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Ethical journalism and human rights

Speech

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The media are immensely important for protecting human rights. Human rights protectors depend on the media to have their message conveyed to the public. Quiet diplomacy with governments is not enough. Pressure needs to be exercised publicly through the media.

During my missions to various countries in Europe, I try to promote the freedom of expression. I have to repeat that the purpose of journalism is not to please power-holders or be the mouthpiece of governments. I have to stress the obvious, that the media have an important role as a “public watchdog” and to inform the public about relevant developments in society, including those which may embarrass the powerful and the wealthy.

When talking about freedom of expression and established international norms here in Europe, one has to look at Article 10 (Freedom of expression) of the European Convention on Human Rights.

Exceptions to this right are contained in paragraph 2 of the Article, which clarify that the state is allowed to introduce restrictions, for instance, to protect national security and public safety. Therefore, hate speech, incitement to violence and the dissemination of child pornography are not allowed. The challenge is how to interpret the scope of possible restrictions, where to draw the line.

The room for exceptions must be regulated by law and be interpreted narrowly. In that respect, the fact that the European Court of Human Rights in Strasbourg has stated that freedom of expression might include the dissemination of information that “offend, shock or disturb” is an important clarification. It underlines that it must be possible for the media to be controversial.

Media are also instruments for free debate and monitoring those in power. Therefore, they are important for the protection of democracy itself. The connection of Article 10 with the requirements for a democratic and diverse society has also been highlighted by the European Court of Human Rights.

Let me summarise some of the broader concerns that have emerged in relation to the freedom of expression in the course of my work.

Criminalisation of defamation

The first problem is that defamation is still criminalised in several parts of Europe. Laws are in place which make it a criminal offence to say or publish true or false facts or opinions that offend a person or undermine his or her reputation. Journalists can be put in prison for what they have reported. Even though it rarely happens in Europe, the fact is that countries in other parts of the world refer to these established democracies in order to justify retaining these provisions.

In my opinion, offences against “honour and dignity” should be decriminalised and dealt with in civil law courts in a proportionate manner. The mere existence of criminal defamation laws could intimidate journalists, have a chilling effect on their activities and result in undesirable forms of self-censorship.

Prison sentences should no longer be enforced in cases of defamation. Furthermore, public figures should not have more protection in defamation laws than ordinary citizens. In fact, the margin for criticism should be broader in the case of politicians, they have to accept that their words and actions are open to a higher degree of scrutiny by both journalists and the public at large.

I think that we should not only react to cases or charges brought in some countries, but also protest that legislation criminalising libel exists in many established democracies. They would set a good example by removing these provisions from their books.

Media regulation

This discussion on the decriminalisation of defamation is of paramount importance and should include the role of self-regulatory mechanisms for the media. There have been encouraging results in countries where media representatives have developed self-regulatory codes of ethics and designed their own or shared procedures to enforce professional standards, for instance, through Press Councils or Press Ombudsmen. Media outlets have matured, the public is better protected against abuse and the right of reply has been enhanced.

Some countries have introduced a system of responsible publishers in which legal accountability is placed on one clearly defined authority within the media enterprise – normally the publisher or the editor. Such a system puts the legal responsibility where it belongs and protects the individual journalist from the risk of having to pay damages.

Yet, journalists at large need to re-think the impact of those who misuse their status and undermine the credibility of the whole profession. Lack of ethics in journalism is a problem in all countries. It undermines not only the credibility of journalists in general, but also democracy itself.

Unfortunately self-regulatory mechanisms do not function everywhere. Not all journalists agree to sign up. There should be more pressure among journalists to discuss and to agree on common standards.

Quality journalism for human rights

We need free, independent and high quality journalism for the sake of democracy and human rights: in fact, ethical journalism. A rights-based governmental media policy would go a long way to establishing the framework for such a media landscape, including through legislating and implementing a policy of open access to public information. However, I also believe that the journalists themselves must be the key defenders of these very values and ready to rebuild confidence in quality journalism. Surveys indicate that the public trust in media is low in several European countries.

Debates on quality journalism should promote ways of finding relevant information as protection against manipulation; encourage principles of ethical journalism in sensitive areas like migration and terrorism; promote the recruitment of minority representatives to the newsrooms; and enhance contacts with civil society groups to discuss these problems – without, of course, compromising editorial independence.

In the fast developing media landscape, which is often fragmented and aimed at specific parts of the population, such a debate is not easy. Commercial ambitions may override aspirations towards quality journalism and objectivity. The relationship between journalists and the owners of the media should be regulated to ensure that journalism is free and independent. Editorial independence from the media owners is important to ensure journalistic integrity. One absolute minimum requirement is of course that the media are transparent about ownership.

Public service media

In some countries, public service media have been specifically recognised for their quality and objective journalism. In others, the “official media” are viewed as propaganda instruments for certain politicians. The public service media – often financed from taxes or other common resources – should of course operate in an impartial manner in the interest of the population at large. Their independence and impartiality ought to be protected through agreed guidelines and an appropriate procedure of appointing directors. When this is the case, they could indeed be an essential counterweight to the commercially driven entertainment media.

The European Ministers responsible for the media, who met in Reykjavik in May, stressed the importance of independent and adequately resourced public service media. They acknowledged that at present not all Council of Europe member states offered public service media that were able to attract and to serve all segments of society. The ministers recognised the need to invest in new technologies to develop the role of public service media.

Protection of sources and journalists

Another concern for media freedom is the protection of sources of information. Journalists should be free to receive information, also anonymously, from everyone, including government employees. This right should be confirmed in national law: no one should be allowed to investigate journalists' sources. Not even judges should be able to order the media to reveal their confidential sources.

The Strasbourg Court has stated that the protection of journalists' sources is one of the basic conditions for press freedom and that an order to disclose a source could not be justified unless there is an overriding requirement in the public interest. Indeed, every democratic society should welcome and protect “whistle-blowers” - they are a safety valve against the abuse of power in both public and private enterprises.

In recent years, some of the most leading investigative journalists have not only found their sources scared into silence, they have themselves fallen victim to the most brutal killing: Anna Politkovskaya in Russia, Hrant Dink in Turkey, Georgyi Gongadze in Ukraine and Elmar Huseynov in Azerbaijan. No effort must be spared to apprehend and bring to justice, not only the actual killers, but also those who ordered these murders.

Such heinous crimes may make other journalists more cautious and thereby cause self-censorship. Governments must therefore demonstrate more forcefully that they are prepared to protect the freedom of media, not only in words, but also by way of concrete action.