels offended is not a reason to limit tolerance or free speech.

Direct incitements to violence are not protected by freedom of expression, nor are extreme forms of hate speech. This is not a problem. The challenge is in knowing how we should react to those who, in the eyes of many, abuse the right to free speech to disseminate their loathing of the very principles of human rights. These are the rights extremists invoke when they are brought to court. They hide behind the principle of free speech when they are accused of spreading hatred. Can we take this right away from extremists without violating the very foundations of the right itself? We cannot. It is the price we have to pay for defending freedom of expression. To limit this fundamental right is to undermine the very principle of democracy.

Notes

- ¹ For a discussion of the relationship between freedom of speech and freedom of the press in relation to the First Amendment of The American Constitution see: <http://constitution.findlaw.com/amendment1/annotation08.html> (Last accessed Feb.7, 2016).
- ² For further elaboration of the relationship between the original liberal principles and market regulation meant to secure the conditions for a multiple free and independent public sphere that safeguards media freedom, see Thompson, John B. (1995): *The Media and Modernity*. Cambridge: Polity Press, p. 240-241.
- ³ This issue has been discussed in Holst, Cathrine and Anders Molander (2009). "Freedom of Expression and Freedom of Discourse. Examining a Justificatory Strategy" in Kierulf, Anine and Helge Rønning (eds) (2009) *Freedom of Speech Abridged. Cultural, Legal and Philosophical Challenges*. Göteborg: Nordicom.

- ⁴ See Winston, Brian (2005) *Messages. Free Expression, Media and the West from Gutenberg to Google*. London and New York: Routledge.
- ⁵ In other contexts, I have argued against using the term *social media* for these new forms of mediated communication. Throughout their history, media have always been social. The communication of the so-called *social media* – which is often not social but rather interpersonal, one-to-one or few-to-few – takes place in closed spheres rather than in democratic public spheres. Are the *social media* really social? Or do they constitute an amalgam of the public and the strictly private?
- ⁶ Balkin, Jack M. (2004) "Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society. *New York University Law Review*. [Vol 79: 1 April 2004] p. 3.
- ⁷ These arguments are put forward forcefully in Levmore, Saul and Martha Nussbaum (eds) (2010) *The Offensive Internet*. Cambridge. Mass: Harvard University Press.

Media Freedom Revisited

The widening gap between ideals and reality

Christian S. Nissen

Abstract

Although it is considered a cornerstone in democratic constitutions and a distinct feature of a free and open society, media freedom seems to be deteriorating. Annual surveys and numerous reports reveal a worrying trend towards a constantly widening gap between ideal principles of international declarations and the harsh reality of day-to-day journalism.

It is especially disturbing that this development appears to be taking place not only in countries under totalitarian regimes, but also in parts of the world with governments usually considered to be among the guardians of a free press.

The chapter considers some of the documentation for this deterioration and discusses the background in light of new digital technology and a changing communicative culture in political systems.

Keywords: freedom of the press, media freedom, editorial independence, human rights

Introduction

Where have all the great expectations and optimism from the beginning of the 1990s concerning media freedom and pluralism gone? Why have rights and principles, which people fought and died for, become mere reference points of a more symbolic nature, detached from the real world of media and citizens?

During recent years, I have often thought about questions such as these and discussed them with colleagues at international conferences on media pluralism. These discussions have caused me to think back to similar gatherings during the period right after the fall of communism. All across Central and Eastern Europe, media people – both publishers and journalists – and civil servants met at workshops and training seminars to learn how to harvest the fruits of their newly won freedom from censorship and other forms of state control.

It was certainly an era of hope and great expectations. My colleagues and I, all media professionals from Western Europe, toured around in Central and Eastern Europe lecturing and giving advice to our newly liberated colleagues on all aspects of a free and independent media industry.

Now some twenty years later, variants of the overarching themes can still be found on the agenda. Compared to such gatherings a quarter of a century ago, however, the main difference is more intangible in nature, involving attitudes and the general atmosphere. Gone is the – perhaps naïve – hope of turning the former state-owned and controlled media into a free press by changing ownership and reforming regulatory regimes. Also absent are the ambitions of developing critical, independent journalism through training seminars on genuine journalistic methods and classic editorial virtues free from the shackles of censorship.

We are still referring to the same international declarations on “the right to freedom of opinion and expression”, and everybody apparently agrees about their principal importance. However, it is as if this really does not matter any longer. This changing attitude could, of course, be understood as a sign of understandable fatigue among people who meet regularly over the years. Let us, therefore, take a closer look at ‘the real world’ outside the meeting venues.

Media freedom is generally deteriorating

Given that freedom of the media, editorial independence, etc., are principles included in numerous declarations by international organizations and supported by all states as well as written into their constitutions and laws, and given that very few – if any – argue openly against these principles, one might expect them to also be followed in practice.

But the opposite seems to be the case. The annual surveys of media freedom conducted by organizations like ‘Freedom House’ and ‘Reporters Without Borders’ speak for themselves. As expressed by the latter in their 2015 report:

There was a drastic decline in freedom of information in 2014. Two-thirds of the 180 countries surveyed for the 2015 World Press Freedom Index performed less well than in the previous year. The annual global indicator, which measures the overall level of violations of freedom of information in 180 countries year by year, has risen to 3,719, an 8 percent increase over 2014 and almost 10 percent compared with 2013. The decline affected all continents.¹

Such surveys are, of course, very rough measurements that do not always take specific national circumstances and background conditions fully into account.

However, even more detailed, in-depth studies do not reveal a more positive picture. Consider, for instance, the subtitle of the Open Society Institute/Foundation (OSF) report from 2008², “More Channels, Less Independence”, following up on a previous analysis of the television markets of nine – primarily Eastern European – countries conducted three years earlier. The report confirms the general trend of things going from bad to worse when it refers to the apparent determination on the part of political elites to reaffirm their influence over broadcasting.

The OSF followed up on this rather disturbing conclusion with the Mapping Digital Media (MDM) project 2011-2014³ by analysing more broadly the impact of digital media on journalism, democracy, and freedom of expression in 56 countries on all five continents. The MDM reports reveal a very disturbing global pattern of deficiency and misconduct summed up at the end of the project⁴:

- Governments and politicians have too much influence over who owns the media, who wins licenses to operate newspapers, radio and TV stations, and how the media are regulated – all of which undermines independent journalism.
- Many media markets are not free and fair, but are dominated by a few major players, and are rife with corrupt or non-transparent practices.
- Media and journalism on the internet offer hope of new, independent sources of information, but are also a new battleground for those seeking to control information.

Further, the MDM project discloses a disturbing change in the working conditions of news journalists. Resources necessary for in-depth news coverage and critical, investigative journalism are channelled to other areas, for instance to fund the “24-hours news wheel”, which is considered a competitive imperative in the new multiplatform web universe.

It is particularly serious that the numerous breaches against the principles of freedom of expression and media independence do not only amount to a number of scattered, individual cases. Rather, we are dealing with the development of a general, more structural trend related to ownership of and systematic control over media companies and a changing political culture concerning the relationship between governmental power, big business and a weak civil society.

Digitization might foster media plurality – yet at the same time reduce freedom from control

The more specific question of the future role of the Internet, concerning its contribution to media freedom and plurality, is a key factor of uncertainty

and thus opens up potentially new capabilities at the same time as it seriously limits the freedom of their usage.

The digitization of media is certainly a communicative revolution comparable to Gutenberg's invention of the printing press, especially if we compare it with traditional radio and television in their broadcast mass-media format. Here the broadcaster controls what is provided, when it can be used and – as long as the receiver is connected to the mains – where usage can take place. Radio and television broadcasting also deprive the listener and viewer of the opportunity to interact with the sender (and fellow users) as well as to contribute input or participate her-/himself. Above all, broadcasting has always been – especially in the era of broadcasting monopolies – subject to heavy societal (governmental) control.

Digital media are in almost all respects characterized by the opposite features. The Internet user is much more in control of “What, When and Where”. She/he can access an abundance of information from all over the world. It is possible to interact with other users and even publish one's own material at costs far below what it takes to produce and distribute a newspaper or run a television channel. The current situation is in many ways a communicative paradise, liberating citizens and journalists from the limitations of centrally controlled and uniform mass media and giving them new communicative and investigative tools that can transcend the borders of traditional economic and political power centres.

The MDM project, however, reveals a number of serious reservations. First, we still do not know the potential of the Internet and ‘social media’ as a mobilizing force of societal consequence – knowledge that is important from a media freedom perspective. During recent years, Facebook and Twitter have probably played a significant role in the initial phases of a number of the protest movements. Yet there are indications, for instance in several of the MDM reports, that it was not until they were exposed in the traditional mass media (radio, television and newspapers) that such protest groups developed into a mass phenomenon of political significance.

Secondly, and more seriously, a number of disclosures have revealed that, seen from a citizens' rights vs. state control perspective, the decentralized structure of the Internet and many of the services it carries are very far from being secure. Nor can journalists guarantee their sources full confidentiality. On the contrary, not only are governments able to block access to certain (oppositional) webpages, but they can also – and are apparently willing to – use advanced technology and software to track, record and process data on journalists' and citizens' behaviour and communication on the Web in great depth and detail, something that was unheard of just a decade ago.

In this context, it is interesting – and alarming – to note that even governments that are usually among those that most vigorously and persistently

defend freedom of the press and civil liberties seem to be using these new control capabilities. It is as if the dividing line between countries that defend the classic civil liberties and those that neglect them is becoming somewhat blurred.

Distinguishing the good guys of media freedom from the bad guys

International surveys on media freedom usually present the surveyed countries ranked according to a number of criteria, for instance editorial independence, media pluralism, regulatory and legislative environment, etc. Such rankings are not precise measurements and should be interpreted with some caution, for example when comparing specific countries ranked close to each other.

On the other hand, the rankings make good sense when used as a rough indicator of main trends and of significant differences between clusters of countries. It probably does not come as a great surprise that countries in North Western Europe are placed at the top of 'The World Press Freedom Index' year after year, whereas states in North Africa, the Middle East and Central Asia can be found at the other end of the index with the same regularity.

It is interesting, yet somewhat controversial, to ask how one can explain why countries are ranked with such regularity at roughly the same (be it high, middle or low) position on the index. Economic and political stability may be one of the reasons why North Western European countries have a consistently high score on the World Press Freedom Index. This is not, however, a sufficient explanation, because it does not work for stable, rich countries such as Saudi Arabia, Qatar, Singapore and Malaysia, which score very low.

Apparently, there is no consistent pattern of broader societal indicators that clearly correlates with an index on freedom of the press. As often occurs in the social sciences, we have to resort to more vague and ambiguous concepts, for instance 'political culture'. Trying to explain the high score of North Western Europe, we often use these countries' exceptionally 'mature' political-administrative culture as our main explanation – especially if we come from that corner of the world. Arguments such as these may well have some relevance, despite problematic elements of ethnocentric circularity.

That risk is related to the fact that the 'right to freedom of opinion and expression' is rooted in the (European) Age of Enlightenment in the 18th century. It became a core element in the UN Declaration of Human Rights, adopted in 1948 at a general assembly in Paris at a time when the Western Hemisphere was still dominating both the world and the UN. The way these rights were understood at that time, and have been interpreted since, has of

course been greatly influenced by Western jurisprudence and political culture. And in a new emerging world order, this influence is gradually weakening all over the world – even in the North Western corner of Europe.

Concluding remarks: Media freedom is at stake – everywhere!

It is rather easy to find – if not acceptable, then at least plausible – explanations for specific cases in which media freedom has been neglected or even brutally crushed. At present, large parts of the world are plagued with military conflicts and deep social and political unrest. In weak – and so-called ‘fragile’ – states that are unable to perform the usual functions of sovereign states, governments will tend to regard a free and uncontrolled press as a serious security risk.

It is, however, more difficult to explain why governments of stable regimes and mature democracies – such as those in North Western Europe – also tend to neglect principles of press freedom and other classical civil liberties. The sense of being under constant siege in a covert “war on terror” may be one of the reasons. Civil liberties were originally seen as a means of protecting citizens from (too) powerful states. Today the situation is the reverse; most governments feel obliged to go a long way to defend the state against perceived threats from (some of) its citizens.

Moreover, we are witnessing – also in Western political systems – a changing communicative culture. In recent decades, political communication has become increasingly important to political success. The timing and substance of political initiatives are pre-tested in focus groups and tracked by opinion polls. The back offices of ministries are staffed with media consultants and communication officers employed to influence – both defensively and offensively – the press in order to create a favourable media environment. This development has led many governments, including democratic ones, to regard the media as an opponent in the battle for citizens’ souls and minds.

So all in all, the lack of optimistic enthusiasm at international conferences on freedom of the press is not only explained by fatigue related to the theme being put on the agenda time and time again. There are very good reasons for the growing pessimism among media professionals and among people in a committed civil society experiencing a widening gap between ideals and reality. The explanations can be found in all corners of the world, right outside the windows of the conference venues.

Notes

- ¹ Reporters Without Borders: 2015 World Press Freedom Index (<http://en.rsf.org/world-press-freedom-index-2015-12-02-2015,47573.html>).
- ² Television Across Europe, More Channels, Less Independence. Open society Institute 2008.
- ³ Open Society Foundations. Mapping Digital Media (<https://www.opensocietyfoundations.org/projects/mapping-digital-media>).
- ⁴ Marius Dragomir and Mark Thomson: 'What Does Independent Journalism Look Like in the Digital Age?' <https://www.opensocietyfoundations.org/voices/what-does-independent-journalism-look-digital-age>.

Liberate Freedom from Its Ideological Baggage!¹

Kaarle Nordenstreng

Abstract

In the West, press freedom is typically understood as self-evident – as part of a pervasive ideology rather than of a rational doctrine. Therefore, while cherishing the idea of freedom, there is a need to deconstruct libertarian myths about press freedom. For instance, the metaphor of a free marketplace of ideas turns out to be something other than the original liberalism proposed by John Milton and John Stuart Mill. The history of ideas does not support a (neo)liberal notion of freedom, but rather a concept of freedom tied to moral values. Hence narrow-minded advocates of Western freedom are just as fundamentalist as those Islamists who are designated as such.

Keywords: press freedom, liberalism, free marketplace of ideas, self-righting truth, John Milton, John Stuart Mill

Introduction

Freedom is a cornerstone that guides our ways of thinking about media and society. In the Western tradition, press freedom is typically understood as a self-evident concept – as part of a pervasive ideology rather than of a rational doctrine. For this reason, we are invited to take critical excursions into the concept of freedom, in general, and press freedom, in particular.

I call this an exercise in *deconstructing libertarian myths about press freedom*. As a starter, we should recall the landmark documents that the international community (UN) adopted in the 1940s: the Universal Declaration of Human Rights of 1948 and the Constitution of UNESCO of 1945. These introduced an idea of media freedom that is quite balanced and far from the ultra-libertarian version conventionally held in dominant Western thinking – namely, that freedom means absence of state control. Indeed, international law does not support a simple notion of negative liberty (freedom *from*) – following Isaiah Berlin's well-known distinction. What is suggested instead is a

notion of positive liberty (freedom *for*), whereby freedom is not an end product to be protected as such but a means to ensure other more general objectives, such as peace and democracy. Moreover, the subject of the right to freedom of expression is “everyone” – each individual – and not the media, which Western press proprietors typically present as the guarantors of freedom.

Legacy of liberalism

The core of the traditional notion of press freedom is the doctrine of a *free marketplace of ideas*. According to the doctrine, a free flow of information and ideas on this marketplace automatically ensures that truth will prevail, notably through a mechanism of *self-correcting truth*. This doctrine was given shape in 20th-century America, first in legal and political debates between the two World Wars and finally during the Cold War in the 1950s. However, going back to the classics of liberal thought, particularly to John Milton’s (1644) *Areopagitica* and John Stuart Mill’s (1859) *On Liberty*, it turns out that their thinking does not exactly correspond to the later doctrine. Hence, it is a myth to consider the free marketplace of ideas as part and parcel of original liberalism.

In point of fact, the doctrine of a free marketplace of ideas with a self-righting truth, as it keeps circulating in the contemporary professional and academic discourse, cannot be found in the works of Milton and Mill. Although these classics of liberalism used the market metaphor, it was not understood as an appropriate way for individuals to approach the world of ideas. Actually, both were aghast at the prospect of ideas being treated as if they were goods to be bought and sold on a market. They certainly advocated freedom of thought and speech without prior censorship, but the concept of a free marketplace of ideas had no strategic place in their thinking.

Milton’s main point was to oppose the licensing and censorship of printing. He insisted that all kinds of views should be allowed and should be brought to the public, where they could clash without hindrance. Today, his philosophical view would be called a maxim of pluralism, according to which we cannot find the truth without also encountering falsehood. Milton was passionately opposed to forbidding anything from being published; he compared censorship to murder. In his main work, *Paradise Lost*, Milton (1667) elaborated the struggle between truth and falsehood and made a fervent appeal to challenge official truths, including God’s commandments, as a means to acquire knowledge and achieve human growth and development.

Accordingly, truth will not automatically prevail, but must be cultivated through an active and radical process. This view is simply incompatible with the concept of self-righting truth. In short, Milton cannot be taken as an early advocate of market liberalism: “Call him radical, call him puritan, call him republican, but do not call him (neo)liberal” (Peters 2005: 72).

John Stuart Mill, who minutely scrutinized what Milton had written two centuries earlier, shared Milton's position on the free encounter of ideas and the impropriety of censorship. Mill's *On Liberty* is a fine elaboration of the same theme, and it does not include the doctrine of a free marketplace of ideas. The rest of Mill's production is likewise void of this concept. For a liberal, he was far from dogmatic about the role of the state, considering that state intervention may well be necessary in ensuring social justice and other higher values. Moreover, to Mill, freedom of opinion and expression was not an end in itself; he viewed it as "the necessity to the mental well-being of mankind (on which all their other well-being depends)." Thus, in his summary of the grounds for pursuing this freedom, he suggested that human well-being was the ultimate objective.

As to the concept of self-righting truth, Mill actually held a contrary view, according to which it was quite possible for truth to fail to prevail in a free encounter and for falsehood to become the dominant public opinion. In *On Liberty*, he dismissed the concept of self-righting truth as "pleasant falsehood." Later, Mill had bitter personal experience of how falsehood may prevail: With his wife, Harriet Taylor-Mill, he fought for women's emancipation, but failed to gain broader support and even became the object of ridicule, finally losing his seat in Parliament.

Consequently, it is a myth that the standard practice of justifying press freedom using the doctrine of a free marketplace of ideas comes from the classics of liberalism. The ideas of Milton and Mill do not provide direct support for contemporary neoliberalism and cannot be taken as the basis for a libertarian theory of the press. The legacy of original liberalism instead represents social democracy and corresponds to a social responsibility theory of the press proposed by the Hutchins Commission in the United States (*A Free and Responsible Press* 1947). The concept of freedom in the original liberal philosophy was positive rather than negative: freedom *for* something, not freedom *from* something.

Where, then, are the roots of the doctrine of a free marketplace of ideas? An often-quoted source in the literature is the 1919 proceedings, held in New York, against Russian immigrants accused of distributing anti-American leaflets (supporting the socialist revolution of 1917). In this process, Judge Oliver Wendell Holmes referred to a "free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market" (Peters 2004: 71). However, as John Durham Peters pointed out, this was not, literally speaking, the doctrine and slogan of a free marketplace of ideas.

Peters (2004) traced the first uses of the phrase "free marketplace of ideas" to the pages of *The New York Times* in the mundane political discourse of the 1930s, but a more profound usage, prior to the 1948 Congressional election campaign, can be found in an unusual quarter: the communist party of the

United States, which wanted to campaign “in a free marketplace of ideas.” Obviously, American leftists employed the slogan as a defense against rising anticommunism. However, Peters (2004) showed that the Cold War context soon turned around the political sponsorship of the slogan and that, already in 1953, *The New York Times* used it as an argument against East European countries that employed censorship to prevent the emergence of a free marketplace of ideas.

In addition to this Cold War context, the free marketplace doctrine should also be seen as a politically appropriate response to the development of media structures in late capitalism. Because the commercialized and concentrated media market no longer guaranteed a genuine competition of ideas – something that had existed in the early modern era when each town had several competing newspapers – the monopolized media declared themselves a virtual marketplace of ideas.

Freedom in perspective

Consequently, we can trace a centuries-long historical line, from the early modern age to the postmodern world, characterized by a surprisingly coherent idea of freedom of information. In this context, liberalism is not a partisan ideology hijacked by U.S. diplomacy, but a balanced philosophy that is far from outdated. In media philosophies, the original liberal tradition is closer to what was advocated by the Hutchins Commission in the 1940s than to the manifestos of the World Press Freedom Committee in the 1970-80s.

It is instructive to view the concept of freedom in light of the philosophical traditions that can be traced behind the *concept of power*. In short, there are two fundamentally different notions of power: a Hobbesian view and a Hegelian view.

The first of these traditions follows Thomas Hobbes and the Galilean metaphor of a *universe of freely moving objects*, including human beings and their will, where “freely” means the absence of external impediments to motion. In this tradition, power means impeding free movement – power is the capacity to block free movement.

The latter tradition, for its part, follows Hegelian-Kantian philosophy, in which human beings are shaped not merely by the laws of nature, but above all by *moral reasoning*. Marxism later shared more or less the same philosophy. In this tradition, freedom means autonomy from nature and is based on the rational and moral capacity of human beings; freedom is not the ability to act according to one’s will without being hindered, but rather almost the opposite – it is the product of a human mind governed by moral judgments.

The former tradition introduces an ontology, where power emerges as a fairly simple (negative) element, with freedom as its (positive) opposite. The

latter tradition, for its part, has an ontology, where power is not an obstacle that distracts natural movement, but an essential instrument to ensure morality and order in civil society and ultimately in the state.

The overall lesson here is that when freedom is applied to media, it is a notoriously problematic concept. Moreover, it is a deceptively ideological concept – especially when understood to be simple and apolitical. We must therefore be alert and critical if we are to avoid ideological traps – and the complacency that is fed by top rankings for press freedom in international comparisons. After all, we are always bound to a certain tradition, and our thinking – with all its concepts and paradigms – is constructed rather than inherently given.

On the other hand, a critical approach to the topic does not suggest that the idea of freedom – in general or applied to media – should be undermined or questioned. On the contrary, freedom of thought, expression, and media is cherished as a vital element in the lives of individuals as well as societies. It is precisely because of its great value that freedom should not be allowed to degenerate into an ideological instrument, as has too often been the case. To disprove the old myths and avoid the emergence of new ones, it is important that freedom, and the lack of it, remain a topic of constant debate.

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Note

- ¹ Shortened from Nordenstreng 2013. Based on the author's earlier publications in 2007, 2010 and 2011.

Trust and Values for Sale

Market-driven and democracy-driven freedom of expression¹

Maria Edström & Eva-Maria Svensson

Abstract

In the common search to safeguard freedom of expression, one aspect has been less discussed than others: commercial influences on free speech. The important distinction between journalism and advertising, emphasized in both legislation and self-regulation, is perceived as a necessary precondition for trust in and the legitimacy of the media. This trust is being challenged by new types of content, such as native advertising. Values are also at risk, one example being the reluctance to limiting gender stereotyping in advertising. The changing media landscape and the different positions and arguments can be analysed using the conceptual distinction between *market-driven* and *democracy-driven* freedom of expression.

Keywords: market-driven freedom of expression, democracy-driven freedom of expression, advertising, journalism, commercial messages, democracy

Introduction

Free speech and free media go hand in hand and are crucial for democracy. But how free is some of the media content? With native advertising and other blurred content, it has become increasingly difficult to know who is behind the message and to distinguish journalism from advertising. This development might jeopardize trust and credibility for both publishers and advertisers, and in the long run it might limit free speech in society. Here it is not the state that restricts freedom of expression, but the market.

Freedom of expression is more than an individual right. It is an essential part of democracy and concerns more than the relation between the individual and the state. The mass media, i.e. journalism, are given a special role in the system built for safeguarding democracy, which in a Swedish context is extensively elaborated in the constitution. The main challenges for free speech are not only restrictions by states. There are also other challenges that might threaten free speech such as hate speech, self-censorship (as a consequence

of hate speech), surveillance, changes in the media landscape, and a crisis for media business models (Carlsson 2013). Considerable attention has been devoted to such challenges.² Furthermore, the question of whose responsibility it is to guarantee independent journalism is important to discuss: Is it the state or market actors? The role of the state can be seen as active or non-intervening (Kenyon 2014). In the common quest to safeguard freedom of expression, there is one aspect that has been less discussed than others: commercial influences on free speech. Commercial interests have claimed and gained more recognition and protection (Piety 2012; Karpinen and Moe 2014; Svensson and Edström 2016) and have come to have more influence on news media due to changes in media business models.³

Advertising has long been a major income source for the press and the commercial broadcast media. However, in order to them to maintain their legitimacy and trustworthiness, it has been crucial for the audience/readers to be able to separate between editorial and commercial content. This important distinction between journalism and advertising, emphasized in both legislation and self-regulation, has long been perceived as a necessary precondition for trust in and the legitimacy of the media. The distinction is expressed in various ways in different jurisdictions. However, it is being challenged. Claims have been raised to strengthen legal protection for commercial messages. In the US, these claims have resulted in extensive protection for so-called 'commercial speech'. The process has not come as far in Europe and Sweden, but steps have been taken in the same direction (Heide-Jørgensen 2008: 522). The argument that freedom of expression is important to democracy, repeatedly emphasized in many contexts, is increasingly supplemented with the argument that it is (also) important to the right to conduct a business, and as such to a modern society built and dependent on a market economy (Heide-Jørgensen 2008: 19, 22). Examples of this process are the increased time and space given to commercials on television within the EU. Phenomena that are receiving increased attention are branded content and the emergence of native advertising, which blends commercial messages into editorial content often produced by so-called partner-studios in the media houses (Edström 2015).

Also, the reluctance on the part of states to legislate against gender stereotypes in advertising – despite state obligations in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to eliminate gender stereotypes – can be understood as a result of this process. An overview of the political and legal debate in Sweden (Svensson and Edström 2014) shows that, despite the fact that gender stereotypes are emphasized as a serious problem by the CEDAW and by some of the EU institutions, such stereotypes seem to be perceived as a problem that can be dealt with through self-regulatory marketing bodies and non-binding instruments. When the question of legislation of gender stereotypes in advertisements comes up

on the agenda, freedom of expression is used as a shield against any legislative provisions. These developments in the media landscape and the different positions and arguments about freedom of expression can be analysed using the conceptual distinction between *market-driven* and *democracy-driven* freedom of expression (introduced by Svensson and Edström 2014: 482).

Market-driven and democracy-driven freedom of expression

The distinction between *market-driven* and *democracy-driven* freedom of expression signifies two ideal types of rationalities. It is used to understand and explain processes that can be seen primarily on an aggregated level as well as to capture a tension between the two rationalities. The concepts market-driven and democracy-driven freedom of expression are understood as two ends of a continuum, driven by different rationalities and assumptions. Even though both promote the idea of extensive freedom of expression, they differ in several respects. Some important differences briefly pointed at here are: how freedom of expression is framed and anchored in a broader context of democracy and economy, how the core element of freedom of expression is perceived, the role of journalism and how it is safeguarded, which expressions should be protected from (potential) state intervention, how the different expressions are talked about, who the actors are and which legal subjects' interests should be protected, and who (or what) is supposed to determine the boundaries for free speech.

Democracy-driven freedom of expression

The first ideal type of rationality – democracy-driven freedom of expression – is characterized by a primary commitment to safeguarding free and independent information and expression as a prerequisite for democracy. It means that freedom of expression is framed and anchored in a broader context of democracy, not economy. Freedom of expression is, as mentioned earlier, more than an individual right; it is an essential element of a society based on a participatory democratic ideal with well-informed and active citizens.⁴ The main scope of freedom of expression, both as a human right and as a common good, is to protect the political right to communicate one's ideas without interference. Therefore, freedom of expression has inherent value in democratic traditions. The core element of free speech is to safeguard access to free and independent information, a 'plurality of opinions and expression of opinion', as well as free opinion formation (Petäjä 2006; Kenyon, Svensson and Edström 2015).

In a democracy-driven rationality, the independence (from both the state and from other interests) and the watchdog role of journalism should be safeguarded. The Swedish constitution, with roots from 1776, is one example

of this. Here, journalism is given a democratic role as a bulwark against the misuse of power in an extensive regulatory constitutional framework (Bull 2014: 18): ‘the third estate’. Through a specific regulatory model, originally developed for the press but in modern times also adapted for other kinds of media, the democratic function of the media is established. The model, which has constitutional and statutory provisions complemented by media self-regulation and state subsidies for media pluralism, is unique and several features of its features are often highlighted in the conceptual framing of media governance.

The expressions that are most important to protect from (potential) state intervention are those that can be characterized as having to do with opinions, information and other utterances of inherent value. In the logic of democracy-driven freedom of expression, commercial messages are not the main scope of freedom of expression, because they are primarily intended to promote sales – and the ideas they may carry are subordinated to the objective to sell.

The rhetorical aspect, concerning how various expressions are talked about, indicates the underlying rationality. In an international context, a frequently used distinction in legal, political and academic contexts is political speech versus commercial speech (Barendt 2010[1985]). If the main scope of freedom of expression is to protect the political right to communicate one’s ideas, it is less probable that commercial communication or commercial messages will be talked about as *speech*. The word *message* signals something other than speech. To use the expression ‘commercial speech’ to refer to commercial communication may be seen as the first step towards the claim that commercial messages should be protected as speech. In a Swedish context, commercial speech is not a legal concept; thus far, it has only been used by market actors claiming protection of commercial messages. Even if commercial communication falls to some extent under the scope of freedom of expression, the primary scope for freedom of expression is non-commercial communication, and commercial communication can be restricted under certain circumstances.

In a democracy-driven context, the scope for free speech is the common good and the citizens’ right to express themselves. Citizens are expected to be well informed and to participate in building democracy, and journalism has an important role in this system (Carlsson 2013) as an institution that operates between the state (and other power centres) and the citizens.

Protecting freedom of expression as a foundation for democracy is perceived as a task for the democratic system, which may require an active state (Kenyon 2014, Brettschneider 2012). Sweden is one example of this view, according to which freedom of expression is safeguarded through an extensive regulatory constitutional framework, where commercial messages are subordinated to non-commercial messages.

Market-driven freedom of expression

The second ideal type of rationality, market-driven freedom of expression, is characterized by a commitment to safeguarding all information and expressions regardless of their interests and purposes, thus including commercial communication, i.e. 'commercial speech'.⁵ Communicating commercially is not perceived as essentially different from non-commercial communication. Moreover, access to commercial communication is seen as fundamental to the modern market economy, and as part of another fundamental freedom (as fundamental as freedom of expression according to Article 16 of the Charter of Fundamental Rights of the European Union [2012/C 326/02]): the right to conduct a business.⁶ According to Heide-Jørgensen, 'commercial freedom of expression' is a recent phenomenon, in a Nordic context not older than 30 years (Heide-Jørgensen 2008: 19). In Sweden, the concept is even more recent, and used by market actors in the public debate, mainly during the years 2005-2007 and 2014-2015.⁷ As a legal concept, it is not used in Sweden at all.

The core element of freedom of expression in a market-driven rationality is not only democracy, but also a necessary precondition for the modern market economy (Heide-Jørgensen 2008: 19). Freedom of expression is emphasized as an individual right. The main scope of freedom of expression is to protect the individual's right to communicate his/her ideas without interference. The right for enterprisers to inform about commodities is seen as part of free speech, and for the consumer, it is seen as part of the right to be informed. This economic framing – which promotes commercial messages as *speech* to be protected from state interventions and turns citizens into consumers, not only in relation to commodities but also in relation to political choices (Lewis, Inthorn and Wahl-Jørgensen 2005; Lewis 2013) – derives its characteristics from a market-driven rationality.

In a market-driven rationality, revenues from commercial messages, i.e. advertising, are emphasized as an important economic source for independent journalistic production. The role of journalism can be safeguarded by market actors and with self-regulatory codes of conduct. Legislation is seen as a hindrance: the less state intervention, the better (Brown 2015: 160). An example of this is the First Amendment to the US Constitution (Congress shall make no law ... abridging the freedom of speech, or of the press...). Interventions from the state, such as press subsidies, are perceived as interference with the market.

The expressions that are important to protect from (potential) state intervention are all expressions, including commercial ones. In the logic of market-driven freedom of expression, commercial messages are the scope of freedom of expression in line with other messages, because they are essential to the modern market economy and also part of individual self-fulfilment.

In a market-driven rationality, commercial communication is framed in a freedom of speech costume. The internationally common concepts of commercial speech and commercial freedom of expression are used also in a Nordic context as an argumentation for giving commercial communication more protection (Heide-Jørgensen 2008).

Corporations are claiming rights, as legal subjects, in line with human legal subjects (citizens, individuals) to an increasing extent. The US Supreme Court has been an arena for protecting corporation's interests when they have come in conflict with the interests of individuals (Piety 2012, Brown 2015: 170-173).

Protecting freedom of expression is perceived as a task for the market; the state shall not intervene (Kenyon 2014, Brettschneider 2012). The US is one example of this view, according to which freedom of expression is safeguarded through the prohibition, anchored in the constitution, for congress to abridge freedom of expression.

Conclusion

Freedom of expression is facing many challenges. Two examples mentioned in this chapter are financing of media content and the balance in relation to other democratic values, such as gender equality. We have focused on two diverging rationalities, market-driven and democracy-driven freedom of expression, in our attempt to understand on-going processes in society. Autonomous editorial content requires independence from both the state and the market. Even though the idea of extensive freedom of expression is promoted in both rationalities, achieving a balance between various interests is different. Some important differences briefly pointed at in this chapter are: how freedom of expression is framed and anchored in a broader context of democracy and economy, how the core element of freedom of expression is perceived, the role of the state and the role of the market, which expressions should be protected from (potential) state intervention, how the different expressions are talked about, who the actors are and which legal subjects' interests should be protected, and who (or what) is supposed to determine the boundaries for free speech.

We have argued that there are central differences between these perspectives. It is plausible to say that the market-driven rationality is gaining terrain. While the positive arguments are mostly heard, the possible negative consequences of such a development need to be explored and discussed. This is important, particularly because freedom of expression is not only an individual right for citizens and enterprisers, but also for the common good.

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Notes

- ¹ This chapter was written within the research project *Market driven freedom of speech – Swedish media between democracy and market*, funded by the Ragnar Söderberg Foundation 2013-2016.
- ² Recent examples are *Information and Law in Transition – Freedom of Speech, the Internet, Privacy and Democracy in the 21st Century* (Lind et al 2015) and *The Media Welfare State. Nordic Media in the Digital Era* (Syvertsen et al 2014). The first has a legal focus on, e.g., the Internet as a new arena for hate speech and large registries and databases with the potential to map an individual person's private life. The second focuses on how the Nordic media industry is adapting to digitalization.

- 3 This phenomenon was the topic of a conference held in Gothenburg in October 2015, gathering scholars from several parts of the world. “Communicative democracy. Protecting, promoting and developing free speech in the digital era”. <http://law.handels.gu.se/forskning/forskningsprojekt/Marknadsdriven+ytrandefrihet/konferens---conference> (accessed 2015-10-28). The conference proceedings will be published by Nordicom in 2016 (editors: Maria Edström, Andrew Kenyon and Eva-Maria Svensson).
- 4 An explicit ideal for the Swedish democracy, expressed, e.g., in the government report on Democracy, SOU 2000: 1.
- 5 A similar concept has been used by McManus focusing on journalism, i.e. market-driven journalism, see McManus, John H. (1994) *Market-Driven Journalism: Let the Citizen Beware?* Thousand Oaks, Calif.: Sage Publications, Inc.
- 6 This freedom is also codified in national constitutions, e.g. Chapter 2 Article 17 of the Swedish Instrument of Government (1974: 152).
- 7 Search made in Swedish Media Archive 2010-11-17. The concept was contested by the Swedish Consumer Organisation: “Ytrandefrihet är en demokratisk rättighet för medborgarna. Det är orwellianskt nyspråk att påstå att reklam ska ingå i yttrandefriheten, ett sätt att tänja på gränserna. Företag ska ha rätt att kommunicera, men kalla det inte yttrandefrihet. Skilj på köpt och fri information.” [Freedom of expression is a democratic right for citizens. It is Orwellian new language to claim that advertising should be part of freedom of expression, a way to extend the boundaries. Companies should be able to communicate but don’t call it freedom of expression. Distinguish between bought and free information.] *Medievärlden*, July 6, 2006. It was used again when politicians from the Municipality of Lund suggested that Lund should be free from public commercials. The Association of Swedish Advertisers (Sveriges Annonsörer) saw this as a threat to commercial freedom of speech. (*Sydsvenskan* November 18, 2014), it was emphasized again in a blogpost *Sveriges Annonsörer står upp för kommersiell yttrandefrihet*. [Association of Swedish advertisers stand up for commercial freedom of expression] The Swedish Media Publishers’ Association (TU) stated that “We think Freedom of expression is important, also from a commercial perspective” (*Svenska Dagbladet* Oct 3, 2015).

Three Dilemmas of Visual News Coverage

Astrid Gynnild

Abstract

This chapter elucidates the emotive power of visual news coverage online. The study was prompted by the extensive livestreaming from venues of terrorism in the horror year of 2015. Why did the massacre of 12 journalists at the Charlie Hebdo in Paris engage the global society to an extent that was previously unknown? And what does the coverage of Charlie Hebdo have in common with the image of the little dead boy on a Turkish beach? The study identifies visual transparency, de-contextualization, and click detainment as three main dilemmas of online visual news coverage. The conceptual discussion is informed by Manuel Castells' theorizing on communicative power in network society. It seeks to explain how Charlie Hebdo became the foremost symbol of free speech in virtual society over night, and how the three-year-old Alan Kurdi became a breakthrough symbol of the refugee crisis in Europe.

Keywords: visual journalism, virtual networks, visual transparency, Charlie Hebdo, de-contextualization, freedom of expression, video

Introduction

Put simply, the publicist idea behind traditional news dissemination is fairly clear-cut: The more media attention there is to a news beat, the more influence in society it has. But in the networked society, Manuel Castells (2011) proposed corporate owners are losing communication power to the diffusion of a multitude of messages.

Interestingly, what started out as a terror attack on the satirical magazine Charlie Hebdo turned into a global reawakening of the freedom of speech, thanks to the visual spread of the phrase "Je suis Charlie" ("I am Charlie") in new media. The phrase was created and posted by an engaged civilian. Within hours, images and videos containing "Je suis Charlie" were forwarded nearly four million times on Twitter. In the Scandinavian news agency Scanpix, more than 5000 images from the Charlie Hebdo event were archived (Gynnild 2016).

Similarly, within 12 hours after its dissemination on wire services, the image of the poor little Alan Kurdi on the Turkish beach was downloaded 20 million times via social media and via the news media. According to a research report that analyzed three million tweets on the issue (Vis et al. 2015), the Alan Kurdi image marked a political turn in countries such as the United Kingdom and Norway. Instead of discussing emigration from the Middle East, politicians started talking about the individual hopelessness of refugees (Vis et al. 2015).

Conceptual background

Since the factual use of images and videos is still an under-researched dimension of online journalism (Kyriakidou 2015), the aim of this chapter is to discuss conceptually three main dilemmas of visual news coverage. These dilemmas all concern freedom of expression and were identified by recoding and re-analyzing previous investigations of visual imagery in the news media (Gynnild 2014a, 2014b, 2016a, 2016b). These investigations focused on transparency and surveillance aspects of visual imagery provided by news agencies and individual suppliers on a global scale. The studies indicated that visual news journalism, particularly in Scandinavia, was primarily click-focused and increasingly dependent on immediate access to large amounts of visual material provided by secondary sources.

It appears that a main concern of visual news journalism is to attract as much attention as possible on as many platforms as possible. Such optimized attention seeking is considered top priority to ensure maximal attractiveness to advertisers and the public. The constant search for attention throughout publishing media manifests as a competitive race towards quantitative rankings in the form of clicks (Gynnild 2007). Increasingly, this click race, in turn, promotes and supports three particular dimensions of online journalism: 1) visual transparency, 2) de-contextualization of visual imagery, and 3) click detainment.

The three characteristics of visual imagery in online journalism, clearly contributes to the further development of responsible journalism. Judging visual news content has, for many decades, been an integrated part of the daily journalistic regimen. Visual literacy at news desks is inherent in a number of routinized everyday considerations. But in a time of factual and virtual terrorism, journalists and desk editors are, to a growing extent, being exposed to unwanted forms of freedom of expression. New issues arise, for instance how should news sites best handle the repeated exposure of beheadings in propaganda videos from terrorist groups? Should violent videos be overlooked? Or should they, in the name of free speech, simply be disseminated as is?

The *dilemmas* of visual transparency, de-contextualization, and click detainment become prevalent in moments when established ethical routines and considerations are pressured by temporal, viral and financial constraints.

Anyone who has spent time in the virtual or physical news field knows that there are no clear-cut answers to the aforementioned questions – particularly not in the digitized era, in which new technologies offer livestreaming and instant dissemination of click-driven imagery from literally any unexpected event. Even in edited media there tends to be little remaining time for ethical precautions before visual imagery is pushed out across media platforms. Several studies indicate that in spite of the established codes of conduct in journalism, ethics of visual journalism are in flux. With the constantly increasing flow of visual material from an apparently endless chain of providers, images and videos might be subject to accidental judgment on the way. A good example is whether the blackening faces of dead bodies should occur, which appears to vary from case to case.

In the following sections, I will discuss the aforementioned dilemmas in the light of Manuel Castells' theory on communication power (2011). Castells proposed that communication *power* in our time does not reside primarily in the communication networks or in corporate owners. Rather, the global communication power now rests on the diffusion of messages by a multitude of senders and receivers on the Internet. Thus, the versatile, open-ended, and diversified characteristics of the World Wide Web open up for *new ways of capturing people's minds*, to use Castells' terminology. Castells' theory suggests that, in general, viewers and watchers of visual messages are not trained to evaluate visual material critically. Thus, most people are easily captured by the affective influence of visual content in the news. With that in mind, I will now turn to the dilemma of visual transparency.

Visual transparency

The concept of visual transparency in journalism refers to images, videos, maps, data visualizations, and other expressions that contribute to uncover and document, in a visual manner, what is going on in society (Gynnild 2014a). Implicitly, visual transparency in journalism also concerns the openness and accountability of online news outlets when it comes to collecting, quality checking, and disseminating visual materials. Visual transparency speaks to the general quest for transparency in journalism, which should ideally provide people, inside and outside of journalism, with the opportunity to “monitor, check and intervene” journalistic work processes (Deuze 2005). What journalists do must be verifiable to others and should also be objects of critique and criticism. Allen (2008) suggested that journalistic transparency implies making public the traditionally private factors that influence the creation of news.

Adhering to principles of transparency is considered crucial in order to increase legitimacy and accountability with citizens (Deuze 2005; Kovach and Rosenstiel 2001; Singer 2007). A stated goal is to advance democratic rights further by providing all citizens access to as much information and knowledge as possible. Ideally, transparency should make it easy to see who does what, why they do it, and under what conditions actions that advance transparency take place.

According to my recent study of visual transparency surveillance clips has become valuable click-drivers. Surveillance clips typically start out in the local news but often go viral thanks to rapid diffusion by innumerable professional and private networks (Gynnild 2014a). Somewhat surprisingly, surveillance videos serve a role as “visual proof” *independent* of the accountability of actual content. The credibility and documentary value of surveillance videos are seldom questioned, even though the factual source of the clips remains unknown. The footage is typically provided by individual agents who act on governmental, institutional, or private grounds – anonymously. Even when videos are published on sites that follow journalistic codes of conduct, the anonymity of the agents seems to be protected (Gynnild 2014a). It seems that visual transparency on one level is often overridden by visual opaqueness on another level.

The ethical complexity and challenge of practicing visual transparency are also illustrated by the growth of propaganda videos. Such videos are produced and systematically released by terrorist groups to induce fear in western populations. These videos invite the public to watch the cruel actions of terrorist organizations. Videos are typically posted initially on social media and then picked up by the news media. In the name of freedom of expression, terrorist organizations have found a highway to exploit the opportunities provided by the ideals of visual transparency.

Decontextualization

The second dilemma of visual news coverage concerns the de-contextualization of visual imagery. De-contextualization might imply that visual content is abstracted: The studied diffusion of surveillance footage indicates that very often such video clips are stripped of factual information; time, place, and people’s names are omitted. References to the firsthand source of the footage are often missing (Gynnild 2014a). The tendency towards visual de-contextualization stands in contrast to the traditional web of facticity (Tuchman 1978). In the web of facticity, images and videos are contextualized to a concrete reality through factual information such as who, what, where, and when. The connection to verbal facticity is what normally distinguishes journalistic imagery from other visual expressions (Newton 2008; Tuchman 1978 2009).

However, rather than contributing to visual transparency, click-driving video clips are handled as tradable commodities of visual phenomena abstracted from time, place, and people. News agencies and news web sites throughout countries typically practice what I previously termed cyclic referencing tactics (Gynnild 2014a). These widespread referencing tactics induce credibility of a news site by referring a video or an image back to its most prestigious source in the chain of disseminators, for instance CNN or the Washington Post. The routinized trading of journalistic legitimacy and accountability contributes not only to journalistic transparency, but also to what I would term journalistic opaqueness – a pattern that is not in alignment with journalistic ideals of promoting democracy.

Click detainment

The third dilemma of visual news coverage online concerns constraints as experienced by journalists. In the digitized world, the immediate visual diffusion of breaking news is more or less taken for granted. Whereas newsroom photographers on a local scale are dramatically reduced in numbers, we are witnessing the rise of locally based stringer networks. These networks serve as suppliers of visual raw material accommodated for the global market by nodes in increasingly complex networks of imagery stockbrokers. A growing number of news agency networks compete in a hardening market.

Journalists inside and outside of established news desks focus on maximizing site hits to ensure financial aspects of running the news business. It turns out that visual imagery is a crucial click-driver in most forms of journalistic storytelling, and particularly so in Scandinavian news sites, which from the analog days are well grounded in vigorous documentary traditions (Gynnild 2007). The constant quest to maximize traffic through clicks, however, enforces journalists to develop time saving strategies for sorting, selecting, and editing news stories with viral potential. The most effective strategies include minimizing fieldwork, minimizing sources, and cutting-and-pasting (Gynnild 2007). The click detainment constantly challenges the professional judgment and creativity of the individual journalist.

Concluding remarks

In this chapter I have proposed that a main concern of visual news journalism is to provide click-drivers to ensure traffic. Thus, the dilemmas of visual transparency, de-contextualization and click detainment might not be in alignment with established journalistic ideals of promoting democracy and freedom of expression. For instance, visual transparency, made possible by

public access to new technologies, now provides the general public as well as the news professionals with an endless flow of decontextualized images and videos from anywhere on the globe. The web of facticity is moved to the background in favor of abstracted visual imagery; the importance of first-hand sources appears to be reduced. We might question how these changes affect the accountability of visual news coverage in the long term.

Normally, we tend to think that the sender of a message is at the source of meaning-construction. But in the digitized network society, Manuel Castells (2011) pointed out, this logic is turned upside-down: The basis for networked power is actually the *removal* of control over message distribution. The power lies in the complex diffusion processes of a message. Castells proposed that communication power, as a consequence, is mainly exercised by the “construction of meaning in the human mind through processes of communication enacted in local and global multimedia networks of mass communication” (p. 416).

News media’s loss of control over message distribution helps explain how the single frame of Alan Kurdi became a symbol of the refugee crisis of our time. The evolving, complex diffusion processes online also help clarify how Charlie Hebdo became the new, global symbol of free speech. Since messages start living a life of their own from the moment they are posted online, visual journalism is now challenged at its roots. It awaits to be explored in new ways.

The real communication power still lies in the freedom of expression, for good and for bad.

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Media Freedoms in Changing Frames

Tanzania under a magnifying glass

Ullamaija Kivikuru

Abstract

The media landscape in Tanzania has changed rapidly from having an extreme, government-controlled scarcity of public voices to having an abundance of media, both public and private. Based on numbers and formal criteria, the Tanzanian mediascape today represents diversity, and freedom is eagerly exercised. However, more detailed scrutiny shows how complex a phenomenon media freedom in fact is. Multiplicity of voices does not automatically mean that relevance and strengthening of democracy are achieved. The journalistic culture and the media mode, inherited from previous phases of social history, are changing slowly. Tanzania serves as an example of the African continent, today much more varied than before, but still struggling for a profile of its own. Perhaps the media revolution does not come with the mobile phone, after all. Perhaps the free voices in East Africa are rappers.

Keywords: media freedom, mediascape, journalistic culture, media mode, mobile phone, rap

Introduction

Our eyesight tends to be sharper when we look at things from a distance. It is somehow easier to distinguish shades and shadows if they are not in our immediate surroundings. I lived in Dar es Salaam in the early 1980s, and have visited the country regularly since then. I am concerned and confused about what is happening. In the following, I discuss media freedoms in Tanzania and Africa, admitting that it is equally necessary to raise problematic questions about media freedom in my home country of Finland, however high the World Press Freedom Index might rank it.

1980s: Meagre media market

In the 1980s, the scarcity of media in Tanzania was as recognizable a fact as the scarcity of cooking oil in shops. There was a thin English-language government daily and likewise a thin Swahili-language daily that served as the mouthpiece of the party in power. The government controlled the broadcasting company, which had several national radio channels, both in English and in Swahili. Radio was the only medium that reached the rural areas. In addition, no television was allowed in mainland Tanzania. The trade union did publish an English-language weekly tabloid, and there were a few irregularly published magazines – but that was all.

International comparisons pointed out the strong government control and the lack of press freedom in Tanzania. Most media laws in Tanzania were inherited from the British Empire, but they were given up long ago by the colonial masters. For the versatile expatriate community in the city, the scarcity of information was the worst part, not the government control. We preferred a Sunday lunch at Hotel Kilimanjaro partly because there was a Reuters teleprinter in the entrance hall. But even with the existence of Reuters, we did not know much about what was happening in the country in which we lived or about its neighbours. Tanzania was a stable society: There were no crises and that does not make any international news.

Tanzania was in a phase of nation building at the time. Unity was being sought. In addition, the practices of the media were frequently met with misunderstanding and ignorance about the role of media in society. During the colonial period, the media had existed in the country to inform s of the colonial power there. Now the independent country was searching for a new mode of media operation.

25 years later: a cornucopia of media in towns

Today, Tanzania has almost 40 dailies, mainly in Swahili, and almost all are privately owned; the thin government paper has become even thinner, as has the Swahili-language sister daily. Newspapers, which are sold by aggressive street vendors, are still primarily consumed in big cities; distribution to the nation's villages is all but non-existent. The majority of the papers are quite scandalous, although the worst forms of 'yellow papers' have already died since their surge in the early 1990s. A dozen television stations exist in Dar es Salaam – again, only around Dar es Salaam, but the audience there is as large as 10 million people. All but one of the television stations are privately owned. The public station operates totally in Swahili; meanwhile, the others broadcast old American soap operas and Mexican telenovelas, although the news bulletins are mainly in Swahili. Private local radio stations have become

relay stations for popular western music, occasionally offering phone-in programmes for urban youth.

Researchers (e.g., Ekström 2010: 174-186) call this phenomenon the glocalization of Tanzanian culture. Young people also like Swahili rap.

Little respect for quality journalism

Unlike in the early 1980s, journalism has become a popular field. Dar es Salaam has at least a dozen obscure journalism training institutions offering crash courses. There are 5-6 university programmes in journalism as well, but their graduates tend to end up somewhere else in society, not in journalism – often in public relations, which is a flourishing industry. The media are not willing to pay decent salaries for professionally educated journalists. Thus, the quality of mainstream journalism remains low, and because of the poor pay, journalists are easy targets for the ‘brown envelope syndrome’ – the offering of money at press conferences to ensure favourable reporting. Although the ownership structure of the media has changed, the grip of the government is still felt. The media frequently praise the president, but criticize the government about the delivery of goods and services, and corruption cases create big headlines. Journalists, in turn, are repeatedly arrested, and newspapers are banned.

Direct attacks and threats against journalists in Tanzania decreased during 2014. However, authorities started to threaten journalists again for their perceived political affiliations before the 2015 general elections.

The World Press Freedom Index ranked Tanzania as 75 out of 180 countries in 2015, and according to Freedom House ranking, the media in Tanzania were considered ‘partly free’. Tanzania lags far behind Namibia, which is the leader in Africa in the press freedom indexes.

Tanzania is currently going through a phase of post-nationbuilding. National unity is ensured by the extended use of Swahili – 85-90 per cent of the mediascape today operate in Swahili. But the strong Swahili culture in Tanzania tends to create a firewall as well, even with its neighbours, which still mainly use their former colonial languages in the media. Although Tanzania’s media legislation is still shaky, much more formal space exists for freedom of expression. It seems that those who shout the loudest get the most space. Freedom is often eagerly exercised.

Continent-wide wake-up call

Tanzania is not alone in experiencing these changes. The 1990s brought radical changes to Sub-Saharan African mediascapes. Countries with a one-party

system changed to multipartyism and to a media system with a strong rhetoric of freedom. Private media emerged everywhere and easily found foreign support; these media included radio stations and small papers, most frequently called 'independent' instead of 'private' or 'commercial', as they would have been called in Europe. The Windhoek Declaration (1991) became a symbol of a new era in Sub-Saharan Africa, placing democracy and freedom of expression entirely in the sphere of 'independent' media. Old, rigid and bureaucratic broadcasting companies received the nasty label of being government mouthpieces. They were excluded from receiving donor money and were turned into running radio museums. Still, they were the only ones regularly reaching rural areas.

Today, the rhetoric of freedom has calmed down, but it still sells well among both foreign donors and media professionals. Governments and media companies are struggling to find a new balance in terms of growing expectations, new legislation, media councils, the status of journalists and journalists' educational standards (Ramaprasand 2002). As usual, the legislation lags behind. More progress seems to have been made in the field of broadcasting (Berger 2007; Ndela 2007). Thus far, legislation and policy action have been viewed as decisive tools for strengthening democracy, but a balance between freedom and responsibility seems to be difficult to find (Rioba 2012; *So This is Democracy* 2009: 72).

Strange bedfellows are often found in operations that promote self-regulation. Governments, commercial media companies and professional organizations have tried to establish bodies for mediated media regulation, most recently in South Africa. In some countries, media councils and media ombudsmen have operated successfully. Namibia has a press ombudsman system that runs well, as does the Tanzanian self-regulation body, in the form of a freely formed media council. However, in Namibia, members of the public are far more eager to file complaints about media coverage than they are in Tanzania. In Tanzania, the independence struggle and the decolonization process preceding it were relatively peaceful. In Namibia, the media took part in the independence struggle. A media arena for debate and discussion was thus forced to emerge during those years. Perhaps this difference is reflected in the demands placed on media coverage today.

The mobile phone is there, but...

However, despite the changed rhetoric, the role of media in African societies has not changed a great deal. The number of newspaper titles and television channels has multiplied, but circulation figures have not grown accordingly. The media still tend to focus on capital cities and big financial centres, while

rural populations' access to the media has sometimes, in fact, turned from bad to worse (Kivikuru 2000: 93-101). Further, the media are largely still in the hands of dominant parties or big businesses. Community media have properly taken off only in South Africa (Teer-Tomaselli and Mjwacu 2003; Kivikuru 2006), Ghana and Mozambique (Jallov 2012).

There has been considerable talk about web-based media, but in many African countries, use of these media is still largely limited to the urban middle class. Further, there are great differences among African countries concerning Internet penetration. In Tanzania, the proportion is as low as below 15 per cent, while in the neighbouring Kenya, almost two-thirds of the population have access to the Internet. However, online media do have a role to play on occasion. In Zambia, the core of political opposition has operated from online fora for several years.

The mobile phone has undoubtedly conquered Africa, but its use is different from that of the industrialized world – and this difference is interesting. In Africa, mobile phone use is service oriented, not so much focusing on 'classic' social media chats and debates. Examples include *Ushaidi*, the crowdmapping platform, *MPesa*, and other mobile money projects, and the so-called *MHealth* projects. *Facebook* has millions of regular users in Nigeria, Kenya and South Africa, with the majority using smartphones to access their profiles. In many other African countries, *Facebook* use remains something one uses occasionally, not on a daily or weekly basis.

What we have is a thrilling combination of technological determinism and cultural pessimism, and the link to development remains diffuse (e.g., Thomas and van de Fliert 2014).

Where can we find a hall of mirrors?

Clemencia Rodriguez (2011) notes that participatory cultural life, expressed in media performances, leads to a 'hall of mirrors' that allows us to realize truths about ourselves and the world around us – truths that we cannot realize in our day-to-day existence.

The mediascape has changed extremely quickly in Tanzania, from scarcity to an excessive assortment of great volume, but not necessarily an assortment of relevance. Tanzanian newspapers are in a way sheltered from outside attacks because they have thus far not been considered profitable by the Murdochs of this world. Local politicians are eager to use the newspapers. They or their affiliates own many papers, and many newspapers disappear from the media landscape when elections are over. In view of this, television is by far more fascinating in the eyes of both political and financial elites, at home and abroad – and that is why television, private or public, enjoys less freedom.

The journalistic culture in Tanzania could be assessed as playing the role of an intervening factor in this twisted situation. The journalistic culture and the media mode, inherited from previous phases of social history, are changing slowly. The old mode is reproducing itself in new media titles that officially follow a different logic.

Far more important than ownership mode and even media laws in Africa is to learn to discuss and reflect with the people, not *at* them. Perhaps one very practical dimension is something that Nick Couldry suggests, which is “to distinguish voices from talk” (Couldry 2010). By voices, Couldry is referring to people’s practice of giving an account, implicitly or explicitly, of the world within which they act. This voice is not necessarily political, demanding action and change; such accounts are placed under the concept of ‘speech’.

In Tanzania, the fact that the media now operate mainly in Swahili is a start for voicing. The population now understands what the media are talking about not only because the language has changed, but also because the vocabulary has changed as well. Tabloids tend to use simple, concrete words and straightforward phrases. As Jesús Martín-Barbéro (1997) pointed out, entertainment-oriented media products teach people to ‘walk in the city’, to find one’s function in an urban environment.

On the other hand, one limitation of the strong national language is its fire-wall character. Tanzanians today are more isolated from their African neighbours than before. Perhaps one solution can be found in Swahili rap, *Bongo Flava*, which is also very popular in neighbouring countries (Stroeken 2005). Both urban and rural areas are increasingly able to access this music. Tanzanians hear the songs on the radio or on the street. Verses of protest blast from the speakers of music shops and commuter vans. Tanzanians of all ages share with Kiswahili rappers the satisfaction of expressing themselves with regard to a variety of problems, such as poverty and acquired immune deficiency syndrome (AIDS) as well as corruption and indifference. In Uganda, a news ‘reader’ called Lady Slyke raps the news on NTV’s NewzBeat, the idea obviously being to reach out to young people, who comprise a large proportion of the population.

‘Heat up your brains’ (*chemsha bongo*) shout Tanzanian rappers, somewhat surprisingly using *Mwalimu*, the country’s first socialist president Julius Nyerere, as a positive model and laughing at Americans. Perhaps music shops can serve as halls of mirrors?

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Digital Media Pluralism

The need for global strategies

Nicola Lucchi

Abstract

The chapter considers the global impacts of digital communication technologies and how they can influence media pluralism and media freedom as well as the ways in which legal systems aim to support and protect them. Electronic communication and technical developments have in fact contributed to enormous changes in daily life. They have also promoted important economic, social and cultural transformations. The new digital environment has become an essential space used for various purposes not strictly informational. In addition, digital communication technologies are regarded as necessary instruments for having full enjoyment of a series of rights, including the right to access knowledge and information, the right to communicate, the right to culture and the right to participate in society. This new situation also implies that all people should have access to these technological innovations at affordable conditions, and that any restrictions should be strictly limited and proportionate. As online networks are considered a particularly well-designed space for pluralism and cultural diversity, their freedom and openness should be protected and enhanced. In particular, the principle of an open and unrestricted Internet – as it was originally conceived – should be considered an essential precondition for any regulatory measure taken with regard to it.

Keywords: digital media pluralism, communication rights, media freedom, communication technologies

Introduction

Advances in information technology and communication media have provided for a better information infrastructure and quality of life for many people, but at the same time they have brought with them a number of new challenging regulatory issues for the network economy as well as for society at large (Saphiro and Varian 1999). The legal response to these developments has been the subject of global controversy and litigations in numerous courts and still

remains an unresolved issue (HLG on Media Freedom and Pluralism 2013). In any democratic country, the ability to participate in society (also online) can only be assured if media freedom and pluralism are improved by the availability of an open, independent and free media outlet. Media freedom implies lack of constraint from government control (Becker et al. 2007; Siebert et al. 1956) and involves editorial independence, the protection of journalists and open public access to information sources. On the other hand, media pluralism implies the ability of individuals to satisfy their information needs (Karpinnen 2013: 13-14). It also means that citizens must have access to a range of information sources and services including the access to the digital communication infrastructure (Hammarberg et al. 2011; Foster 2012). Given the importance of media freedom and pluralism as fundamental pillars of democracy in Europe, it is important to pay attention to any possible violations and explore ways to support individuals who are faced with the challenge of being subject to such violations (Klimkiewicz 2010).

The European Union's commitment to respecting freedom and pluralism of the media, as well as the right to information and freedom of expression, is expressly recognized in Article 11 of the Charter of Fundamental Rights, similar to the provision of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Media freedom and pluralism are also rooted in the national constitutional tradition of the EU member states (CMPF Policy Report 2013). Nevertheless, in the current legal environment, the range of obstacles to full realization of the new opportunities offered by digital media still presents a substantial challenge to full realization of media pluralism (Council of Europe 2011). This shows the need for appropriate policies, legal mechanisms and social practices that can help to better secure the freedom and wealth of the digital information network.

Risks and threats to digital media pluralism

The assumption that the Internet and all of the other new communication technologies constitute a solution to many of the concerns related to media pluralism and diversity is probably overly optimistic. Despite the increased diversity of media ownership, the variety of media content and the exponential growth of information sources, worries about concentration of power and creation of new gatekeepers or content aggregators are still far from being completely resolved. For example, search engines are now a new troublesome form of informational intermediary, which acts as an information processor, allowing users to access and process more efficiently information about resources, goods, services, prices and other characteristics that influence what contents are most easily accessible (Belleflamme and Peitz 2010). One of these

search applications – Google – effectively holds a monopoly position on the search engine market. Here – for example – the question is whether there is a tension between search engines’ commercial interests and pluralism, which may entail the risk of creating the so-called “filter bubble” (Parisier 2011)

Another problematic area for digital media pluralism is represented by the range of new measures on Internet content governance, the aim of which is to prevent illegal access to copyrighted material. In particular, these measures have distortive effects on the growing possibilities offered by computer-mediated communication. The debate over these online copyright enforcement efforts has intensified over the past few years, particularly with regard to blocking injunctions, digital content reforms recently introduced or discussed in Europe and in the U.S. and their implications for freedom of expression and media freedom (Council of Europe 2014; Lucchi 2014; Lucchi 2011; Dutton et al. 2011; Giblin 2014; Land 2013; Jørgensen 2006; Helberger 2005). The growing increase in enforcement of copyright protection for digital information has – in fact – led to design choices in network architecture and copyright rules that can largely determine and influence the way in which information is made available. From this point of view, a major challenge for developing a more sustainable and free digital media system is to find an appropriate balance between respect for pluralism and the need for content protection.

This debate is not simply technical, but also political, legal and social, as it involves ethical and value-oriented solutions, but also – more importantly – awareness of the human rights dimension of this issue. The possible answers to this problem are currently at the centre of an on-going discussion concerning the regulation of digital content, the notion of freedom of expression and modern communication technologies (Tambini 2012).

New media between content protection and the access to information conundrum

Limitations on individual rights are often a necessary precondition for the efficient functioning of these rights. This means that recognition of the rights and freedoms of others is often not just a limitation, but also a precondition for the freedom of all. In any democratic country, the state has the responsibility to regulate and make possible the exercise of fundamental rights. The only legitimate reasons for limitations to the freedom of expression or access to information are those that protect other human rights, a higher interest or a higher value compared to the one being limiting.

In Europe, 40 of the 47 member states of the Council of Europe have adopted access to information laws (Olsson 2011: 79), a total of 25 European constitutions recognize some kind of right of access to official documents or

information, and a total of 35 include the right of access to information or the “freedom of information” (OSCE 2010). Also the European Court of Human Rights acknowledged that there is a fundamental right of access to information held by public bodies that is protected by Article 10 on Freedom of Expression of the European Convention on Human Rights.¹ On the other hand, the same Court has not yet had the opportunity to decide whether a denial or restriction of access to the Internet can be considered a violation of the Convention. However, a similar complaint – based on a breach of the provisions of Article 10 – had already been submitted and a decision on the case is still pending.²

A more general consideration on this disputed terrain is that freedom of expression is constitutionally protected in many liberal and democratic countries. It is also considered one of the cornerstones of the United Nations Universal Declaration of Human Rights (Article 19)³ and is recognized as a fundamental right under Article 10 of the European Convention on Human Rights⁴ and Article 19 of the International Covenant on Civil and Political Rights.⁵ The motive that justifies protection of freedom of expression is to enable the self-expression of speakers (Sadurski 1999: 18). In any democracy, it is essential that people have access to a wide range of information that allows them to effectively participate in society (Gans 2003: 1). The Internet has now become one of the principal means of exercising the right to freedom of expression and information⁶ and certainly falls within the scope of all of these provisions. In addition, the right to information is recognized in many regional and international treaties and conventions on human rights. In most cases, it is included in the right to freedom of expression, which also embraces the right to seek, receive and impart information and ideas.

Here, the point is to determine how to ensure that new media remain an unrestricted and public forum, where the exercise of freedom of opinion and expression can be achieved without undue limitations. In fact – as previously mentioned – the rules governing the world of information and communication are now being subject to profound changes and tensions. This has inevitably caused conflicts and controversies in the delicate balance that underlies fundamental rights and basic democratic principles. As a general rule, regulatory policies should not interfere with or restrict freedom of expression.

However, in almost all democratic societies, new media, besides incurring definitional problems, have led to attempts to restrict and control online information (Sunstein 2001: 138). The advent of the Internet has had a profound and revolutionary impact on the framework of media regulation and on control of the broadcasting sector in general (Price 2002: 216; De Nardis 2009: 20). This has often led to the adoption of legislative measures frequently criticized for their inability to reconcile technological progress with economic and other interests (Deibert 2008: 152). In particular, no area of law has been more affected by the digital media revolution than intellectual property (Packard 2010: 127).

Our society and economy have become increasingly dependent upon the availability, exchange and sharing of digital information. The emergence of digital technology and computer networking has drastically changed commercial and regulatory developments in the media sector. While digital media products have experienced incredible market success, they are given inadequate and disproportionate protection under existing and emerging legislation. In many cases, states (democratic and authoritarian) limit, control, influence and censor content distributed through the Internet without any legal basis or authority and “without justifying the purpose of such actions; or in a manner that is clearly unnecessary and disproportionate to achieving the intended aim” (United Nations General Assembly, Human Rights Council 2011). Similar behaviours are not only serious human rights violations, but they can also have negative implications for the right to freedom of opinion and expression (id.).

These matters require urgent attention from policy makers and legislators, especially since the recent introduction of regulatory measures that have led to perilous changes in the regime of immunity, limited liability or “safe harbour” for online intermediaries regarding the content posted by their customers (Edwards 2011). In particular, this fragile regulatory framework of immunity is now marked by a profound tension between demands for freedom and demands for surveillance and control expressed by the market, enterprises and different institutional actors. A whole series of national and international regulatory measures have been implemented by governments to filter or inhibit Internet-based communications, also in the case of infringement and misappropriation of intellectual property rights. In particular, digital content reforms were recently introduced or discussed in Europe and in the U.S. The most controversial among these laws were the proposals contained in the Stop Online Piracy Act (SOPA)⁷ and in the Protect Intellectual Property Act (PIPA)⁸ discussed in the United States, the HADOPI legislation adopted and then revised in France,⁹ the Sinde Law implemented in Spain¹⁰, the Digital Economy Act enacted in the United Kingdom¹¹ and the online Copyright Enforcement Regulation issued by the Italian Communication Authority (AGCOM) in Italy¹². The difficulty encountered in all of these regulatory initiatives is the lack of sensitivity to the need to maintain independence of media and avoid attempts to develop and promote private forms of controls (Lucchi 2014). In addition, all of these legal reforms are characterized by features that entail imposing legal responsibility on Internet service providers.

These circumstances show clearly how freedom of speech can become a problematic issue if the task of maintaining control over the information flow is held not by the state, but instead delegated to a private or commercial entity. Holding intermediaries liable for the content created, uploaded and distributed by their users can significantly affect having enjoyment of the right to freedom

of opinion and expression. Such an approach, in fact, naturally encourages the development of self-protective and extensive forms of private censorship, thereby undermining the guarantees of due process of the law and a fair trial (United Nations General Assembly, Human Rights Council 2011). In addition, the growing increase in enforcement of copyright protection of digital information has led to design choices in network architecture and copyright rules that can largely determine and influence the way in which digital information is made available.

Conclusion

As we have briefly outlined, the current changing digital media environment seems to be characterized by a new challenge involving a new approach to pluralism. As noted by other scholars, it is no longer a matter of concentration of media power or “limitations on producing content, expressing divergent ideas and opinions” and “availability of distribution systems” (Valcke et al. 2015: 2); instead, the new problem seems to be having the capacity to effectively reach – without undue restrictions – many different audiences. The digital environment appears to be increasingly characterized by attempts to filter and control online spaces and – at the same time – by the presence of only a few aggregators and intermediaries of content, which entails the risk of putting access to digital information into the hands of a small number of global gatekeepers.

An interesting observation from recent studies is that “the concentration of where the audience goes – in terms of aggregators and sites – is every bit as damaging to pluralism as limitations on spectrum and concentration of ownership” (Valcke et al. 2015: 2). Media pluralism is therefore a concrete issue in the digital world as well, but with different features and a multi-dimensional context. In order to be useful in the contemporary digital media landscape too, media pluralism should be reinterpreted in light of the new reality. The control over information flows has become – in fact – a very effective form of power over the Internet.

These new forms of control can be highly pervasive and ubiquitous in many different areas of digital communication. For example, legal tools for online copyright enforcement, protection mechanisms over digital content, aspects of the network architecture, net neutrality policies and other environmental variables can unreasonably obstruct or interfere with the free flow of information online. The theme of digital pluralism is therefore strictly connected with that of network neutrality understood as the prohibition of discrimination, restrictions or interference in relation to the internet traffic regardless of its origin, sender, recipient, type or content.

A corollary of this understanding is the necessity of recognizing that while technology can improve and strengthen freedom of speech and the plurality of voices, it can also generate new risks and challenges. Consequently, the crucial task for current regulatory policy is not just to elevate the features and benefits of technology, but also to find a way to balance the problems and values that technology brings with it.

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Notes

- ¹ ECtHR 14 April 2009, Appl. no. 37374/05, *Társaság a Szabadságjogokért v. Hungary*; ECHR 26 May 2009, no. 31475/05, *Kenedi v. Hungary*.
- ² See ECtHR, *Jankovskis v. Lithuania*, Application No 21575/08.
- ³ Article 19, Universal Declaration of Human Rights, GA Res 217A (III), 10 December 1948, A/810 91.
- ⁴ Article 10, Convention for the Protection of Human Rights and Fundamental Freedoms 1950, ETS 5.
- ⁵ Article 19, International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171.
- ⁶ See, e.g., ECtHR 18 December 2012, Appl. no. 3111/10, *Ahmed Yildirim v. Turkey*.
- ⁷ Stop Online Piracy Act (SOPA) (2012), H.R. 3261, 112th Cong.
- ⁸ Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, (2012) S. 968, 112th Cong.
- ⁹ Loi 2009-669 du 12 juin 2009 favorisant la diffusion et la protection de la création sur internet, 135 Journal Officiel de la République Française, 13 June, 2009, p.9666
- ¹⁰ Ley 2/2011, de 4 de marzo, de Economía Sostenible, 55 Boletín Oficial del Estado, March 5, 2011, Sec. I. p. 25033.
- ¹¹ United Kingdom, Digital Economy Act, 2010, 59 Eliz. 2, c. 24, § 124A.
- ¹² AGCOM, Delibera n. 680/13/CONS - Regolamento in materia di tutela del diritto d'autore sulle reti di comunicazione elettronica e procedure attuative ai sensi del decreto legislativo 9 aprile 2003, n. 70.

Threats to Freedom of the Press: Control, Surveillance and Censorship

Canaries in the Coalmine

Why journalists should be concerned by privacy

Heikki Heikkilä

Abstract

Given the strong tradition of ethical codes in journalism, journalists in the Nordic countries have shown great respect of privacy. However, recent revelations about digital mass surveillance suggest that journalists, too, need to take new lessons in what privacy means and why it matters. This article contributes to this exercise by analyzing how the whistleblower Edward Snowden and his associate in journalism, Glenn Greenwald, have argued against mass surveillance. Their viewpoints are valuable reminders of how privacy, freedom of speech, and political participation are connected to each other. At the same time, attention should be paid to two other dimensions of privacy, which Snowden and Greenwald have largely ignored: anonymity and retreat.

Keywords: privacy, digital surveillance, Snowden, Greenwald, journalism

Introduction

There is a widespread consensus among Nordic journalists concerning the strategic value of privacy. The ethical code of Swedish journalists confirms this straightforwardly by declaring that privacy is sacred (*belgad*)¹. Guidelines for Finnish journalists follow suit by providing a practical instruction for how to deal with privacy: “delicate matters concerning people’s personal lives may only be published with the consent of the person in question, or if such matters are of considerable public interest” (Council for Mass Media 2014).

Practical justifications for this policy are not difficult to find. The most obvious international example is the phone hacking scandal in the United Kingdom, disclosing that journalists at *The News of the World* had for many years tapped the phones of celebrities, politicians, and members of the public, including the missing schoolgirl and her family. The consequences of the revelation were unprecedented: In 2011, the newspaper was closed down after more than 150 years of existence, and a massive public investigation on the

ethical standards of the press, known as the Leveson Inquiry, was set up by the British government (Cohen-Almagor 2014).

Against this background, Edward Snowden's leaks, revealing that digital surveillance was being imposed on all Internet communications by the National Security Agency (NSA), surely resonated among journalists. Regardless of what they may have known about the surveillance and its role for national security, they could quite instinctively deem mass surveillance to be unacceptable – or at least questionable – because intelligence agencies failed to distinguish plausible suspects from innocent users. In other words, those institutions entered the 'No go zone' of privacy without ethical justification.

Despite the extensive media coverage on NSA and Snowden, there is serious deficiency with regard to how the news media have analyzed the issue. This deficiency concerns the multidimensional meanings underlying the concept of privacy. If privacy is indeed 'sacred', should not we think more about why it is important, and why journalists in particular should be concerned about its future? In this article, these questions will be tackled by analyzing how Edward Snowden and his agent in journalism, Glenn Greenwald, have discussed the concept. From what 'Ed said', I wish to move on to those dimensions of privacy that Snowden and Greenwald have not elaborated on.

Precursor for citizenship

For Snowden and Greenwald, the quintessential quality of privacy is *secrecy*. In an interview with *the Guardian*, Snowden argues that "If we want to live in open and liberal societies, we need to have safe spaces where we can experiment with new thoughts, new ideas, and discover what we really think and what we really believe in without being judged" (*The Guardian*, July 18 2014). A few months later, Greenwald elaborated on the question by emphasizing that secrecy needs to involve strategic communication within a closed group of people. He even goes so far as to say that these are the conditions in which "creativity, exploration and dissent exclusively reside" (TED Talks 2014).

For, Snowden and Greenwald, privacy is not merely a 'No go zone' in ethical terms, but a site for a social and political imagination without which freedom of speech would be meaningless. This line of thought is reminiscent of classical theories of democracy and public sphere, which highlight the importance of private homes and secret clubs as platforms for elaborating radical and sketchy ideas before such ideas are revealed publicly. These theories demonstrate that it was only after these benefits of secrecy were made use of that ideas about public sovereignty, gender equality, and sexual self-determination started gradually gaining their current status in societies (Habermas 1989; Fraser 1989).

Snowden and Greenwald argue that the same theoretical dynamics also applies to contemporary societies. Thus, thriving democracies depend on pockets of secrecy, whereby private individuals may experiment with new political ideas and design public interventions. Consistent with his previous sympathy toward Libertarian thought (Harding 2014), Snowden does not use words such as ‘citizenship’ or ‘politics,’ but speaks more broadly about ‘liberty.’ “Reasonable people would grant that privacy is a function of liberty. If we get rid of privacy, we’re making ourselves less free” (*The Guardian*, July 18 2014). What is apparent, though, is that both Snowden and Greenwald regard privacy as an indispensable precursor for political citizenship.

This argument is so abstract that it does not provide any answers to more practical concerns about these pockets of secrecy: Should a potential cell of terrorists be granted such pre-political space? Greenwald argues that digital mass surveillance does not make such a distinction either. While intelligence agencies are said to look at those pockets of secrecy that threaten security, these agencies’ activities can also root out all dissent and political creativity.

You may be a person who, right now, doesn’t want to challenge the power, but at some point in the future you might. Even if you decide that you never want to do that, there are other people who are willing to and able to resist and be adversarial to those in power. [Assuming that this may] bring us all collective good, we should want to preserve right to privacy (TED Talks, 2014.)

The findings of two PEN America surveys provide empirical evidence to support Greenwald. According to the PEN report, 85 percent of writers worry about current levels of government surveillance, and the assumption that they are under surveillance causes some writers to self-censor their work. More than a quarter of them say they are now reluctant to write or speak about certain subjects, and 27 percent have limited their communications with sources or friends abroad (PEN America 2013). Another survey with an international sample of respondents suggests the following: “Concern about government surveillance in democratic countries is nearly as high as in non-democratic states with long legacies of pervasive state surveillance” (PEN America 2015).

The report concludes, in the words of novelist E.L. Doctorow, that “writers can be considered the ‘canaries in the coalmine’ when it comes to the impact of surveillance on privacy and free expression in society writ large.” This topic briefly found its way onto the news agenda after the terrorist attack on Charlie Hebdo in France in early 2015. In spite of the widely circulated slogan, ‘Je suis Charlie,’ it seems that journalists did not feel so strongly that their freedom of speech was being threatened. This suggests that journalists did not see themselves as canaries in the coalmine, nor did they instinctively set themselves to the position of those public intellectuals who do so.

Two other dimensions of privacy

In addition to secrecy, privacy encompasses two other equally important dimensions. On the one hand, privacy refers to the right to *retreat*, which means “voluntary seclusion from other people for the purposes of prayer and study, or for rest and relaxation” (Oxford Dictionary). On the other hand, privacy concerns *anonymity*, i.e. the possibility to be indistinguishable from others in the same population. This position is regarded as essential to a set of legitimate social practices, such as voting, acts of charity, or whistleblowing. At the same time, anonymity has other meanings that are not as commendable, because it gives individuals a temporary release from responsibility and accountability they would otherwise be compelled to respond to. A well-known controversial product of anonymity can be found in many online discussion boards where hate-speech and flaming are not uncommon.

Greenwald discusses these dimensions of privacy only in passing, while Snowden hardly mentions them at all. This omission is consistent with their exclusive concerns with state surveillance and its impact on political citizenship. This does not mean that journalists should not be beware of the fact that secrecy is not the only valuable quality of privacy, and that the two other realms of privacy are being monitored more effectively than ever before.

CCTV cameras have long been instrumental in monitoring people in retreat. Now, satellite-based global positioning systems (GPS) enable locating them when they are mobile as well. In addition, smart technologies are being envisaged under the concept of ‘the internet of things’ to incorporate remote data gathering into public utility networks, healthcare systems and household gadgets (Weber and Weber 2010). What makes this technological issue political is that many innovation pundits support the development of smart data gathering as an alternative to public regulation. According to Tim O’Reilly, “We are at the unique time when new technologies make it possible to reduce the amount of regulation while actually increasing the amount of oversight and production of desirable outcomes” (quoted in boyd and Crawford 2011).

Why indeed spend resources on, for instance, national health campaigns if we can approach individuals based on their personal data? One could receive a text message like the following: “It appears that you don’t go to the gym as often as you used to. Shouldn’t you do something about it? Best regards from the board of health care and the health club near you.” In his critique, Evgeny Morozov (2013: 6) calls this tendency *solutionism* as opposite to democratic politics, as “It takes problem-solving from public institutions to tech-labs in Silicon Valley and elsewhere to reach for the answer before the questions have been fully asked.” The developments in how technology reshapes privacy in our homes (retreat) are mainly addressed in technology and innovation

policies. When reporting on these, journalists should also shed light on their effects on privacy.

In the meantime, the processes reshaping the conditions of anonymity come much closer to home to news organizations. All media institutions, from Internet service providers to advertising agencies and public service corporations, are increasingly fascinated by opportunities to observe their online audiences. Rather than identifying who these users are, they want to learn about what makes anonymous users ‘click’ on a given story or service (Anderson 2011). The evidence for substantiating emerging theories of digital audiences is garnered from users’ browsing patterns, which no longer remain private, but add to the cumulative heaps of data to be analyzed by content producers.

This practice has invoked professional debates about ‘click bait’ and ‘click journalism’ and the reportedly negative impact of these phenomena on the quality and credibility of news. This discussion has sprung up so abruptly that ‘click journalism’ was designated the most prominent Word of the Year in Finland in 2013.² The debate tends to focus on the effects of analyzing anonymous users on the Internet. In the meantime, much less attention is paid to the causes: Why do media organizations, among others, exploit private user data, and what happened to the assumption that ‘privacy is sacred’?

Conclusion

This brief analysis points out how transformations in technology, politics and media are reshaping key categories that are of fundamental importance to our social being. This renders journalists’ ethical stance on privacy – as something ‘sacred’ – still valid, but also insufficient, because privacy means much more than that, and because its dimensions are under transformation. There are a number of institutions that can be held responsible for analyzing these changes. Universities and research centers in various fields surely have a role to play here, but so does journalism itself.

The first step is to rethink what political theories have to say about why privacy matters. This should help us conceive of indicators that are better than canaries in the coalmine – indicators that can detect the toxic effects of surveillance on freedom of speech. At the same time, we must admit that privacy and its threats extend much further than to secrecy and citizenship. Also more extensive than one might imagine is the list of actors and institutions that pursue their interests at the cost of privacy. It is crucial that journalism shed light on such policies, including those devised within their own organizations.

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Notes

- ¹ <https://www.sjf.se/yrkesfragor/yrkesetik/spelregler-for-press-radio-och-tv/publicitetsregler>
- ² www.kielikello.fi/index.php?mid=2&pid=11&aid=2690

Threatened Source Protection

Freedom of expression and extremist adversaries

Elisabeth Eide

Abstract

This chapter focuses on reporters' right to source protection, even when in contact with extremist adversaries. The desire to analyse the background and motivation of extremist individuals and groups is shared by many academics and journalists. With reference to Chantal Mouffe's theories of pluralist democracy as well as Edward Said's contrapuntal reading, the chapter discusses examples from Afghanistan, the UK and Norway, cases demonstrating that both the right to access extremist sources and the right to protect such sources are fragile. This discussion gains importance as terrorist attacks in Europe (Norway 2011, France 2015) are used as arguments for increased mass surveillance and for intrusion into journalists' investigative endeavours.

Keywords: contrapuntal reading, democracy, extremism, source protection, surveillance

Introduction

Journalists' access to information from sources regarded as extremist adversaries has become an increasingly controversial issue. Attempts at such contact may be regarded as suspicious and anti-state, but also as efforts to understand the complex backgrounds of extremist others.

A pluralistic democratic order, writes Chantal Mouffe, "is based on a distinction between 'enemy' and 'adversary'. It requires that, within the context of the political community, the opponent should be considered not as an enemy to be destroyed, but as an adversary whose existence is legitimate and must be tolerated" (Mouffe 2005: 4). But what if the 'adversary' is extremist and (potentially) violent?

In the late-modern media situation, people tend to (consciously or unconsciously, helped by algorithms) cultivate their own media profiles, while the traditional and shared public sphere is dwindling. Because Europe is home to a large diasporic population, the need to develop abilities to see and read the

world from other perspectives is becoming increasingly urgent. In understanding this process, Edward Said's 'contrapuntal reading' and Chantal Mouffe's reflections on democracy and agonism are helpful.

European countries are now facing what other countries in the Middle East and beyond have long experienced, i.e. a large influx of human beings fleeing war. Polarized media narratives are strengthened. On the one hand, we find voluntary humanist initiatives such as "Refugees welcome". The discourses of some academics and other experts adhere to this trend by suggesting that Western powers are partly responsible for the exodus of people from the Middle East, due to the Afghanistan and Iraq invasions in 2001 and 2003 and the bombardment of Libya in 2011. The other main narrative is a rapidly growing scepticism or indeed hostility towards newcomers, oftentimes directed towards Muslims, naming Islam as the 'main problem'. Members of the extreme right-wing party "Sverigedemokraterna" (SD) have provided addresses of potential asylum centres on the Internet, in a situation where many such centres have been subject to arson.¹ Two attempts at setting fire to planned asylum centres have also taken place in Norway. The SD 'guide' may be seen to border on incitement to violence and thus seriously impinges on *other* people's freedoms and indeed on their safety, as do extremist Islamist groups who hail the 2015 terror attacks in Paris.²

The 'what about...' discourses

The brutal assassinations of citizens in Paris on 13 November 2015, besides generating a flow of sympathy and collective grief, revealed a variety of discourses in social media. One of them challenged individuals who changed their Facebook profile images by draping them in the colours of the French tricolour. They were reminded of a terrorist attack in Beirut one day earlier, which had generated very little reaction among 'Western' media and Facebook members. This *what about ...* discourse is not new, but had many followers in Norway, not least because one of the 44 people killed in the Beirut attack was a Norwegian citizen, Bilal Hammoud, with roots in Lebanon. Others would maintain that more Norwegians had a relationship to Paris, and thus could more easily identify with Parisians.

These competing narratives represent a typical example of Person A raising an issue of oppression and/or brutality, garnering a response from Person B who has other concerns that highlight Person B's own issue. Person B then openly or subtly accuses Person A of neglecting Person B's case.

The related discourses of double standards frequently occur in media in the Middle East and beyond, where a U.S.-led 'West' is accused of promoting human rights and simultaneously violating them in their war efforts (Quanta-

namo and Abu Ghraib being among the most prominent examples). This was easy to observe at close range during the cartoon crisis as it emerged in the Pakistani media during the spring of 2006. The *what about...* discourses came in several waves, although some public intellectuals did counter the critique of 'the West' by highlighting human rights abuses in Pakistan (see Eide 2007, 2008).

In more recent years, *Orientalism* has become something of a household word in the mainstream media. Edward Said warned against Western simplification and degradation of the Orient, influenced by empire and powerful institutions (Said 1995). Such simplified notions have been scrutinized by research inspired by post-colonial theories, although they still linger on in political and media discourses by using binaries such as the 'West vs. Islam'. But Said also warned against his work being used as a justification for essentializing the 'West' (ibid., see also Carrier 1995; Buruma and Margalit 2004). The ability to break down simple categories to show their diversity and complexity involves being willing to change or adjust one's lenses while analysing the 'distant other'. But what happens when the distant other emerges as an extremist or a violent terrorist?

Access to information – from adversaries

A paragraph in the Millennium Declaration of the year 2000 includes the following sentence: "To ensure the freedom of the media to perform their essential role and the right of the public to have access to information".³ But simply *trying* to gain access to information can be a dangerous endeavour. In Afghanistan, a young journalist, Jawed Ahmad, was arrested in 2007, accused of being an accomplice to the Taliban because he was in possession of some photos and videos of them. He was detained for almost a year as an enemy combatant, without access to a lawyer, in the US-led Bagram prison. He was 22 years old at the time of his arrest, and the material in his possession was based on his work as a stringer for CTV, a Canadian TV station. After Ahmad's release, he promised to write a book about his experiences, which include being tortured. But Ahmad was killed by unidentified gunmen in the southern city of Kandahar some months later.⁴

For others, access to information is threatened by attacks on their right to source protection. In late October 2015, the BBC reporter Secunder Karmani's laptop was seized by police officers, who had obtained an order from a judge using the UK Terrorism Act against him and the BBC. He had joined the flagship BBC2 news show in early 2014 and had produced a series of reports on British-born so-called *jihadists*. The editor of the BBC's Newsnight, Ian Katz, said: "While we would not seek to obstruct any police investigation we are

concerned that the use of the Terrorism Act to obtain communication between journalists and sources will make it very difficult for reporters to cover this issue of critical public interest.”⁵

Another attack on the right to source protection occurred in Norway in June 2015, when police seized video material from Norwegian-Pakistani filmmaker Ulrik Imtiaz Rolfsen by entering his private residence. He was in the process of filming a documentary on the Norwegian recruitment to ISIS/Daesh.⁶ Lawyers, media workers and freedom of expression activists protested against this police action, as they had done in the case of the BBC reporter. Rolfsen’s right to protect his sources was accepted by the Norwegian Supreme Court on 20 November 2015, after he had lost in two lower courts.

In all of these cases, attempts at obtaining the views/perspectives of the ‘distant, extremist other’ were attacked by the powerful. Rolfsen has explained how, after the seizure of his material, his sources were scared. Some of them wanted to withdraw their interviews. These sources were not all necessarily (potential) terrorists, and the action itself may be seen as a threat to their freedom of expression by excluding their motives and backgrounds. On the other hand, the issue of ‘tolerance for the intolerant’ – and for which intolerants – is under dispute.⁷

Whistle-blower Snowden

Freedom to seek information from and about adversaries – be they brutal and extremist or not so brutal – seems to be a right in decline. These cases concern journalists’ fundamental right to access and protect their sources. If actions such as these are endorsed by an increasing number of powerful institutions and individuals, it will seriously hamper independent reporting, thus jeopardizing freedom of expression. Further underlining this is the immense surveillance system revealed by Edward Snowden (via *The Guardian*), who is currently residing involuntarily in Moscow. When private companies can forward information about everybody’s communication practices, legitimized by the ‘needle-in-a-haystack’ argument (a very bad metaphor indeed), i.e. surveillance of everyone, this will clearly increase the fear of communicating and thus limit citizens’ free exchange of views, a vital part of a democracy. A group of UK police tried to get hold of Snowden’s files by storming into the Guardian offices in London and by ordering staff to destroy their equipment in a futile attempt to obtain their source material.⁸ In the European Parliament on 29 October 2015, a slim majority (285-281) voted to grant Snowden asylum in Europe.⁹

The *Guardian* reporter who broke the news about BBC’s Karmani, who had his laptop confiscated, suggested that academics doing research on dif-

ferent shades of extremism may also be endangered by lawmakers and police eager to use terrorism laws to curb uncomfortable research. Academic freedom has never been total, but may be more under threat now than previously.

Transnationality and fragmentation

Journalistic research as well as journalism research oftentimes requires a degree of transnationality as the public spheres become increasingly porous. One proof of the fragility of national public spheres in our late-modern world was offered by the Mohammed cartoon controversy in 2005-2006 (Eide, Kuneilius and Phillips 2008). Phenomena from what is supposed to be 'my' public sphere reach 'theirs' by cell phones. A drawing published in a regional Norwegian paper may end up in tribal areas in West Pakistan (Eide 2009), but one cannot expect people in distant localities to be familiar with what is legal (though ethically disputed) in a Northern European country. Images are subject to a variety of interpretations, due to the varying degrees of (media) literacy as well as different historical, social and cultural contexts.

Use of social media has led to more shared concerns in smaller groups as well as to fragmentation of the traditional public sphere. Whereas 20 years ago journalism students would more or less relate to the same daily news agenda, this is no longer the case. Most of them digest their daily news through Facebook, including selected news feeds from traditional media. More research is needed to learn how this may be affecting the enlightened debate on crucial issues, for example debates on refugees, climate change or indeed on extremism.

Social media also entail increased freedom and access for everyone to voice an opinion. But, as UNESCO's Guy Berger wrote, the right to be heard, to be *listened* to, is becoming more and more precarious. Nobody wants to shout into a vacuum or an empty room (Berger 2013). Today's growth of extremism includes right-wing and even Nazi-inspired extremism, as well as extremism using Islam as a banner, not least when recruiting to Daesh/ISIS. An important tool for both kinds of extremism is social media, including 'echo chambers', which are fora where one can have one's own views confirmed or indeed strengthened by other like-minded persons and avoid ever having one's views critically scrutinized by others who disagree. In this way, opportunities to learn via dialogue are diminished and polarization may increase.

Contrapuntal reading

As a way to better understand the variety of interpretations to media freedom demonstrated, we could turn to the late Edward Said, who, in his work

‘Culture and Imperialism’, suggested *contrapuntal reading*. His point was that during the course of history, when citizens from many corners of the world read the ‘canonical’ literature of the 19th century, they shed new and critical light on these texts, not to denounce the quality of the works, but to emphasize the historic moment when they were written, and which relations were then taken for granted: for example the *Empire*, the oppression of colonial subjects and marginalization of their experiences. He wrote on contrapuntal reading:

[...] simultaneous awareness both of the metropolitan history that is narrated and of those other histories against which (and together with which) the dominant discourse acts. [...] In the same way, I believe, we can read and interpret English novels, for example, whose engagement (usually suppressed for the most part) with the West Indies or India, say, is shaped and perhaps even determined by the specific history of colonization, resistance, and finally native nationalism. At this point alternative or new narratives emerge, and they become institutionalised or discursively stable entities (Said 1994: 59-60).

Said’s *new narratives* have long been with us, for instance through the growth of ‘post-colonial’ literature. An illustration of such narratives is the concerted effort to rewrite Indian history made by the “Subaltern Studies Group”, who, during recent decades, have taken the perspective of colonial subjects as their starting point. A British history book’s labelling of what happened in greater India in 1857 as the ‘mutiny’ might, with other lenses, be seen as part of the anti-colonial liberation struggle. This new writing of history may be viewed as giving due, if delayed, voice to the silent, brought-to-silence other.

Said’s advice points at necessary intellectual endeavours made by journalists who wish to explore the world and see conflicts through other lenses, from the perspectives of other groups of people who have their own social and political experiences. This quest at times brings them to the door of the ‘extremist other’, posing questions about his/her background and motivation. And these encounters have a great deal to do with conflict and war.

War and power

Civil wars and other wars are full of examples of misuse of power. Guy Berger wrote that lessons from WWII were incorporated into the UNESCO constitution. It was believed that, to secure peace and end warmongering, societies needed a free flow of information, which is a function of the right to free expression (Berger 2013, 132). Reading Berger made me think of WWI, on the so-called Western Front in Belgium. There, on Christmas Eve of 1914, British,

French and German soldiers ventured out of their respective trenches and greeted each other (the enemy other), exchanged meagre rations and sang together. Their officers did not appreciate this kind of friendly expression. They punished some soldiers by sending them home or to the much more dangerous Eastern Front.

But then there is another, lesser-known – at least in many parts of Europe – aspect of the same war. Soldiers from the Indian subcontinent and from the Maghreb also fought in Europe during WWI. Al Jazeera has unravelled some of that story, as have other media outlets in the past, such as the Subaltern Studies group. The right to historical recognition is also an important part of free expression.

Said's examples and the examples referred to above of 'the distant, extremist other' are not parallel, even if the tradition of the warring counterpart being dehumanized by political and military discourses is a shared feature. But, just as there was a strong incentive to analyse the driving force(s) behind the actions of the Norwegian terrorist Anders Behring Breivik after 22 July 2011¹⁰, journalists may also take an interest in exploring the backgrounds and motivations of other extremists. Increased legal action against – and indeed surveillance of – such reporters will diminish opportunities to make such investigations.

When 'adversaries' join hands

But is there a line to be drawn here? According to Said and many others who have studied human relations, cultural identities can be understood as contrapuntal ensembles. No identity can ever exist without an array of opposites, often negative: Greeks versus Barbarians, Europeans versus Orientals, one religious movement against another. These oppositions do not have to become violent, but too often they do when the opposing parties succeed in demonizing each other.

Italian war reporter Francesca Borri, in a lecture in Oslo last spring, presented some of her perspectives after having covered the war in Syria for a long time. She argued that "they read us, but we don't read them", and she observed that this is at times "their culture against our ignorance".¹¹ Many people she met had never encountered journalists willing to hear their side of the story. Some of them were violent 'jihadists'. The question is: Does some of this violence also partly result from an unwillingness to read the world from the perspective of the other, as proponents of peace journalism might argue (Lynch and McColdrick 2012, Nohrstedt and Ottosen 2014)? Documentary filmmaker Deeyah Khan's attempts at getting close to Muslim leaders, who had previously recruited their fellow countrymen in the UK into military "jihad",

provide an important example of a learning process, both for the filmmaker and for the ex-jihadists who were invited to speak in her film (Khan 2015).

Sometimes the willingness to identify with and understand the other is demonstrated in a peaceful but nonetheless powerful way, such as when, following the brutal attacks on free expression in Paris and Copenhagen in the early weeks of 2015 (including attacks on Jewish institutions), a network of young Muslims in Oslo organized a vigil ('Ring of Peace') around the Oslo Synagogue in February 2015. There, speakers from the network of Muslims expressed their support for and solidarity with the Jewish minority in Norway, which is so much smaller than their own. But they also expressed the two minority groups' shared vulnerability. One of the speakers told the many hundreds of people present at the occasion about his earlier hatred of Jews: "Much of what I said then [in 2009] was conspiracy theories. I was young and angry because of what had happened in Gaza". In turn, the rabbi, as part of his response, exclaimed "Allah-u-Akbar" in front of an astonished crowd.¹²

It is seldom that easy. Obtaining information from some of the most extreme adversaries entails risking one's life, as ISIS's brutal assassination of journalist Steven Sotloff reminds us. As BBC's Ian Katz said, when it comes to covering extremists 'at home', their aim is far from obstructing police investigations. On the other hand, he underlined that covering 'jihadists' was an issue of critical public interest.

For the young Muslim man speaking at the event at the Oslo Synagogue, another threatening development was also possible. ISIS/Daesh also tries, with some success, to recruit in Norway. The background of the recruits seems to be a combination of marginalization and effective social media mobilization. As Mouffe wrote,

(,,) deprived of the possibility of identifying with valuable conceptions of citizenship, many people are increasingly searching for other forms of collective identification, which can very often put into jeopardy the civic bond that should unite a democratic political association. The growth of various religious, moral and ethnic fundamentalisms is, in my view, the direct consequence of the democratic deficit, which characterizes most liberal-democratic societies. (Mouffe 2009: 96)

Mouffe's diagnosis of a democratic deficit corresponds well with claims of marginalization. A more open question, however, is whether the growth of echo chambers through social media will contribute to the same deficit.

Today, a contrapuntal reading of some of the most intensive global conflicts is being exercised by reporters seeking to understand the origins of extremist adversaries. Will journalists and related professionals such as filmmakers be able to speak to such groups without risking legal sanctions (as part of

Mouffe's deficit) against their rights to access information? In the case of Rolfsen, the Norwegian Supreme Court did confirm this right, but experiences across the world demonstrate that it is a disputed and fragile one.

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Notes

- ¹ At least 42 such attacks took place in Sweden in 2015 (Expo 4/2015).
- ² <http://www.vg.no/nyheter/innenriks/flyktningskrisen-i-europa/udi-vurderer-aa-gjoere-adresser-til-flyktningsmottak-hemmelige/a/23551042/> ; <http://www.dagbladet.no/2015/10/28/nyheter/utenriks/flyktninger/asylsokere/asylmottak/41704866/>.
- ³ In the chapter on human rights, democracy and good governance. <http://www.un.org/millennium/declaration/ares552e.htm> Accessed 14.12.2015.
- ⁴ https://en.wikipedia.org/wiki/Jawed_Ahmad and CBC news 10.03.2009: <http://www.cbc.ca/news/world/afghan-fixer-for-canadian-media-outlets-killed-in-kandahar-1.835520>; both accessed 12.01.2016.
- ⁵ <http://mashable.com/2015/10/29/bbc-newsnight-laptop-seized/#iRKIHj1VVmq4>, accessed 12.01.2016.
- ⁶ See for example <http://www.aftenposten.no/meninger/kommentarer/--Oppsiktsvekkende-nar-PST-gjennomforer-razzia-hos-Ulrik-Imtiaz-Rolfsen-8051487.html> accessed 20.01.2016
- ⁷ One of the main inspirations for the Norwegian terrorist Anders Behring Breivik was Peder Nøstvold Jensen, called Fjordman on the Internet. After 22 July 2011, Jensen distanced himself from Breivik, while reiterating many of the same worldviews. He applied to the Norwegian 'Free Expression Foundation' for support to write a book, about his experiences, and received 50,000 NOK in 2013, which raised a debate in Norway. See for example: http://www.dagbladet.no/2013/06/14/kultur/meninger/lederbloggen/fjordman/fritt_ord/27712709/ His book was published in late 2015, in Denmark, as no Norwegian publisher was willing to accept it.

- ⁸ The damaged equipment is, as I write, being exhibited at the Victoria and Albert Museum.
- ⁹ <http://www.theatlantic.com/international/archive/2015/10/european-parliament-edward-snowden/413257/>
- ¹⁰ Several journalists have tried to interview him, thus far without result. Several books have been written about him, with ample emphasis on his childhood and psychological development.
- ¹¹ The present author was in the audience and took notes.
- ¹² The present author was present on this occasion. See also <http://www.osloby.no/nyheter/Muslimsk-ring-rundt-synagogen-7910254.html>

Drone Journalism

The newest global test of press freedom

Epp Lauk, Turo Uskali, Heikki Kuutti & Helena Hirvinen

Abstract

We argue that using unmanned aircraft systems (UAS), popularly known as camera drones, for journalistic purposes constitutes the newest test of press freedom globally. The technological development of camera drones is rapid, and their sales are growing exponentially worldwide. Because they enable video shooting in dangerous or otherwise inaccessible places, as well as immediacy and 'eyewitness' effects, camera drones are being used increasingly in journalism. The regulations and rules concerning camera drones are only just emerging, but already they reflect the respective countries' press freedom situations. The continuum goes from very modest regulation, as in Nordic countries, to total bans, as in Kenya.

Keywords: unmanned aircraft systems (UAS), camera drones, drone journalism, innovation, press freedom, regulation

Introduction

Since 2011, when camera drones were first used for recording events that made headlines globally – riots in Warsaw, Poland in November 2011 (YouTube, 11.11.2011) and thereafter the events of the Occupy movement in various countries – they have spread rapidly among journalists and amateurs. Aerial videos and images of riots, aftermaths of earthquakes, or forest fires have gone viral via online platforms like YouTube, Facebook and Twitter. The number of videos taken using camera drones and published on the Internet is up in the millions (e.g., on YouTube alone, we found about 2,850,000 results on 23.10.2015). Due to the incredibly rapid development of drone technology, camera drones are continuously becoming smaller, smarter and cheaper, and their sales are growing exponentially.

Already, a 'selfie drone' called Lily has been released that takes videos of their users by following them around, directed by a GPS signal attached to the user's wrist. Nixie, the latest innovation, is the first wearable flying camera

that unfolds and takes flight from the wrist of its owner.¹ According to the U.S. Consumer Electronics Association's (CEA) latest report, the U.S. drone market approached \$105 million in revenue in 2015, which is a 52 per cent increase compared to 2014, while sales have increased by almost 62 per cent. Camera drones, technically suitable for journalistic purposes, cost no more than €500, the cheapest beginning from €30. The CEA estimates that drone shipments will increase to nearly a million by 2018.² Eventually, journalists will be using a camera drone as routinely as they use their smart phones. This has been already demonstrated at many occasions, especially in crisis reporting.

These new devices, however, have changed the ways in which journalists work. They have enlarged the scope of the space and events journalists can access and increased the 'eyewitness' effect. On the other hand, journalistic use of camera drones has caught the attention of regulative and executive authorities responsible for safety, lawfulness and state security. Existing safety regulations and laws do not cover all possible issues; special legislation for regulating drone usage is still emerging. How liberal or restrictive these regulations are depends largely on the nature of the political climate of the country in question. The connection to the general situation of press freedom is obvious, and attempts to regulate the use of (camera) drones also affect their use for journalistic purposes. It is fair to say that drones test press freedom in a new way, globally. In this chapter, we briefly discuss some issues that connect the use of camera drones to press freedom.

Effect of 'eyewitnessing'

One cornerstone of news journalism is immediacy – reporting the events from where and when they take place. Having 'been there' as an eyewitness adds credibility and authority to the reports of journalists (Zelizer 2007). Modern technological devices enable live reporting of any event, thus including viewers among the eyewitnesses. Drone technology has given 'eyewitnessing' an extra dimension by enabling video shooting in places inaccessible to and/or dangerous for a human being (battlefields, natural disasters, etc.). The eyewitness effect extends the visual exposure of important issues or dramatic events previously unseen (Gynnild 2014a; Gynnild 2014b). Eyewitnessing can be achieved even if no reporter is present, as studio commentators can legitimate 'robot eyewitnessing' (Gynnild 2014a: 336) by using expressions like "as we can see through the camera lens" or "the camera shows us", etc.

Since the invention of digital video cameras and smart phones, digital videos and images have become ubiquitous. During crises, starting with the 2004 Asian tsunami and the 2005 London bombings, user-generated content has been flowing to the newsrooms (Uskali 2007). Naturally, citizens and

drone hobbyists who happen to be on the spot have the best opportunity to capture the first images of newsworthy events. What, then, is the difference between the journalistic use of camera drones and the incidental use of camera drones by ‘citizen journalists’ as eyewitnesses? We suggest that there are at least three important aspects: 1) Drone videos taken by a news team or a professional journalist are most likely of higher quality both technically and visually than those taken by amateurs; 2) Journalists working for a news organization are more likely to be concerned about the credibility and ethics of their reporting, as well as safety; 3) Journalists have the best knowledge of the most effective communication channels and platforms available for news reporting to large audiences (Culver 2012; Culver 2014; Dronejournalism.org 2015; Weiss 2015).

While the use of drones does broaden journalists’ methods of news presentation and information gathering, in journalism it clearly raises new issues related to freedom of expression. For example, the “eyewitnessing” effect also has a reverse side: drones may easily be used for surveillance or videotaping without the consent of the person in focus. Finnish legislation forbids watching or monitoring anyone with the aid of a technical device on domestic premises or premises intended for residential use.

Legislation aimed at regulating the operation of drones, specifically camera drones, is only just emerging. National restrictions on using (camera) drones vary from a total ban to no limitations whatsoever.

Freedom of expression and drone journalism

Freedom of expression is most often interpreted as the right to freely convey information, opinion, ideas and images. In many situations, access to information may be an even more crucial factor for journalism. Article 11 of the EU Charter of Fundamental Rights declares that freedom of expression also includes “freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”³. Because drone journalists can use their devices to obtain sensitive information about the activities of authorities or persons, the ability to execute freedom of expression in information gathering is highly important to news organizations. Concerning drone journalism, three general reasons for limiting this freedom exist: 1) the respective laws found in national legislation (e.g., certain articles in criminal codes), 2) safety requirements (e.g., air traffic regulations), and 3) ethical considerations (e.g., protection of privacy). Drone operators must abide by the rules and laws that apply to the airspace in which the drone is operated.

Existing regulations often contain a requirement to apply for permission from the authorities to use a drone in newsgathering. However, news events

typically happen suddenly, while application processes usually take a long time. Such restrictive requirements are in force in countries with limited freedom of expression and aim at restricting access to information.

The right to freely gather information using a drone may create problems when it comes to the area of privacy protection. For instance, Finnish legislation deems it unlawful to watch or monitor a person with the aid of a technical device (including drones) in domestic premises such as homes, private courtyards or other establishments intended for residential use. The aim of the legislation is to safeguard everyone's right to have peace and quiet without external supervision. However, the user of a drone may still obtain permission from the person in question (e.g., a smile or hand wave).

Safety requirements in drone journalism (as well as drone flying as a hobby) are universal. As the drones rely on batteries with a relatively short life, the risk of injury is clear if the drone flies above a crowd and the battery runs dry. Therefore, most of the existing regulations forbid using drones for recording mass gatherings, street demonstrations or sports events. On the other hand, in several cases, drone videos taken by journalists about such events have disclosed attempts by authorities to lie to the public about the extent of unrests or diminish the number of participants.

As the Ethical Code of the Professional Society of Drone Journalists⁴ emphasizes, drone operators must know and appreciate the regulations of the particular country in which they fly their drones.

Along with the spread of drones, the necessity for certain regulation has become obvious. Legislation and safety are the main aspects in relation to which the regulation easily comes into conflict with freedom of expression. For example, in the US, any commercial use of drones is still forbidden. Because the legislator sees journalistic use as commercial, camera drones are not allowed for information gathering, which is clearly in contradiction with the constitutional right of free expression. It may take years before journalists can legally fly drones to capture videos and photos in the US. Currently, exemptions can be applied for from the Federal Aviation Authority (FAA), but they are not easily obtained.

In early 2015, a coalition of the largest news companies received permission from the FAA to participate in testing camera drones for newsgathering purposes together with Virginia Polytechnic Institute and State University, Virginia Tech. In February 2015, the FAA released a draft of proposed regulations. The developers and commercial users criticize the FAA for the long delay (about five years) in delivering drone regulations, and meanwhile the drone industry is rapidly developing. They also criticize "unnecessary restrictive requirements", such as 'line of sight visibility' and the ban on night flights. The observers argue that any implementation of the rules would be lengthy, and it could be another two years before the final rules are even approved

(Downes 2015). Simultaneously, individual states (e.g., California, Missouri) are drawing up their own laws and regulations as to how drones can and cannot be used.

In Europe, several countries have already introduced (initial) regulations concerning commercial and non-commercial use of civil drones. The restrictions primarily concern safety measures, such as the bans on flying near airfields or roads, above densely populated areas or crowds. Use of small and light (hobby) drones weighing less than two kilograms is usually not legally regulated or is only lightly regulated (e.g., in Norway, Estonia, Finland, Luxembourg). Licenses and permission from air traffic authorities are often necessary for flying drones for commercial purposes (the Netherlands, Norway, Sweden, the Czech Republic, Germany, the UK). At times, some flight training and theory examination (Ireland, the Netherlands, the UK, France) are also required. Drastic restrictions on drone flying have rarely been introduced in Europe. The least restrictive drone journalism conditions are found in countries with broad press freedom (e.g., the Nordic countries). The European Aviation Safety Agency (EASA) published its proposal for a pan-European regulatory framework for drones in July 2015. The proposal provides regulations exclusively for safety purposes and does not affect freedom of expression.

In Australia, which the Reporters without Borders' Press Freedom Index ranks as 25 out of 180, the use of drones is legal and it is possible to get permits for commercial and journalistic use. The operators of small drones are required to pass a theory test. To fly a drone that is deemed to be an aircraft requires a licence obtained under the nation's aviation rules.

In many countries with authoritarian regimes and limited press freedom, flying drones for any purposes is completely forbidden, or allowed only in certain areas and under strict conditions. The authorities see journalists who have a flying camera as a threat to the government and quickly ban use of the devices after someone has shown something that the government does not wish the public to see (Stapp 2015). Single cases of misusing a drone may lead to the initiation of countrywide bans. For example, Cambodia banned flying drones within the area of the capital Phnom Penh after a German video journalist flew a drone near the Royal Palace and bothered the Queen Mother (Greenwood 2015a). Fearing terrorism, the Kenyan government imposed a drone ban in January 2015 after someone flew a drone a few minutes before the president's arrival at the national day celebration at Nyayo Stadium. Anyone who wants to fly a drone in Kenya must now obtain permission from both the Ministry of Defence and the Kenyan Civil Aviation Authority (Johnson 2015). After the disastrous earthquake in Nepal, many international journalists flew camera drones to get video images of the damage, and the government banned drones within a week. To fly a drone in Nepal, government permission is now required, but such permission is nearly impossible to obtain,

especially for foreign journalists (Stapp 2015). In Thailand, the rules require that all drone operators, including members of the media, seek permission directly from the transport minister before they fly (Greenwood 2015b). The Emirates have forbidden use of drones in Abu Dhabi. In South Africa, drones are entirely forbidden, although the government is not able to efficiently control the abidance with this ban.

There seems to be a clear correlation between the general state of freedom of expression in a country and the extent of restrictions placed on drone journalism (and drone use in general). The democratic European countries (e.g. Finland, Norway, Denmark, the Netherlands, Sweden and others, which stand on the top of the press freedom rankings) have installed regulations that comply with the principle of freedom of expression and balance it with safety and privacy issues. Heavy restrictions apply in Kenya (ranked 100 out of 178 in the 2015 Reporters without Borders' Press Freedom Index), Nepal (105), United Arab Emirates (120), Thailand (130), Cambodia (139). Considering the speed of the development and spread of drone technology, in a decade or so, all countries will establish rules for drone flying. As Professor Matt Waite of the University of Nebraska-Lincoln's College of Journalism and Mass Communications predicts, "the world is going to be a giant patchwork of rules, where what's allowed in one country is not going to be just across the border. And the differences between countries are going to be cast" (Stapp 2015).

Technological development, however, may radically change this perspective in the future. DAPRA (the Defence Advanced Research Projects Agency of the U.S.) has already developed an insect-sized microdrone for military use, which is able to enter buildings unnoticed. The next step is to create algorithms that enable these microdrones to fly without a remote pilot and without reliance on GPS waypoints⁵. If, and when, such microdrones appear in the hands of journalists (and hobbyists), the entire concept of drone flying regulation will change. All limitations concerning drone weight and drone pilots' flying skills will become irrelevant. Microdrones would eliminate the major safety issue of drone flying: they would not cause damage when they drop or collide with something, and would most likely not disturb air traffic. Algorithms will remove human beings from the remote controller.

However, microdrones would greatly increase the risk of using drones for illegal surveillance and violation of people's privacy. Nothing but moral considerations would stop journalists lurking in people's homes unnoticed, as legal control over the use of drones will become next to impossible. The question is: In future, will everybody have a drone detector fixed on each door and window of the house to avoid these 'uninvited guests'?

Drones in Finland

Finland is at the top of the press freedom ranking. Currently, only a few news organizations (YLE, MTV3, STT, Helsingin Sanomat) use drones, but their potential is clearly recognized and a remarkable increase is expected in the near future. The Finnish Transport Safety Agency (Trafi) passed regulations on the “Use of Remotely Piloted Aircraft and Model Aircraft” on Oct. 9, 2015, which put very few limitations on the use of camera drones for journalistic purposes. The regulations derive strictly from the Finnish Constitution, which links the principle of freedom of expression to that of access of public information. Thus, the safety regulations are the same for all types of drones, but somewhat stricter for flying in areas with aviation restrictions. No aerial work certificate is required (Trafi 2015). The regulations do not prevent experimenting with (camera) drones or flying them for any reasonable purpose.

Conclusions

Drone technology is here to stay and will develop. Drones are increasingly used for civilian purposes, including journalism. Camera drones have proved most valuable in providing videos and photographs from places and events that are dangerous or difficult to reach. Camera drones give journalists access to the sky, a perspective they would not have unless they waited for officials or hired a plane (Kaufman and Somaiya 2013). Camera drones have given journalists an additional and efficient tool for information gathering, which is an element of press freedom. Alongside the rapid worldwide expansion of camera drones, the need for drone regulations has become obvious.

The law in this area is far from settled, and the legal scholarship on this subject is still developing. The basic regulations and legislation concerning camera drones vary significantly from country to country. A comparison of existing regulations shows that they reflect the respective countries' general press freedom situation. The continuum goes from very modest regulation, as in the Nordic countries, to total bans, as in Kenya. At many occasions, by restricting or prohibiting the use of camera drones, authorities – especially those in authoritarian states – are clearly trying to safeguard their power and reputation by not allowing the shooting of potentially harmful videos and images. In the US, drone legislation has become stuck in the cobweb of bureaucracy and is lagging behind drone industry development. Parallel to this, the US is also hampering journalistic use of camera drones. The status of press freedom offers a good clue as to where, in the future, countries will fall on this continuum, i.e., which ones will tread the easiest versus the hardest pathways to drone journalism, and those in between. It is important to

constantly monitor where the line of demarcation goes between countries concerning open, restricted and totally banned drone journalism.

Information on the preconditions for use of camera drones in journalism is still highly fragmented. Therefore, we suggest that more, especially comparative, research be done on drone journalism – a phenomenon that is, indeed, already global.

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Journalists Behind Bars

Mogens Blicher Bjerregård

Abstract

Jailing journalists is how dictatorships and other countries lacking in democracy try to silence journalism. This is a sophisticated method. It serves to spread fear and let self-censorship grow without receiving the same condemnation from intergovernmental institutions as is seen when journalists are killed. At least 200 journalists are behind bars just because of their work, while the governments often claim they are criminals. But journalism is not a crime. 2015 was the year when the Council of Europe together with a number of NGOs launched a new alert platform with 108 alerts the first year. Among them were 26 alerts about the detention or imprisonment of journalists. This platform allows the Council of Europe to urge member states to respond, and it is helpful in raising awareness and finding mechanisms to set journalists free – both of which are greatly needed.

Keywords: journalists, safety, killing, imprisonment, self-censorship, awareness

Introduction

Macedonia, October 2014, in the suburban area of the capital Skopje a bit of a drive from the centre, over several small roads, in a small house with a little veranda out front, a family is trying to make a living. It is hard, because the father, an investigative journalist, Tomislav Kezarovski, must stay in the house 24/7, behind the veranda. He is, at that time, under house arrest.

Kezarovski is a highly respected journalist in Macedonia. He has been active in reporting corruption cases and political issues. It is obvious that his investigative reporting was the *de facto* reason for his arrest in May 2013. It was early morning in spring 2013, when the police force raided his home and arrested him. He was detained without trial and put in an 8 square meter cell together with five other prisoners before the court hearing in October 2013, when he was given a 4½-year sentence.

The “crime” he committed, according to the authorities, was revealing the identity of a protected witness in a criminal prosecution case he published

in an article in 2008 for the newspaper *Reporter 92*. The witness, however, had not yet been given protection at the time the article was written, and in 2013 admitted having given a false statement under pressure from the police. Kezarovski has done investigative reporting of great value, apparently so great that the authorities have to silence him with threats of imprisonment.

The outrageous verdict of 4½ years of imprisonment has led to many protests and eventually the court reduced the sentence to house arrest after Kezarovski had served the first year of his sentence. I met him at his home, where he showed me the scars from the police raid during the arrest. It was not only the physical scars that Kezarovski had to endure; the ordeal his wife and daughter had gone through will remain a mental wound for them.

The European Federation of Journalists (EFJ) and a coalition of civil society organizations as well as governmental institutions have been outspoken about Kezarovski's case. The outcry by these organizations against the treatment of Kezarovski had caused the Appeal Court to reduce his prison sentence to 2½ years. A few weeks later, he was released for medical reasons. Now he is *free* and outspoken about his country. At the 2015 EFJ Annual Meeting in Montenegro, he held a very touching speech:

“I was tried at first at the Criminal Court, then at the Court of Appeal in Macedonia, a country where you will be put behind bars because of what you write as a journalist. This was not just a punishment given by the court to me. It was a punishment for the entire journalism community, our freedom and democracy as a country,” said Kezarovski.

Killings and jailing

Tomislavs' experience is just one of hundreds that journalists throughout the world have had to face. This is especially true in countries where the lack of democracy gives authorities a free hand to punish journalists and media workers with threats and imprisonment. However, they carry on doing their jobs because it is their duties as journalists.

The threats against journalists are obvious. In 2014 and 2015, at least 100 journalists and media workers paid the highest price for press freedom – they were killed for doing their jobs. Journalists become the target for those who want to silence their critical voices. International governmental institutions such as UNESCO, OSCE and the Council of Europe have strongly condemned these killings.

Both governmental and non-governmental organizations such as the EFJ, IFJ, the Committee to Protect Journalists and Reporters Without Borders are extremely concerned about the impunity of crimes against journalists. According to a UNESCO report, over the past decade only 7 per cent of the perpe-

trators who killed journalists have been brought to justice. Impunity for these types of crimes is still a major problem for press freedom organizations.

Zero risk to silence journalists

It is all too easy to silence journalists. The risk of punishment is almost zero owing to the culture of impunity. It is not only about the killings. There are many ways to silence journalists, such as through threats or imprisonment. A number of countries that are leading in this regard have developed a very sophisticated method of silencing media workers and journalists, in particular investigative journalists. At a time when more than 40 journalists were in jail in Iran, the authorities continued to spread fear among journalists with the threat of imprisonment.

The *UNESCO World Trends in Freedom of Expression and Media Development* emphasizes that imprisonment of journalists for their legitimate work fosters a culture of self-censorship.

While it is easy to condemn killings of journalists, inter-governmental organizations often hesitate to comment on decisions to jail journalists. The justification often involves the followings:

1. Similar criminal laws are used to persecute journalists whether it is a democratic or dictatorship country.
2. It is a normal procedure not to exert influence on the internal matters of other nations, as it is concerning member states.
3. No authority will admit that they directly put someone in jail based on his/her journalistic activity. Instead, the authority has accused journalists of conducting propagandist activities on behalf of terrorist or criminal organizations or they have claimed that the journalist was a member (sometimes a leading member) of an illegal organization.
 - a. In Turkey, journalists may even been prosecuted for engaging in propaganda on behalf of an illegal or terrorist organization without being a member of this organization.

Governments using the criminal laws to prosecute journalists are well aware of the loopholes. They know that there is zero risk involved in them to doing so, but it will serve the purpose of silencing journalists and media organizations.

Non-governmental organizations are very active in condemning governments for prosecuting journalists, while intergovernmental organizations are more hesitant to react.

However, we have recently seen an active approach on the part of the OSCE and the Council of Europe, which use new online platforms for monitoring media freedom violations. This is a welcomed development. The Mapping Media Freedom project developed by Index on Censorship is also a new innovative way to track, in real time, all media violations occurring on the European continent.

According to the latest figures, the countries holding the record for the highest number of jailed journalists are China, Turkey, Egypt, Iran, Eritrea, Syria, Saudi Arabia and Vietnam. It is not always easy to accurately account for the number of journalists in jail, because the number depends on the methods used by each organization. As an add on, the figure includes the information provided by the EFJ.

Figure 1. Journalists in prison on 1st January 2016

Country	Jailed journalists 2015 based upon Source: CPJ	Jailed journalists 2015 based upon Source: RSF	Jailed journalists Europe 2015 Source: EFJ
Turkey	14	11	30
Azerbaijan	8	8	10
Russia	1	2	1
China	49	23	
Egypt	23	22	
Iran	19	18	
Eritrea	17	15	
Ethiopia	10	6	
Syria	7	8	
Saudi Arabia	7	2	
Vietnam	6	-	
Bahrain	5	8	
Myanmar	5	4	
Bangladesh	5	1	
Uzbekistan	4	9	
India	4	1	
Thailand	2	2	
Gambia	2	1	
Somalia	2	1	
Cuba	-	2	
Countries with one journalists in jail	9	11	
Total	199	155	41 in Europe

Despite the lack of accurate figures, we have clear and sufficient evidence of government attempts to silence journalists by imprisonment. Meanwhile, self-censorship is growing, which entails the risk that fact-based journalism, such as investigative journalism, will diminish.

In the digital age, the threats against journalists are not limited to face-to-face contact, but are also made via online media. In 2015, the OSCE Representative on Freedom of the Media launched a debate on the online threats made against female journalists. It was noted that online threats have become a sophisticated tool that allows authorities in dictatorship countries to silence journalists.

For many reasons, it is extremely important to tackle these challenges so that we can understand why journalists are being jailed, how we can prevent it and how we can get imprisoned journalists released.

Largest European prisons for journalists: Turkey and Azerbaijan

The Macedonian case shows how important it is for international organizations to be firm and consistent in their approach when helping imprisoned journalists. New tools are needed, such as the new platform set up by the Council of Europe, to inform the authorities in member states about alarming violations on journalists and their organizations.

Grassroots organizations like NGOs have a duty and responsibility to alert the relevant authorities when violations occur. The Council of Europe has committed itself to following up on all cases and to demand that governments provide explanations. During 2015, the first year of the platform, 108 cases of media violations were reported, among which 26 cases concerned jailing of journalists.

In 2012, Turkey took the position as the largest jailer of journalists when more than 70 journalists were put behind bars. In March 2014, the OSCE updated its list of jailed journalists in Turkey and counted 54. In September of the same year, the Vice President of the European Commission, Neelie Kroes, publicly condemned Turkey for its poor record on press freedom.

The EFJ launched a project entitled “Set Journalism Free in Turkey” that encouraged media and unions throughout Europe to adopt a journalist in prison. Moreover, by following the cases, unions and media around Europe were encouraged to physically attend the court cases of the prosecuted journalists. The project was financially supported by the European Commission and from union to union, and it had a major impact on the imprisoned journalists, their families, friends and colleagues by providing them support and exposure that increased international awareness.

One of the prisoners, Füsün Erdogan, was put in jail without proper judicial proceedings. After serving more than seven years in jail, she was given a life sentence. As a dual national, the Dutch-Turkish journalist, Füsün was able to receive help from the Dutch and Danish unions. The unions provided advisors and lawyers to help secure Füsün's release. Together with the EFJ and international pressure, Füsün was finally released.

This happened to a greater number of prisoners thanks to many donor countries and to a number of very dedicated journalists following the cases. The total number of journalists behind bars during the 18-month period decreased from 61 to 21, but has now increased again to 30. It is difficult to imagine that a country in Europe has imprisoned 30 journalists for doing their jobs, but this is the situation. Even worse, negotiations between the EU and Turkey on the refugee crisis seem to be taking place while ignoring the situation for journalists in Turkey and the serious lack of media freedom there.

Besides attacking local journalists, Turkish authorities have also turned their attention to foreign journalists and are preventing them from doing their job. The Dutch correspondent Frederike Geerdink, based in Diyarbakir, was detained and deported back to Amsterdam for reporting on a Kurdish group that is outlawed by the Turkish government. She was accused of hindering a military operation and supporting a terrorist organization.

Out of the 19 alerts reported to the Council of Europe in 2015 on jailing journalists in Europe, 17 cases occurred in Turkey and Azerbaijan. It has become particularly dangerous to be a journalist in Azerbaijan, as the country completely ignores criticism from any institution, even the OSCE. The only reaction received from the Azerbaijani government was their demand for the departure of OSCE representatives in the country.

Khadija Ismailova is one of the most famous imprisoned journalists. She is an award-winning investigative journalist highly respected by her peers for the quality of her investigations. On December 5th 2015, she was arrested on a trumped-up charge of inciting a former colleague to commit suicide. She continued to write blogs to ensure that nobody would silence her. On August 30, she was given a 7½-year sentence for crimes she had not committed.

Another journalist, Parviz Hashimli, an independent editor and reporter, was sentenced to 8 years in prison based on fabricated charges. The police claimed to have found a pistol and several hand grenades in his home.

During 2014 and 2015, the situation in Azerbaijan changed dramatically. Azerbaijan was now able to compete with Turkey for putting the most journalists in prison. However, the state representatives denied the claim that they were putting journalists behind bars because of their journalism practices. Instead, they accused the journalists of corruption, possession of drugs, weapons or similar fabricated charges.

Important to raise awareness

The situation in Azerbaijan – where 10 journalists are in jail and the health of dozens of political prisoners is at serious risk – should be spotlighted by Europe. Moreover, the situation is getting worse because local NGOs do not dare to speak out and ask for international attention.

Egypt tried a new method of scaring journalists from doing their work: It charged and condemned journalists for being terrorists after the fact because they had interviewed and produced news features about the former government – the Muslim Brotherhood. Here we see that things are becoming dangerous. The basic task of journalists is to interview people and tell stories about the government in charge, regardless of its political leanings. If this is a crime, no journalist can be safe anymore. Three *Al-Jazeera* journalists were sent to jail for that reason. But fortunately they were finally released following months of struggle and an international outcry.

In 2012, two Swedish journalists, Johan Persson and Martin Schibbye, found out that doing investigative journalism by crossing borders is extremely risky. When they crossed the border from Somalia to Ethiopia trying to show the public the damage that oil production can do to the citizens, they tested the patience of the Ethiopian government by crossing the border without a permit.

Subsequently, they published a book telling their story in minute detail. What I realize while reading their book and remembering my visit to Macedonia is how extremely important it is for us to be there with the imprisoned journalists. Our support and international pressure are their hope for freedom. It is too easy to forget about the imprisoned journalists after a while.

Regarding some matters, the digital era has an impact on imprisonment of journalists. In countries that violate media and journalists, online access makes it easier for authorities to track and silence journalists. Online media also provide these authorities new tools with which to threaten and frighten investigative journalists and to find all sorts of material that can be used to fabricate charges against them. According to UNESCO, danger to journalists and their sources has become more of an issue during recent years.

On the other hand, journalists and their organizations can spread information about prisoners in a much more efficient way and in some situations digital media give prisoners an important tool for making use of their human right to free speech, and this can have an important impact on being released.

A range of approaches should be adopted to help free journalists from prisons:

- Build a global network to ensure that we continuously pay attention to all jailed journalists, without losing our patience or focus at any time.

- Find ways that you can put pressure on the authorities in countries that jail journalists. In the case of Azerbaijan:
 - Intergovernmental institutions must find mechanisms to execute the pressure in a more efficient way.
 - International sports organizations should stop giving the right to host events, such as the European Games, in Baku. We must realize that these events are not only about sports. Somehow, there is also a link to politics.
- Mapping the imprisoned journalists. Every year, many organizations issue a list of murdered journalists, but we need a global picture mapping the number of jailed journalists to maintain the pressure on the authorities in question.
- Projects like “Set Journalism free in Turkey” should be developed worldwide. The authorities that put journalists behind bars should be under the spotlight at all times.
- Urge governments to maximize their efforts to release jailed journalists and to bring up the cases wherever it is possible.
- Carry out fact-finding missions to targeted countries and follow the cases up with concrete actions.

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- International Federation of Journalists, www.ifj.org
- OSCE Representative on Freedom of the Media, www.osce.org/fom
- Reporters Sans Frontières, www.rsf.org

The Internet is Weakening Authoritarian States' Information Control

Syria as a case study

Walid Al-Saqaf

Abstract

Previous research has identified information control as one of the most common traits of authoritarian regimes. With the advent of the Internet, however, the ability to maintain a total blackout of selected types of information, such as anti-regime messages, dissident videos, etc., has weakened. This article uses Syria as a case study to illustrate that despite the country's regime's pervasive Internet censorship methods of blocking dozens of websites, access to those websites remained possible. This was due to the emergence of censorship circumvention tools, which the present author argues are a form of liberation technology.

Keywords: liberation technology, information control, Syria, authoritarianism, censorship circumvention tools

Introduction

Governmental acts of information control and censorship are not new. Many authoritarian regimes have long been systematically restricting access to books, periodicals, broadcast media, film, plays, and other media (Senat 2011). Overall, it could be argued that the two main objectives of information control by authoritarian states are: 1) depoliticizing the population and 2) preventing the population from questioning of the legitimacy of the ruling elite (Linz 1964: 304). By trying to control what the public reads, watches or learns, those regimes hope to do enough to suppress anti-regime rhetoric and dissuade political opponents from forming strong coalitions that could threaten their rule (Casper 1995: 45). For such regimes, media are leveraged to support the status quo by coercing journalists, editors and media owners to obey the regime's restrictive regulations (Ostini and Ostini 2002).

However, this level of control was fundamentally challenged with the emergence of the Internet, which weakened the ability of authoritarian regimes to censor information, mainly owing to the decentralized nature of the global network. Today, states that allow Internet access no longer have total control over the flow of information; nor are they able to prevent their own citizens from publishing online content through various social media (Shirky 2011). The public-empowering features of the Internet were quite visible during the Arab Spring when activists used social media to propagate anti-government messages and mobilize mass rallies that eventually contributed to the end of the presidencies of Zine El Abidine Ben Ali of Tunisia and Hosni Mubarak of Egypt (Huang 2011; Stepanova 2011). Furthermore, terrestrial broadcast Arab media such as Al Jazeera also took advantage of the Internet by reusing social media content to supplement their own coverage of the popular uprisings (Duffy 2011).

Sensing the threat that the Internet posed to their rule, several authoritarian regimes attempted to apply old censorship practices of the past to the Internet. This resulted in what is often referred to as 'Internet censorship', which can be defined as the suppression, limiting, or deletion of objectionable or any other kind of speech on the Internet (Deibert 2013: 139).

Over time, Internet censorship evolved to more sophisticated technical methods using software products such as CyberPatrol, FilterGate and WebSense, which are often marketed as filters to protect families from harmful content (Houghton-Jan 2008). In essence, website filtering is a technical mechanism that Internet Service Providers (ISPs) deploy by setting up a digital firewall that blocks access to pre-defined URLs which may contain specific keywords or websites that have been blacklisted by the authorities for several reasons, including having dissident content (Al-Saqaf 2014: 91).

While Internet censorship methods are considered direct means of information control, another method that has received a great deal of attention during recent years is surveillance. Exposed in 2013 by Edward Snowden, mass surveillance practices committed by the US National Security Agency (NSA) were condemned by several human rights advocacy groups and international bodies. The Council of Europe issued a resolution expressing concern over such practices that '*endanger fundamental human rights, including the rights to privacy...freedom of information and expression*' (Ichou 2015: 82). Apart from being a breach of privacy, surveillance may also be a cause of self-censorship, particularly in restrictive and authoritarian states such as Syria, where Internet users have become increasingly aware of the importance of enhancing their anonymity online (Al-Saqaf 2014).

In the present article, I aim to demonstrate how Internet users utilized a censorship circumvention technology to bypass website censorship by an authoritarian state and, thereby, improved their anonymity. Through empirical

findings obtained from the use of one censorship circumvention tool in Syria during 2010-2012, I argue that, in the Internet era, information control by governments has indeed been weakened.

Internet censorship in Syria

Generally speaking, information control could be viewed as a fundamental trait of authoritarian regimes. The level of such control in Syria is particularly high due to the fact that all publishing houses and traditional media outlets are either owned or controlled by the Assad regime (Rugh 2004: 56). During recent years, however, dissidents have found a way to get their voices heard through the Internet, which has served as an alternative medium through which to reach the Syrian public. While the country enjoys a relatively high penetration ratio exceeding 22.5% as of 2012 (Internet World Stats 2013), ISPs in Syria have been under the strict control and scrutiny of the Ministry of Telecommunications and Technology through the Syrian Telecommunications Establishment (ONI 2009). Furthermore, the largest wireless operator in the country, SyriaTel, is also indirectly controlled by the regime, as it is owned by Assad's first cousin Rami Makhlouf (US Department of Treasury 2008).

The fact that Internet services are provided solely by the government means that some of the restrictions practiced on traditional media offline can be attempted online as well. In fact, Syria is known to have imposed various forms of repressive practices targeting bloggers and online journalists, which resulted in Syria joining the league of countries considered by Reporters without Borders (RSF) to be "enemies of the Internet" (RSF 2010). The situation of online freedom of expression in Syria deteriorated rapidly after the popular uprisings of early 2011. RSF documented the killings of ten cyber activists and citizen journalists in 2011, followed by an even bloodier year in 2012, when the number of deaths climbed to 49 (RSF 2013). The rise of repression against bloggers and cyber activists was also coupled with pervasive website filtering. By blocking access to popular social media websites such as facebook.com, for example, the Syrian regime recognized the potential of such websites as powerful digital platforms for political dissent (Howard 2010: 164).

In a previous study examining website filtering practices in Syria during 2010-2011, it was found that the regime focused on websites that were known to carry strong anti-Assad messages such as facebook.com, which contained dozens of groups and pages that called for the regime's fall (Al-Saqaf 2014: 251-266). Among the most popular websites blocked was youtube.com, which was used to publish footage in connection with developments on the ground.

Many youtube.com videos were also shared via facebook.com, demonstrating the close connection of video and text content in social media platforms.

While the study identified well over a hundred blocked websites, Table 1 shows the list of the top five user-reported sites said to have been blocked in Syria during 2010-2012.

Table 1. Top five censored websites in Syria

	Website	Category
1.	facebook.com	social networking
2.	youtube.com	multimedia sharing
3.	tagged.com	social networking
4.	mig33.com	social networking
5.	all4syria.info	dissident news

The fact that all of the top websites but one were social or multi-media websites demonstrates the eagerness of the regime to suppress user-generated content. In other words, one can argue that the Syrian regime found that the greatest online threat to its authority emanated from its *very own citizens*. Additionally, the regime also blocked access to all4syria.info, a website carrying news and articles promoting the Free Syrian Army, which was the first formal militant unit formed in 2011 to publicly fight the Assad regime. This illustrates the importance that Syrians gave to those websites as means to interact and exchange information.

Liberation technology to the rescue

Despite attempts to censor the Internet by filtering websites, it was documented that activists and regular Internet users in Syria were able to bypass the digital firewall using censorship circumvention tools. Those tools are in some sense *liberating*, which is why I consider them a form of “liberation technology,” a term coined by Larry Diamond to mean “any form of information and communication technology (ICT) that can expand political, social, and economic freedom” (Diamond 2012: 4). Those tools enhance users’ levels of freedom of expression and social and political rights by allowing them access to political and cultural information that would otherwise be censored. Technically speaking, most circumvention censorship tools rely on proxies, which are intermediary servers that provide a bridge between two points on the Internet. In the case that a particular website is not accessible directly due to firewall restrictions imposed by the ISP, the user can activate the tool so it can connect to a proxy, which in turn connects him/her to the censored website¹.

In theory, almost any server connected to the Internet can be configured to become a proxy, which may also help *conceal* the original address of the user, making him/her anonymous to the contacted server. Some censorship circumvention tools such as Tor utilize more than one proxy in a multi-hop system that enhances anonymity even further by relying on thousands of devices around the world to serve as proxies. The fact that almost any server can become a proxy creates an impossible challenge to an ISP that wants to deactivate all possible proxies, because such deactivation would in effect require shutting down the Internet. However, such a scenario is unlikely in most countries because the Internet has become indispensable for governments and other sectors (Hoffman, Novak and Venkatesh 2004; Stepanova 2011: 2; Varnelis, 2012). That being said, there was at least one documented attempt by an authoritarian regime, namely the former Egyptian Mubarak regime, to shut down Internet access on a national level. Following mass rallies that were mobilized with the help of social media in Cairo in January 2011 (Cowie 2011), the Egyptian regime instructed ISPs to prevent access to facebook.com and twitter.com (Schonfeld 2011). However, censorship circumvention tools were then used to break the firewall by utilizing dozens of proxies around the world, making it impossible to block access to the two websites (Al-Saqaf 2014: 149). The regime then took the unexpected step of shutting down access to the Internet as a means of limiting use of the Internet for anti-government mobilization. However, such a measure did not last for long, as protestors reached unprecedented numbers, ultimately leading to Mubarak's resignation on February 11, 2011 (McGreal and Shenker 2011).

As the case of Egypt illustrates, shutting down the Internet as a whole is too high a price to pay, giving way to continued website censorship as the less expensive approach aiming at restricting access to some online content. Consequently, censorship circumvention tools can *also* remain viable as forms of liberation technology that allow users to access content freely and effectively.

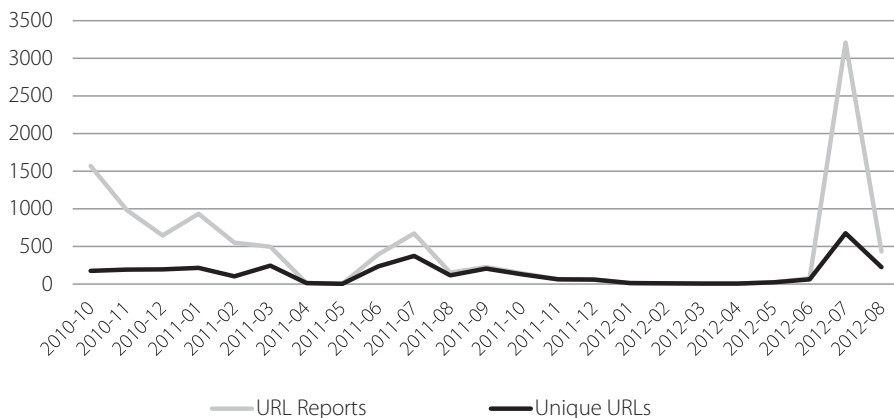
Censorship circumvention in Syria

As part of a wider study on censorship circumvention in the Arab world (see Al-Saqaf 2014), it was found that Syrians actively utilized censorship circumvention tools including Alkasir², which is a Windows-based application I developed in 2009 to allow Internet users around the world to report website censorship and access-blocked content through an encrypted tunnel. In Syria, the use of Alkasir started with around 14,000 successful connections in October 2010 and grew to about a million by October 2012, when the total number of page views using Alkasir in that country exceeded 4.4 million.

The level of use of Alkasir in Syria seemed to correlate positively with the developments on the ground in that country. A sharp increase in usage in July

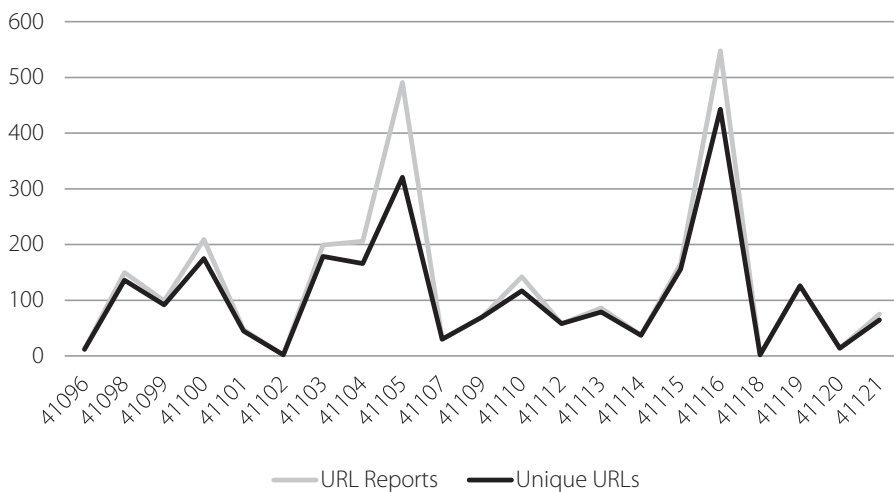
2011 coincided with a heavy wave of defections from the Syrian army and the consequent creation of the Free Syrian Army (AFP 2011). Another spike occurred in July 2012, as illustrated in Figure 1.

Figure 1. Level of user activity in reporting censorship through Alkasir in Syria



During July 2012, there was a sudden rise in usage on Sunday July 15, which is the day when the Free Syrian Army announced the launch of two operations to liberate the capital Damascus (Karouny 2012). On Thursday July 26, news of an imminent battle in Aleppo emerged after reported gains by the Free Syrian Army (Weaver and Whitaker 2012). Those two occasions coincided with peaks in usage for Alkasir, as shown in Figure 2.

Figure 2. Level of user activity in reporting censorship through Alkasir in Syria during July 2012



When it comes to the particular blocked websites that users preferred to open using Alkafir, facebook.com was on top with over 92% of all visits. A few other social and multimedia sharing websites such youtube.com and tagged.com were also among the top-accessed websites using Alkafir. This illustrated a strong desire by Syrian users to maintain their ability to share information and interact freely.

The findings demonstrate that, as a form of liberation technology, circumvention tools were not only effective means to bypass censorship and improve freedom of expression online, but they also served as a way to encourage the exchange of ideas, news, and information among citizens of the same country. They empowered citizens to reach out to each other in times of conflict and mobilize efforts to challenge the status quo.

Conclusion

The notion that technology can promote liberation is not new. What is new, as demonstrated in this paper, is the empirical evidence showing how users in countries ruled by authoritarian regimes have successfully utilized censorship circumvention tools as one form of liberation technology to challenge the information control mechanisms of the past. While this presents an opportunity to start an era in which states are no longer able to impose total restriction on information access, it is *naïve* to underestimate the willingness of authoritarian states to fight back by evolving their repressive practices to try to regain the loss of some of their information control powers. While helpful, censorship circumvention tools are *not* the technological Holy Grail that can defeat all forms of website filtering.

Syria may not have been able to prevent all users from accessing block websites, but not all users are aware of censorship circumvention tools and some may be hesitant to use them, possibly out of fear that they may be tracked through surveillance practices. As more surveillance and tracking software are produced and marketed worldwide, authoritarian regimes may potentially be able to enhance their cyber techniques by detecting the usage of a particular censorship circumvention tool and either target the user or the developer of such a tool – or even both.

It is important to remember at this stage that Internet censorship as an attempt at information control is not exclusive to Syria, but is practiced by many authoritarian states around the world. Despite the fact that global Internet penetration has risen significantly during the past several years, new challenges to online freedom of expression are expected to continue well into the future. As technical means to control information prove insufficient, it is likely that authoritarian states will impose stringent cyber laws under the pretext of

protecting national security and the safety of users as their ultimate maneuver to regain information control. This means that, in order to confront restrictions of freedom of expression, strategic initiatives need to emerge through the use of a combination of technical solutions as well as innovative non-technical approaches.

While in the current article I present one clear example in which liberation technology seems to be winning the battle of website filtering for now, more research is needed to study the long-term consequences of the ongoing struggle for online freedom of expression, particularly because the war between authoritarian regimes and cyber activists is showing no signs of abating.

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Notes

- ¹ Refer to (Al-Saqaf 2014:62-68) for studies around censorship circumvention tools.
- ² The word 'Alkasir' is a transliteration from Arabic (الكاسير), which means 'the breaker' or 'the circumventor.'

Ai Weiwei and the Art of Political Dissidence in the Digital Age

Anu Kantola

Abstract

Ai Weiwei, a Chinese artist critical of the Chinese government's stance on freedom of speech, has become a major public icon with the wide circulation of his image and actions. In the article, I explore Ai's public actions in the aftermath of the 2008 Sichuan earthquake, where he used collaborative art, documentaries and social media to publicize local corruption and his own detainment. With his public action, Ai has built himself into an icon of dissidence who exemplifies the use of iconic power and celebrity tactics in the digital age. Yet in recent years, he has also faced growing criticism within the art world, and I suggest that Ai's actions probe not only Chinese policies, but also Western notions of political dissidence.

Keywords: political dissidence, digital media, freedom of speech, Ai Weiwei, China, Twitter

Introduction

Chinese artist Ai Weiwei has become an iconic figure through his open criticism of the Chinese government's policies on freedom of expression, which is part of his campaign for freedom of speech, free access to information and transparent and open governance. Ai is one of the best-known contemporary artists in the world, and his works have been exhibited in major museums and biennales over the past two decades. At the same time, he has also become one of the most well-known dissidents of our age. Ai's dissidence draws strongly on digital media and exemplifies how struggles for freedom of expression can take new forms in the digital age. Here, I explore how Ai addressed the lack of freedom of expression and good governance in conjunction with the Sichuan earthquake in 2008, and I discuss new, performative forms of political dissidence.

Ai and the Sichuan earthquake

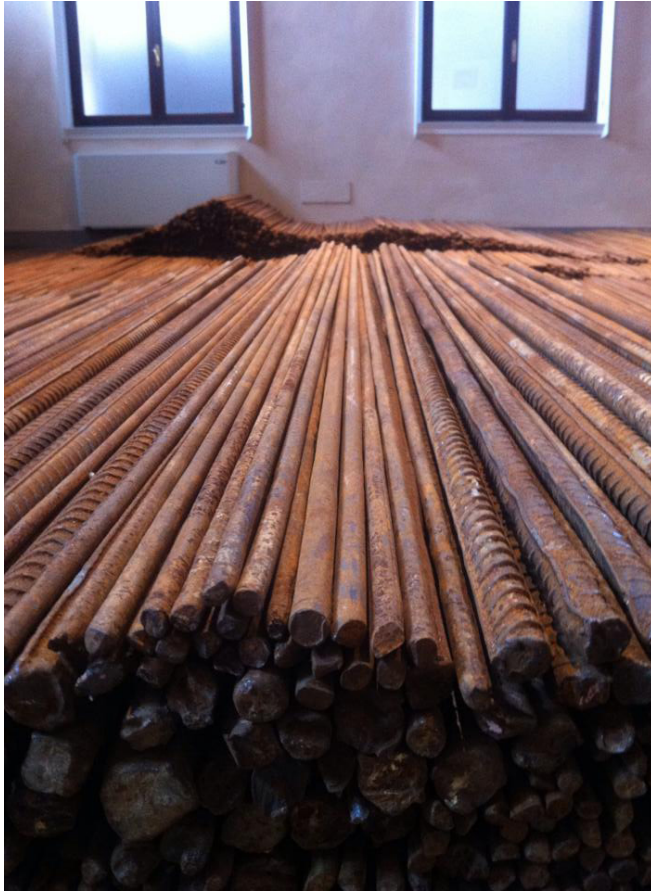
Ai Weiwei grew up in the far-western province of Xinjiang, where his father Ai Qing, a Chinese poet and intellectual, was condemned to domestic exile. When his father was released in 1976, Ai moved to Beijing to study film. In 1981, Ai departed for the United States and lived in New York, returning to China in 1993. Ai's political activities led to his detainment in 2011 by the Chinese government. He was released after three months, but his passport was confiscated. Finally, in 2015, he was allowed to leave China, and he now lives in Germany.

Ai has addressed political concerns using artistic interventions and performances throughout his artistic career, but his political dissidence became especially vocal after 2008, when a major earthquake in Sichuan killed at least 70,000 people and left almost 20,000 missing.

In Sichuan, after visiting the site of the earthquake, Ai posted an invitation for volunteers to join a collective 'citizens' investigation' to list the names of school children who had died in the earthquake and to investigate the corruption leading to the collapse of their schools. The investigation showed that the school buildings, the so-called 'tofu-dreg schools', had collapsed due to inadequate construction work. The steel rebar, which was supposed to keep the blocks of concrete together, had been inserted sloppily. The ends of the iron rods had not been bent as they should have been to keep them tight, and the concrete blocks collapsed in the earthquake. Ai and a group of local people, some of them belonging to the families of the deceased children, collected twisted steel rebar from the site of the earthquake and hammered the pieces to make them straight again. They sat in a circle around a bonfire and patiently hammered the rebar, claiming that they wanted to make the metal straight again to honour the memory of the victims. In April 2011, Ai was detained in Beijing amid a wider crackdown on activists and dissidents and he was kept in custody for 81 days. Upon his release, he returned to the site of the earthquake and found the hammering continuing as it had been throughout his detainment. Eventually, the straightened rebar became an artwork titled *Straight*, composed of 150 tons of steel rebar (Picture 1).

Another overtly political work titled *S.A.C.R.E.D.* meticulously reconstructs, in six large metal boxes, Ai's time in the cell where he was kept in custody. One can look into the boxes, which replicate Ai's cell in half-size and also show how two guards stood at arm's length from the prisoner day and night, controlling every moment of his life. The piece brings into daylight the everyday banality of detainment by replicating meticulously the smallest details, such as shampoo or food on the table. This banality effectively conveys the meaninglessness that has come to dominate the prisoner's experience of life. He is shut off from the world into a meaningless existence with no knowledge

Picture 1. Ai Weiwei's *Straight* exhibited in Venice Biennale in 2013 displayed 150 tons of rebar recovered from the schools ruined in the Sichuan Earthquake.



of whether he is ever going to see the daylight again. The two guards in the cell are not allowed to talk to him, and they also keep an eye on each other to ensure no communication whatsoever with the prisoner.

Ai also engaged in more direct political action in Sichuan by criticizing local officials and claiming vocally that China should have a working rule of law. He invoked China's Freedom of Government Information Law to send government agencies over 150 inquiries about the victims of the earthquake. He also returned to Chengdu, the capital of Sichuan, to file complaints about the beating he received when he was taken into custody (Allen 2012).

Crossing the fine line between art and politics

Ai uses both art and its institutions as well as old media and new digital media to create public awareness of and to challenge Chinese government policies. He employs and mixes art, photographs, videos, blogs, documentaries and social media in ways which combine art and politics. Thus, to him, the fine line between 'real life' and art is particularly fine.

He uses well-respected museums and biennales to circulate his political ideas. For instance, *Straight* and *S.A.C.R.E.D.* were both exhibited in the Venice Biennale as well as in various other museums, raising political awareness and concerns about freedom of speech and good governance. Many of his works, such as *Straight* and *S.A.C.R.E.D.*, are also action-based art, which intertwines art with participation, performance, sociality, conversation and the 'civic' aspiration to do something that matters in 'real-life' (Thompson 2012: 21). Oftentimes this engagement takes place through the use of digital media (Strafella and Berg 2015). Ai uses digital technologies, interfaces, platforms and media to allow new actors and issues to become public and politicized outside the realm of professional politics and media (Jansen and Klanten 2011: 5-6).

In China, digital media per se constitute a particularly contentious issue. The Chinese government effectively restricts access to the Internet, and it has been estimated that at a maximum, 3 per cent of Chinese Internet users are able to use Twitter or other social media sites, which are blocked (Allen 2012). Despite this, Ai has used social media extensively. In 2005, he started blogging, posting on average a hundred photographs a day (Obrist 2011). The Chinese government eventually banned his blog, and he moved on to micro-blogging on Twitter.

In Sichuan, Ai tweeted constantly, informing his followers about his actions. Even as he was being arrested and beaten in Chengdu in 2009, he posted a picture of his detainment via Twitter (Picture 2). In the picture, he stands in an elevator with his detainers, who have arrested him to prevent him from witnessing at the trial of fellow activist Tan Zuoren. Ai also uses video documentaries, which have circulated on the Internet and in many international film festivals. In *Disturbing the Peace*, he recounts the citizens' investigation of collapsed schools and his encounters with Sichuan officials as he returned after his detainment to demand details of his beating. His angry encounters with embarrassed officials were videotaped and circulated in another documentary titled *Ai Weiwei: Never Sorry*, directed by Alison Klayman.

Icon of dissidence in the digital age

In recent years, Ai has built an international reputation in both art and politics. In the art world, he has become a celebrity who regularly appears on lists

Picture 2. Ai Weiwei's *Elevator When Taken into Custody by the Police* exhibited in Brooklyn Museum in 2014 displayed a moment in the elevator after he had been detained.



of the most important contemporary artists in the world and who is one of the most-exhibited contemporary artists in the most prominent museums and biennales. His political stances, his detainment, the confiscation and returning of his passport, and his escape to Europe have all been covered extensively in the media. Ai has become a sort of celebrity dissident, a globally known icon of political dissidence whose origins are in the art world.

Outside of China, Ai has become a globally circulating icon, a symbol of dissidence and freedom of speech. Icons are objects, people, events, popular songs, brands, logos and celebrities that have not only material force, but also symbolic power. A person or thing comes to be regarded as a representative symbol of a culture or movement and turns into a commonly recognized image, figure or portrait, something that points beyond itself to deeper domains of feeling and thought (Alexander 2012: 1-3; Smith 2012: 172). In recent years, Ai has become a political icon that is circulated somewhat like the Berlin Wall as an icon of freedom, or like the image of Che Guevara as an icon of resistance and revolution (Smith 2012).

Ai's iconicity has a great deal to do with the digital age, as digital media have played a crucial role in his fame and popularity. In China, Ai put on a 'one-man reality show' through his blogging and microblogging, and it has been suggested that his popularity echoes the reality craze that has replaced the old, idealized heroes of communist regimes with spectacles of everyday life, the 'authentic' experiences of 'real' people (Berg 2011). Internationally, Ai's iconicity has gained force through digital media. The digital media environment encourages the packaging of ideas and persons into icons, images and brands that can be circulated easily, quickly and widely. In the digital age, development of iconic images has become an important way of gaining and keeping attention, and icons can have the power to create allegiances and promote or control change.

Icons, however, if they are to be effective, need to resonate with deeper cultural and societal meanings and structures. With Ai Weiwei, a whole field of myth and meaning attached to dissidents, freedom of speech and authoritarian rule is compressed into his public persona. Especially since the Sichuan earthquake investigation and his detainment in 2009 in Chengdu, he has become a well-recognized political dissident who also exemplifies the divide between East and West. As an Eastern dissident, he is perhaps comparable to the Russian nuclear scientist and human rights activist Andrei Sakharov, who was sentenced to internal exile in the city of Gorky and became a famous dissident of the Cold War age. There is, however, a notable difference between the dissidence of Sakharov and that of Ai Weiwei. Sakharov spent years in silence in internal exile, and his public reputation grew slowly and largely independent of his own efforts, while Ai has become a public figure who skilfully utilizes the media to create 'reality shows' of his political struggles. In these reality shows, Ai also engages with people and uses humour and irony in his performances, and he clearly is ready to package his political message in many ways.

Contradictions of celebrity dissidence

Ai Weiwei's art and public action have evolved into a complex public persona that does not fit into the more traditional, ascetic image of the lonely dissident. Rather, Ai's tactics are reminiscent of celebrity advocacy (Brockington 2014). These celebrity and media tactics are not always well received. Many critics note that celebrity advocacy or social media can focus attention on crucial political issues, but they may not make a real difference (Brockington 2014: 122-127; Strafella and Berg 2015: 149). Similarly, in the art world, celebrity tactics are often seen as problematic. For instance, art critic Jed Perl (2013: 9) suggests that Ai has become the 'darling of journalists and editorialists

around the world', while actually he is a 'terrible artist' who many museum professionals 'regard with a slight condescension, as something of an artistic naïf, albeit an extraordinarily self-possessed naïf'. Perl's view demonstrates one of the problems of *too much* popularity. In the art world, Ai's celebrity status can become a problem because he is regarded as the darling of media, not an artist proper. Interestingly, and perhaps somewhat ironically, a similar critical line of argument has been taken up by the Chinese government. When *ArtReview* listed Ai first in their annual Power 100 list in 2011, Chinese Foreign Ministry spokesman Liu Weimin argued that Ai is not a proper artist and suggested that Ai's selection to the list was based on 'a political bias' which 'violated the objectives of the magazine' (Gray 2011). Thus, while Ai has become a globally known artist, he is also a contested figure whose actions are followed keenly both in Western countries and in China.

The growing criticism of Ai regarding the celebrity tactics he has used to gain his status lead us to ask what kind of dissidence we are able to tolerate. In the current rapidly evolving digital environment, new, inventive ways of addressing political concerns are required, and Ai readily uses celebrity tactics and circulates his iconic image to convey his ideas. In a way, Ai has transformed his own life into a work of art in which art and activism are mixed, and he packages his life into performances that are able to reach a larger audience. At the same time, he crosses the borders between art and politics and challenges the ways we think about these domains. Thus, perhaps, Ai is probing not only the limits of Chinese freedom of speech and art, but also the limits of the Western notion of dissidence. We clearly need to remain critical of the celebrity strategies, which have become all pervasive in our current media-saturated societies, and we need to recognize their limits. On the other hand, we might allow for a broader notion of political struggle and be open to new innovative and unusual forms of dissidence, which have come to play a part in the political struggle for freedom of speech.

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Reporting War and Conflict: Safety and Civil Rights

'Mediatization' of War and 'Martialization' of Journalism

The twins threatening democracy and human rights
in the New Wars

Stig Arne Nohrstedt

Abstract

The chapter discusses the consequences of two linked process, 'meditization' and 'martialization', for freedom of expression in the media in the New Wars. Historical analyses of conflicts from the 1990/91 Kuwait War to the current Syria War, combined with an analytical perspective on the fluid character of international public law, are the basis for conclusions regarding how both journalism and military institutions are undergoing a process of change regarding their institutional rules and interactions. Institutional borders are blurred and ignored when wars are also fought on the media battlefield. International laws and human rights are not respected and journalists are targeted.

In light of the above, conflict journalism needs to improve its competence in the fields of international public law and international relations. Otherwise, in the present author's view, freedom of expression and democracy will be at great risk.

Keywords: press freedom, conflict journalism, new wars, mediatization, martialization of journalism

Introduction

War is, in so many respects, dangerous for human beings, societies and the climate, in short for continued life as we know it on the planet Earth. Violent conflicts do not 'only' entail casualties on the battlefield, but also major threats to civilized rules and conduct in social and political relations between individuals, countries and cultures. One particularly crucial aspect of this is the consequences of war for human rights and freedoms. This chapter focuses on some implications for one such freedom and one profession, freedom of expression for journalists – in short, press freedom – in conjunction with recent violent military conflicts, i.e. "New Wars".

Universal human rights are never absolute, fixed or – indeed – ‘universal’ in practical terms. They are ideals and norms, at least partly codified in covenants and laws, i.e. recommendations for conduct between states, authorities and citizens, and among groups and individuals. They are guiding principles and, as such, are interpreted differently depending on context, which leads to varying implementations globally. As developed below, there are ontological-theoretical reasons why implementations vary across countries and cultures, and why this variation might lead to violent conflicts that put freedom of the press and other human rights in harm’s way.

The fluid character of international public law (IPL) opens the door to all kind of pressures and influences from different actors, states and others as regards setting the standards for what practices are compatible with the law and established rights. Given the increased risks that journalists are exposed to in the New Wars, the journalism institution cannot leave it to others to protect freedom of expression. Media and journalists must defend themselves and the publics’ right to accurate information, because hardly any other major institution will see that as their main responsibility.

An analytical framework

For the sake of analysis, a framework is suggested that differentiates between three levels in society: a. the *abstract conceptual* level where notions like ‘human rights’, ‘press freedom’, ‘journalism’ and ‘war’ are defined and ascribed meaning; b. the level of *norms and rules* regulating human behaviour, sometimes codified in laws, ethics, codes of conduct and other organizational rules; and c. *practice or concrete actions* as pursued in relation to the (perhaps) corresponding elements at the conceptual and normative levels. When we talk about human rights and freedoms, the three levels can simply be called *ideals*, *laws* and *actions*, respectively. As will soon be clear, the framework can be useful beyond the area of human rights per se and applied to common-sense, societal phenomena such as conflicts, wars and journalism. Doing so will hopefully help us understand why the New Wars are so detrimental to human rights, press freedom and democracy and – in their possible consequences for peace and security.

(a.) *Freedom of expression – ideal, regulations and practice*

The Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948, is clearly far reaching in stating in Article 19: “Everyone has the right to freedom of opinion and expression” (quotation from Smith 2003: 283). Analytically speaking, if interpreted as an observation of the practical possibilities for people everywhere in the

world to freely express their opinions and thoughts, Article 19 is obviously not empirically valid. But rather than being a descriptive assertion, Article 19 is of course a performative speech-act that establishes a normative principle, i.e. that everyone *should* be assured the right to freely express their views, facts, feelings, et cetera. And instead of naively believing that the Declaration is useless, because it is constantly being violated somewhere in the world, we should understand that its purpose is to establish a moral yardstick for guidance internationally and nationally regarding conduct between states and citizens, i.e. it is a performative act intended to exert moral pressure on actors towards making gradual progress in the political and social human conditions.

At the time, when the Declaration was proposed after World War II, the plan was that it should immediately be followed by Covenants including more detailed lists of rights and freedoms and in texts with legal precision. The language of the Declaration has a “vague and non-legalistic style” that would be remedied by the intended Covenants (Smith 2003: 40; cf. 45). However, it took almost thirty years until the two subsequent Covenants were implemented: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Around three quarters of the UN member countries are legally bound by the Covenants today, following ratification by their respective national parliaments (Smith 2003: 45-46).

The slow process of transforming the ideals in the Declaration to legal provisions is of course disappointing. Nevertheless, the moral and legal impact of its articles are important, not least because it has become a guideline for legislation on the regional and national levels worldwide. For example, Article 19 has at least partly received the status of international customary law (or IPL), according to Rhona Smith (Smith 2003: 285). Some have even called the Universal Declaration of Human Rights “one of the greatest steps forward in the process of global civilization” (Alfredsson and Eide 1999; from Smith 2003: 39). This should not obscure the fact that implementations of the principles of the Declaration leave a great deal to be desired. One main reason for this situation is the nation-states’ unavoidable influence at the level of practical actions.

For example, regarding Article 19 it is rather special in that “the freedom of expression operates at both horizontal and vertical levels,” meaning that the individual’s rights should be protected against “arbitrary interference ././ by both the State and other individuals” (Smith 2003: 284). What makes the article far from crystal clear as a guideline is the number of exceptions mentioned for when restrictions are acceptable. In many instances, it is up to the nation-state to determine what restrictions are permissible. For example, making restrictions based on national security is at the discretion of the state (Smith 2003: 288).

There are also other reasons for the varying implementations of freedom of expression in a global perspective. One reason is that different human rights may, in concrete cases, be in conflict with each other – for instance, freedom of speech vs. freedom of religion, as in the case of the Mohammad cartoons in Denmark and Sweden (Eide, Kunelius and Phillips 2008; Nohrstedt 2013; Nohrstedt and Camauër 2006). Another reason is that different societal and cultural conditions affect how conflicting rights and freedoms are ranked, as in the case of women’s right to wear veil in French and Egyptian schools (Ezz El Din forthcoming). Even more problematic to the idea of universal human rights is the accusation made by some African and Asian critics that Human Rights – at least as implemented by, e.g., the International Criminal Court in The Hague – is a Western concept based on a historical tradition of cultural imperialism (Rønning 2009).

(b.) *The concept of war – laws and warfare*

As indicated above, the framework, with its three analytical levels, can also be applied to common-sense phenomena such as ‘wars’ or violent conflicts. Conceptually speaking, war is defined in terms of actions, motives and actors, as in the *Stanford Encyclopedia of Philosophy*: “War should be understood as an *actual, intentional* and *widespread* armed conflict between political communities.” All of the key notions can refer to a number of varying concrete phenomena. For example, it could be debated whether the terrorist attacks on the US on 9/11 2001 were acts of war, in the sense of the above definition. For example, the violence was definitely actual and intentional, but one can dispute to what extent it was “widespread” and it is difficult to call Al Qaida a “political community” – not to mention to call hijacked airplanes arms. And yet the US President defined the crashing of the airplanes in New York and Washington D.C. as a legitimate and legal ground for launching missiles on Afghanistan and declaring a war against terror.

According to *The Hague Convention* of 1907, before 1945 war was legally at hand only after it had been publically declared by one country against another. After World War II and the *UN Charter* of 1945, the legal definition is more indirect, as the Charter prohibits use of “aggression” in international relations (see, e.g., Chapter I of the Charter or the UN General Assembly Resolution 3314) and violent conflicts are usually not preceded by a declaration of war.

In any case, the new, asymmetric wars – for example the Afghanistan War or the ‘global war on terror’ declared by the US after 2001 – are fought with regular troops on one side and loosely organized, armed bands on the other. The warfare is partly designed – even by state-controlled regular armed forces – to avoid the legal restrictions and responsibilities that fall under the inter-

national public laws, primarily the Geneva Convention and its protection of civilians, including journalists. One crucial aspect of this is infringements on freedom of opinion and expression in the form of threats against journalists and obstacles to reporting from theatres of war.

Mediatization of war

The two concepts 'mediation' and 'mediatization' have been discussed recently by media scholars as well as in the field of war journalism (Cottle 2009; cf. Nohrstedt and Ottosen 2014; 2015). The first notion refers to the increased importance of media reporting in the fields of politics, economics, social relations and warfare. For example, when Martin Shaw analyses the New Wars in *The Western Way of War* (Shaw 2005), he argues that the intensive media attention paid to recent conflicts has changed the risk calculus when it comes to support from the general public. Thus, the media's role has resulted in the use of newer methods of war that are less likely to cause civilian casualties than before. Hence practical military operations have been changed due to the media, i.e. warfare has been 'mediatized'.

It seems fundamental to realize that mediatization is a concept with ontological implications. Consequently, it is not just a term that refers to the increased influence of journalism on another social institution or field, e.g. politics or military operations. The point of making a distinction between 'mediation' and 'mediatization' is to highlight the different consequences of expanding media attention for (a.) inter-institutional dependency and (b.) blurred or imploded institutional borders, e.g., between journalism and the military. As Simon Cottle wrote: "Increasingly the news media do not only communicate or '*mediate*' the events of war; they enter into its very constitution shaping its course and conduct. In this sense, war becomes 'mediatized'" (Cottle 2009: 209). Also according to him: "...news media constitute a battleground of images and information, spectacle and spin" (ibid.:110).

Ontologically and contextually, this has crucial and wide-ranging implications of a concrete and material nature. However, as important and relevant as it is to consider the implications of media development for how wars are waged and military operations conducted, it is also crucial to understand what implications mediatization of war has for the conditions and practices of journalism. It is literally a matter of journalists' life and death, as they are becoming targets, as has been discussed in more detail elsewhere (Nohrstedt and Ottosen 2014). The most important point here is not that the media have become a battleground for information warfare in the New Wars, but that they are being dragged into the wars, that in practical terms they *are* part of the military operations too – irrespective of legal and territorial borders.

In sum, the ‘mediation’ of war refers to media reporting from violent conflicts, something that has grown enormously with the rapid increase in the number of media channels and the Internet as a new media platform. When media attention has consequences for the modus operandi of the military forces, ‘mediatization’ is at hand. For example, this could involve: efforts to ensure that only military objects are targeted on the enemy side, psychological operations (PSYOPS) to improve the image of a country’s own military forces (such as when Jessica Lynch was ‘rescued’ in a faked operation during the Iraq war 2003), censoring the number of casualties among a country’s own troops or obstructing reports about a country’s own troops killing innocent civilians – including journalists. When warfare spills over into the journalism institution, we can talk about the other conceptual twin, the ‘martialization’, of conflict journalism.

‘Martialization’ of conflict reporting

According to international public laws, journalists should be free to report from violent conflicts as long as they are not taking part in the military battles. But in reality, that freedom is severely restricted in many instances. The belligerent parties make great efforts to control the content and frames of the media reports and to adapt them to suit their propaganda interests. Hence, journalists are sometimes even treated as ‘enemy combatants’. Terrorist warriors such as those supporting the IS or Al Qaida have a record of kidnapping and killing journalists.

Considering regular military forces, one typical example of how journalists have been integrated into the military in the New Wars is the system of ‘embedded’ journalists. The trade-off here is that the reporting is controlled by the soldiers, while the journalists in return are given access to media attractions, such as live images from the actions on the battlefield, as well as physical security. Another more sinister example is the series of indications that the media and journalists have been targeted by the US and/or NATO armed forces all along, starting from the Balkan Wars in the 1990s to the Libya War in 2011, e.g. the television building in Beograd in 1999, the Al Jazeera premises in Kabul in 2001 and in Baghdad in 2003, and the Libyan television building in Tripoli in 2011 (Nohrstedt and Ottosen 2014). This sequence of military attacks on media establishments and journalists working at the field should be understood in the context of a continuous and transnational battle of media frames in the New Wars. The globalization of compassion (Nohrstedt, Höijer and Ottosen 2002) has led to increased media attention being paid to civilian casualties – also on the ‘other side’ of the conflict lines – meaning that the one-sided war propaganda focus on ‘worthy’ victims only is being contested

by media workers and journalists who are trying to defend their professional integrity. Because this jeopardizes the propaganda objectives of Western countries which claim that their military interventions are humanitarian operations intended to protect the civilian population – whether in Afghanistan, Iraq or Libya – the risks faced by war correspondents and freelancers are increasing. The propaganda stakes are growing, and it is reasonable to regard the frequent military attacks on media and journalists as deliberate attempts to stop the messengers – although this is of course denied by the involved authorities, because it would be tantamount to confessing crimes against international public law (Knightley 2004; Nohrstedt 1999).

These two examples of warfare practices that drag journalism into the New Wars are only the tip of the iceberg. The consequences can be far-reaching. Suffice it to say that there are some obvious implications of the increased threats to war journalism in the New Wars: the media may abstain from sending correspondents to conflict zones due to the risks involved; reporters and editors may develop self-censorship of information that could be disadvantageous to their own country's side; the media may hesitate to report cases in which press freedom is infringed upon by the authorities.

On all these accounts, one can illustrate the risks of the liquid nature of implementing human rights in the New Wars – not only with regard to journalists, but also democracy and even peace and security – using the example of Swedish participation in the Afghanistan War. The intelligence analyst Wilhelm Agrell (2013) has written about the “mission creep” that took place in 2009 when the involvement changed from a humanitarian and security-building operation under the UN mission ISAF to a straight-out war, a counter-insurgency military operation, under the US-UK Operation Enduring Freedom (OEF) with a US general as the highest commander. However, the Swedish MPs who decided on continued participation in the operations were not properly informed about the new situation, nor were the media or the general public. According to Agrell the communicative situation was Orwellian in nature: “... that ISAF had geared to full-scale counterinsurgency in Afghanistan was known worldwide, but is portrayed as unknown in the government office and parliament” (op. cit.: 322). The hidden agenda that explains the lack of transparency is twofold: on the one hand, the Swedish Government avoided a political debate on whether the traditional Swedish security policy of non-alignment and neutrality had changed; on the other, Sweden, although not a NATO member like Denmark and Norway, could help ease the political crisis within the defence alliance after the Iraq War in 2003 (ibid.; see also Nohrstedt and Ottosen 2014: 109-111). In the end, what Agrell calls “the universal de-democratizing forces of war”, combined with lack of journalistic competence regarding the mission creep in Afghanistan and its meaning from an IPL perspective, kept the democratic agora from debating the security risks involved.

This points to the need for a professional strategy in war journalism. As elaborated in a recent book, starting with the 1990/91 Kuwait war, there has been a long series of violent conflicts connected to disputable implementations – not to say violations – of human rights, of the Security Council declarations and of international public laws (Nohrstedt and Ottosen 2014). Therefore the need for war journalism with competence in international public law and international relations is more urgent than ever, and is a prerequisite for protecting freedom of opinion and expression.

Conclusions

The ‘mediatization’ of warfare and ‘martialization’ of war journalism have made the job as a war reporter an increasingly hazardous one and this has been a concern for trade unions, other NGOs and the UN. During recent decades, more than 700 journalists, or one journalist every five days, have been killed while doing their job, according to UNESCO (2015a). For 2012, 2013 and 2014, the numbers of killed journalists and media workers were 123, 91 and 87, respectively. During the first nine months of 2015, 70 journalists lost their lives. The impunity rate is appalling: only 8 per cent of all cases of killed journalists between 2006 and 2015 have been brought to justice. Compared to the first decade of the second millennium, these figures indicate a slight improvement, and the UNESCO report *World Trends on Freedom of Expression and Media Development: Special Digital Focus 2015* expresses certain satisfaction that the work towards increased security for journalists has been intensified recently (UNESCO 2015b). What the report does not comment on, however, is the rather minimal media attention paid to both the professional risks indicated by the death statistics and the efforts made by UN organizations and NGOs to improve journalists’ security.

In the new asymmetric wars, journalists are sometimes de-facto perceived – both by terrorists and anti-terrorists – as legitimate military targets. A survey among reporters and editors from eight countries reveals that the consequence has been less reporting from the conflict zones for security reasons and increased self-censorship owing to fear of provoking the parties involved (Ottosen and Høiby 2014). War correspondents and, in particular, freelancers are not fully protected by the Geneva Convention regarding their status as civilians, which has led the UN to intensify its focus on the issue in Resolution 1738.

The professional challenge for journalism is that this critical situation for war journalism is hardly noted or problematized in the war reporting of the mainstream media. The general public is thus kept uninformed about the risks to freedom of expression and the right to information in the New Wars. From

a democratic point of view, this is a very dangerous situation. The struggle on the institutional level, concerning what norms and rules should be upheld regarding conflict resolution, peace-building, military conduct and warfare, is left entirely to the political, military and media elites. And if the media do not use freedom of the press to mobilize opinion for the protection of journalists, they will not have the necessary public support to resist attempts to manipulate war reporting. Even worse: the general public will not be able to help protect war journalists against the deadly threats targeting them. The ultimate effect can be a muted democracy. To stop such a devastating development, it is urgent that we improve journalism education and our knowledge in the field of international public law and conflict resolution.

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Women in War

Challenges and possibilities for female journalists covering wars and conflicts

Kristin Skare Orgeret

Abstract

The chapter takes as its starting point the notion that journalists' safety is a precondition for free expression and free media. Based on interviews and discussions with experienced female war and conflict journalists from seven countries worldwide, the discussion evolves around questions linked to what particular challenges and opportunities women journalists face, and how their security can best be ensured when covering war and conflict zones. The deliberations are believed to have a direct bearing on debates about female journalists' safety online and offline, the importance of the presence of female journalists covering wars and conflicts, and how their being there may serve as an indicator of freedom of expression, civil rights and media freedom in general.

Keywords: safety of journalists, freedom of expression, conflict reporting, gender perspectives

Introduction

Journalists contribute to the world's experiences of conflicts and crises: from shaping global audiences' perceptions and knowledge about them to affecting our sense of proximity to the distant other (Chouliaraki 2009). Diverse, multiple voices are important to free speech interests in democracy as well as to rationales about knowledge and autonomy. It is not necessarily speech as such, but debate and diversity of ideas that are primary (Kenyon 2014: 4). Balanced gender representations in the media increase citizens' possibilities to experience identification and democratic belonging (e.g., Eide and Orgeret 2015). During recent years, particularly since the period of the so-called Arab uprisings in 2010, an increasing number of journalists worldwide have encountered violent aggression while covering civil unrest and demonstrations and many have been killed. If journalists are threatened and attacked,

the broader societal effects are grim. Coverage gaps increase as a culture of self-censorship within the media and society grows. There is a common understanding that the escalating threats and intimidation of journalists, in general, and female journalists, in particular, must be addressed (IWFM and INSI 2014, OSCE 2015). In 2013 and 2014, UNESCO publicly condemned the death of a total of 178 journalists and media workers and social media producers engaged in journalistic activities. The vast majority of these (164 or 92 percent) were men, and men continue to do the vast majority of war and conflict reporting (UNESCO 2015: 152-155). Conflict zone reporters face a multitude of dangers unique to their particular form of journalism. Female journalists are more exposed in these conflict settings, which are heavily dominated by men, and hence they are more vulnerable. In the words of former foreign reporter Anna Sebba, it is “more dangerous than ever to be a female war reporter” (Chertoff 2013).

Journalists’ safety is a precondition for free expression and free media. Hence, the major questions this chapter engages with are: What are the challenges and opportunities for women journalists covering conflict-related issues? Do women cover violence and conflict differently from men? And what can be done to ensure female journalists’ safety while covering conflicts?

The chapter draws on findings from interviews with a number of female reporters from Egypt, Nepal, Norway, Pakistan, South Africa, Tunisia and Uganda who cover wars and conflicts in their home countries and/or internationally. In terms of methods, this chapter presents quotes and excerpts from interviews and dialogue with a selection of reporters. The interviews and talks took place in 2014 and 2015, partly during a conference for female researchers and journalists covering conflict and war in Tunisia in December 2014.

Safety for journalists covering conflict zones

During recent years, the world has become a more dangerous place for journalists and media workers. Several of the journalists interviewed emphasized the fact that some challenges are equal whether you are a man or a woman, while some are different. A female senior war reporter put it like this:

If you are a woman, don’t complain! There might be very little food and water, there are no ladies rooms in a war zone. If you get your period – bad luck. War is war. There is no special treatment of female reporters (interview 2015).

The interviewees stressed that *all* conflict situations are different, and that it is important to be aware of this when preparing for an assignment. As an

example, they gave one ‘rule’ that is just as important for men as for women: prepare before travelling to a new place or to a new security situation. Details about the location and current situation, as well as about contextual factors such as language, history, culture and customs, should be researched so that one can make better-informed decisions when on site. It was also emphasized that all reporters need good colleagues they can trust:

In a conflict you need good people around you. I believe there is a special place in hell for colleagues who don't help each other in wars, with cables for cameras and computers or other things. It's nice to be a good person of course, but it is also part of a security strategy, you never know when you may need help (interview 2015).

The need for good equipment, and investing in good and loyal fixers and drivers, was also mentioned as a general rule when covering a conflict. A typical feature of many conflict situations is that the security situation changes abruptly and makes it difficult for reporters to anticipate where violence may break out. Preparing to cover conflicts includes considering whether or not reporting a story might compromise one's own safety. At times the only way to be safe is to decide not to do the story. It may be difficult for an eager and dedicated journalist to turn down the possibility of coverage, but sometimes this is the only solution. Several of the reporters described the trying situation when you have to turn a story down, but agreed that a decision not to go into a conflict area should be seen as a sign of maturity (interviews, 2014, 2015).

Safety for female journalists covering wars and conflicts

Female conflict reporters run the same risks as their male counterparts, plus other risks unique to women (Whitehorn 2014). The fact that a female journalist is more exposed in conflict settings was mentioned repeatedly. For this reason, having helpers one can trust, or travelling with another colleague (male if possible), is of particular importance for a female reporter. Furthermore, for women journalists, being aware of cultural norms and practices is perceived as crucial. A current challenge is how contacts and sources in the field may perceive one, both as a journalist and as a woman. Reporters who had covered conflicts in rather conservative cultures talked about the need to develop a particular situational awareness; some types of conversation may be considered inappropriate and eye contact may be considered flirting. The reporters described techniques such as carrying two business cards – one with real details, another with a mock email and the phone number to the desk – and unmarried women wore fake wedding rings. The interviewees

explained the need to always pay attention to what you wear as a female reporter covering conflict situations; a reporter with experience from Afghanistan often used a burqa when moving around. One should avoid ponytails, earrings or anything that can be grabbed. Where to meet sources and the need to pay attention to your body language were also issues of concern. A Norwegian journalist described her experiences from being a woman reporter in Pakistan:

I blame the Hollywood films! Around the world there are many men who believe that all Western women are willing. It is difficult to get in touch with male sources when you cannot give them your number. I changed my reporting style the hard way – nobody told me about it in advance: Lower your eyes, don't smile during interviews. Never ever give away your phone number (interview 2014).

As numerous cases of rape and sexual violence against female reporters covering the Arab uprisings from late 2010 and onwards have shown, covering malicious crowd scenes is often an especially difficult task for female reporters (see also Wolfe 2011). Staying safe when working in crowds is a major challenge, and a female journalist may not even be safe in her own country. One example is how senior journalist Quatrina Hosain was brutally attacked when covering an election rally in Wah Cantt in Pakistan in May 2013. A mob of around 30 men surrounded Hosain and separated her from her camera team before violently assaulting her. Hosain was finally rescued by her colleagues and escaped in a car. It is believed that Quatrina Hosain was targeted for her independent views, as part of a growing intolerance of freedom of expression (Hussain 2014). Hosain herself explained how the horrible attack not only left traces on her body, but also on her mental well-being. For a long period of time she thought that she would never be able to return to journalism again (discussion, Tunis 2014). The journalists discussed how talking about such attacks often feels humiliating and emphasized the importance of strong role models, such as Hosain, daring to break the silence. Few cases of sexual assault against journalists have been reported, probably as a result of powerful cultural and professional stigmas. The fear of being considered 'a complaining girl' and less capable than one's male colleagues was a feeling several of the women reporters had experienced (discussions and interviews 2014, 2015).

Owing to the particular challenges war and conflict reporters face in the field, taking professional training courses was thought to be decisive. However, several of the journalists found that these security courses tended to be tailored exclusively to a male audience. During such courses, the women had experienced some 'testosterone men' who used 'very macho' approaches

(interviews 2014). Since the 1990s, security training courses for journalists have been offered by private firms, staffed mainly by former military personnel (CPJ 2012). There seems to be a market for alternative training courses that also focus on women journalists and their particular challenges and needs in areas of conflict.

The role of the home institution was also discussed among the journalists. They felt that news organizations should explicitly acknowledge their responsibilities to support their field journalists and keep them informed about important practical details. There is a tendency for women journalists, as they get older, to quit reporting from conflict zones to instead focus on family life in their home country. As a result, many of the female reporters in the field are young and rather inexperienced, and need to be carefully followed up by their organizations. According to the reporters, how good the organizations were at such follow-ups varied.

Online gender-based harassment

Women journalists face additional risks in the course of their work in the field, but also online. An IWMF and INSI report (2014) interviewed nearly 1000 female media workers from around the world and found that nearly two-thirds of respondents had experienced some form of intimidation, threats or abuse in relation to work, ranging in severity from name-calling to rape and death threats. An increasing tendency is digital threats and online abuse. More than 25 percent of harassment of women in news media happen in an online environment (IWMF and INSI 2014), and this is a growing international phenomenon (Henrichsen et al. 2014: 43). Studies have also demonstrated that female journalists experience approximately three times as many abusive comments online as their male counterparts do. For some female journalists, online threats of rape and sexual violence have become part of everyday life; others experience severe sexual harassment and intimidation (OSCE 2015). The female journalists interviewed described increasing pressure from their leaders to be ‘visible and active’ on various social media platforms at all times. They saw this as a double-edged sword; on the one hand, using social media is an effective method of reaching out directly to your audience and promoting your stories, but it is also problematic, as a great deal of harassment is perpetrated through these channels.

Covering the Gaza War for the Norwegian public service broadcaster NRK during the summer of 2014, reporter Sidsel Wold received a lot of cruel hate messages for being “too biased” and “Palestine friendly.” A Facebook page entitled ‘We demand Sidsel Wold be removed!’ spread numerous hateful comments.

My male colleagues receive hate mails too, but I am more exposed. Almost all of the very hateful messages are written by men. Men who hate women. This [Israel-Palestine] conflict is very special. It's a mixture of politics and religion and that makes some people very very angry (Wold, discussion, Tunis 2014).

Wold's statement echoes the words of the OSCE representative on freedom of the media, who described how the female journalists who are targeted "mostly report on crime, politics and sensitive – and sometimes painful – issues, including taboos and dogmas in our societies." Wold's experience feeds into the findings of another Norwegian study, which shows that if one is a female television reporter or news anchor, one's chances of being harassed are twice that of a man's (Hagen 2015). The OSCE representative stressed how, "these online attacks tend to degrade the journalist as a woman, rather than address the content of the articles" (OSCE 2015). Such online attacks and harassment are indeed highly problematical, owing to both the personal harm they inflict and their potential to prevent women from engaging in the news media and the public sphere. When back in Norway, Wold also decided to employ a strategy of openness concerning the harassment and hate she had met with. She exposed some of the hateful messages on social media and even called some of the people who had insulted her, asking them, "why do you hate me so much?" (Wold, discussion, Tunis 2014).

The advantages of a hybrid position

Alongside being more vulnerable when covering wars and conflicts, the women reporters also described some important advantages of being female. The Western reporters covering societies with more traditional gender roles referred to how they were often seen as both man *and* woman.

In the Middle East I am seen as something in between a man and a woman, and that is clearly a professional advantage. I can both speak to the men and I can enter the female areas where not men are allowed (interview 2014).

Particularly when covering wars and conflicts, there is a need for local and ordinary voices to be heard. This is the point made by Shabbir Hussain, who argued that "though the media, when reporting on government officials, always refer to the 'ordinary people killed in the conflict,' they never discuss what happens to the local population when military jets bomb the area and fire missiles" (2014: 6). When common people in a conflict have no voice in the media, elitist and securitized versions have a monopoly on the mainstream media discourse, often at the expense of more peaceful perspectives (e.g.,

Galtung 2000, Hussain 2014a, Ross 2008). Several of the reporters interviewed emphasized that, in such situations, a hybrid position may be a professional advantage. One of the journalists described the benefit of being a woman journalist in Afghanistan where the genders live particularly segregated:

I have access to the women in a totally different manner than my male colleagues do. This is an enormous possibility and an enormous responsibility as the general representation of Afghan women in Western media is shallow. (interview 2014).

The representation of women in war and conflict zones is key, especially because globally many of the traditional female roles are still considered 'private', as opposed to the more public masculine sphere. Access to female sources is important to obtaining a fuller picture, and the reporters from different countries all agreed that talking to women results in a different way of reporting. The reporter from Uganda stated:

Of course there is a difference between how I as a woman approach conflict and how a man would do it. When I am in the field with my male colleagues, the only things they can think of is when the next battle is going to take place, what military equipment is used, how the war is funded and so on. I'm not saying that as a female I am not looking at these prospects, but I think the most important is the human part. Those are the stories that touch people and with which they can relate. I am not going to count the dead, but I will talk to the woman who has been raped or hurt (interview 2015).

The women reporters agreed that women often cover wars and conflicts in a different way than men do. This is not necessarily because of their biological sex, but rather because the geopolitics and contextual features provide them with a different role than men have in that particular setting. Some underlined that they have sensitive male colleagues and female colleagues who are 'adrenaline junkies.' Some argued that they never saw themselves as a 'woman journalist,' but also thought that there were stories they produced that they could not have done without being a woman. What is considered important is that women journalists venture into the field and cover wars and conflicts with access to a broader spectrum of voices and perspectives. This echoes the quote of Katharine Whitehorn:

We must be grateful for getting a view on troubled times that is not dictated only by men and the military (Whitehorn 2014).

Conclusion

The right of journalists to work under safe conditions, without fear of being harassed, attacked, raped or killed, is a topic of fundamental importance to freedom of the press and freedom of expression. To ensure that conflict is covered journalistically from as many angles and perspectives as possible, one criterion is that the assemblage of journalists present be as heterogeneous as possible. Efforts should be made by news organizations to include female journalists in such assignments, and to treat them just as they treat male journalists. At the same time, there is a need to acknowledge the particular safety challenges female reporters face in conflict zones, some of which have been discussed here, as well as to recognize that female conflict reporters may need to prepare and act differently and get a different kind of support when covering wars and conflicts. In other words, to borrow from Gayatri Spivak (1988), there would seem to be a need for some sort of ‘strategic essentialism.’

This strategic approach includes the realization that – although great differences may exist between members of the broad group of ‘women journalists’ and although the profession should be much more defining than the gender – it may sometimes be advantageous for female reporters to temporarily “essentialize” themselves and to bring forward their group identity in a simplified way, the goal being to achieve more awareness of, and support for dealing with, the challenges they face. It is imperative that journalism education and training programs include gender perspectives in their safety and security training for journalists covering wars and conflicts.

Furthermore, additional research is needed on the particular needs and challenges of women covering war and conflict zones, including research on new areas such as gender-based cyber violence. It is important that we continue this discussion and do so with an increasingly nuanced understanding of what gender perspectives in the safety of journalists actually involve.

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The (Un)safe Practice of Journalism

An analysis based on UNESCO's Journalists' Safety Indicators assessments¹

Reeta Pöyhtäri

Abstract

Journalists around the world are being killed and threatened for doing their work. This is a serious hindrance to freedom of expression and the safe practice of journalism. UN and UNESCO have led the process to create the *UN Plan of Action on the Safety of Journalists and the Issue of Impunity* to improve the safety of journalists. As a part of the UN Plan, UNESCO also developed the Journalists' Safety Indicators (JSI) assessment, which enables evaluation of the safety of journalists in a given country. Based on the first JSI assessments in Pakistan, Guatemala, Honduras, Nepal and Kenya in 2013-2015, but also following the recent developments in the practice of journalism, this article argues that in order to protect journalists and those practicing journalism properly, the concept of 'journalist' needs to be defined broadly. Furthermore, special attention needs to be paid to digital safety issues, women journalists, and wide-based cooperation on the safety of journalists.

Keywords: journalism practice, journalists, safety, UNESCO

Introduction

More than 700 journalists, media workers and social media producers have been killed during the past 10 years. With 103 killings, year 2015 was another deadly one (UNESCO 2015a.) Silencing a journalist by killing her/him poses a serious threat to freedom of expression and is the ultimate act of censorship. Yet the killings are not the only problem. Not only foreign correspondents, but especially local journalists are the regular targets of threats ranging from intimidation and harassment to restrictive policies and arbitrary detention, including misogynist attacks on women journalists. Another group often attacked are citizen journalists and social media actors who produce journalistic contents, although it is 'traditional' journalists who are on the receiving end of most attacks (see, e.g., OSCE 2012; UNESCO 2014b.)

Most of these threats go undocumented. Most worryingly, more than nine out of ten cases of journalist killings remain unsolved and unpunished. According to the information received from those UNESCO member states that voluntarily responded to inquiries, UNESCO has confirmation of only 32 cases out of more than 500 that have been resolved between 2009 and the beginning of 2015 (UNESCO 2014a; 2015a.)

To the general public, this impunity sends the message that it is dangerous to express one's views openly. To the perpetrators, it signals that harassing and killing of journalists is acceptable. This is likely to have a chilling effect on society, and in the long run lead to a climate of fear and self-censorship.

The safety of journalists has been on the intergovernmental agenda for decades (OSCE 2012). Yet several resolutions needed to be passed within the UN system, paving the way toward the development of the *UN Plan of Action on the Safety of Journalists and the Issue of Impunity* ('the UN Plan')², finally endorsed in 2012.

'Safety' in this context means journalists not being subject to threats, harassment or surveillance; not being physically attacked or unlawfully detained; journalists not routinely self-censoring out of fear of punishment or attack; and that crimes against journalists are prosecuted and that there is no climate of impunity (UNESCO 2008:67). However, the concept of safety is complex, including aspects that vary from personal and professional matters and issues of media systems to root cause factors in societies, such as corruption and crime, not forgetting the international and national legal systems.

With this complexity, how can we define and protect journalists' safety efficiently, or measure any improvements? Internationally approved attempts to that end are the Journalists' Safety Indicators assessments commissioned by UNESCO. Based on the preliminary findings of the first assessments, this article highlights some safety threats and elements of 'safety.' While UNESCO has a broad definition of the 'journalists' to protect, these assessments also show that such a definition is not self-evident.

Supporting safety of journalists:

UN plan of action and journalists' safety indicators assessments

Within the UN system, UNESCO has the mandate to advance 'the mutual knowledge and understanding of peoples, through all means of mass communication' and to promote 'the free flow of ideas by word and image.' UNESCO has defined press freedom as designating the conditions of media freedom, pluralism and independence, as well as the safety of journalists (UNESCO 2014b). To advance the latter, the organization has led the initiative to develop the UN Plan. Covering the complexity of the safety issue, the Plan defines a

wide range of actions to be carried out by a variety of stakeholders in order to enhance the overall safety of those involved in journalism practice in a broad sense, including 'journalists, media workers and social media producers who generate a significant amount of public interest journalism.'³

Within this UN Plan, UNESCO has developed the *Journalists' Safety Indicators* (JSI) assessment (UNESCO 2015b). This tool allows for assessment of journalists' safety situation in a given country; identification and evaluation of actions to promote and secure a safe working environment as well as of actions to combat impunity for crimes committed against journalists, media workers and others involved in journalism. It enables monitoring of progress in the implementation of the UN Plan, identifying gaps in protection, and tracking changes in the situation.

The tool differs from other existing measurements of media freedom, violations of freedom of expression, or attacks on journalists (such as those by CPJ, RSF and Freedom House), owing to its wide-ranging coverage: Besides the actual safety situation, the roles and activities of the state and political actors, the CSOs and academia, media and intermediaries, and of the UN system and other extra-national actors in relation to the safety of journalists are assessed. The information collection involves both a literature study of existing materials and gathering of new data with interviews, focus group discussions and questionnaires. The data acquired are primarily qualitative, while also quantitative methods, such as surveys, can be applied to enrich the findings.

In 2013-2014, the first pilot JSI assessments were conducted in Pakistan, Honduras and Guatemala. The assessments in Nepal, Kenya and Iraq began in 2015. All six are to be finalized for publication in 2016. These countries were selected for the assessments mainly based on the alarming safety situation for journalists' in the countries (see, e.g., RSF 2014). Pakistan, Nepal and Iraq are also three of the four first-phase countries for implementation of the UN Plan. The assessments were undertaken by local research organizations⁴, an approach that is likely to improve the data collection from local sources, and the local adoption of the conclusions based on the assessments.

While the assessments concentrate on local safety threats to journalists, the preliminary results show that safety issues are strongly interlinked with more global aspects of the practice of the journalism profession. Providing safety very often depends on using an inclusive *definition of journalism or journalists*. Besides safety trends, the article therefore aims to demonstrate why reconsidering the definitions would benefit journalists' safety.

Trends in journalists' safety

The assessments address similar concerns despite the fact that the assessed countries differ in many respects⁵. Except for Nepal, journalists have been

killed in all of the countries within the past three years, with Iraq leading the statistics⁶. Impunity levels for crimes against journalists are high, with only one case solved and perpetrators convicted out of the 185 cases in 2006-2013, in the countries in question (UNESCO 2014a). Adequate mechanisms for following up and prosecuting perpetrators still need to be developed.

Some of the JSI reports indicate that even though the safety situation of journalists has partly improved during recent years, as shown by the collected statistics on killings (UNESCO 2014a; 2015a), journalists may actually be receiving more threats than before. Journalists are regularly threatened, harassed and surveilled, which also leads to self-censorship. Especially in Kenya, this trend has been on the rise, and in the past year, there were at least 20 known cases of threats, attacks and harassment, including one journalist killing (JSI Kenya 2016). The threats are partly due to the increasingly complex conflict/post-conflict situations in these countries or their neighboring countries, which means that journalists face threats that originate from various parties in those conflicts, including both state and non-state actors. Typically, this puts journalists in a situation where they feel they cannot trust that they will receive protection of any party (JSI Pakistan 2016).

Another serious safety challenge is created by growth in the use of digital technologies. They facilitate new forms of journalistic practices, but also online surveillance, digital harassment, challenges in data protection or even identity theft. Digital technologies are applied by media houses that are enthusiastic about their low cost and logistical ease, but do not provide journalists the proper means of protection from digital dangers. Even employed journalists are not aware of, trained in or savvy about the safe use of digital technologies, let alone freelance journalists working with or without an assignment from a media house. Social media producers form an especially vulnerable group (JSI Pakistan 2016; see also, e.g., Henrichsen, Betz and Lisosky 2015.)

This evidently makes journalists easy targets for different types of surveillance and other digital threats, and it is therefore not without reason that journalists voice their worries about increased surveillance (e.g., JSI Pakistan 2016). This form of harassment seems to be much more common than more violent attacks against journalists, yet there is evidence of a connection, in that longer-term surveillance tends to precede an actual violent or fatal attack. If the practice of journalism is to be made safe in developing countries, extra attention needs to be paid to digital safety – a challenge that is faced by all journalists today.

Who deserves protection as a journalist?

A significant hindrance to protection of journalists is that the definition of ‘a journalist’ needs to be agreed upon. Within the countries, the term is being

defined differently by various actors, and a broad definition of ‘journalist’ – like the one UNESCO uses: ‘Journalists, media workers and social media producers who generate a significant amount of public interest journalism’ (e.g., in UNESCO 2015b, 2) – is anything but self-evident.

For example, journalist unions may accept as members only the journalists employed by certain media companies, and the state may recognize as journalists only the members of the unions. This means that many freelance and other self-employed journalists, including social media producers, are not recognized as practicing journalists, but rather as individuals conducting ‘private,’ or even ‘illegal’ business. They therefore remain without special protections, if these exist, or even become the targets of extra threats.

Varied definitions also lead to discrepancies in statistics concerning attacks and harassment. As a result, understandings of the severity and character of the problems may vary significantly. Due to definitional issues, journalists themselves may not be willing to show solidarity with each other – this lack of solidarity at times can put them in danger. And as the Nepal JSI report (2016) discusses, even ‘safety’ can have different meanings to different actors, making it difficult to address responsibilities.

The question of ‘who is a journalist’ does not only relate to safety issues, but also to the question of professional standards. Journalism has never been a protected and clearly defined profession, such as medicine for example. Yet there have been professional qualifications through which journalists have established themselves as a professional group (e.g., Conboy 2004; Deuze 2005; Hanitzsch 2007). In many countries, especially developing ones, there still is a need to professionalize journalism further. For that reason, in many countries ongoing discussions are also being pursued to find proper ways to identify professional journalists (Hanitzsch 2011).

At the same time, profitability issues and digital developments are rapidly transforming the media, and a journalistic type of content is increasingly produced by people other than trained journalists, or full-time journalists employed by media houses. A journalistic type of content of general societal interest, produced by bloggers and social media activists, has also proven to be crucial to the public in relation to many recent situations and events. General human rights laws guarantee these actors the same rights to exercise their freedom of expression as professional journalists.

While professional journalists are sometimes worried about the deterioration of the profession and its standards, when considering the recent digital developments, freedom of expression rights and safety, there is an increasing need to define journalism and those who do journalism broadly, and to recognize their right to be protected in their journalistic activities, as stated in the UN Plan (UNESCO 2012). Hand in hand with this goes the important point

that those producing journalism also need to be supported in becoming more professional and ethical in their activities, as well as in becoming more aware of professional standards. Yet this does not mean that all people practicing journalism ought to become professional journalists as such.

As the assessments at hand show, more work is needed to increase our understanding of the current shifts in journalism, and to give all relevant actors protection – be they ‘professional’ journalists or others producing journalistic content of societal interest. In the countries concerned, most producers of journalism are journalists, and it is this group that continues to be the target of attacks. However, other producers of journalism, and globally other users of freedom of expression (e.g., singers, poets, satirists), are increasingly in need of protection as well.

Special protection for women journalists?

The reports acknowledge that women journalists face specific safety threats due to their gender, including physical and other threats. Yet women remain a minority among the journalists who have been killed. In many countries, women are still in the minority in the journalism profession, which means they are neither recognized as practitioners nor considered to be in need of special protection. The recognition of women journalists can be hindered by their being denied official accreditation or membership of professional associations, or in some cases, by their being excluded from professional education programs, all of which is often related to the general position of women in a society.

At the same time, there are arguments voiced by women journalists for not asking for special treatment. In countries where women journalists already are more numerous in the field, for example in Kenya and Guatemala, they say that they would rather choose to be treated as journalists in first place, and only secondly as women, in order to maintain their professional credibility. As a result, sometimes they even keep secret the threats and harassment they are facing. This very likely distorts our understanding of the range of threats women journalists face.

Despite these somewhat opposing trends, the JSI assessments prove that women journalists are lacking in professional recognition, opportunities and training. Before there is proper professional recognition, it is unlikely that women journalists will be protected effectively. This is an issue that concerns media professionals everywhere, but especially in some countries, where women journalists are still fighting for their right to even practice the profession.

What is the way forward?

While the UNESCO JSI assessments testify of safety threats, they also show efforts for improvement. In some cases, national stakeholder commissions have been established to enhance media safety, for example by drafting and endorsing national safety charters. State actors have announced commitments to investigate crimes against journalists. At the same time, while actors often agree it is important to protect those who do journalism and commit on paper to do so, concrete action is yet to be taken. Permanent coordination of tasks between various stakeholders, and additional resources to support the established structures and to implement the plans, are needed.

What more can be done to protect journalists' safety more efficiently? Certainly a broad coalition, combining the forces of various actors, is crucial. The safety of journalists is a complex issue, as is finding the solution. It needs to be built through a co-operation between states, the media, journalists, international NGOs, national CSOs, academia and intermediaries. This is at the heart of the UN Plan.

The JSI assessments demonstrate that while safety threats take place in local circumstances, the solutions must be more global in nature. The safety of journalists often starts with our general perceptions of journalism and the people involved in it – with a shared understanding of whom to protect. This is a vital issue at both the national and international levels.

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Notes

- ¹ The views presented in this article are partly based on the observations of the conductors of the JSI assessment reports, and do not necessarily reflect the views of UNESCO and its Division for Freedom of Expression and Media Development.
- ² The UN Plan was endorsed by the UN Chief Executives Board in April 2012. There are resolutions on Safety of Journalists by the UN Security Council (2006), UN Human Rights Council (2012) and the UN General Assembly (2013).
- ³ This is the UNESCO/International Programme for the Development of Communication's (IPDC) definition of 'journalist' (to be protected), e.g. in UNESCO 2015b,2.
- ⁴ In Guatemala and Honduras, University of Peace in Costa Rica; In Pakistan Institute for Research, Advocacy and Development (IRADA); In Nepal, Development Communication Society (SODEC); In Iraq Iraqi Journalists Rights Defense Association (IJRDA); In Kenya, African Media Initiative (AMI).
- ⁵ The discussion in the following paragraphs relates to existing JSI assessment draft reports: Supporting Safety of Journalists in Pakistan; Supporting Safety of Journalists in Nepal; Supporting Safety of Journalists in Kenya; Journalists' Safety Indicators pilot assessment in Guatemala, and Journalists' Safety Indicators pilot assessment in Honduras. Page numbers are not provided in the references, as the reports had not yet been published at the time of writing. They will be out later in 2016.
- ⁶ In 2013-2015, according to UNESCO's data, 7 journalists or other media workers were killed in Guatemala, 11 in Honduras, 27 in Iraq, 1 in Kenya, and 16 in Pakistan. The last killing of a journalist in Nepal took place in 2012 (1) (UNESCO 2015a.)

Reduced Security for Journalists and Less Reporting from the Frontline

Marte Høiby & Rune Ottosen

Abstract

According to both UNESCO and NGOs working to protect the safety of journalists, the security situation for reporters and media workers in conflict zones has deteriorated greatly during the past decade. The present authors have undertaken a combined method of survey and in-depth interviews with one hundred journalists and editors in the field of war and conflict reporting in seven countries to discover whether, and how, they perceive the recent increase in threats and attacks against journalists at work in conflict zones. The study aims in particular to focus on the consequences such environmental security constraints have for the journalistic output in general, and sets out to map in detail editors' and journalists' security routines prior to fieldwork and the aftereffects suffered from attacks.

Keywords: war and conflict reporting, journalist safety, impunity, aftereffects

Introduction

Since 1992 and until today, the Committee to Protect Journalists has registered 1149 journalist killings with a confirmed motive. Sixty-six per cent of these cases were classified as 'murder', meaning "the targeted killing of a journalist ... in direct relation to the journalist's work" (CPJ 2015). Simultaneously, Reporters Without Borders' (RSF) press freedom index for 2015 declares that press freedom is on the decline worldwide and points out the targeting and manipulation of media workers as the main cause of this deterioration (RSF 2015).

Defence of freedom of speech must be seen in connection with the issue of journalists' safety in the field. Both in our own research (see Høiby and Ottosen 2015) and in that of others (e.g. Berger 2013), it is evident that there is a close link between lack of security and self-censorship. Moreover, the increasing problem of impunity has an impact on freedom of expression on a global scale. According to the International Freedom of Expression Exchange

(IFEX), perpetrators of crimes against journalists go unpunished in nine out of ten cases (Høiby and Ottosen 2015). Thus, UNESCO's work for "mapping of freedom of expression" is treated in connection with the protection of journalist safety and addressing the continuing issue of impunity for perpetrators.

Despite UN Resolution 1738 from 2006, there is a sense among many vulnerable reporters that the UN has failed. Many perceive that the work of journalists in conflict zones has become even more dangerous over the past years. Recent research has shown that editors and journalists worldwide feel the five past years have taken a new direction regarding security and their working conditions in the field (Høiby and Ottosen 2015). Year 2012 showed the highest figure for journalists killed on the job to date: 121 media workers were killed by targeted attacks, bomb attacks and crossfire incidents (IFJ 2012).

But who will protect journalists in conflict zones when they are obviously often the selected targets? Perhaps the Nordic countries could contribute more to putting the threat against journalists in conflict areas on the international political agenda? Horsley (2013) argues that the Nordic countries should be more active in trying to implement mechanisms in their foreign policy to force partners to take journalist safety more seriously. The EU, the Council of Europe and OSCE have shown willingness to push forward greater respect for the protection of journalists, but as we are all witnessing daily, we have a long way to go (Ottosen 2014).

The present authors have investigated how journalists and editors experience the pressure of threats and dangers in the field, how the situation affects them and what response strategies they have developed to continue their work. Here we will share the experiences of one hundred journalists and editors in seven countries, all of them working in the field of conflict reporting.

Methodology

The method comprised semi-structured interviews with 100 informants: 27 editors and 73 journalists working in the field of war and/or conflict reporting. Although we conducted the interviews with Norwegian journalists and editors ourselves, we contracted seven local collaborative partners to carry out the interviews and analyses in Nepal, the Philippines, Uganda, Nigeria, Tunisia, and Nicaragua.

The researchers conducted the interviews in personal meetings, for the most part, and filled out the survey forms together with the informants. They used a multiple choice survey containing 30 questions, most of which required a single response, some multiple responses and three or four questions were open-ended. Survey forms for editors and journalists addressed the same topics, but we made some adjustments to adapt to the different nature of their respective work and working conditions.

The definition of conflict reporting chosen for the present study was outlined on the first page of the survey form as *reporting on armed or violent social conflict*. It further clarified that “we aim to include answers related to *both armed conflict and organized crime*”. For safety reasons, the identities of respondents have been protected and kept confidential.

About the informants:

Media platforms represented by the 100 informants, journalists as well as editors, were as follows: News – print and Internet (39); television/video (21); radio (18); several platforms (15); photo (3); digital (1); other (3). The total number of editors and journalists responding was 100.

All of the 27 editors were leaders of media outlets or sections covering war and conflict and many had years of experience covering war and conflict themselves. They categorized themselves as editor-in-chief (10); editorial leader of a section or department (15); administrative leader (1), and other (1).

Of the 73 journalists, only 14 are freelancers or journalists employed on temporary contracts, while the rest are staff reporters with full-time employment. The survey form also registered years of experience and number of times covering conflict. Regarding experience as a conflict reporter, 27 of the journalists had more than fifteen years, 40 had five to fifteen years, and 6 fewer than five years. As to the number of times covering conflict, and to the extent that is measurable in numbers, about half of them (32) reported having covered conflict more than twenty times, while 4 reported not having covered conflict at all, despite the fact that the study set out to specifically reach informants with such experience.

Reduced security and fewer first-hand observations from conflict zones

One of the trends seen in the answers from both journalists and editors is that editorial managements have become more reluctant to send reporters to conflict zones (Høiby and Ottosen 2015). Moreover, if the decision is made to send them, they prefer having reporters there for a shorter time period and bringing them home as soon as they ‘have the story’. This may have an effect on journalism practice in conflict reporting, with more production of on-the-spot news and increased use of footage sent by wire and from second-hand sources.

Many of the journalists and editors interviewed said that one or two weeks at a time is the ideal length of time to spend in a conflict zone, but they gave slightly different reasons for this. While the journalists focused on planning

the assignment, having enough resources and taking safety precautions, the leaders added that they wished to protect the psychological wellbeing of their journalists and that spending more than two weeks in a tense area was likely to affect their mental strength and focus. They also emphasized that their employees needed adequate time to rest in between risky assignments. One Norwegian correspondent put it like this: “as long as you go quickly in and get out fast, and you have good contacts and a well-planned stay, the risk is considerably lower”.

Local and international freelancers are especially vulnerable to risks and dangers. As explained by an international freelancer based in the Middle East: “The local freelancers suffer the most; they take the highest risks, many are untrained and unequipped, they barely get paid, and they don’t even get the by-lines”. When they are young and/or inexperienced as well, this combination can constitute a death trap. Some informants told stories of local freelancers who started out as ‘fixers’ and ended up selling their stories to big international news houses. A few of them, after some time, got a contract for more permanent employment. While these cases are probably exceptions to the rule, the opportunities are there for those who are willing to take the risk – for as long as they manage to survive. The vulnerable situation for freelancers was summed up by one of the correspondents: “If you find yourself next to a freelancer [in the field], you know that you have gone too far”.

The survey incorporated a follow-up question to map additional issues that might affect decisions. The answers show that while security is the main editorial concern, economic aspects are also a part of editorial awareness. On the other hand, some editors said that although they were dealing with constantly tightening budgets, conflict coverage was not necessarily the most affected field of work. To take Norway as an example, despite the higher costs of production from the battlefield, two out of three Norwegian editorial leaders interviewed for the study said that international news is a priority. However, the recent targeting of journalists in the Ukraine conflict as well as Gaza, Syria and Iraq makes it difficult to access first-hand sources and observations.

The editors in several countries, across continents, also mentioned that the availability of pictures through the wires (e.g., AP, AFP, Reuters) makes it feasible to cover conflict without having to send one’s own journalists to the frontline. As stated by one of the editors, “... [With] the availability of wire services, it became more convenient for local media to get news, rather than engaging their own reporters to cover in conflict areas. We no longer cover wars like in Syria or Iraq”.

Another editor echoed this and gave the example of the danger of going to The Central African Republic. He said that coverage from such areas often relied on pictures and footage supplied by local or unknown photographers. The visuals are distributed by the wires and accompanied by a summary

of multiple online news sources (second-hand information). He added that they could not always determine whether the pictures or footage presented were genuine. According to the same source, the best way to behave ethically in such cases was to be explicit about these uncertainties in the published piece. Unfortunately, this kind of news production can easily create insecurity and, at worst, contribute to propaganda for countries at war (Nohrstedt and Ottosen 2014).

Issues related to finance and security also *interconnect* in many of the statements from the editors. Having the budget to cover safety gear, insurance and safe transport and accommodation is of concern to the editors. The following statement from an editor is an example of how these issues (often unintentionally) intertwine:

The desk has become more cautious. Many are willing to cover, but there are so many ifs and buts, particularly on the safety of reporters – their personal security. In fact, when you make a reporter cover something, it includes a lot of waivers.

Some of the informants pointed to the workload as another main challenge. The journalists may report for television, radio and the Internet in one day. One informant said that the workload had more than tripled in recent years. In particular, the interviews with television journalists revealed this; those who previously only reported for television now produced an additional piece for radio and yet another one for the web. The heavy workload had led to exhaustion and the pressure had become part of the daily routine. It may also pose a potential threat to security when standard routines are replaced with less well-planned shortcuts.

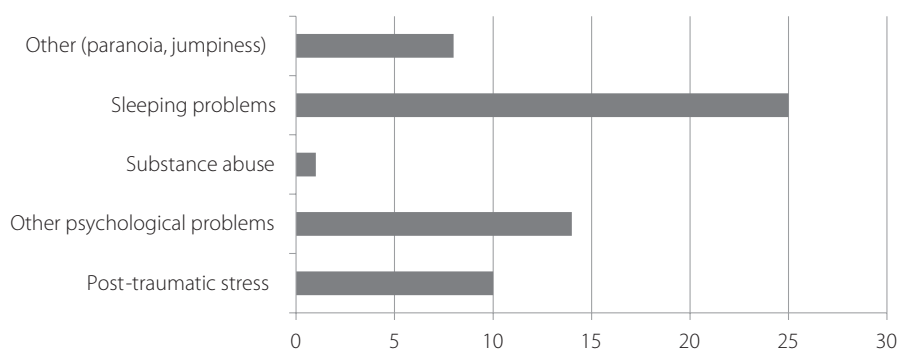
Aftereffects

As many as 33 of the 73 journalists interviewed for the study answered that they had experienced or were experiencing the aftereffects of work-related incidents. An equal number (33) answered, on the other hand, that they were not, and had not experienced such effects. The remaining seven did not know whether they had experienced aftereffects or not. There is uncertainty related to these findings, as the informants who had not undergone professional treatment to identify such issues may have found it more difficult to label the reactions they experienced. Several of the informants reported being overly 'aware', 'on guard' or 'alert' in situations where other people act recklessly. This is a reaction common in hypervigilance, a condition found in post-traumatic stress disorder (PTSD).

Sleeping problems were frequent among the journalists, although in most cases not immediately reported as an aftereffect of working in conflict areas. Some informants first answered 'no' when asked whether they were experi-

encing or had experienced aftereffects, but nevertheless marked one or two of the options on the list of aftereffects when the options were presented to them. This again indicates that it was difficult for them to recognize and label the issues that they might have been dealing with. The graph below illustrates the types of reactions the journalists reported experiencing. The horizontal axis shows the number of journalists who reported each value. Answers are overlapping; many have responded “several” and some of those answering “none” still indicate that they were bothered by emotional reactions that contradict their initial answer.

Figure 1. Types of reactions among journalists (number)



Although many journalists stated that they preferred to deal with traumatic experiences in the company of colleagues, and ‘over drinks’, only one reported using substance abuse – in this case alcohol – to deal with trauma. Many journalists said that receiving death threats was something they were used to – although they were more affected when their families were threatened, especially if they had to take longer periods of time away from their spouse and/or children.

Security routines and measures

To map the safety measures, i.e., the equipment and training provided to the journalists, the survey contained a question with a checklist on which a number of alternatives were given. The informants were asked to mark all of the applicable alternatives. The option ‘none’ was not given. Still, 30 out of the 100 informants (30 per cent) added ‘none’ to the survey form as their only answer. In general, the results show that such measures are scarce, and the answers given by journalists are for the most part consistent with those of the editors.

The majority of the informants had not received first aid training or training for working in conflict zones. Nigeria, Tunisia and Nicaragua rated significantly lower on this issue than the other countries did, and Uganda and Nepal slightly lower. Of all the journalists interviewed from Uganda, Tunisia, Nigeria, Nepal and Nicaragua – in total 54 journalist informants – only five had received practical training (a security course) and only five were covered by insurance. Altogether, 44 of these journalists had neither – and none had both.

The journalists’ and editors’ own reporting of security training and access to equipment is shown in the next graph. The horizontal axis gives the number of informants reporting each value, out of the total of 100 informants.

Figure 2. Journalists’ and editors’ own reporting of security training and access to equipment (number)



Norway and the Philippines come out as the two countries with the best routines for preparation and security in this survey. It is worth noting, however, the potential methodological impact of the fact that the Filipino and Norwegian journalists report longer work experience in their work than did the informants from the other countries in the survey. Given their experience in the field, they are more likely to be attached to international media houses with larger budgets and more advanced security routines than are the other informants. Those with more experience are often the ones best trained and equipped in relation to safety.

Conclusions

Based on the experience of the one hundred journalists and editors we consulted, it is evident that the past five years have changed their working envi-

ronment significantly and for the worse in relation to security. The immediate result of this is reluctance to produce and publish information from conflict zones or to pursue high-risk assignments in regions affected by political tension. Self-censorship is common among journalists and editors who are particularly vulnerable in their local setting. Reduced security also implies a substantial increase in administration costs for coverage from wars and conflicts worldwide. Altogether, the present findings point towards a threatened press freedom that leads to degraded quality, and perhaps quantity, of information from contemporary wars and conflicts, and their impacts on civil society both at the local and the international level.

Many journalists are suffering from the aftereffects of experiences from work, and the means for safeguarding their mental and physical wellbeing are deficient. Some express a feeling that their vulnerability is being neglected, and hesitate about demanding support from the management because they feel pressured to 'be suitable' for handling the job. The long-lasting status and subsequent competition within war and conflict reporting still engender a climate in which exposure to physical and psychological reactions is discouraged.

Essential training and protective gear are generally scarce, and it may be that the field of war and conflict journalism is gradually becoming less attractive due to the potentially high costs – economically and personally – of pursuing the risky assignments. In other words, it remains to be seen how this may affect recruitment to this branch of the profession in the future. As for the coverage, a trend towards increased use of second-hand information through wires is evident. Sometimes, this information is difficult to interpret and provided by unknown sources. In the end, such a degradation in the quality of information provided to society should be of considerable concern to all of us.

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Ethical Dilemmas, Guilt and Posttraumatic Stress in News Journalists

Klas Backholm & Trond Idås

Abstract

Most news journalists will work with a potentially traumatic assignment (PTA) at some point during their careers. For some, exposure to trauma in one's line of work will cause negative psychological reactions, and in the worst case have a long-term impact on the journalist's wellbeing. In this chapter, the concept of ethical dilemmas is presented. Ethical dilemmas constitute a group of risk factors for posttraumatic stress disorder (PTSD) that are especially relevant for news journalists. They reflect situations during a PTA in which a journalist experiences inner conflicts between behaving like a good human being and behaving like a professional journalist. Research on how ethical dilemmas affect post-assignment guilt and PTSD severity in Nordic journalist samples is presented and discussed, as are best practices for preventing such dilemmas.

Keywords: ethical dilemmas, journalism ethics, occupational health, posttraumatic stress disorder (PTSD), work-related guilt

Introduction

Carrying out journalistic work during a crisis is demanding. News journalists have a mission to collect information and tell the story of the unfolding event to the public, and they are expected to do so within a strict timeframe. In addition, journalists need to carefully follow ethical gold standards in their work to avoid causing additional distress to those directly affected by the event. The research carried out among Nordic journalists covering three crisis scenarios of different types (the tsunami in Asia in 2004, the school shootings in Finland in 2007-2008, and the terror attack in Norway in 2011) has shown that some journalists experience ethical dilemmas between behaving like empathic human beings, on the one hand, and carrying out their assignment, on the other. In this chapter, the current knowledge about underlying causes for such dilemmas is presented. Also discussed is the research focusing on the possible effects of dilemmas on the development of severe long-term psycho-

logical impairment that may affect a journalist's ability to work and maintain social networks. Practical implications of the research for media organizations are considered at the end of the chapter.

Journalistic assignments and posttraumatic stress

Most news journalists do not work on a daily basis with crisis-related assignments, i.e., what researchers often refer to as potentially traumatic assignments (PTAs). Their work rather consists of covering various types of events and developments of relevance to the audience. However, an overview of studies (Smith, Newman and Drevo 2015) shows that 80-100 per cent of journalists will work with a PTA at some point during their careers, including those working with domestic news. Although no reviews of the situation in the Nordic context exist, it is likely that a fairly similar level of exposure can be found among Nordic journalists as well.

PTAs for journalists may include regional or large-scale events, ranging from, e.g., motor vehicle accidents and crime to conflict zones. Events may include direct exposure, as well as repetitive indirect exposure in the form of, e.g., editing video feeds or pictures from crisis scenes (American Psychiatric Association 2013). As a consequence of exposure to PTAs, some news journalists will be at risk of developing various forms of long-term psychological impairment, such as posttraumatic stress disorder (PTSD), depressive symptoms or disorders, or other forms of anxiety-related problems (Aoki, Malcolm, Yamaguchi, Thornicroft, and Henderson 2013; Backholm in press).

Measurements of PTSD have been included in a majority of the studies with journalist samples. PTSD disorder symptoms include ongoing involuntary overwhelming recollections of the event, and physiological hyperarousal reflecting a readiness to react quickly to possible new threats. The individual develops strategies to avoid situations or people that may trigger recollections of the event, as well as consistent and negative cognitions of the world (*"the city streets are dangerous"*) or oneself (*"I'm worthless since I can't handle my emotions"*) as a result of the anxiety caused by the trauma (American Psychiatric Association 2013). Attempts to reduce this anxiety by self-medicating with alcohol or other drugs may also lead to substance misuse (Smith et al. 2015).

Our knowledge about how common PTSD is among journalists is limited. Studies have shown that between 0 and 44 per cent of participants have reported impairment severe enough to fulfil PTSD criteria (Aoki et al. 2013; Smith et al. 2015). The nature of the included assignments is one possible explanation for why the figures vary considerably across studies. If samples working in war or conflict zones are excluded, PTSD rates end up being between 0 and 13 per cent. For comparison, overviews on PTSD prevalence

rates from the general population in Europe and North America have typically included figures between 1 and 9 per cent (American Psychiatric Association 2013; Blanco 2011; Kilpatrick et al. 2013). In our studies on Finnish and Norwegian news journalists covering three cases of large-scale PTAs with a strong national impact (the tsunami in Asia, the Jokela school shooting in Finland, and the terror attack in Norway), between 7 and 14 per cent of the samples were considered to have probable PTSD (Backholm and Björkqvist 2012; Backholm and Idås 2013; Idås 2013; Idås 2014). It should be noted that these figures only included journalists with probable full-blown PTSD, not those with partial symptoms.

Ethical dilemmas increase risk of PTSD

In other words, some journalists will be at risk of developing severe psychological impairment as a result of carrying out their work. But what factors might increase the risk of developing long-term problems after a PTA? Naturally, journalists react as any other human would. Thus, the risk factors for PTSD found in research on non-journalist samples, such as experiencing strong feelings of fear/distress or witnessing grotesque details during the crisis, apply to journalists as well. These factors will not be reviewed in further detail here, and the reader is referred to overviews by, e.g., Brewin, Andrews and Valentine (2000) or Ozer, Best, Lipsey and Weiss (2003) for more information.

In addition to universal factors, journalists' work tasks while covering a crisis create a set of occupation-specific risk factors for PTSD and other forms of trauma-related anxiety. Such factors include, e.g., having limited work experience as a journalist, more everyday stress in the workplace, or being frequently exposed to unedited video footage of the event (see Smith et al., 2015, or Backholm, in press, for extensive overviews on the topic).

One occupational risk factor group that we find especially intriguing and relevant for journalists concerns ethical dilemmas. The concept is relatively new in research within the field, and it reflects situations during an ongoing assignment where a journalist experiences inner conflicts between behaving like a good human being and working like a professional journalist. The journalist feels discomfort over having gone beyond the individual threshold of acceptable behaviour in the line of work, and over possibly having caused additional harm in first-hand victims as a consequence of this behaviour (Backholm and Idås 2015; Browne, Evangeli, and Greenberg 2012).

Several general subtypes of ethical dilemmas were extracted from our interviews with journalists covering the Asian tsunami in 2004 and the Finnish school shootings in 2007-2008 (Backholm 2012; Idås 2013). The subtypes, here formulated as general statements, were the following (Backholm and Idås 2015):

- (a) *Dilemmas due to the journalist's uncertainty about journalistic crisis-related ethical rules of conduct*
- (b) *Dilemmas due to the journalist feeling obliged to carry out tasks that went against personal values*
- (c) *Dilemmas due to situations caused by factors that the journalist could not plan for or that were beyond the journalist's control*

For example, while covering the school shootings, a journalist in group (b) felt discomfort because he had been ordered by his superior to not return from the scene without *"pictures of someone crying"*. A journalist in group (c) described visiting the home of the parents of a pupil in the affected school to ask for permission to interview their child, and finding out after the visit that the child was actually one of the victims (Backholm 2012).

During the ongoing coverage, the dilemmas described in the studies seemed to disrupt the journalist's so-called professional shield (i.e., the ability to shut off the emotional impact of a PTA and carry out one's work tasks; Idås 2013). Dilemmas allowed emotions to surface, and in some cases involved feelings of being at least momentarily *"paralyzed"* or *"incapable of getting anything done"*. In our studies, dilemmas also increased the severity of post-traumatic stress symptoms (Idås 2013) or subjectively described forms of post-assignment distress such as anxiety or anger (Backholm 2012) after the PTA was over.

In a subsequent study on how Norwegian journalists covered the terror attack in 2011, the possible effects of dilemmas on posttraumatic stress were studied in more detail (Backholm and Idås 2015). In addition, referring to the research on first-hand trauma victims, which has shown that the feeling of guilt for one's actions during a crisis may add to the severity of posttraumatic stress symptoms (Kubany and Watson 2003), we investigated whether journalists who felt post-assignment guilt due to ethical dilemmas would experience more PTSD-related impairment. Survey data from approximately 350 news journalists were collected nine months after the terror attack. Perhaps not surprisingly, those who experienced more ethical dilemmas as well as more work-related guilt afterwards had also developed more severe posttraumatic stress symptoms (Backholm and Idås 2015). To our knowledge, these studies are the first to investigate journalistic ethical dilemmas and subsequent work-related guilt as risk factors for PTSD in journalists. In years to come, more studies and a better understanding of the nature of ethical dilemmas are needed.

Conclusions and future directions

Most news journalists will work with a potentially traumatic assignment (PTA) at some point during their careers. As stated above, during a PTA, a journalist may for various reasons experience discomfort due to an experienced dilemma between behaving like a professional media worker and behaving like a respectful human being. It is important to be aware of the possible effects of ethical dilemmas on the development of long-term psychological impairment such as PTSD, and media organizations should include this topic in their occupational health strategies. As ethical dilemmas often seem to involve (a) insecurity about how to carry out crisis journalism or (b) feeling forced by one's superiors to, in the heat of the moment, carry out tasks that go against one's personal values, they can largely be prevented. Media organizations need to implement norms and guidelines that focus explicitly on how their employees should carry out crisis-related work, instead of leaving it up to employees to apply general ethical guidelines to crisis-related assignments. General sets of national gold standards, e.g. the Code of Ethics for the Press in the Nordic countries, or guidelines provided by international non-profit organizations such as the Dart Center for Journalism and Trauma (www.dart-center.org), may be used as a starting point, and modified in accordance with regulations and expectations relevant to the specific media organization. Ensuring the physical and psychological safety of working journalists should not be limited to guaranteeing the safety of employees working in conflict zones, but rather be seen as an important health issue for every journalist, in any media organization.

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The issues raised by today's global and multicultural societies are complex, and it is urgent for the research community to help improve our understanding of the current problems. Digitization and globalization have changed our communication systems in terms of time, space and social behaviour; they have resulted in a transformation of functions as well as management practices and the market by adding new types of transnational companies. The context of freedom of expression has shifted.

In 2009, Nordicom published *Freedom of Speech Abridged? Cultural, legal and philosophical challenges*, and a few years later *Freedom of Expression Revisited. Citizenship and journalism in the digital era*. The current publication may be seen as a follow-up to these earlier titles. It is based on research in the Nordic countries, but many of the studies are global in nature and the result of collaborations between researchers from many parts of the world. It is hoped that this collection will contribute to knowledge development in the field as well as to global and regional discussions about freedom of expression, press freedom, and communication rights in contemporary societies.

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