Positive free speech and the Media Welfare State

The presentation is based on the book The Media Welfare State: Nordic Media in the Digital Age, and subsequent work by the authors: Trine Syvertsen (prof. Univ. of Oslo), Gunn Enli (prof. Univ. of Oslo), Ole J. Mjøs (associate prof. Univ. of Bergen) and Hallvard Moe (prof. Univ. of Bergen).

The book can be read online at:

http://www.press.umich.edu/6943059/media_welfare_state

Introduction

In this note, we explore the constitutive role of the state regarding the question of positive free speech in the Nordic countries. The starting point is the concept of a ‘Media Welfare State’ (Syvertsen et al 2014); a tentative term intended to contribute to a broader discussion of media-state relations in the region. The concept’s theoretical foundation is the analogy between welfare state systems and the systems of media and communication, particularly the way that the ‘statism’ of the Nordic countries impact on different forms of social and economic organization and life. The Nordic countries include the states of Norway, Sweden, Denmark, Finland, and Iceland, of which the first three are referred to as Scandinavia.

Historically, the state has played a strong and leading role in the region’s countries; the state intervened in media and communication systems in the same way as it has intervened in almost all other aspects of human life. Yet, despite the strong ‘statism’ that characterize the region, and also a long history of authoritarianism and absolutism, there is less direct state influence over content than in many other countries and regions. Indeed, the Nordic region has a comparatively strong tradition of press freedom (Hallin and Mancini 2004, 145, Syvertsen et al 2014, chapter 3), and tend to cluster at the top of comparative rankings (see Reporters Without Borders Indexes 2002-2015). In 2015, the World Press Freedom Index places Finland, Norway and Denmark in the top three and Sweden in 5th place.¹

¹ Note that Iceland have been ranked 1st from 2002 to 2009, but has dropped 21st place in 2015. Iceland’s drop is explained by the “worsening relations between politicians and media” since the financial crisis in 2008, that hit the Icelandic economy particularly hard (Reporters Without Borders Index, 2015). In the Nordic region, as elsewhere, the level of press freedom is not a given, but needs to be maintained, defended and protected from interference.
In this note, the point is to explore aspects of ‘the media welfare state’ that may be relevant to a discussion of positive free speech. Rather than seeing the legacy of an authoritarian state as the most relevant aspect of ‘statism’ in the media today, we would argue, it is the context of the welfare state which provides the most fruitful framework for analysis. The framework of a ‘Media Welfare State’ is relevant both for press freedom as a negative freedom, i.e. freedom from interference, and press freedom as a positive freedom. In our book *The Media Welfare State: Nordic Media in the Digital Era* (2014) we frame the discussion of welfare state principles in the media in terms of four principles or pillars that include both reactive and proactive elements. These are: Universal and egalitarian communication services, freedom from editorial interference, a cultural policy that extends to the media, and a preference for solutions that are durable and involve cooperation between all main stakeholders (Syvertsen et al 2014, ch. 1).

In this note we first introduce the Nordic countries and the particular form of ‘statism’ that characterize the region. Then we point to some aspects of our work on Nordic media and the ‘Media Welfare State’ that may be particularly relevant for a discussion of positive free speech: The organization of universal communication services, direct and indirect press subsidy, and the idea of a Nordic ‘information culture’. As a final example, we point to the relatively recent changes in the Norwegian constitution (2004) obligating the state to facilitate an open, inclusive and enlightened public discussion. [In a separate contribution, prof. Gunn Enli will discuss the role of public service broadcasting, also with reference to ‘the media welfare state’.]

**“Statism” in the Nordic countries**

A defining characteristic of the welfare state is often seen as ‘stateness’: a persistent feature in which the relationship between the state and the people is “a close and positive one” and where the state is perceived as “as an agency through which society can be reformed” (Alestalo, Hort, and Kuhnle 2009, 3; also Korpi 1978, 48).

The roots of “statism” go back to the modernization process and the formative years of the Nordic states. In fact, Hilson points out that: “Despite differences (...) in the Nordic paths to statehood and parliamentary democracy, there were also some important similarities between the Nordic countries.” A key point is that: “the Nordic path to parliamentary democracy was, with the partial exception of Finland, remarkably peaceful” (2008: 32). While the Scandinavian countries were not untouched by the revolutionary waves in the late 1700s, parts of the first half of the 1800s and the early 1900s, the social and political demands of the emerging groups in society were met through a range of “political compromises and reforms” (2008, 33). In the Nordic
countries: “the state helped to guarantee its own survival by carrying out social, economic and political reforms from above. (...) This helped to foster a view of the state as a benign institution capable of action in the best interest of society” (2008, 33).

The historical developments help to explain the commonalities and unifying traits across the region – including why the Nordic democracies have come to lie close to the so-called “consensus democracy” model (Lijphart, 1968 quoted in Jónsson, 2014, 513). This is ideal type of democracy that emphasizes that “all those who are affected by a political decision should have the chance to participate in that decision. As consensus democracy tends to seek inclusiveness, negotiations and compromises it has also been called negotiation democracy” (2014, 513). However, we need to acknowledge how differences in the historical developments of particularly Iceland and Finland set them, to some extent, apart from the Scandinavian countries.

Although Iceland is considered “as a part of the Nordic family of political systems, where non-violence, respect for the rule of law and orderly political practice have prevailed” and the country’s politics share many of the “important consensual traits and share many structural and cultural features with the other Nordic countries”, the polarization within Icelandic politics and institutional practices throughout the 20th century “support the view that Icelandic democracy is better characterized as adversarial than consensual in style and practice” (Jónsson, 2014: 511). Furthermore, in contrast to the other Nordic countries neoliberal thought and ideology have had a strong influence in Iceland (Mjøset 2011, 411). As for Finland, Hilson argues that: “the notion of a path to modernity characterized by peaceful political evolution does not apply to Finland, which experienced a violent civil war in 1918. These differences have resulted in variations in the constitutional arrangements of the Nordic countries, with, for example the presidential system in Finland contrasted with a greater role for parliament elsewhere” (2008: 27).

Despite such differences, in practice there is a strong tradition for political, cultural, and economic cooperation between the Nordic countries. This can partly explained by the integration of the region over centuries; for more than a century, the entire Nordic region was united in a single monarchy: the Kalmar Union (1397–1523), and since then the countries have formed unions in various combinations.2 Since 1917, the four larger countries have all been sovereign states, whereas Iceland, despite being recognized as a sovereign state in 1918, did not achieve full

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2 The geographical era known as Finland had been part of Sweden from before the Kalmar-union and remained so until 1809, but was incorporated into the Russian empire from 1809 to 1917. While the Union between Denmark and Norway (which also included Iceland) from 1536 to 1814 was followed by a union between Sweden and Norway (1814-1905). Iceland was ruled by the Danish monarch also throughout the 1900s, and Denmark and Iceland formed a union as late as from 1918 to 1944.
independence from Denmark until 1944. Yet, cooperation continued from late 1800s (Hemstad, 2008), and throughout the 2000s, as illustrated by the Nordic Council for interparliamentarian collaboration, established in 1952, and the Council of Nordic Ministers, established in 1971. A passport union, a common labor market and reciprocal social security benefits for Nordic citizens across the region has been in place since the 1950s.

The shared political, social, and economic characteristics are often grouped together in what has become known as a Nordic model of society. In comparative studies of welfare states, it is pointed out how the Nordic countries constitute a distinct type:

The Nordic countries tend to create a cluster of their own along many dimensions. Other European countries (notably the Netherlands and Austria) are often similar in certain respects, but in no important respect do we see an outlier among the Nordics. (Andersen et al. 2007: 14)

Our tentative argument is that there are profound similarities between the socio-economic features of the Nordic welfare states on the one hand, and the cultural and informational features on the other. In the same way as with other social systems, the state has in the media and communication sector, contributed as a driver of change through mutual media policy formation in the region. The Nordic media systems are governed by similar policy solutions and shared media policy instruments such as an adherence to universal access to media, information and communication, the various forms of state press support measures and a remarkably high level of press freedom. These policy solutions have been partly developed through collaboration across the region (Ottosen, 2010; Syvertsen et al. 2014; Rinde 2005). Moreover, the media policy regimes in the Nordic countries is characterised by similar principles of consesus and co-operation. Generally, at each crucial moment in media history, the dominant pattern in the Nordic countries has been an inclination for consensual and cooperative policies, rather than clean-cut statist or market-led solutions in which the state is central. For this reason, a key element of the 'Media Welfare State’ is: “A preference for consensual solutions that are durable and involve cooperation between main stakeholders: the state, communication industries and the public” (Syvertsen et al., 2014, 17).

Following this introduction, we point to a few aspects of our work which may be particularly relevant to a discussion of positive free speech.

**Universal communication services**

Universalism is often identified as the key feature that distinguishes the Nordic welfare states from other welfare state models (e.g. Esping-Andersen 1990, 27). The principle of universalism
implies that welfare state provisions include all, rather than being attached to class or status or serving as a minimalist safety net for the poor. Universal services are in no way specific to Nordic societies, but the principle has to a greater degree overridden other priorities.

Universalism is also a key element of Nordic media and communications history and policy. Both communication and educational services were, from early on, organized with a view to universality. Towards the end of the 17th century, Sweden was a pioneer in that it required literacy of all its citizens, although not writing literacy (Fang 2015, ebook section “A growing literacy”). In the 19th century, educational and communication services were set up as public services in all Nordic countries. To reach the whole country was an overarching goal in political discussions of the telegraph and telephone; unequal access to communication infrastructure was considered a political problem (Rinde 2005). In the 20th century, both radio and television were instituted as public monopolies with strong obligations towards universality, and although the public communication monopolies were all abandoned in the 1980s and 1990s, a strong obligation toward universal services continue to characterize media and communication networks and policies into the 21st century (Syvertsen et al. ch. 4). In the 21st century, both public investment in infrastructures and ambitious universal service obligations have been among the explanations for the Nordic countries high penetration of Internet and broadband coverage (Syvertsen et al, 2014, ch. 2).

Based on the same ideology, media policy was from the beginning conceived as a form of cultural policy, where the aim was to educate and inform the citizen and foster democratic participation. This was part of the historical compromise between the labour movement, regional movements, and the bourgeoisie which in the 1900s laid the foundations for the welfare state - and also for a common cultural policy. The citizens should not only be informed, but able and motivated to take an active part in both political and cultural activities. “With the welfare state as a regulatory and mediating player, citizens were to be educated as valuable, fully mature members of society with the ability to take responsibility for their lives on an individual as well as collective basis.” (Duelund 2003, 488).

The idea that the media are cultural institutions, important for the well-being and democratic participation of citizens, combined with the principle of universal access, has tallied with a media user pattern characterized by commonality and egalitarianism. Although class and gender differences do exist, the media user patterns of the Nordic countries stand out as comparatively egalitarian, the degree of cultural and political polarization has been low, and the interest in informational and cultural content has been comparatively high (Syvertsen et al 2014, chapter 2).
**Direct and indirect press subsidy**

The second aspect with relevance to the discussion of positive press freedom is the Nordic countries’ system of press subsidy. The press subsidy system emerged in the 1960s and 1970s, as a response to so-called “newspaper deaths” in the region, and is another example of state intervention to secure pluralism and diversity.

In wake of the gradual decline of the party newspaper system, in which the alignment between newspapers and political parties were formal and strong (opinion-wise and financially), the increased marketization of the sector led to enhanced competition, and by the mid-1960s and 1970s, particularly the number two or second-largest newspapers were hit hard financially (e.g., Tommila and Salokangas 2000 for Finland; Jensen 1997, 24ff for Denmark; Gustafsson and Ryden, 2010: 278 for Sweden: see also chapter 3). Some also point to the competition from television that was introduced and rapidly popularized (Bastiansen and Dahl, 2003: 425 for Norway).

Following the decline in the press sector, political parties and the press expressed concern for the diversity of views and opinions within the press and the reduced access to journalistic diversity and pluralism within the populations. In the debate on how to address the situation, both the state and the press took part - also in regards to the government’s suggestion of the positive policy solution of state subsidies. While some feared that such measures would impede on press freedom, the Norwegian authorities introduced a state support program for newspapers (usually the second-largest newspaper) to foster diversity both of political opinions and geographically. Sweden, Finland, and Denmark followed, and all implemented various forms of support for the press in the late 1960s and early 1970s. While Norway and Sweden offer direct support to selected newspapers, the representatives of the press, supported by a political majority, have rejected similar proposals in Denmark. In Finland, the majority of the subsidy has been channeled into reducing the cost of postal delivery (Herkman 2009, 77; also Tommila and Salokangas 2000, 212ff; Bastiansen and Dahl, 2003; Gustafsson and Ryden, 2010: 278).

While changes has been made to the press support regimes, including reductions in funding in some countries, around 40 years after the implementation of various forms and measures of press support, the system remains an important part of the press system to uphold newspaper diversity in the region. By 2009, newspaper publishers in Norway and Sweden receive funding directly from the State, while in Finland press support is distributed via political parties. In Denmark, there is press support for distribution as well as for new newspaper projects.

In the Nordic countries the VAT on newspapers are either lower than the usual percentage (Sweden and Iceland), or newspapers are completely tax-exempt (Denmark, Norway and for subscriptions in Finland). In total, newspaper subsidies comprised 3 percent of total revenue in
Sweden, 2 percent in Norway, 1 percent in Finland, and 3 percent in Denmark (Nordicom 2009: 135). While similar press support systems exist in several other European countries, in 2010, the Nordic countries, together with Austria, France, and the Netherlands, were found to have the most efficient system for publicly supported newspapers (Lund, Raeymaeckers, and Trappel 2011).

**Nordic information cultures**

Any study of media and communication systems today needs to take Internet and digital media into account. How digital media is perceived by citizens and policy makers depend on the legacy of previous media and communication services, how they are defined and organized.

In her study of how the Internet has been encouraged and implemented in different countries, Ursula Maier-Rabler (2008) sketches four ideal types of “information cultures”: Catholic-feudalistic, Protestant-enlightened, socialist-centralistic, and socio-democratic. The socio-democratic information culture characterizes the Nordic countries and parts of the Benelux area. The key value distinguishing the social democratic type from the three other cultures is that “information is a precondition for the political emancipation of the individual” (2008, 58). Although parts of the Benelux area are included in the social democratic type, Maier-Rabler allocates the Nordic countries a special place: “Because of their liberal tradition, Scandinavia has the most advanced constitutional framework delineating the free access to information” (Maier-Rabler 2008, 58; see also Syvertsen et al 2014, chapter 2).

In the socio-democratic culture that characterizes the Nordic countries, Maier-Rabler states that “access to information is a basic right and is seen as a condition for the public control of government” (2008, 58). This contrasts with the three other information cultures: Catholic-feudalistic, Protestant-enlightened, and socialist-centralistic. In contrast to countries with a Catholic-feudalistic tradition, for example, where there is no general right to acquire information, the information rights of the individual occupy the heart of regulatory provision in the socio-democratic system. Universal access to the Internet is a priority on par with access to information generally.

In our discussion of the Nordic Model in *The Media Welfare State* (chap. 1), we refer to the historically strong state influence, whereby the state played a part as both a proprietor and operator of the communication infrastructure. In recent decades, this role has changed with the overall liberalization and marketization of communication, and the state has become less of a proprietor and more of a regulator. Although the role of the state has changed, the overarching policy goal of high quality universal services remain in the digital era, and regulatory authorities
play a part in securing efficient services and defining minimum standards for consumers (Skogerbø and Storsul 2003).

Such minimum standards have in many instances been set higher in the Nordic countries than elsewhere. In her comparison between Irish, Danish, and Norwegian telecommunication policy after the liberalization in the 1990s, Storsul shows that the two Nordic countries—in tune with their “welfare state legacies and political cultures”—chose a broader scope for their universal service requirements (2008, 203). While universal service obligations elsewhere in Europe were predominantly focused on securing access to traditional (landline) telephones, Denmark and Norway also made provisions to secure universal access to digital networks (2008, 210).

Policies to secure universal access to advanced, and not just basic, services prevail throughout the region. In 2009, Finland made headlines as it became the first country in the world to make high-speed Internet a basic human right. In addition to investing heavily in broadband coverage, Finland’s regulatory authority mandated a law obliging 26 operators to provide universal access in their area. Enshrining Internet access into law is a new type of policy measure, and illustrates how the principles we have identified as pillars of the ‘Media Welfare State’ are updated and reaffirmed in the digital age (International Telecommunications Union 2011, 14; 2012, 149; Economist Intelligence Unit 2010, 8).

A final example: Changes in the Norwegian constitution (2004)

In addition to the three above aspects, we include here a final example of positive free speech-measures in the Nordic countries. This is the recent changes in the Norwegian constitution in order to strengthen positive press freedom and diversity.

In 2004, the Norwegian parliament unanimously passed a revised and expanded paragraph 100 in the Norwegian Constitution, often referred to as the “Ytringsfrihetsparagrafen” or the Freedom of Speech Paragraph (authors’ translation). The paragraph had not been revised since its inception on 17th May, 1814 (Østbye, 2008: 69). Three new sections were included in the new paragraph 100 with particular relevance for free speech. One of the new sections forbids “prior censorship” (section 4), whereas the two others refer to information access (section 5) and the role of the state in upholding and fostering public debate (section 6):

(5) Everyone has a right of access to documents of the state and municipal administration and a right to follow the proceedings of the courts and elected bodies. Limitations to this right may be prescribed by law to protect the privacy of the individual or for other weighty reasons.
(6) The State authorities shall create conditions that facilitate open and enlightened public discourse.

(translation from Sønneland, undated)

The background for the changes was the vital idea that free speech is conditional upon fulfilment of certain conditions, and, importantly, it is the state that is responsible for creating and facilitating such conditions: “The thought is that freedom of speech contributes to truth, democracy and individual freedom only if we have arenas, meeting places and channels for the exchange of information and opinions; in other words, an infrastructure for freedom of expression and information.” (Sønneland, undated)

The main creative force behind the revisions was the “Freedom of Speech Commission”, appointed in 1996 to undertake a thorough review of the the constitutional protection of freedom of speech. The Commission’s suggestions were unanimously accepted in parliament in 2004. The commission’s main point, expressed in section 1 of the paragraph, was that Norway should “be an open society in which each citizen should have the freedom to express themselves and keep themselves informed” (NOU, 1999: 27). A key concern of the Commission was uncertainties in regards to the legal status of the original paragraph 100 of the Norwegian constitution of 1814. Its legal status had come to rest on a practice of custom and jurisprudence and “this practice was not unambiguous and this again created considerable uncertainty as to where the boundaries of free speech should be drawn.” (NOU, 199: 27, 18) Underpinning the revised paragraph 100 the Commission put forth three main justifications for freedom of speech: the principle of truth; the principle of democracy and the principle of autonomy (NOU, 1999: 27: 5) that would together provide “a universal defense of freedom of speech” in contrast to other arguments that are more situational” (NOU, 1999 27: 5, authors translation).

Section 6 of the new paragraph 100 is particularly relevant as it explicitly gives the state responsibility for facilitating an open and enlightened public discussion. The aim, according to the Commission, is to highlight the state’s obligation to secure individuals and groups’ opportunities utterance opportunities: “the maintenance and development of public space is highlighted as an important public responsibility, in line with what has long been acknowledged by the Norwegian state.” i.e. through the public funding of education, art, culture and the media (NOU, 1999, 27: 5, authors’ translation).
References


NOU (1999: 27) «Ytringsfrihed bør finde Sted» Forslag til Grunnlov Paragraph 100. Statens forvaltningstjeneste: Oslo


