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Journalism Worthy of the Name: Freedom Within the Press And the Affirmative Side of Article 10 of the European Convention on Human Rights (The Raoul Wallenberg Institute Human Rights Library)

Herdis Thorgeirsdottir

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The subject of this study is ‘freedom within the press’, the nature and limits of the protection afforded to the journalistic imparting process, which has been a neglected area of research. The analysis draws on the classical defenders of freedom of speech, Milton and Mill, to show that at the dawn of the 21st century the intertwined alliance between big business and public authorities resulting in the widespread phenomena of self-censorship within the media constitutes an almost insurmountable obstacle. Instead of enlightening the public and inspiring the individual the press may be contributing to an inert public and individual cowardice antithetical to the objectives of human dignity and democracy.

The core of the problem is that *prima facie* the infringement of freedom within the media is not exercised on legal premises and cannot therefore be solved within the legal framework. The operation of the press in society is conditioned by three types of regulation, legal regulation, market regulation and self-regulation. Legal regulation does not adequately presuppose the impact of the latter as it is based on the assumption that press freedom is mainly a negative liberty.

The book explores the affirmative side of Article 10 of the European Convention on Human Rights to guarantee press freedom that is not merely illusory but practical and effective. Convention jurisprudence has not only influenced the domestic courts of the Contracting Parties but also the legislators of the Member States. In an era of globalization dominant media operators wield power in their own domestic markets to impede national regulators in adopting interventionist media policies to secure journalistic freedoms. The Convention jurisprudence represents a kind of European *ius commune*, which is here set in the context of an analysis reflecting the problems and values at issue and offering recommendations to alleviate a situation which threatens democratic ideals and public-spirited journalism.

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