

The Limits of Intellectual Freedom

Why the IFLA Statement on Libraries and Intellectual Freedom is not followed in Denmark

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Abstract

The purpose of this paper is to examine the limits of providing access to information for everyone in Denmark compared to the 1999 IFLA Statement on Libraries and Intellectual Freedom. There are several aspects of decrease in the liberty of expression in Denmark within the areas of politics, ethics, laws etc. The cases analysed demonstrate that there are even more problems to consider when trying to fulfil the principles of the IFLA 1999 Statement - a statement meant to be universal but not even fulfilled in an industrialised country like Denmark.

From time to time, different issues relating to public libraries and intellectual freedom come to a broader attention of the public. Several of these cases are analyzed due to their controversy with censorship, lack of knowledge and media diversity, and finally decreasing protection of human rights in information seeking behaviour.

Investigations of the public debate concerning libraries and information centres in juridical, economical and cultural politics. Also, philosophical considerations in ethics have been conducted.

Findings are that it is to a certain extent meaningless to fulfil the IFLA 1999 statement. Considering a declaration, the statement cannot include the many details and complex situations that are covered by it. Avoiding basic principles in the IFLA 1999 statement, however, is contrary to the Bill of Human Rights. In the perspective of the cases analysed, it is clear that we can ascertain a decrease in intellectual freedom in Denmark. In a longer perspective, this is an indication that we should argue more aggressively for the fulfilment of the IFLA 1999 Statement.

Most importantly, our study points out ways for future research. The identified issues on the discrepancy between the IFLA 1999 statement and the several aspects of decrease in liberty of expression in Denmark identify paths for improving the limits on providing access to information for everyone – specifically in Denmark and the rest of the world in general.

The perspectives of this paper are worth taking into consideration when evaluating the consequences of declaring that intellectual freedom has been obtained.

Media Diversity

The public libraries support books. And primarily books. This is the wish of our present kulturminister (minister of cultural affairs) Brian Mikkelsen. He finds that books were and are to stay the most important media within the collections of the Danish libraries.

Critics of this point of view note that the wish of Mr. Mikkelsen seems not only to give the books a preferential treatment, it seems also totally to ignore the importance of the new digital resources. And – and this is quite important – the Danish minister chooses with this one eyed book view to deny the Lov om biblioteksvirksomhed (Danish Law on Libraries) which points out that all media types are equal and all libraries have to include all types of media including music CDs, movie DVDs, digital resources etc. In up-to-date versions that is (Biblioteksstyrelsen, 2000). This issue is also pointed out very clear in the IFLA statement stating that:

Libraries have a responsibility both to guarantee and to facilitate access to expressions of knowledge and intellectual activity. To this end, libraries shall acquire, preserve and make available the widest variety of materials, reflecting the plurality and diversity of society, and

Libraries shall ensure that the selection and availability of library materials and services is governed by professional considerations and not by political, moral and religious views. (IFLA, 1999)

The Danish minister of cultural affairs does not only ignore Danish legislation he also chooses to let his personal love to the book overrule professional considerations.

The situation in Denmark anno 2007 is therefore very problematic. The person in charge of the legislation all libraries must work under, totally ignore the very same law. And this is not only something hardly visible. Mr. Mikkelsen has spoken openly about the book and the book only many times in the general public. Thus he has said: “The libraries function, as long as I am minister of cultural affairs, will be the book.” (Kassebeer & Bentsen, 2005).

And the Danish Library Association, as well as other actors, has questioned this media mistake more times among other in the same article as above. But nothing happens. All media might be born and produced equal but in the Danish libraries no media compares to the book.

The Music Issue

On the 1st February 2005 Danish library users were no longer able to borrow new music. From this date only music older than 4 months can be borrowed and even listened to. This new limit in access to information was primarily a result of clever lobby work by the international organization IFPI who represents the recording industry worldwide, with a membership comprising some 1400 record companies in 75 countries and affiliated industry associations in 49 countries.

The reason was that new music apparently was copied in large scale from CDs borrowed at the Danish libraries. The Danish minister of cultural affairs accepted the argument from IFPI, but it is rather uncertain that new music (max 4 months old) should be copied more than old music. And why should one choose to borrow a CD from a library for copying it, when it is must faster to visit www.thepiratebay.org?

The result of this new anti-borrowing law is that the libraries choose to purchase only music they believe will last long. This mean that new and young music, hit music and music the

library purchasers do not think will be lasting long will not be included in the collections. But what kind of music will be? We think the answer is right here:

“Robbie Williams do not belong to a library” Mr. Mikkelsen said back in 2005 and continued saying that if people wanted this kind of music they could just go to Fona (Danish record store) (Ibid.) Why is this so? And why is the next natural step not to say that people just can go to Gad (Danish book store) if they want to read Harry Potter?

Does the minister talk from a political, moral or religious view? What type of music does belong to the library collection one could ask. We guess Mr. Mikkelsen would answer something like Bach and Mozart. And maybe even some Miles Davis jazz records.

Even though the sentence about Robbie Williams was not apart of a discussion about the 4-months non-borrowing period, one could believe there is a connection. And dangerous connection that is since it will be the poor people who are most affected by not being able to borrow the newest CD; just because it can be bought in Fona.

Frederiksberg and Grevil

In September 2005 Frederiksberg public library held a debate meeting concerning the freedom of speech for municipal and state employees. One of the participants in the debate panel was former intelligence officer in the intelligence agency of the Danish military, Frank Grevil.

The appearance of Grevil in the debate panel caused a number of uproars by local politicians. These protests were due to the fact that Grevil had been found guilty distributing classified documents to the public. The municipal politician of Venstre (Danish liberal party) proposed that the municipality in the future should approve the library's arrangements (Øhrstrøm, 2005).

The Mayor of Frederiksberg, Mads Lebech, has also intervened in the affair. Although he says it is not acceptable that a person like Grevil, which will say one guilty of crime, participates in a public debate meeting, he denies that he is subjecting the library to political censorship or creating a case of self- censorship (Ritzaus Bureau, 2005).

After the Grevil-case the public library of Frederiksberg has added to their Guidelines that no person on trial or found guilty should participate in arrangements held by the library (Aagaard, 2005). Mads Lebech stresses that this isn't a political dictate but rather a initiative the library has taken itself. As the library board hasn't wanted to comment on this matter (Ibid.) it is still unclear what the grounds were.

PET: Politiets efterretningstjeneste

In the last couple of years the intelligence agency of the Danish police, in Danish known as Politiets efterretningstjeneste (PET), has gained much wider means as how to receive their intelligence. This, of course, is due to the growing attention terror is having after such attacks as 9/11 and the bombs in London and Madrid.

The increase in power given to PET is given by the following subsection in the law of administration of justice:

PET can (is allowed to) obtain intelligence from other administration authorities in the extent the intelligence presumes importance for handling the agency's task concerning

prevention and investigation of offences relating to section 12 and 13 in the criminal law. (Rettens pleje, 2007; section 116, subsection 2 [Our translation]).

The change in relation to earlier law is that now PET doesn't have to get a warrant to get this kind of information. Politiets efterretningstjeneste thus have the unrestricted power to judge whether they need a certain piece of intelligence. In addition it is also stated in the law that PET can pass on this intelligence to the intelligence agency of the Danish military (Rettens pleje, 2007; section 116, subsection 1).

In fact the actual government has invested almost 100 million DKK (ca 12,5 million Euro) in new technological equipment in order to fulfil the law that has been created in order to fight terrorism. This law must be said to conflict with the part of the IFLA statement from 1999 as we shall see later.

The reason this legislation was made was to make it easier for PET to spot potential terrorists. By giving PET the authority to access the information they want, and with digitalisation of the information in question, PET is able to make automated systems of surveillance as to point out persons who e.g. borrowed a certain book or travelled to a specific country (Teknologirådet, 2006). With the CPR-registret (Danish central personal register) this is made fairly easy for PET to manage, as all persons already are registered centrally.

Teknologirådet (The Danish council of technology) has made a short paper on this topic to the Danish parliament based on a hearing held the same place (Ibid.). The paper raises several questions concerning the legal rights of the citizens in relation to this legislation. As an intelligence agency it is clear that the public can't keep PET in check of what use they make of the gathered intelligence.

Thus we have a situation where no one besides PET knows how much it takes to throw suspicion on a specific person or group. As Teknologirådet points out there will always be hits throwing suspicion on totally innocent people and adding to this notes how other technologies such as the massive use of CCTV in Britain, referring to the report CCTV in Britain by McCahill & Norris (2002), has a rather dubious outcome when it comes to crime prevention in general and that it hasn't prevented any terror attacks.

Why should the librarian bother?

How people react when under suspicion, or just feeling under suspicion is difficult to judge statistically as it is more a matter of philosophical considerations than of data inquiry. However, as Teknologirådet also points out, it is easy for a specific group, especially minorities, to feel stigmatised when facing surveillance that can be felt to take into consideration, one's race or various beliefs.

German philosopher Axel Honneth has written on social exclusion and what he terms 'the struggle for recognition'. Based on theorists as Marx, Mead and Hegel among others, he describes the struggles people take if they are not recognised on the same terms as the surrounding society (Honneth, 1996). In the view of Honneth it can be outright dangerous to treat people with disdain, as the social struggles will grow, as people wants to get out of the passivity they feel when social excluded.

As we can endorse that the library should function as an important part of the public sphere, as noted by Buchmann (2003), and have the ability to work as what Audunson (2005) terms low-

intense meeting-places that will say places embracing all groups and cultures of a given society, it is vital to uphold the anonymity of the library so no one keeps from visiting and participating in the activities the library has to offer.

On these grounds it is strongly advisable to uphold the principle that Library users shall have the right to personal privacy and anonymity.

A closer look at the IFLA statement on Libraries and Intellectual Freedom

If one takes a closer look at the IFLA Statement on Libraries and Intellectual Freedom, it says explicitly that libraries are to fight the changes in societies as in the case of Denmark. The following as quotation from the statement:

Library users shall have the right to personal privacy and anonymity. Librarians and other library staff shall not disclose the identity of users or the materials they use to a third party. (IFLA, 1999)

This is contrary with the new rights for PET that permits them to consult the library loans of citizens and compare this information with other information. An example would be that several loans are compared to the person's register of crimes, or medicine prescribed by doctors.

So if a potential terrorist has a loan of books describing ways to produce explosives, withdraws a lot of money from his account and buys a rather expensive object on the internet, PET can now arrest this person. With no other argument than that what is going on seems suspicious.

More general arguments made by the government and in the public sphere rely on a rhetorical scheme that challenges ones right to privacy and even intimacy. The logic seems to be, that if you have nothing to hide, the system won't harm you. That might very well be, but problems arise when ones right to criticise the institutions conducting these laws is made vulnerable. People would still want to read and consult material that is controversial or even radical in its content even though they do not approve it.

So the laws preventing potential crime has the consequence that seeking and consulting controversial books or simply information is made suspicious. But there are many reasons to consult these books, and many reasons why they have been written. This is a simple fact. Nevertheless it is not respected. Even though it should be:

Librarians and other professional libraries staff shall fulfil their responsibilities both to their employer and to their users. In cases of conflict between those responsibilities, the duty towards the user shall take precedence. (IFLA, 1999)

This quotation, also from the statement, makes it very clear, that we as librarians have a duty towards the citizens we serve. There is no doubt that Denmark cannot claim that it follows the laws of Denmark and the IFLA statement from 1999. If the state is considered to be the employer of the public library sector, that's the case in Denmark, then the precedence of the user is not respected. There is a discrepancy between the wishes from the state and the library users. This can of course only be claimed if it is really so that citizens in Denmark want free access to information. However there seems to be a lack of condemnation in the public sphere about this topic. But even though the public sphere is unaware of this fact, libraries and librarians still need to respect yet another point in the statement:

“Libraries shall acquire, organize and disseminate information freely and oppose any form of censorship.” (IFLA, 1999)

Censorship could appear quite an obvious phenomenon, but it's not. As the statement wisely declares, there are many sorts of censorship. So censorship is not limited to not buying a certain book or not inviting a certain person to make a speech in the library. Actually one could claim that it is impossible to prevent censorship, even though the contrary is wanted, because in many cases censorship is happening without it being noticed.

Knowing that one is surveilled one acts different than if not surveilled this is a knowledge used, among others, by Jeremy Bentham in his development of the panopticon prison, as described in Bentham (1995). For example a person could question whether it is worth the risk of lending a certain book because of the risk of being suspected of potential criminal intention, although there are none. Librarians are obliged to oppose that sort of censorship as well, even though it is practically impossible. This is due to the fact that such reflections in almost no cases would be said out loud by the person making them. Still, from a logic point of view, it is very clear that the new laws permitting the PET to get access to that information cause exactly that sort of censorship, although it is impossible to measure it. By no means can librarians claim that they work in coherence with the will to protect library users from censorship. It is impossible to claim that the censorship is being conducted by the state qua the laws and therefore not the libraries responsibilities. The essence is that it is of no importance towards the user. The case today in Denmark is that you cannot enter a public library without being subject to censorship.

Findings

What is one to conclude from these facts? It is without beyond doubt that several aspects of the IFLA statement from 1999 are ignored in Denmark. The public Danish library sector is not following the principles as defined in the statement. The entire world has changed a lot since 1999. So maybe the statement needs a second version? The following question could be asked.

Do we need to fight against the international music industry in order to allow access to cultural goods? Well, yes. And the reasons are simple. If one takes a look on the effects of open access, maybe the perspectives wouldn't be that bad after all for the music industry. Circulation of products has in many cases led to more consumption.

Can it still be that the libraries job is to ensure that people have free access to information in a world where terrorism is debated and feared on a global level? Yes. One perspective is the potential danger created by not registering people. But on the other hand, what are the consequences of a society where people are surveilled and punished? Actually, the most recent examples from Europe, the former Warsaw-pact countries, makes it very clear that surveillance of citizens and lack of intellectual freedom over time will create disastrous conditions for living normal free lives.

The actual situation in Denmark is that the public library sector is following laws that are not in correspondence with the IFLA statement. But the solution is not to write a new IFLA statement. Instead it seems more necessary to insist on what is already written. In order to prevent a further decrease in intellectual freedom, it is strongly advised that the public library in Denmark opposes to accept the current Danish law.

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