

Finland: High Season for Self-regulation

by

Kaarle Nordenstreng (<http://www.uta.fi/jour/laitos/nordenstreng.html>)

and Ari Heinonen (<http://www.uta.fi/%7Eari.a.heinonen/indexeng.html>)

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Constitutional grounds

In Finland we typically refer back to the long common history with Sweden. After all, Anders Chydenius, the representative of the clergy from Finnish Österbotten in the Diet of the Estates in the Kingdom of Sweden in 1765-66, was a central figure in drafting the constitutional amendment of 1766, which abolished censorship and provided full freedom of thought and expression to the citizens – one of the first of its kind in the world, well before the French Revolution and the American Bill of Rights. Actually in 2006 we all should celebrate the 240th anniversary of that historic move.

In line with that historical perspective, not broken by the replacement of Sweden by the Czarist Russia as Finland's colonizing power, the basic framework for media in today's independent Finland is still the constitutional safeguard of freedom of speech. The Constitution, revised by Parliament in 1999, stipulates in 12 § ("Freedom of expression and right of access to information"):

Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an Act.

The more detailed provisions concerning media, including journalism, are given in the "Act on the exercise of freedom of expression in mass media", passed by Parliament in 2003. Its guiding principle is that official interference with the activities of the media is permitted only when it is necessary in defense of other human rights, notably individual privacy, and general interest of society, but all proceedings must take due note of the importance of the freedom of expression in a democracy. The Act contains customary regulations for media including journalism, for example that the publisher must name a responsible editor for a publication, that individuals and organizations have a right to get false information corrected, and that the publisher has the right to keep their sources anonymous.

One of the main features of the new media law is that it covers all media regardless of technological basis whereas earlier there were separate laws for print and broadcast media. Thus the law puts traditional media like printed newspapers, and new media, like online publications on the same line. However, the law is driven by the traditional publisher ideology in that it regulates first and foremost institutional publications. Accordingly, the law defines web publication as a periodic publication created from materials collected by the publisher and targeted to the public at large. Individual web-pages and community discussion sites fall in the scope of the law only if the contents are clearly criminal. In addition, it has been surmised that even discussion forums of online newspapers do not fall within the regulation of this law as long as the publisher does not edit the messages in forums.¹

¹ More on the Finnish system of media regulation, see <http://www.hans-bredow-institut.de/forschung/recht/co-reg/reports/1/Finland.pdf>

Two pillars of self-regulation

Within this regulatory framework, self-regulation occupies naturally a central role. The main instruments of the Finnish system of self-regulation are the *code of professional ethics, Guidelines for Journalists* (in Finnish “Journalistin ohjeet”) and the *court of honor, Council for Mass Media* (in Finnish “Julkisen sanan neuvosto” meaning literally “Council of the public word”). The relationship of these two instruments is that the Guidelines are the basis for the Council’s adjudications. In other words, when the Council gets complaints from the public, it builds its decisions on the Guidelines.²

Although Finland is considered to be one of the first countries, next to Sweden, which have introduced professional codes for journalists, it was only in 1958 that the national Union of Journalists in Finland formally adopted the Guidelines. During these nearly 50 years the code has been revised twice, latest in 2004, but the topics covered have remained more or less the same: professional integrity, verification of information, ways of obtaining information, rectification and reply as well as the protection of reputation and private life.

However, the latest revision removed from the document an introductory paragraph which had been added there in the early 1980s: a general call for respect for human rights, peace, democracy and environment. Whereas such a commitment to universal values was considered part and parcel of an enlightened profession 25 years ago, it was now regarded too ideological for journalism. The only overall value remaining in the introduction is the idea of freedom of speech as “the foundation of a democratic society”.

The Finnish Council for Mass Media has now functioned nearly 40 years. The founding fathers in 1968 included journalists and publishers representing both print and electronic media. The reasons for which the Council was founded were articulated in a memorandum as follows: The media safeguard freedom of the dissemination of information as a precondition for their being able to fulfill their function in society. The media, however, do not own the freedom of information; it is the right of every member of society. As the media are keen to safeguard their freedom of expression, they must retain the confidence of society. Only a system created within the media's own circles can retain the trust of the public in the media and so strengthen the freedom of the media.

The composition of the Council since its inception has been tri-partite, with the publishers nominating one third of the members and the journalists' organizations nominating another third. The last third, representatives of the general public, are elected in the Council. Each category has three representatives but they do not operate as formal delegates of those parties which nominated them; they are supposed to make an independent assessment of issues on the basis of their own personal professional experience. In addition to the nine members from the three “parties”, the Council has a Chairman who is not directly involved in the media but is considered to represent the public interest in general. The present chairman is a widely respected former civil servant and politician.

The Council concerns the entire spectrum of mass communication, print as well as electronic media. Practically all the major publishers and journalists' associations are behind the Council, the latest arrivals in this being a new commercial television channel and an organization representing give-away newspapers. If a complaint should concern some form of media not included among these organizations it may still be processed if the editor-in-chief so agrees.

² For details, see http://www.jsn.fi/eng_default.asp also in English.

The decisions of the Council are largely based on the principles contained in the Guidelines for Journalists. The Council may moreover issue general statements and thereby further the principles of good journalistic practice. Indeed, the Council has issued several statements in principle which serve to amplify and specify the code. Separate statements, for example, have been given on issues like right of reply and of protection of private life and identity.

Each year some 130 complaints are received by the Council. The majority of these concern newspapers, but complaints regarding electronic media are on the increase. The largest category of complaints is those concerning protection of the individual, issues dealing with the protection of his/her honor or of sphere of the private life. Issues of the right to reply and accurate information constitute other major categories. Most of the complaints are decided in favor of the media. Only roughly 20-25% of the complaints lead to notices against media.

Whenever the Council considers that a medium has failed to uphold good journalistic practice, a condemnatory adjudication is given. Those media which support the Council are obliged to publish this adjudication and in such a way that no immediate comments are attached to it. The media have been loyal in their publishing of such adjudications. No financial sanctions are included.

The expenses of the Council are covered by the backing organizations. The Council also receives financial support from the State, amounting to about 50 % of the total expenses. However, there are absolutely no strings attached to this subvention.

Main questions of the debate

One reading of the topical issues of media ethics on the Finnish agenda – both professional, academic, political and public – can be read in a series of “Studia generalia” lectures delivered at the University of Tampere in autumn 2001.³ The five titles covered by the lectures give in a nutshell the Finnish agenda in the turn of the millennium: (1) Privacy vs. freedom of speech, (2) Otherness in the media, (3) Ethics as limit for competition?, (4) Ethics in the net, (5) Self or what regulation.

Here we shall follow a somewhat different logic by reviewing the Finnish debate, first focusing on four topics of the debate and at the end discussing the nature of journalism in relation to ethics.

Trust

The first feature in discussing media ethics in Finland is the fact that self-regulation of the media is by and large **appreciated by the general public**. In 1994 a survey of about 100 respondents showed that 60% knew at least something about the Council's activities, while one quarter recalled seeing decisions by the Council in the mass media. The degree of familiarity with an organization of this kind may be considered relatively good, although there is still room for improvement. Of those who had acquainted themselves with decisions made by the Council, over half considered that the decisions were good and justified, while over ten percent of respondents considered that they showed bias either towards the complainant or towards the media.

More important to media ethics, the instruments of self-regulation enjoy **solid support of the profession**. This is proved by two comparable studies among Finnish journalists. One was done in

³ The lectures were under title “Mediaetiikan kipupisteet” (in English “Pain points of media ethics”, Finnish originals published at <http://tampub.uta.fi/tiedotusoppi/951-44-5392-1.pdf>)

mid-1990s⁴ and another one in 2002. The studies reveal that Finnish journalists do appreciate the ethical system of their profession. In fact, the value of the different means of maintaining the ethical standards of journalism has increased in the minds of journalists in the ten year period between the two studies. Likewise, the support from the publishers' side is solid, as is proved by the extensive membership of the Council's support association.

Already at the beginning of the 1990s some 40% of journalists thought that the Guidelines often helped to solve practical problems in everyday work. During the ten years between the surveys, this opinion increased its acceptance: in the latter study, more than half of the journalists (52%) valued the code of conduct in this very practical respect. The journalists were also firmly of the opinion that the representatives of the public have an important role to play in the work of the Council.

A clear majority (91%) of Finnish journalists do not subscribe to the statement that the code is "unnecessary and more likely to be detrimental to journalists' work". Opinions are more divided on its relevance to everyday work: 43% think the code is important but not useful in practice. The number of those who feel that the code "often helps in the job" has increased from 42 % in 1994 to 51% in 2002. It is fair to conclude that Finnish journalists hardly look upon their Guidelines with indifference, let alone with hostility.

Asked to rank the clauses of their professional code in order of importance, the Finnish journalists more or less agreed that the top clause is the one which requires journalists to strive for truthful and essential communication. This was followed by the clauses saying that a journalist must respect human rights and democracy, that a journalist must not misuse his own position nor accept benefits which might compromise his independence, and that a journalist must repel attempts to influence journalism. At the bottom end of this list are those clauses which state that a journalist should recognize his or her responsibility for the natural environment and that textual advertising in all its forms is to be avoided. Also clauses on a right of reply and on using the work of another party were regarded relatively unimportant.

Finnish professional journalists take a serious interest also in the work and decisions of the Council. A great majority (84%) of journalists agree that the decisions of the Council are usually well-founded and accurate, while only 2% disagree. An institution like the Council could be easily criticized for its failure to pay sufficient attention to the practical demands of the profession, but in this case only 12% of the journalists (11% in 1994) in the country do so. The Council seems to serve as some kind of guide for practical journalism, for 65% of Finnish journalists say that the Council's decisions provide useful advice for everyday work. This number has increased from 55% in 1994. However, it is interesting that only 28% (30% in 1994) are of the opinion that a complaint is an indication of poor journalistic competence.

The results furthermore show that Finnish journalists clearly prefer the good journalistic practice to be defined by journalistic organizations and by individual journalists themselves. Majority (60%) have an opinion that the leadership and owners of the media are not proper definers of good practice. Journalists have various opinions whether or not the courts are proper institution to define what is good journalistic practice: one third (31%) agree that courts can have this role, while two fifths (43%) disagree. Interestingly, younger journalists agree more often that courts should have this kind of role.

⁴ Ari Heinonen: "The Finnish Journalist: Watchdog with a Conscience". In David Weaver (ed.), *The Global Journalist: News People Around the World*. Cresskill, NJ: Hampton Press, 1998, 90-161.

However, the concept of good journalistic practice may be changing. An increasing number of Finnish journalists (60% in 2002, 45% in 1994) say that they expect to see the observance of professional code of ethics become more lenient, while only small minority (10% in 2002, 15 % in 1994) expect to see stricter ethics in the future. Moreover, equal number of journalists expect to see a decline in the professional skills of Finnish journalists while in 1994 a great majority expected to see increase in professional skills. Great majority of journalists expect that the court processes on journalism will increase and that the pressures from the corporate ownership will increase. An increasing number of journalists expect the decline in the prestige of the journalistic work.

Regulation by law or self-regulation

The second major topic in recent debate on around media ethics is the **demarcation lines between judicial regulation and self-regulation**. The introduction of the newly revised Guidelines underlines that this code may not be used as a basis for adjudications in the court of law. This clause was added to the document, because in the beginning of this decade there had been a trend of lower courts to refer to the professional codes when dealing with media cases.

Particularly in a couple of cases, direct references were made to the Guidelines, and the courts based their verdicts against media partly on them stating that media has been guilty of violating its own standards. The adjudications ordered media to pay considerable compensations. Although these verdicts were by and large amended in the higher courts, the debate was a heated one. It was pointed out that courts of law can only base their adjudications on law, not on some voluntary guidelines of this or that profession. In the end, this view gained the upper hand in the debate. Nevertheless, the topic is still a touchy one, and we may not have seen the last developments as yet.

Clash of business interests and journalism ethics

The third major topic in the Finnish debates has two dimensions:

- Almost a traditional debate has been about **hidden advertising** or text-advertising in the media. This is about sales promotion of products and services covered as journalistic stories. In the present Guidelines it is stated that “Advertising and editorial material should be clearly separated. Hidden advertising must be avoided.” However, media owners often feel tempted to bend this rule in order to enhance revenues – this is a well-known universal phenomenon. Some years ago, regional journalists associations made a campaign of sending complaints of hidden advertising cases to the Council. Many of the complaints lead to notices against media. Even now the debate of the issue and cases of textual advertising is brought to attention of the profession in the pages of the Journalist Union’s magazine. Recent cases have been about “product placement” in television programs.

- Most recent debate concerning the **business interests** of the media and integrity of journalists surfaced only this year. The concrete issue that ignited the debate was a trip to New York that was organized by a clothing store-chain. Several journalists from Finland (and from Sweden) participated in the trip which was paid by the clothing company. The Council used its possibility to make statements and recommendations without specific complaints and it criticized the habit of accepting free trips pointing out that this practice may endanger the integrity of journalism. The Council’s statement got an angry response from some companies which are used to inviting journalists to travel at their expense. But more surprisingly, also some chief editors were unhappy with the Council’s statement. They said that each trip offer must and can be considered individually, and that some of the free trips are both necessary and useful, and that the Council over-reacted. The debate is continuing.

Changing nature of journalism

The fourth topic in the debate is new – while the previous three are more or less perennial. We can to a certain extent say that at the moment the conventional definitions of journalism are eroding.⁵ At least three developments seem to be taking place:

- Definitions of **who is a professional journalist** seem to be ever more complex. For instance, a number of Finnish celebrities have turned into talk-show hosts and often calling themselves journalists.
- With the Internet, the **public's journalism** is becoming more widespread. How can we (self-) regulate neighborhood newsblogs – or is it even necessary? Old ethical norms are not necessarily applicable to new situations.⁶
- The **revenue pressures** in media and journalistic work seem to be increasing all the time. How can we convince the shareholders that journalism has other functions besides making them rich, and that quality journalism is a clever business strategy?

Eternal questions

Generally speaking – and this has been another topic in the Finnish debate, although not so prominent – codes of ethics and other instruments of self-regulation of the media can be viewed from three angles. First, one may see them as positive vehicles of professionalization, as means of professional education and instruments of consciousness-raising. Second, one may take a negative look at them as mere rhetorical devices – as deliberate window dressing and camouflage or as manifestations of hypocrisy. Third, one may take them as real mechanisms of self-regulation – part and parcel of an overall system of media regulation in the sociological sense whereby everything in society is regulated at one level or another and nothing is absolutely free.

The first approach can be called naïve, the second cynical and the third realistic. We naturally represent the third view. But we do it without mystifying media and journalists. On the contrary, we believe that it is important for media scholars and educators to maintain a critical approach to the ideas of freedom and professionalism our field.

The field has a built-in tendency to become self-centred, enjoying the constitutional safeguards of freedom of expression and boosted by the current tendency of media having a central role in both political and popular culture. This media sexy world feeds among journalists a mentality of arrogant “fortress journalism” with an anti-intellectual response to media criticism and a ritualistic defence of journalists as guardians of truth. Such a mentality typically refers to instruments of media ethics and even Article 19 of the Universal Declaration of Human Rights, but this is more hypocritical defence than serious moral commitment. Such a mentality tends to forget what the founding fathers of the Finnish Council for the Media said: the media do not own the freedom of information – it is the right of everyone on society.

⁵ More on this in Ari Heinonen & Heikki Luostarinen: “Re-considering ‘Journalism’ for Journalism Research”. In Martin Löffelholz & Davir Weaver (eds.), *Global Journalism Research: Theories, Methods, Findings, Future*. Ames, IA: Blackwell Publishing, forthcoming.

⁶ Ari Heinonen: “Journalism Online – Ethics as Usual?” *Ethical Space*, 3/2004.

In this spirit it is important that media ethics is not only celebrated as a civilised means of keeping away from the bad state but that it is also seen as a potential risk for democracy. We should remain alert to the dilemma of professionalism: both good technical competence and bad expertise which refrains citizens from their democratic rights. It is essential to discuss also civic or public journalism and in general to broaden the treatment of ethics to the level of society at large – in today's globalized world, indeed humanity at large.

We have used here the term “media ethics” in a vague and general sense as is customary in professional and academic circles. Its most general meaning is the *overall value foundation of media content* or the *normative orientation of the media*. This can refer to both the *actual* media performance and to the *intended* media performance. In such a general sense it is logical that media ethics is part and parcel of the media-society relationship. As soon as we talk about the role and mission of media in society, we also face the issues of media ethics. Accordingly, a natural meaning of the term ethics in this context is simply self-regulation of the media.

Our preferred use of the term is what is typically suggested in the Anglo-American tradition, whereby the term “ethics” refers to the *basic principles about how to define good and bad media performance*, rather than to its actual practice. However, in everyday discussion ethics is often used to mean exactly the opposite: concrete behaviour of journalists and media. Still, we consider it vital that media scholars and educators distinguish between these aspects and try to be consistent in their use of terms. In point of fact, our university encourages students of journalism and media practice to study the basics of philosophy to be conceptually equipped to understand various aspects of media ethics.