

A photograph of a two-lane asphalt road with yellow center and white edge lines. The road curves slightly to the left and disappears into a dense forest of trees with autumn foliage in shades of orange, red, and yellow. The sky is overcast. The overall atmosphere is one of a journey or path.

# ACCESS RIGHTS AND DEMOCRACY

AHTI SAARENPÄÄ  
PROFESSOR EMERITUS  
UNIVERSITY OF LAPLAND

# SILVIA KIERKEGAARD



- The best advice that any government can be given today is to ensure that transparency is firmly embedded into its processes.



# Constitution - Finland

## Section 2 - Democracy and the rule of law

The powers of the State in Finland are vested in the people, who are represented by the Parliament.

- **Democracy entails the right of the individual to participate in and influence the development of society and his or her living conditions.**
- **The exercise of public powers shall be based on an Act. In all public activity, the law shall be strictly observed.**



# Grundgesetz Finnlands

**§ 2 - Demokratie und Rechtsstaatsprinzip** Die Staatsgewalt in Finnland gehört dem Volk, das das zum Reichstag versammelte Parlament vertritt.

**Die Demokratie umfaßt das Recht des Individuums, an der Entwicklung der Gesellschaft und seiner Lebensumgebung teilzunehmen und auf diese einzuwirken.**

- **Die Ausübung der öffentlichen Gewalt soll auf dem Gesetz beruhen. In aller öffentlichen Tätigkeit ist das Gesetz genauestens zu befolgen.**

One of the great achievements of societal development since mediaeval times has been the change of knowledge from an arcane good for privileged groups to a good of common property, accessible for the general population

**Professor Dr, Dr  
Wolfgang Mincke**



# **Anders Chydenius**

## **(1729-1803)**



**Father of Access Principle**

# Constitution Finland

- **Section 12 - Freedom of expression and right of access to information**
- Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an Act. Provisions on restrictions relating to pictorial programmes that are necessary for the protection of children may be laid down by an Act.
- Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the **right of access** to public documents and recordings.

# Grundgesetz Finnlands

- § 12 - Redefreiheit und Öffentlichkeit Jeder hat Redefreiheit. Die Redefreiheit schließt das Recht ein, Informationen, Meinungen und andere Botschaften auszudrücken, zu veröffentlichen und zu empfangen, ohne im Vorhinein behindert zu werden. Nähere Vorschriften über die Ausübung der Redefreiheit werden durch Gesetz erlassen. Durch Gesetz können unerlässliche Einschränkungen von Bildprogrammen aus Gründen des Kinderschutzes festgelegt werden. Dokumente und andere Aufnahmen in Besitz von Behörden sind öffentlich, sofern deren Öffentlichkeit aus unerlässlichen Gründen nicht durch Gesetz besonders beschränkt worden ist. Jeder hat das Recht, aus öffentlichen Dokumenten und Aufnahmen Informationen zu entnehme

# Aulis Aarnio



# Professor em Aulis Aarnio

Conceptions of justice are not born in a vacuum. Those tasked with interpreting the law are part of a tradition that has taken on a particular shape before them and will continue after them. The process at work here is the same as that governing one's native language. Every generation acquires its own native language, masters it to a particular extent – this is taken for granted - and perhaps changes it a bit. But a language is not dependent on an individual person. Analogously, in order to recognize the standards for what is just, judges must know the culture, social history and operating principles of the nation they serve; they must comprehend the essential attributes of what it is to be a human being and what is expected of a person as a social being.

A photograph of a utility pole from a low angle, looking up. The pole is a light grey color and is heavily covered in a complex web of dark, crisscrossing power and telephone wires. Various insulators and metal fittings are attached to the pole to support the lines. The background is a clear, bright blue sky.

# NETWORK SOCIETY

# **Some ICT based starting points**

- We are not any more living in the Information society
- We are living in the new Network society
- We are depending on digital environment and networks
- We are not any more witnessing the age of e-government
- We are witnessing the age of Information government
- We are depending on information processes

# One legal starting point

- We are not any more living in the ( nordic ) Administration state
- We are living in the human rights based Constitutional state
- We are inside the framework of Human and Fundamental rights
- We are witnessing the age of quadripartite separation of powers

# PARIS PRINCIPLES

One development that can be viewed as part of the burgeoning European constitutional state is the increase in the number of independent authorities whose task is to defend the individual. **The traditional tripartite separation of powers has been replaced by a quadripartite one.** Data protection authorities have played a key role in this development.

**TIMO KURONEN**

**TUOMAS PÖYSTI**

# **Dr. Timo Kuronen**

The special character of information as an inexhaustible “natural resource” makes it a very difficult problem to manage in legislation and in the operation of the markets. The ownership of information enjoys very strong protection in principle. The economics term “public commodity” would be a more appropriate description where the production and distribution of information are concerned. **Where the aim is to provide the required informational basis for public discussion, it would be justified to deal with information for the most part as a public commodity. Treating information as a private commodity would then form an exception to the main rule and would have to be justified separately.**

# INFORMATION LAW

- The right to know
- The right to communication,
- Freedom of information,
- The free flow of information
- The informational right to self-determination (with anonymity)
- The right to information security.
- The use of limited monopolies only

PUBLIC DOMAIN

# The Right to Know

The right to know is a crucial liberty based on the prevailing conception of the human being. A human being has a genuine need to know and to use public and sometimes also private information. In order to exercise his or her right to self-determination in the constitutional state, an individual must have **the right to know** pertaining to him- or herself and pertaining to society. It is one of the modern human rights. What we are dealing with here is also the informational dimension of our right to self-determination.

# Professor Hannu Nieminen



- Citizens' communicational rights according to professor **Hannu Nieminen** are
  - (1) right to factual information,
  - (2) right to background information and knowledge,
  - (3) right to a belonging to a community including a right to entertainment and
  - (4) right to self-expression.

# SECRET – PUBLIC?

- In the digital environment we find , we must findthat certain traditional dichotomies - public versus private or secret versus open information - now serve us poorly. Yet they are still applied and are increasingly used to produce disinformation that takes no notice of the rights of the individual. In practice these dichotomies tend to cause a scarcity of justice – the eternal problem besetting the realization of justice.

# SECURITY NETWORK FINLAND

The Government Security Network (TUVE) will be a high-preparedness telecommunications solution for the government and security authorities. The network will ensure contact and communication between senior government officials, security authorities and other actors. It guarantees the integrity, availability and confidentiality of critical information. And, most importantly, **the information on the network will be physically stored within Finland**. A law has been enacted providing for the project. The bill was brought before Parliament at the end of 2013.

# NEW LEGAL CULTURE



- In the new constitutional state, we have to redouble our efforts to achieve an optimal legal culture. One key element of this culture is the legal planning of information systems. Access will naturally be one aspect of this planning; but it is only part of the big picture. The path information takes in our society spans a gamut from technological choices to the possibilities of and restrictions on the recycling of information. In the constitutional state, each of the stages on this path must proceed with due regard for human and fundamental rights. This is not a simple undertaking. The risks that cause a scarcity of justice are increasing. The traditional era of static documents, a relatively tractable one in legal terms, is now over.

# TRADITIONAL ACCESS

- Everyone has
- the right of access
- to public static documents
- and recordings.

# **ACCESS IN THE CONSTITUTIONAL STATE**

- **Access to networks**
- **Access data systems in information government**
- **Access to dynamic documents in data systems**
- **Access to digital services**
- **Access to ombudsman services**
- **Access to open data**





# Professor Giovanni Sartor

The fact that a right to access to the Internet may be considered as already existing on the basis of the current instruments does not exclude the utility of explicitly including such a right in international charters or national constitutions, so as to transform it into an explicitly recognised fundamental right. This is the aim of the initiatives concerning the creation of an Internet Bill of Rights (in particular in connection with the Internet Governance Forum and the ensuing Dynamic Coalitions).

# One progress example

- When talk began of *e-government*, a mentality arose whereby government information systems could - and should – be divided into two categories – *front office* and *back office*. The front office would provide citizens with information and electronic services. The back office was an internal information service for government itself. Applications fitting this description are undoubtedly still out there. In today's constitutional state, they are no longer adequate.

# ACCESS TO "OFFICES" TODAY

- As I see it, to be acceptable, data systems built in keeping with the principles of *good government* require four basic components, or offices:
- a system information office,
- a service information office,
- a service office
- a back office.





# DYNAMIC DOCUMENTS

- Digital document systems and electronic document management provide an opportunity to produce dynamic documents. Being digital is in fact one of the fundamental technical characteristics of such systems. Documents can be planned for different purposes and with different content while retaining, using metadata, information on the original document and the different forms in which it has been distributed. **For this to succeed, we need more than merely the requisite technical and legal planning of the information and communications system involved.** The path of information, like openness and legal welfare in society, should be legally invulnerable. Then transparency can be appropriately realised and realised to its full extent.

# **Act on Information Management Governance in Public Administration (2011)**

- **Section 1 — Purpose of Act**
- The purpose of this Act is to improve the efficiency of activities in public administration and to improve public services and their availability by laying down provisions on information management governance in public administration and on promoting and ensuring the interoperability of information systems.

# Facilitating Re-use of Legal Data in Applications— Finnish Law as a Linked Open Data Service

- Matias FROSTERUS, Jouni TUOMINEN and Eero HYVÖNEN ;Semantic Computing Research Group (SeCo) Aalto University and University of Helsinki
- *Abstract* Juridical information is important to organizations and individuals alike and is needed in all walks of life. The Finnish government has therefore published Finnish law and related juridical documents on the Web as a service called Finlex. However, even if the documents there are openly available for humans to read, the underlying data has not been open, is based on a traditional XML schema, and does not conform to new semantic metadata standards and Linked Data principles. As a result, the data is difficult to reuse in applications, the data sets are not interoperable with each other, are difficult to link to external data sources, and lots of manual work is needed in producing and using the data. To mitigate these problems, this paper presents Semantic Finlex, the first attempt at publishing Finnish law as a Linked Open Dataservice, with an analysis and examples of benefits and challenges encountered when applying the technology.
- **Keywords.**Linked Open Data, Legal knowledge publication, Web Services

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# Conclusion

- Active Network society
- The Right to know, not only to information
- Quadripartite separation of power
- Legal design of data systems
- Dynamic documents
- Strong information law
- Informational Justice
- Informational self-determination

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