Opening of the 250th anniversary year of Nordic “principle of publicity”.

"ANDERS CHYDENIUS – PRESS FREEDOM 250 YEARS"

Friday 4 December 2015

Remarks by Guy Berger, Director for Freedom of Expression and Media Development, UNESCO.

Honourable Minister, Speaker, participants. I begin by thanking you all for this invite and for supporting my participation. It is indeed an honour to participate in the opening of the 250th year when Anders Chydenius changed the world. Thank you also to the Helsingin Sanomat Foundation and the UNESCO National Commission for supporting my participation, and to both them, as well as the government and people of Finland, for the many additional and wonderful ways they contribute to UNESCO’s work in press freedom and the right to information.

You may be interested to learn that just three weeks ago, the Member States of UNESCO endorsed a proposal by Angola, Morocco and Nigeria to establish the International Day for Universal Access to Information, to be commemorated each year on 28 September. We can add this to the existing World Press Freedom Day, also thanks to African initiatives, and this gives an additional opportunity to highlight key issues for freedom of expression.

UNESCO follows Article 19 of the Universal Declaration of Human Rights, which sets out the fundamental right to freedom of expression. This right has two dimensions. First, there is the right to impart information, which we call press freedom – meaning the right of anyone to publish – individuals, artists, journalists, and not just the media institutions. Second, there is the right to seek and receive information, which is known as the right to information (RTI), the right to know, or the right to access information – and for Chydenius, the principle of publicity.

UNESCO’s work focuses on both dimensions of freedom of expression – freedom to create and freedom to consume information. Chydenius certainly saw the interconnection of these.
They are two sides of the same coin. Hence his 1766 law covered both freedom of the press and the right of access to public records.

It is not only the combination, but also the second dimension which is regarded as the big breakthrough that Chydenius achieved. And the energy continues. The UNESCO study, the *World Trends in Freedom of Expression and Media Development*, has tracked that the number of countries with freedom of information laws rose from approximately 70 to over 90 in the five year period 2007-2012. Today the figure is around 100 and still rising.

In short, the achievement by Anders Chydenius almost 250 years ago, has made it less difficult for others to continue to advance the same issues so many years later. His success is also additionally relevant now, because the 2030 universal development agenda has been agreed at the UN General Assembly, and amongst the new Sustainable Development Goals (SDGs) is this: “Public access to information and fundamental freedoms”. It is self-evident that such access to information is not only a target – an aspiration and an outcome, in other words an “end” of development. It is also a means towards achieving all the other targets of development, and not least those on justice, health, education, environment and gender.

This insight is also recognised in a parallel international process to that of sustainable development. This is the UN’s development of a new document about the Information Society, something that is especially linked to Internet and other ICTs, which have become so central to global life. And these technologies impact greatly on the production, storage and circulation of information. These are key to the UN’s interest in the continuation of the World Summit on the Information Society (WSIS).

I am pleased that UNESCO has contributed to what is known as the “WSIS+10” review process, including contributing the [Outcome Document](#) of our CONNECTING-the-dots conference earlier this year. That event was strongly supported by Finland, and the Outcome Document has just been endorsed by all the Member States of UNESCO at their 38th General Conference this November. The Outcome Document gives the Organisation and its 195 Member States a key concept for tackling Internet issues. This is “Internet Universality” – a value that is based on the four principles of human rights, openness, accessibility and multi-stakeholder participation (ROAM). These are principles that Chydenius would have approved
of, and we at UNESCO believe they may be relevant beyond our interests, to other stakeholders in the Information Society.

Meantime, UNESCO is also especially pleased to see that the new WSIS document, in its draft form, further acknowledges what it describes as: “the ambition to move beyond ‘information societies’ to ‘knowledge societies’”. Indeed, the concept of “knowledge societies” is a UNESCO one – reflecting the human rights and social considerations for information to convert into knowledge. This is why, for us, digital divides should be recognised as divides in information and knowledge, the existence of which limit humanity as a whole.

The same WSIS+10 draft document currently being debated in New York recognises that “ICTs can accelerate progress across all 17 Sustainable Development Goals”. It is specifically because ICTs, inter alia, make information available, and because this information is the foundation of knowledge, that it is the case that ICTs can contribute to all SDGs. ICTs are precisely about information and communication. So while technology is a major enabler, at the same time, we can recognise that it is also the policies about information and communication, about innovation, and about education, which set the parameters of access, circulation and processing of information – all of which impact on the knowledge society.

We are pleased therefore that the WSIS draft outcome document states: “We moreover acknowledge that individuals’ capabilities to both use and create ICTs, represent a knowledge divide”. This insight will resonate with Finland, with your reputation for top-quality schooling, as much as it resonates with the work of UNESCO. To convert information to knowledge depends on capacity-building – which means the need for quality education for all, including developing the many kinds of knowledges and skills that are grouped under what UNESCO calls “Media and Information Literacy”. These competencies are more important than ever, so that young people in particular can be empowered to “own” their own identities, and be able to identify and fend off online attempts to mobilise them for - or subject them to - bullying, unsustainable consumerism, political propaganda, cyber-related violence against women, and radicalisation towards violence.

We at UNESCO have therefore taken the message to the WSIS review process, and elsewhere, that technological change is indeed highly significant, but that we also need to
continuously highlight an understanding of human rights, including the Right to Education, and the Right of Access to Information. These rights are preconditions for the generation of the knowledge and understanding that can serve for peace and development. As is all too evident, in a globalised world, problems of conflict and poverty in one place easily become threats to every other place.

And, of course, we can further understand, as Chydenius did, that the right to access information is partly conditional on the right for people to generate and express information. One can only access what information is created – and if it is censored, that is a real limitation, not only on producers, but also the consumers of such information. To cite the free expression scholar, Lee Bollinger, especially in the online world, censorship in one place is also censorship everywhere else. Conversely, one’s creation of information also depends very much on what you can access. The point is therefore that access to the technical means by which information is generated, stored and circulated is limited in its significance … unless there is also a clear and practical right to seek, receive and impart information via these technical means.

To go back to when Anders Chydenius perceived the need for a law giving the public a formal right to information, we can understand that access that to information at the time depended on documents, literacy skills as well as the right to see the materials. All three dimensions were necessary. Today the same applies; all three dimensions have to be worked on. You need the technology, be it paper or the Internet, you need literacy in an expanded sense, and you need the right.

These points endure. Yet, after 250 years, there have also been many changes in the information environment. One topical one is the role and protection of whistle-blowers, and another is the rights of journalists to keep secret their confidential sources of information, even in the digital age. These are important complements to the right to information.

Perhaps what has changed the most fundamentally since Chydenius’ day is that the custodians of information have expanded far beyond the state. Today, there is a cornucopia of information in the form of media, books and web resources extending much beyond the information holdings of a particular state, and these are important realms where citizens may have an access interest. The point I wish to highlight, however, is that there are particularly
enormous non-public information holdings within the corporate sector. These include the
scientific resources underlying a company’s intellectual property and trade secrets;
increasingly they are also our user-data that is assembled by companies as the foundation of
their very business model. A real challenge today is the extent to which the right to
information may apply to such entities, in addition to states, and under what conditions.

Recently, it has emerged that the largest coal company in the USA, Peabody, and that
country’s largest oil company, Exxon Mobil, are being investigated by the state of New York.
This is an enquiry into their stance on information about fossil fuels contributing to global
warming, and their knowledge of the negative effects thereof. The question, on the one hand,
is whether these companies hid this information from the wider public and at least from their
shareholders, and on the other hand whether they deliberately sponsored disinformation as an
alternative. One does not even have to mention here, another case of a major corporation, this
time headquartered in Germany. The distortion of information by Volkswagen about carbon
emissions from its vehicles is similarly an issue of enormous public concern. It is clearly a
delicate matter about whether such (alleged) information management practices by such
entities can or should be regulated, and how; for instance, whether the world needs an
equivalent of the International Atomic Energy Agency to be inspecting transnationals with
major environmental impact. That is another debate – one very relevant to COP’s concerns
not just about reaching an accord, but also ensuring that there is not cheating on commitments
afterwards. But the broader point to consider here concerns information in the private sector,
and who has access to it. Chydenius would surely have been the first to raise this issue today.

The examples of these companies mentioned above are relevant to the discussion today,
because they reveal two things. First, that the complexities of the right to information were
not settled by Chydenius. Instead, he laid the foundations and today we need to continue to
build the structure: to expand the windows for example, in ways that take cognisance of
changing circumstances, such as information about climate in these cases. Second, these
corporate examples indicate that the right to information, as with the SDG’s focus on “public
access to information and fundamental freedoms”, is not something for the developing world
to play catch-up on. It is a universal agenda. The issues of right to information are globally
relevant, albeit there are also different manifestations in different places. In many cases, such
as the examples just cited, the right to information also impacts on matters of global
consequence.
There is another contemporary example of global relevance I should like to cite of new issues facing us long after Chydenius. This is the question of intellectual property in the form of algorithms owned by Internet and other companies. Google was criticised recently for a photo app that automatically tagged two dark-skinned individuals as gorillas. The results of the software came to light, but not the engineering behind this. There are also reports that a well-intentioned Twitter manager suggested that a colleague develop an algorithm that could help tell the ethnic/racial identity of job applicants even where the individuals concerned did not disclose this and their names were not apparent indicators. The motivation was that the information would help the company diversify its recruitment practices. On the other hand, such hypothetical algorithms can equally, in different hands, easily lead to stereotyping, discrimination and exclusion. And unlike the gorilla example, we do not even know about it.

In this vein, few people know that Facebook uses algorithms to serve us particular feeds of information on “our” timelines. Likewise with Google, in serving us particular kinds of search results. Perhaps these services suit our needs, and it may be that we have no legitimate claim to such privately created and owned information machines; indeed we can take their offerings or leave them if we do not like the algorithmic secrecy. But in the case of national emergencies at least, we can ask if it not be appropriate for rescue services to be able to have a degree of access to the workings of the algorithms and ability to request tweaks? There may be a need for example to override the automated feed with critical information that individuals need to know at key moments.

Another new issue since Chydenius’ era is personal information privacy versus the right to access information, evident in the European Court of Justice ruling on the so-called “Right to be forgotten”. We at UNESCO are in the process right now of finalising a study, with the new UN Special Rapporteur for the right to privacy, Prof Joe Cannatacci. This is an attempt to begin to understand how transparency, which relates to the right to information, balances with the right to privacy. This is important, because rights are indivisible, not hierarchical. There is not an unfettered right to information – it inherently needs to be balanced with other rights, including safety, but especially with the right to privacy – and vice versa. The trick in the balancing is to try to keep each right as primary and as per Chydenius’ views on communication rights at least, any restrictions as secondary.
Again, however, we also face the issue of private sector entities in regard to the right to information and the right to privacy. We trust these companies to safeguard our private data against hackers, to minimise and anonymise our data when processing it, and we trust that if the current owners sell their companies that the new owners will continue to respect the terms of service we initially agreed it. But how can we know if this is the case?

The answer, ironically, is that we need to have a right to information about the matters that concern exactly what information should remain private, and how it will be protected. Yet there is, in general, too little disclosure about this all. Some Internet and telecoms companies to their credit are now publishing transparency reports about their interactions with government requests for information take-down, user identity or surfing data and meta-data. Yet, there is little information forthcoming about what they do themselves such as in response to requests from private users, or directly in implementation of their own policies. One may not always agree with the decisions taken about privacy protection, but if you do not know at all, then - like the shareholders in energy companies - you have no idea if you need to suggest new directions to the providers or if you should take your custom elsewhere. These are issues around the right to information, as relevant to Finland as anywhere else.

What can UNESCO do in relation to all this – how can we contribute to the further spread and development of the right to information in the digital age?

The nature of our Organisation, is that on the mandate of the 195 member states, we seek to raise awareness, establish norms, and share good practices. Amongst other things, we continue to clarify and promote freedom of expression worldwide. We are able to do this in a major respect due to the extra-budgetary contribution of Finland as well as Sweden and Norway to our work, especially in Arabic and African countries. Recently I was in Jordan where we launched a Media Development Indicators study that included a review of their Right to Information (RTI) law and which has contributed to some improvements in this. This week, a colleague is providing technical comment to Palestine on their draft RTI. Besides for our work on freedom of information, we also promote press freedom, safety of journalists, gender equality in media, youth empowerment and intercultural dialogue.

Finland is what it is today, and UNESCO is pleased to have such an exemplary partner in supporting our work, because of the deep value that your society places on the composite
right to freedom of expression. You pioneered the combination of an absence of censorship on
the one hand - keeping state power out of what Chydenius called “competition of the pens”,
and on the other hand, an obligation of the State to open up to scrutiny as part of enabling
political participation. The results are here to see.

That is why UNESCO is delighted that, with the support of the Finnish government and many
organisations here, we will bringing the global free expression spotlight to Helsinki on 3 May,
with our mothership global conference to mark World Press Freedom Day. And I am sure that
Anders Chydenius would have liked the title of the conference: “THIS IS YOUR RIGHT:
public access to information and fundamental freedoms”. It is about the public’s right to
know, and right to say. This will be a chance for Finland to show journalists from around the
world what free expression has done for your society; the Helsinki celebration will echo in
more than 80 countries around the world where we organise commmemorations of this day.

Chydenius recognised that in order to promote enlightment and reason, it was best to put
information in writing, and for the purpose of making it common. And he made it happen.
That continues to be an inspiration. What began here continues to have momentum around the
world.

I am sure, therefore, if Anders Chydenius had been alive today, he would have been very
happy to see this. We are all grateful for his work which grew out of his experience of what
was needed if humanity is to flourish. It is therefore highly fitting that this extraordinary
individual continues to be recognised, and that his legacy continues to be cherished and
updated in the digital age.