

Freedom for the media? Issues of journalism ethics in Estonia*

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This paper argues that in the post-Communist countries freedom of the press, free market and existence of journalistic Codes of ethics are not sufficient conditions for the development of fair and ethical journalism that is guarded by a self-regulation body. The example of Estonia, a 'model' of the transformation to a democratic free-market economy, demonstrates that in one of the 'freest' of environments the media elite have developed an abusive 'simulation of self-regulation' to protect their self-serving interests and the pursuit of profit. Where State media policy remains extremely liberal and civic and political cultures are underdeveloped, the 'social responsibility' model of journalism does not work.

Key words: freedom of expression, media ethics, media self-regulation, civil society, Estonia, post-Communist countries

Interrelations of press freedom and journalism ethics

A common understanding is that the quality of journalism is closely related to the basic values of a free and democratic society. Press freedom is definitely a fundamental element in democratic media reform. Society grants the media both the freedom of expression and free access to information,

not as privileges, but as an obligation to use them responsibly for the advancement of democracy and civil society. The prerequisite is that journalists enjoying these freedoms uphold moral values and norms of professional ethics.

The newly independent post-Communist countries have had only a brief experience of free media, free market economics and democratic government. The development of the media in these countries has taken three broadly contrasting routes. First, in some, especially the former Soviet Socialist 'Republics', such as Moldova, Belarus,

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Russia or Ukraine, the media are still politically controlled, and press freedom is limited or non-existent (cf. Mickiewicz, 1998). Second, others that were predominantly not former Soviet ‘Republics’ have a relatively broad press freedom (e.g., Poland, Bulgaria, Romania, The Czech Republic). However, in these countries, state interference remains substantial and legal measures are occasionally taken against ‘disobedient’ journalists and media outlets (Paletz & Jakubowicz, 2003). Third, in those countries where democratic reforms have been most successful (e.g., Slovakia, Estonia, Lithuania), the media have more successfully distanced themselves from political forces and governments, and acquired the same functions that exist in the mature Western democracies, including the political ‘watchdog’ role (cf. Sükösd & Bájomi-Lázár, 2003; Balčytienė, 2005). They also enjoy wide freedoms that are supported by legislation.

Freedom of expression, however, is not necessarily directly correlated with a responsible and ethical performance of the media as the situation in several newly liberated countries demonstrates. The paradox is that ethical problems of the media in these countries are not an issue of the restrictions of freedom of expression, but an issue of the media abusing this freedom.

After censorship was abolished in the early 1990s, no new legal regulation was established as a replacement. As a result, a moral vacuum emerged, where old values and conventions were repudiated, but the replacements were not yet articulated nor agreed. Journalists interpreted press freedom as freedom from any restraints, which created a euphoric atmosphere of absolutely unlimited freedom with no

need to consider what to say and how to say it, publicly. This caused many cases of violation of good journalistic practice, several of which ended up in court, and undermined the public trust in the media. The duration of the ‘vacuum period’ differed from country to country, and ended in most cases, not only with establishing legal regulation, but also with State interference in the media.

Regulation and self-regulation

Estonia is one of the rare post-Communist countries where State regulation remained minimal and confined itself only to a Broadcasting Act (1994). In Latvia and Lithuania, the laws for regulating all the media were adopted¹. Due to non-existent regulations of both media market and media ownership, and few test cases to set legal precedents, media policy in these countries remains extremely liberal. No institutions or individuals, for example, are empowered to watch the ‘watch-dog’. Civil society structures are still too weak, and civic and political cultures insufficiently developed to be able to create an atmosphere where violations of journalistic ethics would be, at best, inconceivable or at least publicly and strongly disapproved. Where no effective mechanism exists to watch how the media fulfil their public service functions, commercial interests inevitably take over and the quality of journalism suffers severely

¹ In Latvia *The Law on Press and Other Mass Media* was adopted in 1990 and revised in 1998, and a separate *Law on Radio and Television* was adopted in 1995 (amended in 2005). In Lithuania *Mass Media Law* was enforced in 1996 and amended in 2000 under the name of *The Law on Provision of Information to the Public* (amended in 2006).

(cf. Coman & Gross, 2006). Increasing negativism, such as the abundance of sensational and criminal news that appears in the Lithuanian media, is also a trend in other countries. For example, in the Lithuanian main daily newspapers – *Lietuvos rytas* and *Respublika* – the number of suicide stories increased from 131 and 91 in 1996 respectively, to 190 and 162 in 2001 (Balčytienė, 2006, p.113).

The free press in pursuit of commercial interests can also be seen to abuse the freedom of speech. The owners, management and elite journalists control the professional environment and attempt to preserve the freedom of the press for corporate interests. While declaring the status of the ‘fourth estate’ and ‘watchdog’ who have right to scrutinize everyone’s activity in society, the media frequently use this right to ‘whip-up’ leak-based scandals, careless intrusions in peoples’ privacy and disclosures of sensitive information. Even if legislation exists for dealing with such cases, the application of laws for securing media’s responsible performance is insufficient.

In developed civic cultures, public control and media self-regulation mechanisms are a relatively strong authority among media organizations and journalists. In countries that still continue to struggle with unsolved political, economic and social problems, media self-regulation is developing under specific circumstances. Media self-regulation emerged as a new development in these countries and has largely remained under control of media elites. As Richter (2007, p. 297) states, “ethical charters and conventions are generally drawn up, adopted and signed by media proprietors and executives rather than journalists. The

top people are de-facto supplanting professional with corporate solidarity and ethics, and asking the rank and file to reconcile themselves to an often highly conditional form of ‘in-house-censorship’ in order to avert pressure from the state”. In one format or another, Codes of Journalistic Conduct are adopted in most of former Communist countries, but few of them are independently adopted by journalists.

The existence of the Code itself does not, however, raise the quality of reporting or prevent violations of the ethical norms. Media owners, publishers and executives “see the introduction of codes of ethics as merely a move to curb their freedoms instead of furnishing a system of moral values that they themselves need” (Richter, 2007, p. 297). Therefore, they strive for the sole right to define ‘good journalism’ and decide how to interpret and apply the principles of the Codes of ethics. This leads to a simulation of self-regulation and contributes to the abuse of the freedom of expression by the media, as the case of Estonia demonstrates (see also Harro & Lauk, 2003).

Crisis of normative media ethics in Estonia²

Paradoxically Estonia, as an example of both the third group of former post-Communist and post-Soviet countries as well as new EU-member countries by the ‘freedom of the press’ ranking (see Reporters Without Borders rankings at www.rsf.org), has also become an example of a simulation of self-

² For writing this part of the article, excerpts from following sources have been used: Lauk, E. Reflections on Changing Patterns of Journalism in the New EU Countries. *Journalism Studies* (Forthcoming: Special Issue, Feb. 2009), and Lauk, E. (2008).

regulation and of 'selective' freedom of speech exercised by the media elite.

In Estonia, the Estonian Newspaper Association of publishers (ENA) established the Estonian Press Council (EPC) as early as in 1991; the first among post-Communist countries to do so. The EPC declared the main objectives were to be the protection of freedom of the press, examination of complaints about the media based on ethical considerations and adherence to the good tradition of journalism. During the first six years of existence, the EPC dealt with over 100 cases. Adjudicating the cases of violation of journalistic ethics, the EPC gradually formulated the guidelines for journalists how certain topics (e.g. suicides, crimes, court cases) should be reported, how to use and protect information sources etc. These guidelines formed the basis for the Ethical Code of Estonian journalism that was adopted in 1997. In the same year, the EPC was reorganized into a non-profit organisation that included both media and lay organisations.

After the reorganisation, the EPC continued to operate as an independent body of experts that functioned both as a conflict mediator between the media and the public, and as a media critical body in a broader sense. Growing competition in the press market by the end of the 1990s, and accompanying commercialization brought about a growth in the number of complaints against the newspapers. The publishers and editors-in-chief began to view the adjudications of the EPC as a threat to the commercial success of their newspapers, and in a number of cases refused to publish them in their outlets. Dissatisfaction of the newspaper executives with the activity of the EPC ended up with

establishing the alternative Press Council in 2002. The ENA set up its own press council for dealing with the complaints concerning its member publications. The composition of the publisher's Press Council is heavily weighted in favour of the media industry. In 2008, five out of ten members are editors-in-chief, one is former managing director of the ENA and four members are not media related. There are no representatives of the Estonian Journalists' Union.

The new Press Council has become a clear example of how the media business interests prevail over the public interests at the expense of professionalism and ethical performance.

The ENA and its new Press Council do not tolerate alternative voices or viewpoints or media critical public debate. At the request of the Newspaper Association, all the media connected with its Press Council ignore the EPC and have blocked its access to the newspapers and broadcasting. The 'old' EPC, however, where seven members out of ten represent public NGOs and three are representatives of the Journalists' Union, continues the adjudication of complaints. It also provides expert opinion. EPC's adjudications are published on its web site (<http://www.asn.org.ee>).

In this way, self-regulation is turned into a simulation in that the media elite controls anything said about the media and the editors-in-chief decide how to interpret the Code of ethics. Several examples of the practice of the ENA's Press Council demonstrate how the principles of 'good journalism' have been interpreted in favour of the newspapers instead of protecting people from being abused by the media. When the largest weekly *Eesti Ekspress* groundlessly

labelled both a well-known journalist and a University Professor as enemies of Estonian culture, the publishers' Press Council decided that this text was a 'different sort of satire' that did not damage anybody's dignity. Furthermore, as public figures, these two men should be able to withstand stronger criticism than other members of the public and consequently the newspaper did not violate ethical norms.

When it comes to the critical assessment of the quality of the media, news organizations effectively block these issues. While the media take the right to criticize everything and everybody, they remain opaque and inaccessible for criticism themselves, and any question of responsible use of this right is carefully avoided. Critical voices that point to violations of ethical principles of reporting, power abuse by the media or simply bad journalism are furiously attacked by the media.

The most effective weapon against those who criticize the media from outside is to accuse them of attempting to restrict the freedom of the press or even to establish censorship. This argument easily finds public support and understanding. The memories of past censorship and the all-penetrating control by the authorities are still fresh and painful among both journalists and the public. For example, when the author of this article raised – rather generally – an issue about the responsibility of a broadcasting channel for occurrences in its live broadcasts, no lesser authority than the ethical advisor (!) of the National Broadcasting Company blamed her for suggesting the forbidding of live broadcasts and restricting the freedom of speech. The issue of responsibility of the channel was entirely ignored.

By contrast, a similar case (inappropriate expressions about somebody's personality in a 'live' talk show) on Finnish Television brought a strong reprimand to the television channel by the Finnish Press Council and also public condemnation.

The cases where the media organisations or journalists abuse their power have become too frequent. For example, the right to reply is often ignored. Furthermore, there was a case in 2008, in which an individual who asked a television channel for the chance to reply was publicly mocked in one of the next news broadcasts.

Estonian National Broadcasting has employed an ethical advisor – an *ombudsman*. The task of an ombudsman is to deal with the viewers' and listeners' complaints, to make the broadcasting organisation more transparent for the public by explaining the programming policy and to watch over the adherence of the ethical principles of journalism in broadcasting. According to the rules of dealing with the complaints in the National Broadcasting, an individual who is not satisfied with the decision made by the Broadcasting's ombudsman can further complain to the Press Council. But the ombudsman is also a member of this Press Council. There is certainly a conflict of interests involved. There was a recent case that entirely confirms this statement.

In early 2008, an author and literature Professor was severely mocked on the public service channel *Vikerraadio*. He was labelled as 'irresponsible red professor', a criminal, a 'dog-author', a traitor etc. He was not offered the right of reply i.e. a chance to defend himself. First, he complained to the Broadcasting ombudsman requesting the right to reply. The ombudsman in

conjunction with the responsible editor of the channel rejected his request. The ENA Press Council did subsequently condemn the Radio channel for not allowing the right to reply, but crucially did not censure the channel for damaging the Professor's reputation. According to the Press Council, the onus was on the Professor to publicly prove that he was not a 'dog-author' or an 'irresponsible red professor'.

Conclusion

The situation existing with two conflicting Press Councils and the aforementioned

examples clearly reflect the bankruptcy of media self-regulation in Estonia. The media ignore the public and successfully block critical voices. The relatively short experience of democracy and freedom of the press, and immature political and civic culture are unable to effectively support the principles of self-regulation and develop a well functioning practice. Estonia's example clearly demonstrates that the media self-regulation does not work under the conditions of a weak civic society and strong market pressures, even if the press freedom is unlimited.

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ŽINIASKLAIDOS LAISVĖ? ŽURNALISTŲ ETIKOS PROBLEMAS ESTIJOJE

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S a n t r a u k a

Šiame straipsnyje nagrinėjama pokomunistinių šalių spaudos laisvė, laisvoji rinka ir egzistuojantys žurnalistų etikos kodeksai, kurių nepakanka garbingos ir etiškos žurnalistikos, prižiūrimos savireguliacinių institucijų, plėtrai. Estijos pavyzdys, kaip demokratinės ir laisvos rinkos ekonomikos modelis, atskleidžia,

jog vienoje iš “laisviausių” šalių žiniasklaidos elitais, siekdamas savo interesų ir pelno, išplėtojo užgaulingą “savireguliacijos simuliaciją”. Ten, kur valstybės žiniasklaidos politika išlieka itin liberali, o pilietinės ir politinės kultūros neišplėtos, “socialiai atsakingos” žurnalistikos modelis neveikia.