



Ethical
Journalism
Network

The Trust Factor

An EJN Review of Journalism
and Self-regulation

EDITED BY AIDAN WHITE

The Trust Factor

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Introduction

>> AIDAN WHITE

People who work in journalism, like others in professional life, don't like being told how to do their job. They are notoriously sensitive to complaints, even though they can be lacerating in their criticism of others. They prefer to run their own affairs by creating systems of self-regulation to handle grievances and grumbling about their work from members of the public.

But when these systems of self-regulation don't work, public anger can lead governments to lay down laws that control how journalists work and what media are allowed and not allowed to publish.

The recent scandals of phone-hacking and press bribery in the United Kingdom involving the global media giant News Corporation, owned by Rupert Murdoch, saw a major newspaper close and journalists sent to jail, and provided shocking evidence of a failure of self-policing at individual, corporate and industry level.¹

One high profile victim of that controversy was the Press Complaints Commission, an industry regulator of world-renown, but which proved to be utterly ineffectual in curbing the excesses of tabloid journalism. The press were forced to reform their self-regulating system or face legal controls.²

The controversy put the spotlight on how journalists and media apply principles of self-regulation, not just in Britain, but around the world.

Across the globe there are dozens of regulatory bodies working at national level to regulate journalism. Some are defined by law and some are genuinely self-

regulating – that is, they are managed and paid for by the industry and by journalists' groups.

But does self-regulation work? Are journalists bound by ethical codes and free to act according to conscience? Do media houses have credible internal systems for dealing with conflicts of interest and complaints from the public? Are there national accountability systems, such as press councils, that are trusted by owners, journalists and, most importantly, by the public at large?

The enclosed country reports, which have been prepared by distinguished journalists and media leaders, seek to answer these testing questions.

The conclusions reveal that in the midst of revolutionary change inside journalism and media and at a time when the culture of public communications has seen a dramatic shift in the way people receive and disseminate information, the need for responsible and accountable journalism is greater than ever.

But major questions remain over how to develop accountability systems in tune with the new era of information.

The convergence of communications technologies, for instance, has rendered obsolete the traditional divide between broadcast and print journalism, so why in most countries do we still have different structures and rules for handling public complaints about the content of journalism in the press and on television?

In some countries – Norway, the Netherlands and Belgium, for example – all published journalism on any platform comes under the jurisdiction of a single press or media council. Are these models for others to follow?

These country reports confirm that effective and credible self-regulation only exists in a small number of countries and varies dramatically in different parts of the world and even within regions.



¹ For a full report on the scandals and the subsequent Leveson inquiry see: <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/>

² See The Leveson Inquiry <http://www.bbc.co.uk/news/uk-15686679>

In Europe, for instance, Norway has a fully-functioning self-regulator, which is a model of its kind, and covers journalism on all platforms of media. In neighbouring Denmark the press council is equally robust, but it is a statutory body with significant powers to impose its will if media step out of line. In both countries the systems work, more or less supported by all stakeholders.

But it's not easy getting the right approach. Even in areas where journalism has a rich tradition of professionalism, such as the UK, when public outrage over press abuse boils over media struggle to rebuild public confidence.

This report examines self-regulation in challenging times. Journalism is increasingly a single stream of information disseminated simultaneously across different platforms of media, but its regulation remains dominated by old-fashioned notions of how media work.

Usually there two ways of regulating journalism at national level: a voluntary system for the press and legal controls over broadcasting. These structures were created for yesterday's media landscape and are increasingly out of date. Today's digital journalists work on video, print and audio simultaneously. That's why it makes sense to have only one national regulator, and one that covers all platforms of journalism.

Another testing issue is the question of funding. Ideally, journalists and media should pay the bills for press councils, but in these cash-strapped days can media continue to afford it? Increasingly, the answer is no. So who will pay in future?

Perhaps we should think about using public funds, after all, independent regulation of media is a public interest activity. But if we use taxpayers' money how do we ensure it won't compromise editorial independence?

Finally, as this report shows, making self-regulation work at enterprise level is perhaps what counts most. Building trust with the audience should be an issue in every newsroom and the growth in the number of in-house ombudsmen or readers' editors is a welcome sign that more media are taking the issue seriously.

However, in the face of editorial cuts some managements still question money being channelled into cleaning up the mistakes of the newsroom. But as this report illustrates, keeping journalism honest is money well spent for media and, for the public at large, it's a good investment in democracy.

A Checklist for Self-Regulation

This checklist highlights the minimum conditions necessary for effective regulation of journalism based on principles of independence and press freedom.

At the Level of the Individual

- Are there codes of conduct governing the work of journalists?
- Are codes of conduct made part of contracts of employment for journalists?
- Do journalists and editors have the right to act according to conscience?
- Are there whistle-blowing systems for journalists to disclose acts of corruption or unethical behaviour?

At Enterprise Level

- Do media houses have internal systems for dealing with the complaints and concerns of the public?
- Are there ombudsmen, readers' editors or other editorial posts charged with these responsibilities?
- Does the company have editorial guidelines and internal governance rules outlining good practice and codes of conduct?
- Is there internal transparency and systems for dealing with conflicts of interest at the level of the newsroom and also the boardroom?
- Is there active engagement with the audience and promotion of information about how to complain?

At Industry Level

- Is there an industry-wide system for dealing with complaints and monitoring journalism and media performance?
- Is there industry agreement on a common code of conduct for journalism?
- Are there transparent, accessible and cost-free procedures for making complaints?
- Are there systems of arbitration designed to provide fast-track resolution of complaints?
- Are media bound by contractual obligations to respect the decisions and adjudications of the accountability system?
- Is the Board of management of the media regulator independent of political and industry interests? Are the public properly represented and how?
- Is there an independent and transparent system of funding?



Above all is the need to restore confidence in ethical journalism and the ability of media to play a more effective role in creating credible and durable forms of self-regulation.

How funding crisis overshadows media and self-regulation

>> SANELA HODŽIĆ

During the years of communism in the Western Balkans media were under complete state control. This was assured primarily through official appointment of media managers and editors loyal to the political establishment. Courts of Honour in ex-Yugoslavia ensured ideological uniformity in media content and compliance with the goals of the communist party. Promotion of professional ethics was not their main goal.

During the 1991-1995 Balkan wars, media were used by the ethno-national political elites. They contributed to the polarisation of communities, the demonisation of other ethnic groups and finally to the justification of violence against the “other”. To this day, there is no common moral condemnation of inadmissible media practices prior and during the conflicts.

Attempts to self-regulate the media sector has been anything but organic, straightforward and easy. The international community played an important role in putting in place the regulations and institutions to support media self-regulation, especially in Bosnia and Herzegovina, Kosovo and Montenegro.

In general, relevant reports suggest that media regulation systems have primarily contributed to the pacification of media content in the post-conflict countries. However, the picture is not clear. In broadcasting, for instance, the regulation of the sector involves the power to assert executive measures against broadcasters for inadmissible media content and it is still not clear whether broadcasters engage in unethical journalism less than other media. In Albania for example it is considered that broadcasting is still more problematic than print media content (Irex, 2014).

Attempts to develop self-regulation systems have faced numerous difficulties, not least because the bodies set up to supervise systems of self-rule

do not have executive powers over news media, which means they are dependent entirely on the voluntary acceptance and dedication of media outlets and journalists to support ethical practice. The acceptance of self-regulation has taken some time in all of the countries, but has been more or less achieved across the region. However, self-regulation is handicapped by certain realities.

Firstly, the commercial imperatives of the media business have had an impact on professional norms. Less money is spent on editorial costs and journalism especially since the media market is further impoverished due to continuing economic crises across the region. The main objectives of media outlets are to make profits and to cut costs.

Second, and the biggest concern, is the fact that most media depend heavily on power elites that are political (either government or certain political parties) or economic power (companies which are major advertisers) for financing. They cannot risk losing this support¹. An increasing concern is the increasing reliance of media on government funding.

Both direct government funding and advertising practices of government institutions have been blamed for the manipulation of media to serve particular political and financial interests. This process is reinforced by the appointment of managers and editors loyal to certain political/economic elites, a problem particularly found with public media.

Given these sober realities it's clear that media policies in the region are not enough to guarantee the statutory rights of editorial independence and media's public interest mission. Certainly, they don't create an enabling environment for quality journalism that respects ethical and professional norms.

¹ For example, the flight company Belle Air went bankrupt in 2013, but since it was a major advertiser, the media did not report critically about the company until the day of its bankruptcy (MSI, Irex 2014).

TABLE 1: Code of Ethics by country: time of adoption and focus

	Albania	BiH	Croatia	Kosovo	Macedonia	Montenegro	Serbia
Press Code of Ethics adopted	1996 revised 2006	1999 (revised 2011 to include online media)	1993 2011	2005 amended 2010	2001	2002	2006 (amended 2013 articles on corruption)

For example, media, with the exception of **Croatia** and **Macedonia**, are not explicitly required to have internal complaints procedures for their audience nor are they obliged to consult journalists when appointing or dismissing editors.

There is little recognition of the right of journalists to act ethically. The conscience clause is rarely found in contracts with journalists and even in **Croatia** and **Serbia** where the Media Act/Public Information Law guarantees the journalist's right to refuse engagement that would violate legal, ethical or professional rules (without having to suffer consequences for his/her employment contracts and conditions), there is no evidence that this stipulation has been considerably used in practice.

This lack of respect for the professional status of journalists should not come as a surprise though, given that irregular, even unlawful, types of employment are frequent in media and these significantly discourage journalists from exercising these rights.

Self-regulation on a national level

Some form of national structures for media self-regulation have been introduced in the region although it has not been a harmonious process. As the Tables 1 and 2 show it has occurred with different impetus, in different forms and at different times in all countries. (See tables 1 and 2).

Efforts have been made in different countries to establish an organisational model for supervising the implementation of the ethical codes. The codes in some countries cover all media sectors, but self-regulation mostly concerns print media and in recent years – online media too.

Although the self-regulation efforts in **Croatia** started in 1993 with the drafting of a code covering all media sectors, for a long time there was not enough professional or political will to establish and financially sustain a body that would supervise the code and promote its use. As a result, the Council of Honor of the CJA (Croatian Journalists Association) handled breaches of the Code.

In 2011 another body was established, the Croatian Media Council with a mission to monitor and adjudicate on breaches of journalistic ethics. On a positive note, this body tries to actively involve both the representatives of the journalists' association and large media organisations in the self-regulation mechanism, but the council's reach is limited to members only and their engagement has been evaluated as weak. However, there is still no clarity on the roles and powers of the two self-regulating bodies.

In **Bosnia and Herzegovina** and in **Kosovo** self-regulation of media was developed with the help of the international community. In Bosnia, thanks to major technical and financial support from international donors the press council was set up in 2000, following the adoption of the press code the previous year. In **Kosovo** the press council was founded in a similar fashion in 2005.

Because the self-regulation in these two countries was not developed organically from within, based on the awareness and dedication of the media community and taking into consideration the local context, it took some years for the councils to win the support of local media and journalists, particularly in the case of Bosnia.²

A major challenge for all councils is the shortfall in resources and capacity needed to make them sustainable. In Bosnia and Herzegovina the continuation of the council's work is made financially difficult and depends upon external funding of several donors, most constant one being the Embassy of Germany.

International support was also pivotal in the developing of media self-regulation systems in **Montenegro** and **Serbia**. The Media Self-Regulatory Council in Montenegro³ started operating in 2012. It deals with content of primarily print media and

² Although there are currently only 13 media outlets that are members of PC BiH, their decisions are in the majority of cases accepted by print and online media regardless of whether they are actual members or not.

³ The previous body - NST stopped operating in 2010 due to differing interpretations of the professional norms, incited by an interview with the controversial businessman Stanko Subotić. More in an article by Janković, S, available at: http://www.slobodnaevropa.org/content/crnogorski_medijski_prostor_ostro_podjeljen/24090178.html

TABLE 2: Self-regulatory bodies by country

	Self-regulation unit in associations	Autonomous self-regulatory body	Other bodies promoting media ethics	Notes on the institutional framework
Albania		—	In 2013, pilot ombudsmen established in four newspapers and one online media outlet	The ombudsmen were a result of a UNESCO-led initiative; They received few complaints; The previous Council of Ethics dissolved and was not mentioned for positive achievements
Bosnia-Herzegovina	—	Press Council (PC): 2000	Until 2010 deputy Ombudsman of BiH; now – no specific position related to media	Major role of the international community in founding and sustaining the Council
Croatia	Council of Honor within the Croatian Journalists Association	Croatian Media Council: 2011	—	Lack of will to establish a separate self-regulatory body; the body established in 2011 still has limited reach and its mission overlaps with the CJA
Kosovo	—	Press Council (PC): 2005		Major role of the international community in founding and sustaining the Council
Macedonia	Council of Honor of the Association of Journalists of Macedonia: 2001	Council of Ethics of Media in Macedonia: 2013	—	There is high skepticism about the credibility of the newly established council
Montenegro	Association of Professional Journalists (UNEM)	Media Self-Regulation Council (MSC): 2012 Self-regulatory body acted since 2003 stopped in 2010 due to controversial interpretation of the Code	Ombudsman for media in some media organisations	MSC includes electronic and print media; there is also a separate body: Self-Regulatory Council for Local Press, but available reports suggest this body has not been significantly engaged in self-regulation yet
Serbia		Press Council: 2009	—	The Press Council started functioning in 2011

in some capacities with online and broadcast media as well.

The current state of self-regulation of media in **Macedonia** is especially discouraging. The Council of Honor within the Association of Journalists of Macedonia (AJM), particularly active in the 2007-2009 period, relied on the enthusiasm of seven journalists engaged on a voluntary basis to monitor violations of professional standards.

But the council faced a lot of resistance, campaigns against its members and court charges for defamation after the council accused a journalist of inaccurate and manipulative reporting. It also suffered from indifference and a lack of support within the media community. Today, the council is a shadow of its previous self, with rare and vague reactions to breaches of journalistic norms.

Meanwhile, the journalists' association has engaged in discussions with journalists, media managers

in electronic and print media, as well as the public service broadcaster (Radio Television of Macedonia) on plans to set up a separate self-regulatory body leading to the creation of the Council of Ethics of Media in Macedonia in December 2013. This includes representatives of print, online and broadcast media. A complaints commission of seven members (journalists, editors and public representatives) within the council considers complaints about media content.

But skepticism has been raised regarding the future work and credibility of the body. As one journalist said: *“Some members of the Council are people who brutally take part in the creation and dissemination of propaganda, who lie shamelessly. I perceive their participation in a self-regulation body as a great insult and have no confidence whatsoever in their impartiality”* (Saška Cvetkovska, journalist of Nova internet TV outlet⁴).

⁴ Quote taken from: Chausidis, T. Flash Report 4, available at: <http://mediaobservatory.net/radar/flash-report-4-macedonia>.

Despite this there is room for optimism. In October 2014, with goodwill in abundance from UNESCO, other European press councils and journalism support groups in the region, a new Council of Media Ethics was launched in Skopje. The council is full of confidence that it can establish itself as a credible and effective self-regulator. It will not be easy and the council faces daunting practical challenges to become sustainable. Nevertheless, it hopes to win the support of media and journalists, and particularly a new generation of young media people who appear eager and ready to reinforce efforts to strengthen ethical journalism..

In **Serbia** in the 1990s, after a period when media were used to support nationalistic goals during the war, the community of journalists, split and without any meaningful sense of solidarity, lacked the unity needed to establish a credible system of self-regulation as well as being unable and unwilling to finance a self-regulatory body. Common professional norms were adopted first in 2006 by the two major journalistic associations (UNS and NUNS), but it was not before 2009 that the Press Council was founded, and not before 2011 that it actually started functioning (thanks to donor support, primarily by the government of Norway).

Nevertheless, the council is increasingly accepted by the media community, with 78 media outlets as members at the beginning of 2014, involving magazines, dailies, tabloids and press agencies.

Since 2013, the council has introduced the approach already adopted in Bosnia to adjudicate upon ethical breaches by both member and non-member media. Both councils have also widened their remit to include online media⁵. The council in Bosnia has an elaborate approach to user generated content – if the content is not removed upon the request by Council, it is treated in the same way as other journalistic work and is liable for complaints procedure.

Albania is the odd one out in the Western Balkans. There is no media self-regulation body. Although self-regulation has been debated in public since the 1990s and an ethical code drafted in 1996 by the Albanian Media Institute and a journalistic association support for self-regulation has not materialised. A Council of Ethics was established in 2006, but it dissolved later.

⁵ There is additionally the Council of Online Publishers which adopted a Code of good professional practice in online publishing.

Some Optimism, But Ethical Journalism Remains in the Shadows

In sum, the experience of media self-regulation in Western Balkans is of mixed fortunes. There are positive signs of increased media participation and in some countries an increased number of complaints being filed to self-regulators. For example, in 2013 the Press Council of Serbia received 71 complaints, twice as many as the year before (35), and in Bosnia the number tripled between 2009 and 2012.

Complaints in 2014 in Bosnia and Herzegovina have mostly related to denial of the right to reply, inaccurate and unfair reporting, as well as discriminatory speech and hate speech. Similar types of violations were registered in Croatia in 2012, but the report of the Council of Honor from 2012 also identifies a tendency of hidden advertising. There are also reports about predominant use of unidentified sources in Kosovo (MSI Irex 2014).

The growing participation of media and for example the fact that the majority of cases in Bosnia and Herzegovina are solved through simple mediation between editors and complainants demonstrates that self-regulation is acknowledged both inside and outside the newsroom.

However, on the down side the self-regulation of media across the region is making only glacial progress and a number of obstacles to rapid development of these systems can be identified:

Lack of regular monitoring of media content and breaches of journalistic ethics which is mostly due to a lack of resources of self-regulatory bodies. Because the self-regulatory bodies mostly process complaints filed by citizens much of the inadmissible content escapes attention. In Montenegro, for example, the Human Rights Action found many more breaches of professional norms (511 cases) than those registered by the media self-regulator (83) in the period of November 2013 - February 2014.

Lack of awareness and motivation of citizens and other actors to make complaints about unethical journalism is a problem that exists almost everywhere.⁶ The councils in Bosnia, Herzegovina and Serbia are trying to address the issue by

⁶ Some sources suggest that skepticism hinders greater citizen participation; See, for example, Mišić-Mihajlović and Jusić, p. 184, article on BiH, available at: http://www.media.ba/mcsonline/files/shared/Participatorne_komunikacije_Final_z_a_web.pdf



Part of the problem is the fact that the media markets are poor and unable to financially sustain the system.

raising awareness among journalists, citizens and representatives of the judiciary about the importance of media self-regulation;

Lack of certainty that media will respect decisions arising from self-regulation also undermines public confidence in the system. In some cases, media fail to publish a retraction, apology or decision of the press council and they suffer virtually no consequences. For example in Serbia, the publications *Kurir*, *Informer* and *Vecernje novosti* have ignored instructions from the press council on one or more occasions (Matic and Valic-Nedeljkovic, 2014).

Lack of efficient mechanisms against media that refuse to publish retractions or apologies. By definition the credibility of self-regulation depends entirely on the willingness of media to accept the process but this is sometimes lacking often for political or other particular interests of the media concerned. Public condemnation (by the professional and wider community) against media failing to comply with the decisions of a press council are low key and limited. As a result the public often remains unaware of the lack of accountability of certain media outlets.

Self-regulation in the online media sphere involves additional challenges. There is a lack of transparency of ownership and editorial and contact information from certain media. For example, the press council in Bosnia and

Herzegovina has problems with communication with online media and overseeing self-regulatory principles, particularly when dealing with online media which are not registered as media businesses and do not publish their contact information.

Most troubling is that self-regulatory bodies across the region are faced with the problem of unresolved long-term financial sustainability. Part of the problem is the fact that the media markets are poor and unable to financially sustain the system.

In these circumstances professional accountability and support for self-regulation is not a major priority for media, but it is a particular problem when media primarily perform the role of an open platform for political propaganda or advocates for specific business interests.

Self-regulation in the newsroom: Making a start

Attempts to promote self-regulation within individual media have not met with great success. An attempt to promote such measures made on the policy level in **Croatia** was Article 24 of the *Media Act* (adopted in 2004), which stipulates the adoption of a statute in each media outlet, which would regulate relations within the organisation and provide norms of conduct.

This provision was largely ignored for years, until 2013 an economic incentive was introduced. The adoption of the statute became a mandatory criterion for: (a) granting new tax relaxation for dailies - Value Added Tax was reduced from ten to five percent for dailies, and (b) government funding for broadcasters (and since 2013 for online media too) under the “Fund for Pluralism”. However, whether it has led to change is uncertain given that there is no adequate monitoring of media compliance.

Nevertheless, some media have recently been developing internal codes of ethics, although this is still not a widespread practice. For example in **Kosovo**, broadcast media tend to have codes of ethics, but this is not the case with most online media (MSI Irex 2014). In **Montenegro**, a few media recently introduced the Ombudsman within media organisations (including *TV Vijesti* and the dailies *Vijesti* and *Dan*). The Ombudsman in the daily *Vijesti* in Montenegro has been functioning actively, with 36 complaints received in the period of 3 November 2013 - 1 March 2014, and the decisions

made in this period “mostly seem founded”, as assessed by Human Rights Action⁷.

But elsewhere mechanisms of implementation are mostly weak. For example, norms adopted within the Fair Media Group in **Albania** (including *Shqiptarja* daily, *Shqiptarja* website and *A1 Report* TV station) are considered obligatory for all employees, but there are no corrective measures foreseen for violation of these norms.

In addition, four newspapers and one online media outlet in Albania established the institution of Ombudsman in 2013, as part of a UNESCO-led initiative. But this complaint mechanism has not been readily accepted by the public judging by the extremely low number of complaints received. The website *Respublika* also started a section on their website called “Respublika vs. Readers” envisaged for comments and further discussion with readers.

Do journalists count when it comes to self-regulation?

Journalists are mostly familiar with ethical issues, but the degree to which these norms are accepted as a part of daily practice depends on their personal commitment and working environment. In sum, journalists are by large not considered free to act according to their professional ethics.

Those who act opposite to the political and economic interests of owners and their affiliates risk losing their jobs. A recent example was the release from duty of the editor-in-chief of the daily *New Macedonia* (*Nova Makedonija*), Zoran Dimitrovski, for criticising the government in his column, in February 2014 (Trpevska and Micevski 2014).

Media and journalists still play a role in fomenting national, ethnic rivalries and often play fast and loose with their ethical obligations by providing one-sided views on daily political issues.⁸

Even the most innocent occurrences are not spared from bad journalism. For example, in a recent case in **Croatia**⁹, media published sensational reporting

stressing the nationality of a negatively portrayed actor. Media have been criticised for political bias, especially at election time and (self)regulators have registered numerous breaches of ethics and professional conduct. Journalists, more or less willingly, continue to comply with such practices.

Part of the reasons is that they work in fragile professional and social conditions, enjoying low status, no job security and an average salary around or under the national average. Journalists often suffer violations of their labour rights and have little options for alternative employment. They are regularly not provided with enough time and resources for good fact-checking and investigation and speed is often favored more than accuracy¹⁰.

In the words of an MSI Irex panelist: “*Journalists have no time, no support from their editors, no money and, I am afraid, not even any remaining personal drive to check multiple sources of information*” (Dobric, D, net.hr, *MSI Irex 2014*, p. 49). Investigative journalism carries the risks of exposure to different kind of pressure, threats, lawsuits etc¹¹.

All of this is made worse by poor levels of media solidarity. Journalists are often isolated by a lack of support within media and from within the community of journalists at large. Some of these factors may contribute to breaches of specific professional norms. But more alarmingly, even where ethics are respected, codes in place and opportunities for professional conduct are available many journalists are unwilling to engage in relevant, critical and investigative reporting which can further devalue and marginalise the role of journalism in the eyes of the public at large.

Social and political realities cool the fire of ethical journalism

In conclusion it is clear that the media communities of the Western Balkans are making slow progress towards systems of credible and effective systems of media self-regulation. In all countries the first steps are taken and media professionals are largely

7 However, TV Vijesti did not receive a single complaint in the period of September 2013 - January 2014;

8 This is especially the case with BiH, where for example two public service broadcasters – FTV and RTRS, much as the rest of the media community, report on major issues in a deferring manner, including, for example, constitutional arrangement of the state and war crimes.

9 A man who was on a beach and made an honest mistake by benevolently getting close to a Mediterranean monk seal (which was disturbed by his behavior), but the media reported that “A Macedonian in front of everyone at the beach beat a Mediterranean monk seal”. See more at: <http://www.media.ba/bs/magazin-novinarstvo/sta-se-ustvari-desilo>

10 A recent example was the reporting about a car accident in which Albanian MP Sokol Olldashi was killed in November 2013, which included unverified and inaccurate information (MSI Irex 2014).

11 For example, in local elections in the North of Kosovo with majority Serb population in November-December 2013, media outlets hesitated to send their journalists out of fear for their safety (Irex 2014); The driver of the Head of the Kosovo Intelligence Agency (KIA) threatened the owner of the online media outlet Indeksonline while he drove him to a meeting at KIA, before Indeksonline published an article linking the head of KIA with corruption (MSI Irex 2014). In Macedonia, “a sense of persecution of critical media and investigative journalists prevails”, as stated in the MSI Irex report, p. 72. The Free Media Help Line in BiH receives around 40 reports on different kinds of pressure on journalists per year.



Journalists have no time, no support from their editors, no money and, I am afraid, not even any remaining personal drive to check multiple sources of information.”

– MSI Irex panelist

declaratively supportive of self-regulation bodies (with the exception of Albania). But the systems are limited and held back by a range of intractable problems, political, economic and structural. The self-regulatory body in Bosnia and Herzegovina enjoys the greatest credibility in the region, but it relies for its existence on (reduced) financial support from outside the country.

It is impossible not to conclude that progress towards the creation of confident, professional and self-aware media communities that can help build democracy in the region will be stalled so long as there are no clear policies and practical actions to confront the crisis conditions under which media function.

The problems of financial dependence on oligarchs and political friends; the lack of confidence in journalism that is beset by professional and social crisis; and the widespread neglect of the mission of journalism in the public interest combine to define a profound crisis across all platforms of media.

In this situation the structures of self-regulation at national level, at enterprise level and at the level of the individual journalist are severely restricted. As this report reveals self-regulation remains a principle exercised only to the small extent that journalists and media managers are willing and empowered to do so. It is a model welcomed by journalists and media support groups and although it remains in the shadows of particular business and political interests the developments of recent years do provide a base from which to strengthen the scope for more action at the level of the enterprise and within different media sectors.

In particular, actions to promote enterprise self-regulation; forms of peer-review (reports and monitoring by journalists' groups and online monitoring); the establishment of news ombudsmen and readers' editors; and promotion of national dialogues with policymakers and public representatives can help strengthen the credibility of and commitment to national self-regulation systems. The region is in need of new initiatives to promote professional norms and enable journalists to follow them regardless of the interests of media owners and political players. New initiatives to press policymakers to refocus their attention on the value of pluralism and media democracy to the development of the Western Balkans are essential.

Although when looked at globally the media sector in the region over the recent years shows signs of stagnation¹², the MSI Irex indicates that in all countries in the region the score for professional standards has in sum improved since the beginning of the 2000s¹³. However, the past five years show a worrying trend of declining professionalism. The time has come to confront that fall with fresh commitment to an agenda for change. Above all is the need to restore confidence in ethical journalism and the ability of media to play a more effective role in creating credible and durable forms of self-regulation.

¹² World Press Freedom Index suggests that the state of media freedoms in Macedonia has especially worsened in the last three years, while Serbia significantly improved its ranking.

¹³ Although the score for professional norms in Macedonia and Croatia is lower than in 2001.



Some argue that as a democracy, the Brazilian society must defend the plurality of opinions, freedom of press and freedom of expression... Others disagree.

BRAZIL

Work in progress, but self-regulation fails to convince

>> MARCELO MOREIRA

The Brazilian Constitution, approved in 1988, dedicates an entire chapter to Social Communication. Its rules were considered modern and capable of maintaining pluralism in the country's media. However, more than a quarter of a century later, most of its articles regarding social communication and media regulation have not been acted upon.

This may explain why self-regulation of journalism is an issue of hard debate among experts, media owners, journalists, the civil society and the government.

There is no specific board or council working exclusively to promote and carry out media self-regulation. On the other hand, Brazil has a complex system of laws and institutions that in some way undertakes the role of regulating the media.

The debate over the past 20 years has polarised. Some argue that as a democracy, the Brazilian society must defend the plurality of opinions, freedom of press and freedom of expression. And that to achieve this status of freedom, media regulation must take place under a framework in line with international standards and specifically under the supervision of an independent regulatory authority, with a group of members playing this role.

Others disagree. They say it is not true to affirm that media regulation does not exist in Brazil. The supporters of this point of view assert that the country does have laws and different boards and agencies that have the media under different kinds of regulations.

In this context, it will probably take some time before Brazil develops an independent regulation board for broadcasting and also national self-regulation boards for any kind of media platform.

The Brazilian Act for Telecommunications dates from 1962 and although it has been revised in the course of the years, there are calls for approving a new law capable of guaranteeing pluralism of opinions and a more democratic system of telecommunications. A recent campaign to change this act raised support from more than 1.3 million people.

In addition, the emergence of the Internet has added a new element to the discussion, considering that so far in Brazil there is no regulatory framework for the Internet. That is now under discussion.

The enactment of the new Brazilian Constitution 26 years ago brought the end of the country's Press Act that had been in effect since 1967. In April 2009, by a majority decision, the ministers of Brazil's Federal Supreme Court finally revoked the Press Act taking the view that the law was incompatible with the Constitutional principles of free expression. One of the important changes with the end of this law is that journalists no longer need a degree in journalism to work as professionals. This controversial impact led to strong protests from the National Federation of Brazilian Journalists (FENAJ).

The Press Act was passed in the first years of the Brazilian dictatorship and consolidated a number of restrictions on press freedom. It was criticised for establishing severe penalties for the journalists prosecuted for defamation. These crimes are now covered by civil and penal laws.

There were mixed feelings with the end of the Press Act. National associations that represent media and journalists approved its revocation, but both types of association now hold that new rules and parameters must be created for journalistic activities. For instance, there is no specific law for the right of reply. This fact, in the opinion of the National

Association of Newspapers (ANJ) and the National Federation of Journalists is dangerous.

Without this regulation, they warn, the Brazilian press faces today the so-called 'lawsuits industry', which can be very harmful to the good practice of journalism by creating an atmosphere of fearfulness in the newsroom. Since 2011, the Brazilian Senate has been analyzing an act project to establish new rules and parameters for the right of reply.

During the second term of Lula's presidency in Brazil, there was an attempt to create a Media Regulation Act. But all discussions related to it ended up in a drawer of a cabinet in the Federal capital of Brasilia. Even today, no one knows what they contain.

This report reflects on the present state of this discussion and on what the main players related to the matter think about media regulation and self-regulation.

The debate is underway and there are different views, but it converges on one point in common: Brazilian society must work hard to change the way we are seen when we talk about democracy and media not least because of the low international standing of the country. In this regard, the most recent report of the NGO Reporters without Borders, Brazil occupies the 108th position in the ranking of freedom of expression among 179 countries.

Self-regulation at the level of the individual

Brazil is a country of continental proportions and a population of over 200 million citizens. There are big cities such as São Paulo and Rio de Janeiro, with populations of 20 million and 6 million, respectively. And in the countryside, Brazil has very small cities, where the lack of infrastructure and poverty can be compared to the reality of poor villages in Africa. Not surprisingly, if the social and economic conditions are diverse, there are equally dramatic differences in the application of ethical principles in journalism.

In each of the 27 states of the Brazilian federation, there are at least two large newspapers and two large networks broadcasting journalistic programs. With such a huge territory, we have different levels of press freedom in the newsrooms. Based on the opinions of media experts in the country, we can say that there is more freedom for journalists in big urban centres than in the small ones.



If the social and economic conditions are diverse, there are equally dramatic differences in the application of ethical principles in journalism.

A journalist working in Brazil's countryside can face several threats. In the past 5 years, over 20 journalists were killed in the country, according to the International News Safety Institute (INSI). Most attacks take place in the countryside and in most of cases, the journalist killed was covering a local story on corruption, investigating groups that for decades have exercised power, control and negative influence over their localities. This reality creates conditions of fear in the newsroom and self-censorship, which itself weakens democracy.

Guilherme Canela, UNESCO Advisor in Communication and Information, highlights the regional situation: "In the countryside, there are political patrons and drug dealing, along with less vigilant institutions". In big cities, on the other hand, journalists have more freedom to act according to their conscience, except for some types of taboo contents.

In 2002, a turning-point in this crisis of violence was reached in the aftermath of the shocking killing of the well-known journalist, Tim Lopes — killed by drug traffickers in a favela of Rio de Janeiro. This led to the creation of the Brazilian Association of Investigative Journalism (ABRAJI).

Gathering a board of distinguished journalists from large newsrooms from across the country, ABRAJI plays an important role in protecting journalists, defending ethics and creating tools that allow young journalist to improve their skills. ABRAJI is active in denouncing violence against journalists in Brazil to combat impunity to ensure that anyone who is guilty of an attack against a journalist can be brought to justice.

Because of ABRAJI's work the Brazilian government has invited associations of journalists to create a working group to discuss measures that may guarantee press freedom. Journalism associations such as the National Federation of Journalists (FENAJ) and the Brazilian Association of Journalists (ABI) have joined ABRAJI in this working group. One of the issues currently under discussion is the need to make crimes against journalists in Brazil a Federal matter and to take them out of the hands of regional authorities alone. ABRAJI is also promoting fresh discussion on the creation of a code of ethics for journalists.

At the same time, and as this report is being prepared, there is a heated discussion between journalists who work for big media organisations and the so-called alternative media, including small groups mostly using blogs and internet websites.

These groups contend that freedom of press is not respected in big media outlets. They argue that important events and issues are not brought to public attention.

This discussion is not exclusively found in Latin America, but in Brazil it has become a passionate discourse and, unfortunately, has also led to cases of violence against journalists in the past two years.

Between June 2013 and February 2014, ABRAJI recorded 117 attacks against journalists during the coverage of protests in the streets. As the population went to the streets to demand a better society, journalists have been attacked both by the police and by protesters angry over the coverage and editorial policy of large media outlets.

In February 2014, cameraman Santiago Andrade was killed by a bomb thrown by protesters in

downtown Rio de Janeiro and his death became a symbol of this discussion.

Much needs to be done to reduce the temperature of this debate and to end such feelings of mutual anger between the two groups – professional journalists and the alternative media. The discussion is important, indeed it can help frame the future of public policy regarding journalism and free expression, but it must be held in an atmosphere of tolerance and mutual respect.

Self-regulation at the level of media enterprises

Nowadays in Brazil there is a lack of data for precisely defining the self-regulation of journalism at enterprise level. Although the country does not have a self-regulation board for journalism, media are increasingly concerned that they should be more transparency in their editorial policy for the public.

While it is generally understood across the world of journalism that it is positive for democracy when a newspaper clearly states its principles, in Brazil there is still a lack of transparency in many media groups regarding their editorial policy and principles.

This bad practice creates an information deficit for the audience and reduces accountability because it is not easy for readers to complain about a media company and its journalistic work.

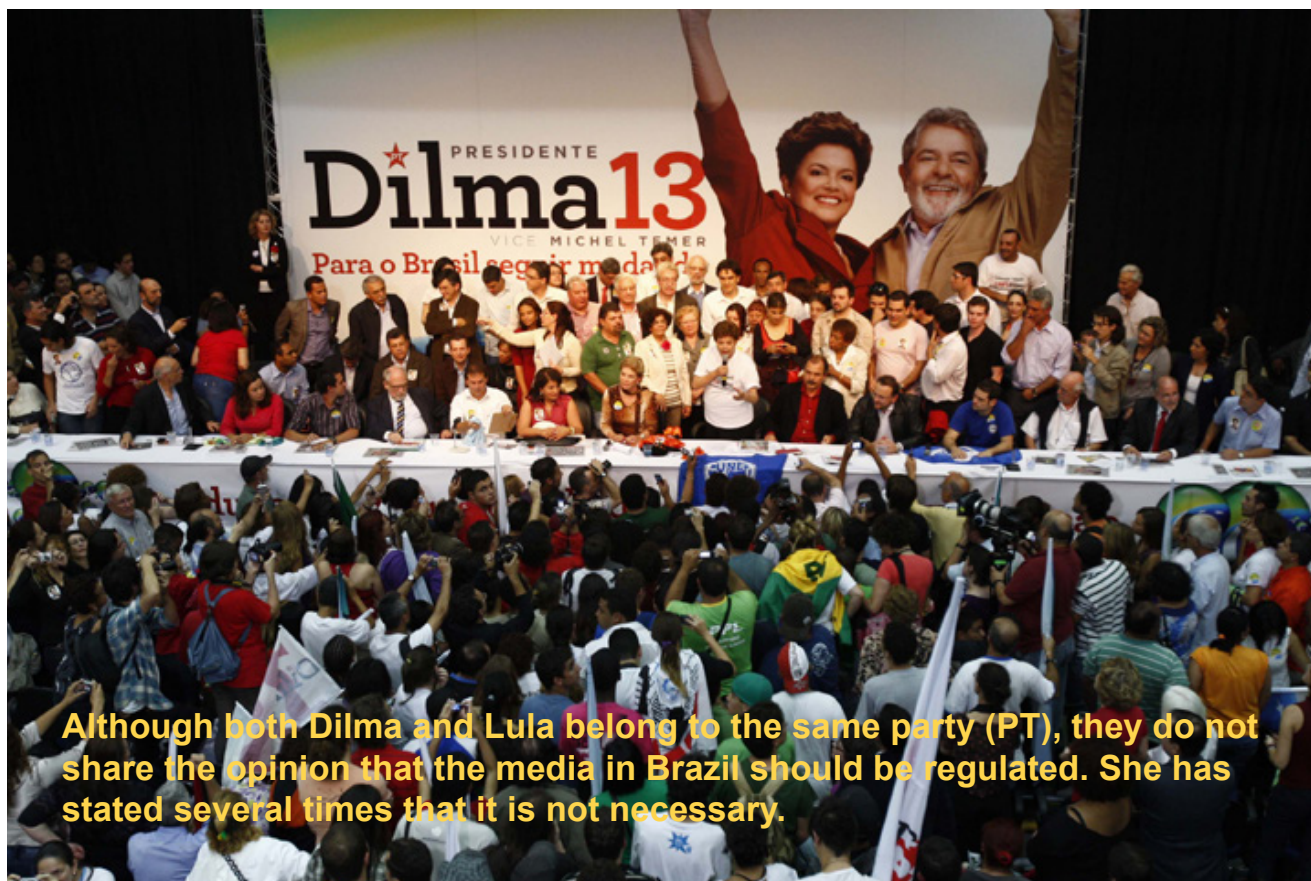
Each media organisation is responsible for its own accountability and strategy, but transparency as a whole is poor. Even if there are practices such as ombudsmen and letters by the readers, it is difficult to measure how efficient they are.

“The reader must know what the rules of the game are and how he or she can interact. There is still a long way to go”, says Guilherme Canela, from UNESCO.

But there are some positive developments. The National Association of Newspapers (ANJ) has affiliated members around the entire country and has created its own self-regulation code. The code is a recommendation for members and is not obligatory, but as ANJ president has stated, “this code confirms our mission: to make journalism with independence and responsibility”.

The ANJ summarises its programme in five topics:

- ▷ Recognition and publication of apologies for possible errors;



- ▷ Publishing letters and emails from readers;
- ▷ Promoting channels to listen to the readers;
- ▷ Forums for critical analyses; and
- ▷ Process of relations with the readers.

The ANJ also recommends that newspapers must appoint internal ombudsmen in their newsrooms. There has been little enthusiasm to adopt this approach and although there are hundreds of newspapers in Brazil, only two of them have appointed editorial ombudsmen – *Folha de São Paulo*, in São Paulo, SP, and *O Povo*, in Fortaleza, Ceará.

Journalist José Roberto de Toledo, president of ABRAJI, welcomes the existence of ombudsmen: “The creation of the ombudsman-role was a step forward in the Brazilian press. It has increased the sense of criticism in regard to what is published and it seems to have stimulated other newsrooms to adopt self-regulation mechanisms. Unfortunately, it is still limited to the minority of the companies”.

The *Globo* Network, one of the largest media groups in Brazil, has recently released its editorial principles. Journalist Ali Kamel, director of *Globo*

TV (speaking on his own behalf and not for the company) says that the editorial principles play the role of self-regulation for *Globo*: “They [the editorial principles] were written with this purpose. It was a decision of *Globo*’s shareholders. The editorial principles have always existed in the company, but they were intuitive and now written down,” he says. “Then came a moment when the shareholders decided that these practices, which have been in place for 100 years, should be put on paper, so that not only the internal staff but also the audience and the wider public understand them. Thus they may judge if what we broadcast or publish in newspapers or websites agrees with what we say that we do”.

These steps taken by media companies are modest, but they open the door to more corporate social responsibility inside journalism and media. Brazil’s emergence as a regional and global economic and political power has placed more emphasis on the need for creation of a stable democracy. Media organisations play a key role in that process and the more they can display the principles of transparency, good governance and accountability the more journalism will emerge as a progressive force in society.

Self-regulation systems at a national level

While media owners refuse to have a self-regulation council or board at enterprise level, the issue of regulation at national level has been on the agenda of the Brazilian government for many years, and particularly a project to regulate the electronic media.

This task was assigned to Franklin Martins, a prominent Brazilian journalist who under the government of President Luiz Inácio Lula da Silva was the chief-minister of the National Secretariat of Social Communication.

Franklin states there is no need for regulating newspapers, because they are a totally private business. But he strongly argues it is mandatory that the electronic media, as a public concession from the government, is regulated: “In Brazil, every public service is regulated. TV Channels and radio stations are public concessions. So why should they not be regulated?”

But his dreams have not come true. At the end of Lula’s government, he left the project to the new President Dilma Rousseff, who was elected the first woman President of Brazil. Although both Dilma and Lula belong to the same party (PT), they do not share the opinion that the media in Brazil should be regulated. She has stated several times that it is not necessary.

This division of opinion is also reflected inside journalism. Jânio de Freitas, former director of newspapers and now a columnist of *Folha de São Paulo*, affirms that a regulation system is an “obscure matter in Brazil”.

Alberto Dines, who managed important newsrooms in the 1970s and is now editor-in-chief of *Observatório da Imprensa* – a television programme that analyses the performance of Brazilian media – says there is no regulation or self-regulation because the media companies used to say that they could lead to censorship. But it is, he says, “an old-fashioned and wrong way of seeing it”.

In order to demonstrate that problems might arise even in countries with self-regulatory systems, journalist Ali Kamel mentions the example of the recent scandal that led to the closing of the 168-year-old newspaper *News of the World*, owned by billionaire Rupert Murdoch in London.

“In England, the self-regulatory body that was created has already decided that it will not submit to the Royal Charter [on self-regulation of the press]. So it is useless,” he says. “But why is it useless? Because what happened with “*News of The World*”, for example, was a crime! And what was the obvious consequence? The owner of the newspaper had to close it.

“He had to close a newspaper with a circulation of 2.6 million copies each Sunday. A newspaper he had owned since 1969, but which was much older than that. And there is more to it. The British justice system and rule of law was completely equipped and prepared to punish. And so is the Brazilian justice and so is the US justice.

“People were prosecuted, people were arrested and there are people in jail”.

Because of the *News of the World* scandal, British Prime Minister David Cameron announced a public inquiry, known as the Leveson Inquiry which investigated phone hacking and bribery of police officers by journalists at the newspaper.

Cameron and other political leaders also decided to close and replace the Press Complaints Commission, which was the English self-regulatory body for the British press. The new body – the Independent Press Standards Organisation – was launched this year, but is dominated by the industry and has refused to accept monitoring of its management by an independent legally-defined body.

Back to Brazil, so far there have been unsuccessful initiatives towards creating a self-regulatory system. The National Association of Radio and TV Owners (ABERT), for instance, has its own self-regulation code, approved in the 1990s. It was considered very powerful and with strict rules, but was never applied. There was no agreement between ABERT members, and therefore it has never worked.

If the very idea of self-regulation brings a good deal of discussion and different opinions, the same happens in regard to the need for a regulatory board for the Brazilian media. While some groups defend its creation, others oppose this idea by reasoning that there is already in the Brazilian culture a system that plays the role of regulation.

Research conducted by UNESCO about the regulatory environment in Brazil listed nine different



The weekly TV show *Observatório da Imprensa* [“Press Observatory”], is hosted by journalist Alberto Dines and discusses issues related to good practices of journalism in the country.

organisms that in different aspects do regulate the media. They are:

- National Agency of Telecommunications (controls the electronic spectrum both for radio and television);
- Ministry of Communications (makes the policy for communication);
- Secretariat of Social Communication of the Brazilian Presidency (develops strategies for public communication);
- Ministry of Justice (classifies television broadcasts establishing the proper hour for broadcasting and parental advisory);
- National Cinema Agency (responsible for the movie market);
- Sanitary Vigilance Agency (responsible for public health. Monitors smoking ads, for example);
- Council of Economic Law (works to guarantee fair competition among companies);
- The Justice System (where citizens can submit lawsuits).

Journalist Ali Kamel affirms that considering all these departments, it is simply untrue to say there is no regulation for the Brazilian media:

He says: “There is regulation and this is our model that works quite well. Any error or mistake made by the Brazilian press can be punished. When a journalist defames someone or does anything similar to that, he can face a lawsuit”.

Indeed, warns Kamel, if Brazil had a board of self-regulation for the media, it could be dangerous: “I think there’s too much regulation. Maybe it is too much to say it, but more draconian than in other countries. That is why I do not think there is the need for another institution in a cultural environment as ours. Imagine what could happen if we would concentrate the entire regulation system in one single body with nine members (for instance). This would be a sad thing”.

Whether or not there is a need for having or not a self-regulation system, civil society has some good examples of peer review of how journalists are working. The country has quite active groups that play the role of monitoring the media.

An example is the weekly TV show *Observatório da Imprensa* [“Press Observatory”], which has been broadcasted in Brazil for 15 years. The programme is hosted by journalist Alberto Dines and discusses issues related to good practices of journalism in the country.

Dines, who works as its anchorman and editor-in-chief, believes that in the future there will be some form of regulation of media in Brazil.

“There are new players nowadays, such as the Internet, and also telecommunication companies that are now producing TV contents,” he says. “Nobody knows exactly what kind of impact this new players can have on the business of media organisations. So there will soon be a demand by them for regulations”.

Can self-regulation play a role for the future?

With so many different and passionate opinions, the conclusion is that it is impossible to foresee if Brazil, as other democracies, will at any time soon have a system of self-regulation specifically for media.

The government, the community of media and journalists and society at large are already used to a system that in some way does fulfill the

Brazilian needs, even if it is not organised as a coherent, single self-regulating framework. On the other hand, it is true that the story is unfinished. Press freedom is not a reality in many parts of the country and in others where it exists, it is often in twilight conditions.

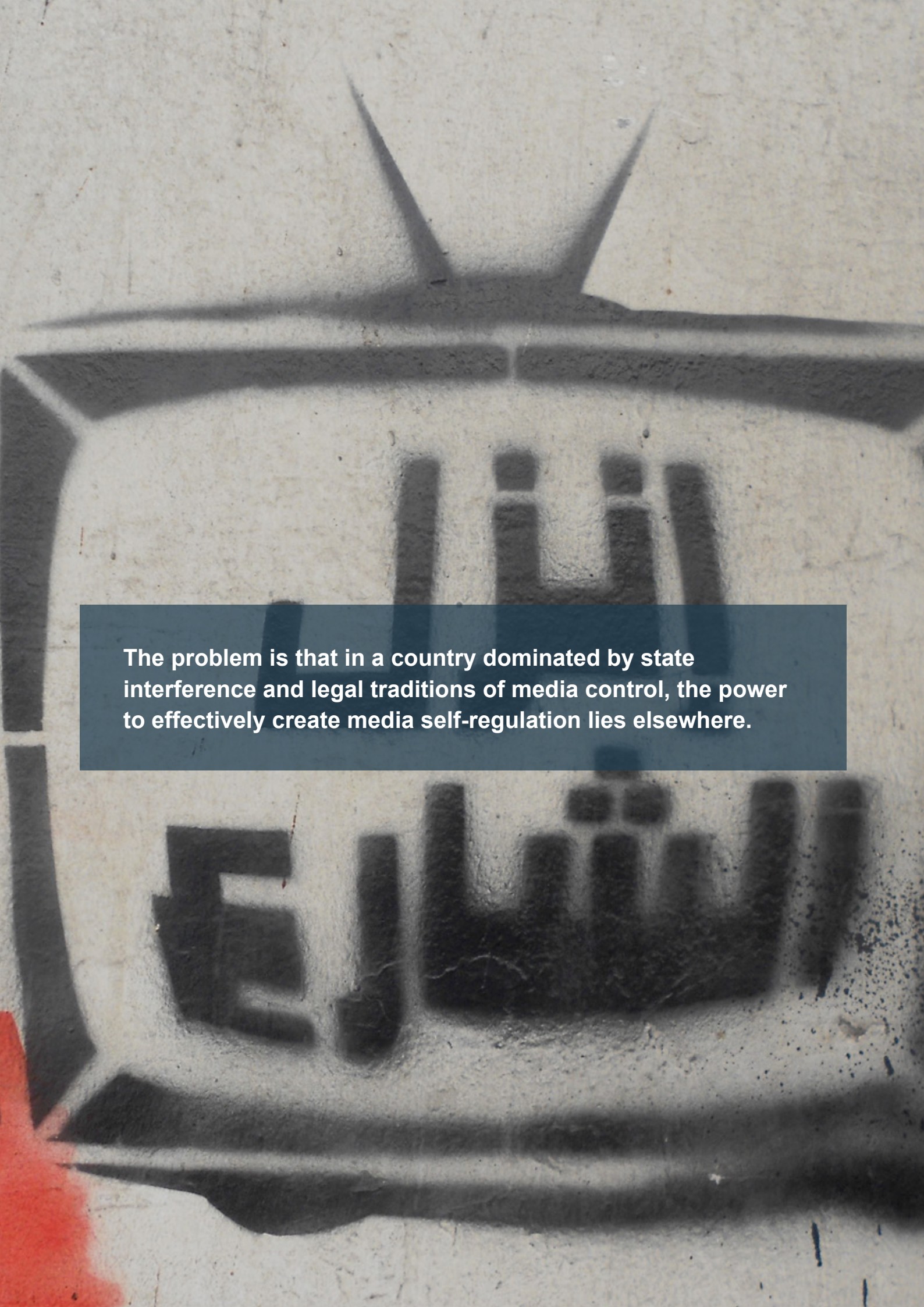
Some journalists working in newsrooms are not yet fully conscious of the role they should play in society. And there is no law to protect the public from monopoly or oligopoly of the media.

On the positive side the debate is up and running and things are changing for better. In a globalised world, Brazilians are well plugged into information

about what is happening abroad in this field. They can test whether it could work here.

On their side large media companies, increasingly concerned with their role in society and aspiring to keep large audiences and profitable business, know that for their own credibility they have to adopt good principles in their work.

Everyone is aware that to strengthen democracy and to improve society, the country needs better, more accountable media. That should encourage journalism that is ethical and serves the people. When that happens everyone in Brazil will benefit.



The problem is that in a country dominated by state interference and legal traditions of media control, the power to effectively create media self-regulation lies elsewhere.

Autocratic traditions limit options for media self-regulation

>> TAREK ATIA AND AHMED MONTASSER

Adopting a self-regulatory system will not be easy for Egyptian media, despite the growing support of media leaders who recognise its vital importance. Their problem is that in a country dominated by state interference and legal traditions of media control, the power to effectively create media self-regulation lies elsewhere.

The ambiguity of the situation leaves the media's future in flux, beholden to a transition period and waiting for an unclear legal environment to be brought more in line with the media freedoms and other positive principles enshrined in a newly-minted constitution.

Clearing the air and creating a new media landscape is meant to be the job of a still as yet unelected parliament, and there will certainly be a political and media battle of sorts when the actual writing of law begins.

Meanwhile, both sides of the equation – those working in the media, and those consuming the media – remain dissatisfied with the *status quo*. There is more media, but there is also more media noise. The media landscape on all platforms is constantly growing.

But with all the new content choices available, there have also been serious breaches of media ethics, in the form of troubling but increasingly prevalent practices like airing leaked phone conversations, smear campaigns, an abundance of what appears to be paid journalism, and a preponderance of unverified rumors, especially on digital media and satellite television.

These are some of the ailments that a self-regulatory system might begin to treat. Others

include ownership issues, and accreditation. Self-regulation involves voluntary systems established and used by journalists, editors and media owners to monitor and review journalistic performance, to deal with complaints of the audience and to provide appropriate and acceptable forms of remedy where they are needed, such as the right of reply.

This report looks at the effectiveness of the self-regulatory systems and mechanisms currently in place in Egypt and reflects on efforts being made to generate increased discussion and debate amongst the media community — and the public at large — about issues of ethics and self-regulation.

Media leaders acknowledge the challenges involved in changing a complex and bureaucratic system. Their chances of effectively doing so are surveyed in the report's conclusion.

These debates are currently taking place as media play a growing role in all aspects of Egyptian life, making even more urgent the concept of a self-regulating – rather than a state regulated and controlled media environment.

Self-regulation at work: Individually, collectively and nationally

Historically, there has been a mostly unspoken agreement amongst journalists, media professionals and the majority of the audience regarding the basic concepts and ethics that should guide journalists and media.

However, in recent years, as Egyptian media has become more diversified, and as society itself has rapidly changed, these norms have been challenged in both positive and negative ways. As a result,



media experts have increasingly called for a more professional and comprehensive approach to self regulation, citing the need to place Egyptian media solidly on the track of its global counterparts.

These efforts have resulted in – first and foremost — a vibrant discussion — and eventually the establishment of committees working towards these goals. The key questions surround the extent to which journalists are free to act according to conscience and to what extent are they aware of their ethical obligations.

Although journalism schools across the country teach students the basic principle that journalists must seek the truth, no matter what, awareness of that ethic, and the ability to practice it, is something else.

Journalism graduates in the real world sometimes find themselves beholden to other concerns, related to ownership, mismanagement, politics, and perhaps even corruption.

The lack of an established, credible and respected self-regulatory system to deal with the media, combined with the relatively poor performance of existing self-regulatory structures like the Press Syndicate and the Supreme Press Council, has disappointed many journalists. Some are now attempting to create their own mechanisms to promote concepts like transparency, equal access to information, and consensus-driven codes of ethics based upon the best practices of journalism at work around the world.

While results of these efforts remain to be seen, their positive impact is already starting to be felt as these issues come to the forefront of media practitioners' and owners', as well as the audience's, concerns.

At the same time there is a growing concern about the effectiveness of self-regulation inside media houses. Egyptian media have historically sought to maintain a heritage of self-regulation, consciously and unconsciously linked to a social contract with the audience on what is acceptable and unacceptable.

Media that crossed these lines – whether via sensationalist tabloid style material or hard hitting political or social coverage – generate equal amounts of admiration and disdain amongst the media community and the general public.

The role of media – over the past decade, and especially since 2011 – has been a strong topic of discussion at all levels of society and has inspired many calls for stricter standards.

As a result, according to Ragaey El Merghany, a veteran news agency editorial manager, a multitude of newspapers and television stations, public and private, have worked on creating rules and norms inspired by self-regulatory mechanisms used elsewhere in the world, in order to raise standards to international levels, and earn credibility among readers and audiences.

In addition, leading online news site *Al Youm Al Sabie* published an internal booklet for self regulation, in an attempt to spread awareness of the site's editorial policies throughout its different departments and amongst the journalists themselves.

The outlet is often accused of breaching editorial standards of conduct. As one of the most visited sites, it has had issues with speed versus accuracy and sensationalism as it aggressively pursues digital readers. It is hoped that the establishment of this kind of in-house ethics guide will help curb these practices.

One key challenge for media houses is to have credible systems of dealing with complaints and engaging with the audience. Media lawyer Ehab Sallam thinks media organisations have to rapidly adapt to deal more effectively with public complaints. The law stipulates fines and jail time for ethical breaches, but in Sallam's view self-regulation would be a more effective way of dealing with these types of issues.

Media need to pursue two parallel tracks, he says. Enforcing codes of ethics and regulations within media to reduce the number of complaints, combined with voluntary creation of internal self-regulatory committees that have the right, with legal standing, to examine audience complaints and impose financial or other penalties as a deterrent to further violations.

Media expert Khaled El Sergany, who passed away suddenly, prior to this report being published,

observed an increasing awareness amongst journalists regarding where their loyalties lie.

“Journalists are increasingly aware that their loyalties should be to the public, by focusing on truly important issues, rather than those serving special interests,” he says. He laments that weak and corrupt media professionals still exist, but suggests they could be marginalised through self-regulation.

There is a growing tendency, he said, for journalists and media to try to correct their mistakes quickly in order not to be accused, or worse, sued. Media Law 96 for the year 1990 stipulates a fine or even imprisonment for such publication violations.

Sallam and Merghany also mentioned multiple cases where media organisations suspended, fined or even fired journalists — and especially TV presenters — who violated ethical codes governing false accusations and insults towards third parties or guests.

Although the ombudsman or readers' editor does not exist as an official position within media, a robust informal system has emerged between media outlets, audiences and public figures, which has created a fairly effective – albeit *ad hoc* — right to reply mechanism.

This development, and it is an increasing one in an ever more digital media landscape, has also inspired great debates amongst media professionals and leaders for a need for a more formal readers' editor or ombudsman system in each media house.

For now, the way it works is as follows: on television, it happens on the spot during a talk show and in newspapers it will be the next day. On the web, it's also very fast. The public figure or entity affected by a report is allowed to reply to the claims or evidence that has been presented, whether they are related to poor public services, or anything else.

Improving the newsroom culture is one step, but there is also a need to create systems of good governance in terms of media ownership and management practice.

According to media lawyer Sallam, corporate social responsibility has sometimes had a negative effect on media ethics. For the most part, it helps generate positive coverage of projects being funded by corporate interests. Sallam thinks there needs to be a more robust and serious

industry-wide discussion of this phenomenon in order to reach a common consensus to clarify relations between media, government, and business interests. This is in the interest of greater transparency and to ensure objective coverage of matters in the public interest.

El Mergany says issues of media ownership and its lack of transparency are crucial points that need to be addressed by media professionals discussing self regulation. At present, he said, most media outlets tend to hide the most basic information about their sources of financial support and/or true partners or owners — from readers, and even from their own staff.

They are also secretive about circulation and viewership. The same goes for annual budgets, yet these matters are key concerns for a self regulatory mechanism to produce a healthier media climate.

Moreover, some media organisations are not transparent about their editorial policy, whether with staff or the audience. This has resulted in credibility problems both within organisations, and related to the audience.

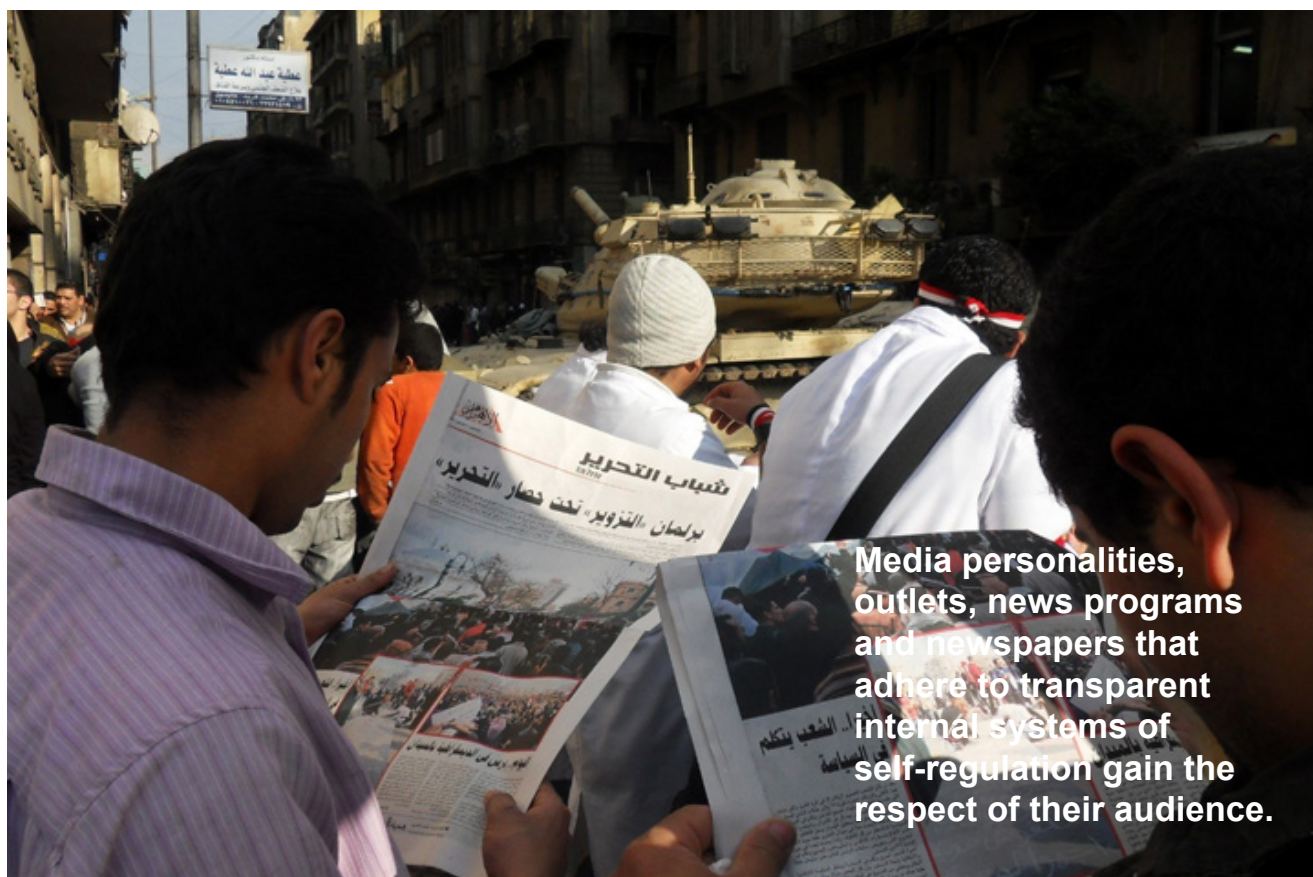
The lack of transparency is vital to many of the current issues faced by the media community.

Building a culture of self-regulation at national level

Creating systems for media monitoring and voluntary press councils across all media platforms is a major task for media reformers. It begins with a need to forge new structures out of existing systems. Currently, media monitoring takes place in different ways. One level is more formal, and connected to official, semi-official, and academic bodies.

The Supreme Press Council, for instance, produces a regular report that assesses violations of the Press Charter of Honor. These reports are usually covered in the media. They receive especially extensive coverage in a particular outlet if the council has something good to say, or if it trashes a feisty competitor.

And with the explosion of media outlets on all platforms, there is some self- monitoring and self-criticism within media. Many television shows are dedicated to monitoring media, and on social



Media personalities, outlets, news programs and newspapers that adhere to transparent internal systems of self-regulation gain the respect of their audience.

media there is every form of media watch, from sites that expose rumors and lies in the media, to others that use media reports as fodder for memes and sarcastic commentary.

Media experts believe these trends are a healthy indicator of an inclination for self monitoring and correction; at the same time, it is woefully clear that there needs to be greater linkages between such tools within a more holistic, integrated, widely understood, and effective self regulatory climate.

Since January 2011, for instance, the legal climate and the mechanisms that regulate the way media operates have been a subject of great discontent. Key questions are: should the ministry of information be annulled and should state-run channels be privatised or turned into public broadcasting companies?

Other questions relate to

- ownership and governance of existing media, which continues to dominate the industry and employ the vast majority of media workers; and
- regulation of broadcast frequencies, local terrestrial radio and television stations, as well as the licensing of newspapers, and the completely uncharted territory of digital media.

These issues have been debated by media experts in a variety of closed and open forums. It is generally agreed that the Egyptian media landscape is littered with legal challenges. It would be overly optimistic to think that all of these can be dealt with simultaneously.

Media experts conclude that priorities must be formulated. Some are advocating self-regulation as a potentially strong framework through which many of these critical matters can be dealt with.

For instance, the constitution passed in 2014 enshrines media freedoms and sets forth a plan for establishing national councils of media to help self regulate the profession. However, it remains to be seen how the upcoming elected parliament will turn these constitutional principles into laws and good practice.

The two key laws governing the media that need to be amended, according to Sallam and El Merghany, are:

- Law 96 from 1990, which gives the Supreme Press Council the sole right to issue licenses for newspapers, and

- The 2009 law granting the Investment Ministry the organising of, and the right to register, Egyptian and Arab satellite television channels

These laws and others have served the media in Egypt for years, but with a clear bias towards media owned by or aligned with the government. Media observers agree that the law is selectively used against those who step out of line. The worry is that the government will attempt to ignore efforts by media professionals to build consensus within media on the need for self-regulation and will, instead, continue to impose outdated legal controls.

Self-regulation: can it win respect inside and outside media?

There is no doubt that those media personalities, outlets, news programs and newspapers that adhere to a clear and transparent internal system of self-regulation gain the respect of the audience.

This is irrespective of their political leanings. International ethical journalism best practices have shown that when media provide a process by which the audience, or specifically those subject to media scrutiny, are given a chance to air their complaints, it builds trust and improves the media's reputation.

El Merghany and Sallam both outlined the steps successful media practitioners take to ensure this takes place: fact-checking; objectivity and balanced reporting; accepting criticism; and providing the right of reply to the audience or anybody who is being accused; avoiding using provocative, insulting and aggressive language; working within the limits of the law; correcting mistakes immediately; and concern for issues of privacy.

Practitioners, such as *Al Masry Al Youm* standards editor Ragab Galal, believe that the mutual respect that is generated between a news medium and its audience and sources can quickly spread – in the form of positive momentum — to other media outlets. It also encourages professionalism among colleagues.

Participants at recently held workshops on self-regulation consistently, however, highlighted the important role that management must play in cementing these trends within media. Television, newspaper and digital media owners must aim to earn the respect and trust of their audience.

They have to prove their commitment to widely-accepted and constitutionally enshrined norms and values of journalism. When they give in to

political pressure, they are exposed, and will inevitably lose credibility. It's no way to run a successful media business.

Sallam acknowledges that media relations with commercial sponsors and advertisers play a major role in the success or failure of this dynamic. Managers need to find ways to formalise rules of conduct so that owners and editors in chiefs don't find themselves forced to bend to pressure that could affect editorial content, and thus damage a media entity's reputation. A commitment to transparency, and constant monitoring of performance standards, are two of the main keys to earning the audiences' respect and trust.

Beyond the Arab Spring – A media revival under self-regulation?

The need for self-regulatory bodies in Egyptian media has never been stronger. In fact, there is an overall combination of concern and anticipation regarding a foregone conclusion — that the structures regulating the profession must be revamped.

Media are just beginning to understand that without effective self-regulation, external political and commercial influences - underpinned by law - will control their future. It makes more sense for the regulation of the industry to come from within.

This will require an acknowledgement that there have been increasingly frequent and worrying lapses in media ethics. Leaked phone calls, a lack of transparency regarding ownership and editorial policy, the rampant spread of rumors and false news on a multitude of online outlets and social media: all of these matters need to be addressed in a serious and systematic way.

The healthy tendency towards increased and vigorous media monitoring, combined with a generally greater awareness of the need for self-regulation point to a chance at finally reaching a tipping point when a real difference can be made. Self-regulatory ideas that have been percolating at the fringes, can now be pushed into the mainstream of debate.

Even members of existing and antiquated structures now acknowledge that there needs to be a change. Some are already working on draft laws and other policy initiatives.



The Egyptian Editors Association (EEA) is a self regulatory body, providing a platform for editorial leaders from across the media spectrum to engage in healthy debates about matters of mutual professional concern.

A state-appointed consulting council /committee of journalists and media professionals has been formed; it is tasked with coming up with new laws based on concepts of media self-regulation, via a spectrum of tools and mechanisms, including revised codes of ethics. Many members of the committee are well-established pioneers of self-regulation.

But will this finally be the chance to put ideas into concrete practice? Or will such a committee again find itself thwarted by control-oriented political elements with loyalties to the regime?

The key answer to this question is in raising awareness of the issue within the media community itself and creating a movement for more freedom and more self-rule within journalism.

A significant example of how this can be done is found in an incident that took place in early 2014, when the Ministry of Information released a code of ethics, which was swiftly rejected by the media – not necessarily because of its poor quality, but because of the way it was drawn up and imposed.


It had been discussed in an entirely top down manner, with very little attention or input given to

those who had already been working on the grass roots level to build consensus on the contents of a code. When it was released (accompanied by the usual tired propaganda generated by some areas of state media), the main reactions it generated were ambivalent silence from the wider media community and a harsh backlash from groups inside journalism who were looking for new and different approaches to these issues.

International organisations like UNESCO are already working with local entities to spread awareness. These groups have managed to generate a healthy level of dialogue within media and journalism, via workshops and round tables, lectures by international and local experts, as well as the publication of booklets and articles.

At the same time there has been the inauguration of several new inter-industry bodies. The nascent Egyptian Editors Association (EEA) is a type of self regulatory body, providing a platform for editorial leaders from across the media spectrum to engage in healthy debates about matters of mutual professional concern. Recent dialogues have taken place on paid journalism, issues related to balancing security concerns with objective journalism, ethics in digital publishing, and more.

There is a long way to go but a new mood and yearning for change is at work in Egyptian media. With the proper strategic planning, nurture and concerted efforts, it could turn into an effective lobbying effort which will result in both widespread acceptance and the eventual flourishing of self-regulatory tools and mechanisms that will transform the media landscape.



Journalists struggle to recognise that in Hungary's deeply divided and distrustful society even political neutrality is seen as bias.

HUNGARY

Journalism waits for a fresh start after years of crisis

>> BALÁZS WEYER

In a country that is one of Europe's youngest democracies the political culture is combative, the media industry is in the midst of a financial meltdown and the communications revolution is putting traditional newsrooms to the sword. It should come as no surprise that a deep sense of anxiety has settled over journalism in Hungary.

Talk of ethics and journalism standards raises serious questions at the best of times, but in an era of widespread disillusion when reporters and editors are demotivated because of huge concerns over job security, keeping the spirit of credible self-regulation alive in the newsroom is a massive challenge.

Nevertheless, even in the teeth of financial crisis and political pressure most journalists remain acutely aware that newsroom standards matter and many do the best they can to keep an ethical balance as they navigate through the news agenda in an era of uncertainty and change.

Smart journalists instinctively know how to keep out of trouble. They work around the hottest issues and avoid situations that might challenge their conscience or provoke a conflict with the editor, the owner, or the sales team. This way they can keep an ethical clean sheet. But even if they have a clear conscience, journalists are always at risk when they have no control over the platforms that publish their works, much less the social context in which they are perceived.

To many in Hungarian journalism some traditional ethical requirements are seen as outdated or simply impossible to follow in current conditions. Traditional means of ensuring quality such as copy editing, fact checking or providing a right of reply are frequently overruled. The modern newsroom is ruled by the need for speed and austerity.

Increasingly, journalists are expected to accept the realities of a competitive media market. Be professional, there are limits to what can

be achieved, get over your misgivings they are told. And they are thus released from those old-fashioned rules that used to separate fact from opinion. In the new digital world treat everything as a blog: be strident, witty and get yourself noticed in the noisy news world of digital and converged journalism.

Political bias, too, is becoming routine and increasingly acceptable. Journalists struggle to recognise that in Hungary's deeply divided and distrustful society even political neutrality is seen as bias.

No political journalist, media outlet, public figure or celebrity can avoid political labelling, whether they like it or not. And this creates a context that curtails the ability of journalists to keep control over the perception of their work.

In a survey conducted among top editors and journalists of quality newsrooms (by a joint effort of research company Nézopont Intézet, PR agency Uniomedia and media self-regulation NGO Editors' Forum), nearly 200 journalists were anonymously asked about their feelings regarding the current state of journalism and their personal situation.

Out of ten values listed, 'political independence' proved to be the least true for journalism in general (with a value of 2.08 on a 1-5 scale), although when it came to their personal political independence, journalists claimed it to be much better and gave a 3.63 mark on average.

Most of the editors and journalists said that they personally are not corrupt (mark: 4.23) but they had a much more critical stand on journalists around them in general (mark: 2.49). Respondents valued their personal integrity and qualifications much higher in every aspect than that of their colleagues in general.

However, 'being motivated' was ranked the fourth place when they marked their colleagues and just eighth when it came to them personally.

An alarming sign of disillusionment of journalists is that only 60 percent of the responders said that if they were career entrants again, they would surely or at least possibly choose journalism as a profession again. Some 90 percent of those who claimed to be disillusioned said that they are only disillusioned by how journalism is conducted in Hungary, and only 10 percent claimed that they are disillusioned with journalism in general.

The table below, from the same survey, focusing on the difference between theory and practice, expectations and reality, is very telling.

Shockingly, the principle given the highest rank in theory ('Media has to provide impartial and objective information') is ranked last in practice. On the other hand, the one ranked last in theory ('Media shall serve owners' interests') is ranked top in practice.

As stated earlier, journalists are more at ease with their personal situation than with that of other journalists' in the country in general. On a 1-5 scale they gave a confident 4.51 mark on the statement that 'I do my job with clear conscience' and a 4.04 on 'What I do is useful for the society'. 'I can report independently from political pressure' got 3.75, while independence from business and advertisers is valued lower and got 2.99.

However, 50 percent of journalists claimed that, with varying regularity, they have to act against their professional conscience. More than half of them claimed that it has happened several times in the preceding year.

Regarding ethical standards, 52 percent of journalists responded that their newsroom has a code of ethics and they are aware of its content and 44 percent claimed they take it seriously. 8 percent claimed that although they know there is a code of ethics somewhere, they are not familiar with it.

The overall picture is that journalists are well aware of ethical standards and they are also aware of

unethical practices around them. However, most feel that despite the challenges and against the odds they somehow manage to keep their personal journalistic integrity. Even if this cannot be true for all, it does show that there is an internal demand for ethical practice. However, the gap between theory and practice shows why so many media practitioners are frustrated and suffer from low morale.

Few ethical cases reach the level of an open conflict, the most recent being the most bitter. In late May 2014 *Origo.hu*, the country's leading online news source published articles that reported on outstandingly expensive government-paid trips by the minister in charge of the Prime Minister's Office. After the minister refused to comment on the purpose of the three trips and his travel companions, *Origo* went to court to get the data released through the procedure of the Public Information Act.

The court forced the government to release the data claimed by the journalists a judgement that prompted harsh criticism from the minister – and *Origo.hu*, owned by a subsidiary of the German Deutsche Telekom, fired the editor-in-chief Gergo Saling two days later. Saling's dismissal was followed by a spontaneous demonstration at the headquarters of the company. I'm happy to declare an interest here, because for more than a decade, I was the editor-in-chief of *Origo* and the predecessor of Saling.

In a handful of days more than half of the newsroom staff gave in their notice to quit in protest. Although the company claimed that Saling's dismissal had nothing to do with politics, and was motivated by synergies inside the group, the case was widely and stridently covered, including editorials, testimonies and other forms of professional solidarity published in all kinds of media – a rare gesture on the Hungarian media landscape.

In recent years, there has been a positive discussion of ethics and regulation of journalism. A self-regulatory body, Editors' Forum launched in 2012,

Do you agree with the following statements? (1=not at all, 5=absolutely)

Theory		Practice
4,45	Media has to provide impartial and objective information.	2,47
3,93	Media shall serve the society.	2,59
3,69	Media shall fulfil the needs of the audience.	3,09
3,21	Media has to find a balance between financial and political interests and the needs of the audience.	2,59
2,51	Media shall serve owners' interests.	3,64

placed ethics squarely on the agenda of newsrooms. Also, a closed Facebook discussion group organised among top young journalists has become a focus for heated debates on ethical issues.

Self-regulation at the enterprise level

Most legacy media outlets have a code of ethics – although it is usually out of sight and rarely invoked. Ethics were never an integral part of journalism education in the country until, after the political changes of 1990, new generations turned to Western patterns of newsroom behaviour. The formal introduction of editorial guidelines to shape the ethical framework of newsroom work have not become embedded in journalistic society, although the situation has slowly improved in the past 25 years.

Certain rules, such as those regarding conflict of interests, the right to comment, the protection of minors, and the presumption of innocence, are almost universally recognised. Nevertheless, effective in-house self-regulation, references to ethical standards in newsroom debates or open discussion of ethical issues are rare.

Media outlets do not have transparent systems for dealing with complaints. It does not mean they don't respond to complainants though. They do respond to formal complaints that carry with them the threat of litigation that are laid by politicians, businessmen, or high-profile celebrities.

Many of these complaints are handled transparently – corrections are published or rejected and dealt with by the court. Media outlets usually publish if they have rejected a formal complaint and report on these court cases.

Many complaints are the subject of confidential deals where, for example, a supportive interview gets published by the plaintiff or the respective outlet provides ad space for an initiative in the plaintiff's interest.

Complaints laid by readers are usually not handled transparently. Most get no response; some are published in the 'Letters to the Editor' section. Although many outlets refer to self-regulation and industry organisations in their imprint, as a channel through which formal complaints can be handled, very few media make a voluntary commitment to answer every complaint in a reasonable timeframe.

Institutions as 'news ombudsman' or 'readers' editor' are non-existent. There had been two short-lived attempts to introduce news ombudsmen:

two nationwide dailies made such an effort. The ombudsmen of *Magyar Hírlap* and *Népszabadság* were external appointments but did not deal with individual readers' complaints. Instead, they published a subjective personal analysis every fortnight on what they found, good or bad, in the paper. At first these appointments were greeted enthusiastically, but they faded away, without much mourning, soon after.

On the corporate level ethical standards are not a concern for managements and owners. Most media managements do not address journalism ethics; these are left to newsroom managers – with a few respectable exceptions.

Very few newsrooms have a say in corporate issues. There is only one legacy media, weekly news magazine *HVG*, where journalists can vote themselves on their editor-in-chief every three years and an elected council of journalists has a consultative role in corporate issues. In addition there are one or two digital new media start-ups, which have been launched and owned by journalists that have systems of internal democracy.

There are few examples of internal governance systems in which media hold themselves accountable and monitor their own internal standards. Common problems of a lack of transparency and conflicts of interest that occasionally arise because of political or corporate interests of directors or owners are not addressed in general.

The onset of the recent financial crisis has not helped to create a climate for improving standards whether in the newsroom or in management of media.

The economic difficulties of 2008 have been a major setback to the media market and no recovery has followed. Managements focus on austerity and defensive strategies. As a result, staff numbers and newsroom resources have been cut every year. Managements make ethical compromises when it comes to attracting an advertiser or a powerful political supporters.

In a fragile economic situation, no one wants to offend a major advertiser or commercial sponsor. Risk-avoidance has become a major sentiment across the industry. Many media managers look for new strategies, putting an emphasis on new products that are less resource-demanding than quality journalism – services before public-interest content; life-style and infotainment rather than social issues; human interest before facts; and stridency over accuracy. In all, the media culture is dominated by low-risk, easy editorial options at the

expense of any journalism that carries with it any risk of negative political or commercial impact.

Editors with previous strong word on issues, such as the wall between editorial content and advertising, have been weakened in conflicts with sales teams.

‘Special’ advertising deals dominate the commercial battlefield between managements and editors ever since the onset of the crises.

The loss of job security and salary cuts led something else, too – journalists claim (see survey above) that 23 percent of other journalists regularly, and 36 percent occasionally, accept hidden rewards. (Another telling number is that 36 percent refused to answer this question, an outstandingly high number compared to other questions).

Political actors have taken advantage of the economic vulnerability of media. New media regulations have heightened the stakes. Clientelism in distributing state advertising has grown, increasingly in commercial advertising under political influence. A narrow circle of media owners with powerful political friends flourish by taking advantage of this.

Thus, political pressure comes in the form of economic pressure and through middlemen – often advertising agencies playing the role of intermediary. ‘When you have to reach out for state advertising month by month, you cannot pretend you’re independent’, said a media manager quoted in a report of media policy NGO Mérték.

The interplay between political and economic power structures is becoming more complex, and political leanings provide a competitive advantage. They are a key tool in the media survival kit.

There has been much consolidation of media market in the past 5-6 years, and most of it has been politically driven. There is less transparency in ownership. Straw men of oligarchs, owners hiding behind offshore companies, and unlikely investors are more prevalent than ever.

These challenges provoked turbulence and changes – innovation, new formats and initiatives among fragile economic conditions in some cases, being entrapped in the web of clientilistic relations in many others.

The State sets the standard for self-regulation

All of this provides a difficult background for developing media self-regulation, although the issue has been controversial and has been a

major topic of discussion within the industry over recent years.

Some major steps have been taken to introduce effective self-regulation. A controversial new media and telecommunications law led to the creation of some industry-based initiatives that are supposed to be leading the way towards effective structures for self-regulation, but there is little evidence that a coherent, credible and effective system of media self-regulation is yet in place.

The landscape of media industry interest groups has been fragmented in the past decades. The incumbent journalism association of the communist era, MÚOSZ, remained the biggest in terms of individual membership numbers but it has been a passive player and caught up with internal power games.

It has been unable to attract many journalists who started their careers after the political changes, and its membership profile is dominated by journalists who are mostly retired.

The association has an ethics committee, but it has a low profile and the number of complaints cases they receive is very limited. Formally, there is a journalists’ union, but it does not figure in these debates.

There is a separate industry association of publishers for every platform: print, commercial television, online, local radios, and local television. The Print Publishers’ Association (MLE) and the Association of Content Providers (the body for the online platform called MTE) also participate in the so-called co-regulation system which was established in the wake of new media regulations and the creation of the National Media and Infocommunications Authority.

The Authority signed co-regulatory agreements with some media associations, introducing an additional level of regulation. This co-regulatory mechanism has a limited legal scope (e.g. protection of minors, minorities) and is practically unknown to the public, resulting in only a handful of cases in the range of the first three years of its operation. At the same time, the MTE introduced its own self-regulatory system, but that has largely become defunct since the co-regulatory agreement.

Public media in the past year has pulled out of all forms of discussion on self-regulation. Separate public media channels have been rounded up in a state media power-house in 2010 and guidelines for public media production have been created as part of the new media regulations. Even so it remains ineffective and public media have made no

effort to create a transparent system of dealing with audience's complaints.

The idea of a platform-neutral, industry-wide self-regulation first arose in 2007. It prompted lively discussions over a number of years on the need for a coalition of every stakeholder, including journalists, publishers, managers, and media owners. But it stalled in the wake of economic crisis and the government-inspired new media regulations. Today publishers and owners are extremely nervous about moving forward on this track.

Still, some journalists remain committed to the project and talks among major stakeholders renewed after a restrictive new media law package had been adopted in 2010. As a breakthrough, Editors' Forum has been launched in 2012 by editor-in-chiefs of leading media outlets, representing all kinds of media.

The founders adopted and published ethical guidelines (to right) in each member's publications and informed their audience about the rules they are committed to in their work. In its first two years Editors' Forum focused on recruiting members, building capacity and promoting self-regulation through an industry-wide agreement.

A series of conferences and workshops have dealt with issues such as journalism education, state regulation versus self-regulation, defamation in media cases, the access to public information, the shrinking divide between advertising and editorial content, gender issues in the media, reporting on minorities, handling of online comments, police reporting, new technologies' ethical aspects, ownership transparency, and many others.

Industry roundtable talks regarding self-regulation have continued and the self-regulatory complaints procedure has been elaborated. The Editors' Forum also handled occasional complaints.

The members of the Editors' Forum consider that a national self-regulatory association could rebuild public confidence in Hungarian media and plans to launch an effective complaints procedure in 2015, with the help of funding by the EEA Norway Grants. Until then, talks to get as many industry associations and media outlets on board of self-regulation continue to create a coalition of newsrooms, managements and owners to rebuild public trust in media.

This is a brave project, but if it works it could signal a fresh start for media self-regulation in Hungary and would be welcome relief for the country's beleaguered media community.

MANIFESTO OF EDITORS' FORUM

The founders of the forum agree that it is the common interest of the journalistic profession and the public to agree on general values that are widely shared regardless the respective outlets' platform, genre, target audience, extent, ideology or style. These values shall be known by the public and be a basis of accountability of the media.

As a result of a long process, the established ethical guidelines represent the external and internal criteria of conscientious journalism, such as impartiality, accuracy, the rules of gathering and presenting information, prohibition of conflict of interest and the transparent divide between editorial content and advertisement.

As the introduction of the guidelines puts it, "We declare that the most important tasks of the media are the following: the dissemination of information; to provide the facts that are necessary for informed choices as a voter, a citizen, a consumer or a parent; the promotion of free expression and the encouragement of a diversity of opinions; entertainment; and thereby the strengthening of society's self-reflection."

That is why we, the founders of the Editors' Forum like our trade and try to preserve it as described above. However, this mission can only be achieved if the media holds an appropriate level of social trust. Recent years' events – the fast changes of the economic, legal and technological environment – have not benefitted the enforcement of ethical standards. That is why it is so important to make a stand for the values of our profession now. The Editors' Forum tries to increase this public confidence by declaring that the members of the association are working first and foremost for the public and by doing so what are the main values and rules they follow.

The editors joining the Forum publish the ethical guidelines and from now on it has to be available in their imprint. They agree to handle the complaints regarding the breach of these guidelines in a transparent way and they will share these experiences with each other and their audience on a regular basis. The ethical guidelines shall be annually revised and re-confirmed.

The Editors' Forum declared its goals, including the creation of an effective self-regulation. The declared aims of the association are:

- ▷ to create a platform for the editors to discuss ethical issues
- ▷ to promote media ethics in the higher education of journalism
- ▷ to write case studies and special guidelines, to analyse Hungarian and international ethical cases
- ▷ to promote ethical journalism, to increase the social trust of the profession
- ▷ to prepare the introduction of an industry-wide self-regulatory mechanism
- ▷ to organise trainings and platforms of consultancy for journalists
- ▷ to become a voice of the editors' community towards the audience, the regulators, the publishers, the academia and other stakeholders.



Following the 2014 crash of Malaysian Airlines flight MH17 media reporting of the disaster was much contested both off-line and online.

THE NETHERLANDS

Can journalism live with a more demanding public?

>> DR. Yael de Haan

Following the 2014 crash of Malaysian Airlines flight MH17 in eastern Ukraine, in which 196 of the 298 casualties were Dutch citizens, the role of the media reporting of the disaster was much contested both off-line and online. Criticism was voiced over perceived disregard for the victims' privacy and a lack of fact-checking. Protests were particularly strong when a journalist went through the personal belongings of victims and read excerpts from someone's diary during a prime-time television broadcast.

Such incidents have provoked discussion on how media should take their public responsibility and be held accountable. When in 2012 Dutch Prince Friso was severely injured in a ski accident, a journalist of a high-quality newspaper wrote an article on the critical, but stable situation of the prince, as she happened to be in the hospital with her husband, a surgeon. The article led to wide public consternation after it was discovered that the prince's condition was far from positive and that she had not checked her sources.

Robust political discussion about the role of media is not new in the Netherlands. Media coverage of the right-wing politician Pim Fortuyn in 2001 and his assassination in 2002 triggered a discussion on media accountability. Media were blamed for not reporting Fortuyn's controversial complaints about migration and his death activated a debate on media responsibility.

This debate became even more prominent when in 2003 two government advisory commissions, the Council for Social Development and the Council for Public Administration published the report *Media Logic: about the power between the public, media and politics*. Specific suggestions were made for more effective self-regulating measures.

More than ten years later the Minister of Media is again putting accountability on the agenda in the context of regulation of the digitalised media landscape.

This report provides an overview on how self-regulation is arranged in the Netherlands at country, enterprise and individual journalistic level. And maybe more importantly, it provides an answer to what extent self-regulating measures are embedded in journalistic profession and culture.

Self-regulation at country level

The Dutch government has always shown strong support for media self-regulation. The Dutch Minister of Media has also reinforced the view that government should have a low profile in matters of journalism. This is not only to safeguard press freedom, but also to not intervene in a market sector that should be economically independent. For this reason, government has facilitated by only providing temporary subsidies for specific projects. The majority of the media agree with this, as they believe an independent, self-sustaining and free press is the highest priority.

In 2003 government supported the proposals for media self-regulation from the Council for Social Development which called for: a stronger press council, a media debate organisation to stimulate ethical debate, and a news monitor to provide data on how media perform. Initially, media reacted defensively, but eventually a more open approach prevailed in which media not only supported these measures but also took their own initiatives. They felt the need to do something, particularly to defuse the threat of government regulation. These self-initiated measures will be discussed in the next section.

The **Dutch Press Council** was established in 1960 and handles public complaints. The council is a commission of journalists and media and legal experts and deals with complaints concerning all types of media but only when it comes from a complainant directly involved in the media coverage. Approximately 90 complaints are dealt with per year.

The Council does not have the power to impose fines, reprimands or suspensions. It is financed by contributions of umbrella media organisations such as the Journalist's Union and the Association of Editors-and publishers. From 2009 till 2013 it also received a subsidy from the government.

Over the years the Council has had to deal with recurring criticism that it cannot impose sanctions, that the complaints procedure is too long, and for not adapting to the digital age. Many say it is a 'toothless tiger'. Also media complain over its juridical procedure and style. Moreover, more recently some media believe the Council is abusively being used as vehicle in court cases. Since 2000, several large media have refused to collaborate with the Council. They do not show up when a complaint affects them and they do not publish the verdict.

The Council responded in 2013 with a series of reforms to gain the goodwill of media and to hopefully receive more subsidies from them. It was particularly urgent because government subsidy had ended and umbrella media organisations were not eager to provide more financial support. There was also a threat to introduce possible regulating measures from the European Union, which provided even more reason for the Council to act.

A new chairman was appointed in 2013. Specifically a renowned journalist was chosen and not someone with a legal background. Procedures were revised to ensure complaints are submitted to media bodies involved before being dealt with by the council and during 2014 the ethical code was rewritten with a reduced legal character. Additionally, complaints will be processed only if it concerns media bodies that recognise the legitimacy of the council. As a result several media including the second largest news organisation, *RTL Nieuws* and the renowned opinion magazine, *Elsevier*, have rejoined the council. However, the most widely circulated newspaper in the Netherlands, *de Telegraaf*, remains outside its jurisdiction.

The other proposals from the Council for Social Development – a media debate organisation and a news monitor – were both launched in 2005 but they



closed five years later when temporary government funding ended. No media support was forthcoming to keep them alive.

The use of **ethical codes** in journalism adds to the capacity for self-regulation. The Dutch Journalist Union always has conformed to the Declaration of Principles on the Conduct of Journalists drafted in 1954 by the International Federation of Journalists. In 1995 the Association of Editors-in-Chief wrote a general code, including aspects of truth, independency, and fairness. In 2007 the Press Council issued a code for journalists to be used when judging incoming complaints. This has been adapted to comply with the digital landscape including articles on hyperlinks and social media and is currently being further updated.

In practice journalists do not consult the ethical codes much and only 20 percent of media actually publish their codes (Groenhart, 2013; Groenhart & Evers, 2014). Nevertheless, a study among 60 Dutch journalism experts still believe that codes can have a positive effect, helping journalists in their ethical decisions and showing transparency and accountability to the public. (Van der Wurff & Schonbach, 2011)

While there is consensus among Dutch media that government should keep out of the self-regulation of journalism and in 2014 there is more support for self-regulation and the press council, there is still an absence of initiatives from inside media and journalism to set up and fund a strong self-regulating system. One reason may be that many media believe measures taken at enterprise level can have more effect.

Self-regulation at enterprise level

Not only increasing media criticism, but also a rapidly changing media climate with

new technologies, media concentration and commercialisation obliges media to take their audience seriously. There has been a rise in the number of self-regulating accountability instruments initiated by individual media.

These days any reader or viewer can complain about media coverage and even when the complainant is not directly involved. In a changing society with an increasing assertive and demanding citizen and the advent of new technologies journalists feel the obligation to respond to the public and are more willing to do so.

Moreover, with decreasing circulation figures newspapers and fewer young people watching news on television media feel more than ever the need to satisfy the reader or viewer. “In the past we would push those things aside and we were also inaccessible, so the public’s concerns didn’t reach us, now we have come out of the ivory tower”, a newspaper journalist commented.

Also specific incidents which have revealed challenges for media have had an impact. The Fortuyn affair, for instance, was a clear trigger in the debate. A journalist of the newspaper *de Volkskrant* said: “the Fortuyn incident was definitely rock bottom in history.”

Nowadays news outlets provide a general email where people can send their reactions, complaints and questions. Large organisations, such as the public broadcaster NOS have a public complaints desk where public reactions are collected and dealt with.

By centralising the complaints the workload of the journalists is reduced. An employee of the public complaints desk explained: “the reactions can be very harsh, racist, sexist and discriminating. The staff should not be bothered with these mails”.

Nevertheless, more newspapers are publishing the author’s names with each article. This way the journalist can be tracked and addressed personally.

Also the digital-savvy journalist often has a Twitter account, which makes it easier to communicate with the public and to provide explanation for journalistic choices or rectify mistakes when necessary.

The first **news ombudsman** appointed in the Netherlands was in 1990. Since then several regional and national newspapers have employed ombudsmen. However, over the past years the numbers have fallen, largely because for reasons of cost.

Currently, only two national newspapers have an ombudsman, *De Volkskrant* and *NRC Handelsblad*. They are intermediaries between the public and the newspaper and deal with complaints. Even though the newspaper employs them, they have to be guaranteed an independent position within the organisation.

In 2007, the Dutch public service broadcaster NOS appointed an ombudsman with the objective to show accountability to the public, to improve the media coverage and to create more internal awareness of the public opinion in the Netherlands. After two years a second ombudsman was installed, but she resigned after less than a year. For a long time it was not clear how this position would be fulfilled, but as of end 2011 the NOS has installed a committee of experts consisting of five independent people who provide advice to the management board and judge public complaints when the complainant was not satisfied with the procedure through the public complaints desk. Currently, there is again a vacancy for an individual ombudsman.

The newspapers who have an ombudsman believe this position is quite valuable and can improve relations with readers. It is also a way for the newspaper to reflect on their own media coverage.

As a journalist of *de Volkskrant* said: “We usually dread when the ombudsman comes to our department, knowing that someone has complained about our work. At the same time we take him seriously and find him unassailable for the reader.

Nevertheless, with only two ombudsmen employed, most media seem to prefer to respond to public complaints without the intervention of an ombudsman. A recent survey among journalists in 14 countries also shows that Dutch journalists are not keen on the role of an ombudsman.

As an editor-in-chief of a broadcaster explicitly stated: “We do not need an institution like an ombudsman. It is our responsibility to respond to mistakes and correct them when necessary.” Other newspapers, mainly regional, do not have to the resources to appoint an ombudsman.

A rather old instrument of showing accountability is the **correction box**. The quality newspapers offer this on a structural basis, however often not on a prominent place in the newspaper. Popular newspapers provide correction as and when they feel the need. Since 2009 the public broadcaster NOS



Journalists are confronted with a new journalistic era, which does not only demand different skills, but also a change of mind-set in their relationship with the audience.

started publishing corrections on their website as an alternative to correcting mistakes during the news bulletin which often felt too ponderous.

A few Dutch news media provide a **letter of the editor-in-chief**, discussing their journalistic performance and media coverage. Only one newspaper, *Trouw*, does this on a weekly basis. Others provide a 'letter', column or weblog when felt necessary (Evers & Groenhart, 2011).

These self-regulatory instruments not only provide accountability to the public, but can also be a way for journalists to reflect on their own performance. So-called **self-evaluations** have been initiated a few times by editors-in-chief to reconstruct and analyse how a journalistic product was made in order to find out what can be learned from mistakes made.

De Volkskrant was the first to do an extensive self-evaluation in 2002 on its own coverage of Srebrenica between 1993 and 1995 during the Balkan war. The media, including the newspaper, were accused of biased and emotion-driven reporting on the role of the Dutchbat (the Dutch battalion of the United Nations forces) during the Srebrenica massacre. A former ombudsman and the ombudsman carried out a self-reflective research, which led to a report and recommendations.

More recently, the editor-in-chief of *NRC Handelslad* asked the former ombudsman of

de Volkskrant to judge the performance of the journalist who published about the critical state of Prince Friso after a ski accident. While initially the editor-in-chief was quite satisfied with this scoop, public dismay both offline and online obliged him to organise a self-evaluation. The resulting report was later published in full with a prominent rectification in which the editor apologised to readers "for not adhering to the high standards that you come to expect from us, as well as to the royal family for the personal loss that we may have amplified".

While these self-evaluations were done by external, independent figures, more media are taking this route. Internal self-evaluations are particularly done under public pressure. This was the case during the Haren riot in 2012, when a 16-year-old girl accidentally put an open invitation on Facebook for her birthday party and more than 3,000 people showed up, leading to public disturbances, riots and many shops looted and vandalised, cars set on fire and journalists attacked.

Dutch media were accused of giving the build-up to the party too much publicity. For weeks on end many Dutch media responded to the accusations with reflections in blogs, talk shows and news bulletins. A recent survey shows that compared to others in Europe, Dutch media stand out in providing feedback.

In sum, in recent years the number of accountability instruments at enterprise level has risen. Increasingly media are preoccupied with financial difficulties, an increasingly fragmented public and a general trend towards commercialisation. Showing accountability and responding to public's concerns is seen as a positive strategy. Media increasingly use accountability systems to improve their brand and to create more goodwill towards the reader or viewer.

Self-regulation at individual level

In their daily work, journalists are confronted with a new journalistic era, which does not only demand different skills, but also a change of mind-set in their relationship with the audience. That may explain the growth in the number of self-regulation at both country and enterprise level. However, the question remains to what extent the instruments are used by journalists.

On the plus side responding to complaints and providing explanation and transparency has increased in importance.

A unit head of the public broadcaster NOS said: “In the past we would push those things aside and we were also inaccessible so the public’s concerns didn’t reach us. The public accountability instruments such as the ombudsman, the online correction box, weblogs and the renewed public complaints desk are felt to be a way for the NOS to come out of the ivory tower”.

While many journalists support accountability in principle, the actual use of self-regulation systems often seems a step too far. Many believe they create quality products for public consumption and this already compels them to display accountability and formal self-regulating measures are redundant. When it comes to responding to complaints journalists are often not eager to respond. Sometimes the complaints are too tiresome. “There are a number of people who always complain about the language use. We don’t really take them seriously”.

Providing explanations on weblogs is preferred; the journalists decide when and how to interact with the public instead of just reacting liked a public complaints desk, ombudsman or press council. With the latter journalists and media have had a love — hate relationship over the years; they find it indispensable, but they are also critical of it.

Under this hesitant attitude lies a professional culture that is characterised by authority, autonomy and aloofness. To some journalists, being held accountable infringes professional autonomy and increasing interaction with the public is perceived as undermining professional authority. As a deputy editor-in-chief explained: “When journalists receive criticism they close their shells like an oyster”.

A key characteristic of the digital age is the increased influence of the public. This forces journalists to be more transparent and to correct their errors. For example, in 2013 on the website of *De Telegraaf*, the report of the death of Mandela was linked with the fictional Dutch Christmas character *Zwarte Piet* as Mandela’s passing away happened to coincide with this Dutch festivity. Many people on Twitter found this offensive. While the article was taken offline after half an hour, the newspaper, which is generally not considered to be sensitive to public criticism and does not collaborate with the press council, publicly apologised.

As coverage of the MH17 air crash showed journalists today cannot run away from their mistakes. When a current affairs programme aired footage of a journalist going through personal

belongings there was a lot of public anger and the editor-in-chief was forced to apologise. It’s an example of the increasing power of the public due to the use of social media. Journalists may hesitate over responding to the public, but in the digital world they face with a public voice which is hard to ignore.


If the Netherlands is pro-active in terms of self-regulation and transparency, it is still uncertain about the use of formal accountability instruments at country level. The press council is not fully embraced by media. While most acknowledge it and participate, a resistant attitude remains. Most prefer accountability at organisational or individual level. An editor-in-chief of a regional newspaper that left the press council in 2012 explained in the newspaper that he does not need formal solutions: “Our organisation will deal with the complaints of the readers by *ourselves*” (Even so, it should be noted that with the revisions of the Press Council in 2013 the newspaper rejoined.)

In their daily work many media and journalists still find it difficult to make themselves accountable. The autonomous culture of journalism remains in place. New systems have been introduced, but not internalised. There is still a need for a change in the media mindset in favour of openness and connection with the public. This needs to be seen not just as necessary, but desirable. Many journalists still find it difficult to interact with the public.

Although self-regulation has gained much attention and many such tools have been introduced, the impact of these changes is unclear. There is a lack of consensus among different media actors as to their effectiveness. The resistance of journalists at individual level hinders the development of an increasingly open climate. Ultimately it may be the public, with its newfound influence and clout that will force the media to change.

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A bronze statue of a man, likely a journalist, is seated on a wooden bench. He is wearing a cap and holding a newspaper. In the background, a display of various Norwegian newspapers is visible, with people looking at them. A yellow text box is overlaid on the image.

This may indicate that the growing number of complaints, rather than proving that Norwegian journalists are behaving less ethically, is an indication of the increased awareness and acceptance of the self-regulatory system.

NORWAY

Transparently ethical and setting standards that win media respect

>> SVEN EGIL OMDAL

The editor of the newspaper *Fremover* (Forward) in Narvik didn't put up much of a defence. In an article, based on another newspaper's reporting, *Fremover* had claimed that the confidential security plans for the local airport, a joint military and civil installation, had been freely accessible on the servers of the local authorities. When this claim was refuted, the paper had no documentation to the contrary.

The Norwegian Press Complaints Commission (Pressens faglige utvalg, PFU) needed less than ten minutes to reach a unanimous decision that *Fremover* was in breach of paragraph 3.2 of the code of conduct, the one that states that you should get your facts right.

For those interested in the case, the video from the discussion is still available at the site of the trade publication *Journalisten*. The complaint was one of a record 212 cases brought before the commission in the first half of 2014, dwarfing the former record of 185 from the first half of 2012.

It was also one where the discussion among the seven members of the commission; two editors, two journalists and three representatives of the public, was being streamed by *Journalisten*. As part of the commission's transparency programme, three cases from each meeting are streamed live. The meetings are open to the public, but are held in a conference room with few spare seats.

The significant increase in the number of complaints over the last decade has been used to argue that the standards of Norwegian journalism are deteriorating, and that sloppy reporting and disregard for the privacy of public figures are on the rise.

The statistics show, however, that the percentage of cases where the media is being found in breach of the code of ethics, has been stable, or is diminishing. An increasing number of complaints, almost half the total number, are being settled by the secretariat as "obviously not in breach". This may indicate that the growing number of complaints, rather than proving that Norwegian journalists are behaving less ethically, is an indication of the increased awareness and acceptance of the self-regulatory system.

The journalist in *Fremover* who wrote the disputed article (or cut/pasted, as the complainants claimed) was not a party in the case. As is the rule, the editor-in-chief handled the complaint after consulting with those involved in writing and editing the story. The ruling of the PFU was directed at the paper, not at the journalist or the editor. But the journalist is not free from personal responsibility. According to the brand new corporate "guidelines for ethics and social responsibility" of Amedia, the group who owns *Fremover*, all employees are "obliged to study and follow" the ethical guidelines.

Amedia is the second largest of the three corporations that dominate the Norwegian newspaper market, owning completely or partially, 78 newspapers. Stig Finslo, vice president for publishing issues, says in an interview that the corporate guidelines are partially based on legal requirements, but they are also an attempt to protect freedom of speech and industry rules like the ethical code ("Vær Varsom-plakaten") and the "Rights and duties of the editor", a voluntary agreement between the Norwegian Editors Association and the publishers association (the principles in this agreement has since 2009 been legally protected by the Editorial Freedom Act).



Amedia is not alone in establishing corporate rules that are both more comprehensive and in certain aspects stricter than the national code. A majority of the large news organisations have similar house rules. But Amedia goes further than the competitors, regulating both the spare time of journalists (engagement in voluntary associations “must not infringe on the independence and integrity of members of the editorial staff”), their activity in social media (“must not harm your own or the company’s reputation”) and sexual behavior (“anyone on assignment for, and representing, the corporation must abstain from buying sexual favors”).

The fact that corporate rules both exceeds and strengthen the national ethical code should not be interpreted as discontent with the self-regulatory system. The work of the PFU is arguably more widely accepted today than it has ever been. It seems that turning the institutional framework into a one-stop system covering all media, including broadcasting and online, has made the ethical regulation of Norwegian journalism at the same time both more visible and more legitimate.

The Press Association (Norsk Presseforbund, NP), an umbrella organisation comprising the editors association, the Norwegian union of journalists, the

various publisher associations and all broadcasting institutions, decided in 1994 that the PFU should handle complaints against all media, including those not belonging to any of its member organisations.

At the same time, a Government White Paper discussed the need for a publicly appointed media ombudsman. The government reached the conclusion that the voluntary system worked so well that there was no need for a parallel structure. Four years later, in 1998, the jurisdiction of the PFU was enlarged further when the Parliament decided to abolish the mandatory Broadcasting Complaints Commission (Klagenemnda for kringkasting), thus leaving Norway in the unique position of having no mandatory regulatory body for any part of the media.

The reason for the abolishment of Klagenemnda, given by the then Minister of Culture, Åse Kleveland (a former PFU member, representing the public), was the high legitimacy, effectiveness and visibility of the PFU-system. She stated, however, as a prerequisite that all broadcasting organisations should respect and follow the rules and regulations of the PFU, threatening legislation if there was less than 100 percent compliance with the self-regulatory system.

One particular problem had to be solved before the transfer of authority from the Klagenemnda to the PFU could be concluded. Article 23 of the EU directive on television states that “member states shall adopt the measures needed to establish the right of reply or the equivalent remedies and shall determine the procedure to be followed for the exercise thereof”. The Norwegian government was of the opinion that as long as the code of ethics included regulations concerning the right of reply, the requirements of the directive were met. But to be on the safe side, the parliament adopted a new paragraph in the Broadcasting Act guaranteeing the right of correction of factual errors.

Online media were included in the jurisdiction of the PFU as early as 1996, less than a year after the appearance of the first net editions of Norwegian newspapers. In an attempt to limit the rapidly growing workload of the commission and the secretariat, it was decided that only complaints against publications or sites with a predominant journalistic profile and a responsible editor would be considered. On the other hand, the commission also accepts complaints against institutions, organisations, companies or individuals accused of obstructing the work of journalists.

Researching this paper I asked the editors of three of the largest Norwegian newspapers how they handle PFU complaints, and to what extent they try to enhance the ethical competence of the editorial staff.

All the papers have in-house codes of conduct that are both more detailed and stricter than the national code. *Bergens Tidende* (BT) publishes both their code of corporate responsibility and their editorial ethics code in the web edition of the newspaper. Editor-in-chief Gard Steiro explains that he and the managing editor shares the responsibility for handling complaints. All decisions by the PFU concerning BT, positive as well as negative, are being distributed to the whole newsroom and discussed at meetings in each department. In addition, ethical issues are frequent topics at a weekly meeting for all the journalists and editors.

Torry Pedersen, CEO and Editor in chief of VG, which is by far the largest online news organisation, in addition to having the second largest print circulation, says that they approach all complaints in a systematic and well established manner. After being reviewed by him, the complaint is sent to the editor responsible for ethical and legal matters. All personnel involved in the disputed

article; reporters, subeditors, photographers and editors are required to describe in writing their involvement with the article, including any decisions they took. Based on these reports the editor for ethics writes a draft reply to the PFU, which is then sent back and forth between him and the editor in chief until the latter is satisfied.

All complaints deemed relevant are mentioned or discussed in the editor’s daily briefing with the whole editorial staff. All PFU decisions involving VG, regardless of the outcome, are analysed in detail by the editor at one of these meeting, followed by a written version of the analysis. In addition to that, all summer interns go through a two-day introduction course where the company’s policy on press ethics is presented in detail, Pedersen says.

Before being appointed editor in chief Lars Helle used to be “editor for ethics” in *Dagbladet*, Oslo. The fact that this brazen tabloid established such a position drew considerable interest not least from public figures critical of the paper’s coverage. Helle (who since 2012 is the editor in chief of *Stavanger Aftenblad*) says that it was important to communicate, especially to the staff, that the existence of an editor for ethics did not imply that the editor in chief had abdicated this field. Helle was in charge of all in-house training in ethics, running a series of workshops and seminars, handled all complaints, represented the paper in public discussions on controversial editorial decisions and also represented the paper in all legal conflicts (he has a degree in law).

BT was the first Norwegian media institution to introduce the concept of press ombudsman, when Terje Angelshaug, a former news editor of the paper, was appointed in 2004. When he left the paper in 2011, the position was discontinued. It proved difficult to find someone with the right balance of authority, competence and legitimacy both internally and towards the public.

In 2010 the Swedish media research institute Sim(o) published a study of what they called “The Norwegian Model”. In the preface Torbjörn von Krogh writes that although the Norwegian system is based on a different legal and organisational framework, there is a lot to be learned from a model that for 20 years has worked as a comprehensive system for self-regulation.

The PFU traces its history back to 1928, and is the third oldest in Europe after Sweden (1916) and Finland (1927). The ethical code, first adopted



in 1936, has since been revised 11 times, the last revision being effective as of July 1, 2013. It is safe to say that several of the revisions have been made to avoid legislation. In a study of European laws on self-regulation in the media sector, presented to the Saarbrücken conference, organised by Germany under their EU presidency in 1999, Dr. Jörg Ukrow at the Institute for European Media Law wrote that self-regulation would be beneficiary in “avoiding sovereign intervention in areas which are sensitive in terms of basic rights. State intervention in press, film and broadcasting freedom is often claimed to be justified on the grounds that the state has to protect the public from abuses of the mass media. If the profession regulates its own affairs, the state has no reason or excuse to intervene”.

It is widely accepted that the strength of the Norwegian system to a very large extent is based upon the ability and willingness of the publishers, editors and journalists to agree upon both the code and the system managing the code. This consensus has survived seismic shifts in the media landscape; the transformation from a largely political press to a newspaper scene almost totally dominated by three corporations, the expansion to cover all media, and lately the almost exponential growth in online publications and the shift to a 24/7 publication cycle.

The public perception of the system has been strengthened by a program of transparency. Ownership transparency is regulated by law, and controlled by the Norwegian Media Authority, who publish an annual report listing the owners of all Norwegian media. The press association has opened up the regulatory process by holding PFU meetings

around the country, inviting local journalists and members of the public to act as shadow commissions, discussing the same cases, with the same input from the secretariat. In addition, as mentioned above, three cases from each meeting of the PFU are being streamed live, and kept as video files on the web site of *Journalisten*, a trade journal owned by the Norwegian Journalists Union.

Even in the absence of political pressure to reintroduce mandatory regulation of the media, the question of representation on the PFU frequently arises. As a result of one of these discussions, the Norwegian Journalists Union voluntarily gave one of their three seats to a representative of the public, bringing the composition of the complaints commission to its present division between editors (2), journalists (2) and representatives of the public at large (3). The chair and the vice-chair of the commission are always an editor and a journalist on a rotation basis.

All seven members are appointed by the board of the Press Association (Norsk Presseforbund, NP). The Secretary General of the NP nominates the representatives for the public, while the journalists union and the editors association (Norsk Redaktørforening, NR) nominate the representatives of the journalists and editors respectively.

There have been repeated but unsuccessful attempts to find an independent external institution that could nominate the representatives for the public, and the present system regularly draws criticism. Among the latest appointments are several members with personal experience of being negatively portrayed in the media, apparently in an attempt to bring the hardest criticism of media behavior into the deliberations of the commission.

The Secretary General of the NP also has a right to initiate investigations in cases where no complaint has been lodged. This right is normally used only a few times each year, and the complaints from such investigation have always been upheld by the PFU.

The Secretary General also initiates infrequent “declarations of principle” by the commission. One example of such a declaration is a 15-point guideline on the right to reply, adopted by PFU in early 2011.

Breaching the two paragraphs in the ethical code regulating the right to reply (simultaneous reply in para. 4.14 and post-publication reply

In the case that the commission finds against a publication which is not a member of the Press Association and who refuses to comply with the rules, the NP will pay for ads making the finding known, choosing the publications most likely to reach the audience of the offending publication.

in 4.15) has been characterised as “the original sin” of Norwegian media. The annual statistics almost without exception show 4.14 as the most transgressed upon of all the paragraphs in the code.

The guidelines adopted by the PFU in 2011, was based on preliminary work and precedents in the commission. The guidelines stress that persons accused of serious misconduct must be given a genuine opportunity to respond, that the editorship must endeavor to make contact with the person, who should be informed - in a straightforward manner – of the specific accusations, and be given a reasonable time to respond.

When the guidelines were presented, the then Secretary General of NP, Per Edgar Kokkvold, stated that they were issued for the benefit of the editors and journalists as well as the public, and that there would be an end to critical 4.14 adjudications if editors carefully read them.

For whatever reason, whether lack of time to read the guidelines; insufficient respect for the code of ethics; or weak systems of control in the newsrooms, the right to simultaneous reply to serious accusations continued to be the weak spot of Norwegian press ethics.

In 2013 the editors association established the “4.14 squadron” in order to approach the problem more forcefully. It is probably too early to draw any conclusions, but during the first half of 2014 the number of cases where the media was found in breach of 4.14, was halved, compared to 2013, reinforcing the arguments of those who think that the awareness of the code among the practitioners leaves a lot to be desired.

An important prerequisite for the independence of the system is the fact that it is fully financed by the participants. All member organisations and broadcast media belonging to the press association, NP, pay a fee which covers the associations’ work with press freedom, media legislation, as well as the work of its committees, of which PFU is by far the most active and important.

It could be argued that the membership fee of the state-owned Norwegian Broadcasting Corporation (Norsk Rikskringkasting, NRK) indirectly constitutes an element of public financing. NRK is organised as a foundation with an independent board of directors appointed by the government, and is financed by a license paid by all who own a television set.

The sanctions are few, but well respected. Any publication found in breach has to publish, as soon as possible, the PFU finding in a prominent place, including the PFU logo and under a non-contentious headline. When a broadcaster is found in breach, a short version of the finding is prepared by the secretariat to be broadcast in the same time slot as the offending publication.

In the case that the commission finds against a publication which is not a member of the Press Association and who refuses to comply with the rules, the NP will pay for ads making the finding known, choosing the publications most likely to reach the audience of the offending publication. These cases are rare, as almost every publication with a predominant journalistic content and a responsible editor, belong to one of the member organisations of the NP.

The idea of an administrative fee payable by those found in breach, comparable to the Swedish system, has been floated several times, but has received little support from the industry. The main argument against a fee is that it would be regarded as a fine, making the self-regulatory system more like a court of justice, something that has been avoided since the system’s inception.

A number of studies since 1996 have explored the perception among Norwegian journalists with regard to the PFU and the standard of journalistic ethics in the country. In a submission to the Independent Media Inquiry in Australia in 2011, Dr. Johan Lidberg, senior lecturer at School of Journalism at Monash University writes that “the data shows a strong consensus that the new regime (encompassing all media in a one stop-system)

has lifted journalistic and publication standards in Norway, and that the respect for PFU's work is great indeed".

Lidberg quotes a 2001 study by Svein Brurås, assistant professor at Volda University College, on how journalists regard the self-regulatory system. His conclusion was that they "spontaneously express that the PFU is doing a good job and that their rulings are seen as fair ... it can be concluded (based on the interviews) that the journalists hold the PFU in great respect and it is viewed as a body with authority and integrity".

A recent study, presented as a bachelor thesis by Monica Christophersen, student at the University of Stavanger, strengthens the impression that the work of the PFU has a strong influence on ethical standard in newsrooms. Her survey of 66 newspapers and broadcasting institutions showed that 82 percent of those who were found in breach during the last 10 years initiated changes in newsroom routines as a consequence. Of these changes, 31 percent were of a substantial nature.

Christophersen states that "most newsrooms introduced small and simple measures. For the majority this was sufficient (to avoid being found in breach once more). For larger newsrooms and other newsrooms with repeated breaches, there has been a need for more and heavier measures. Regardless of whether the changes were large or small, this indicates that they are concerned about the findings of the PFU, trying their best to avoid a repetition".

An example of measures that might be introduced was seen in the 2013 case of the Norwegian Broadcasting Corporation when they reported a story in the main nightly news about an imprisoned Roma woman, claiming that she was jailed for living in accordance with the traditions of her people. The report omitted the facts, well known to the reporter and his editor, that the woman was sentenced for trafficking and aiding in the rape of her own 11 year old daughter.

Even though NRK published a retraction and apologised, PFU found that the report was in "severe breach", and added for good measure that it was a case of falsification of history.

In the aftermath, humiliated NRK management issued several written reprimands, organised mandatory refresher courses in ethics for the staff and introduced a system where a high ranking editor



Journalists are confronted with a new journalistic era, which does not only demand different skills, but also a change of mind-set in their relationship with the audience.

would be present in the newsroom every night until the conclusion of the main news broadcast.

The perception that press ethics is taken seriously, is supported by Lars Helle, former editor for ethics at *Dagbladet*. When asked how this job was perceived in the newsroom, he said: "It was received with immediate respect. In cases small and large, I was consulted far more often, day and night, than both the editor in chief and the news editor. Due to this respect, the position became much more important than I had expected. The same was true for the external reception, probably because the title was a rarity in Norway".


A growing number of newspapers publish an annual editorial report, parallel to the financial report prepared by the CEO. In this report, published in the paper and online, the editor discusses the successes and shortcomings of the previous year, often pointing out how many – or rather how few – times the paper has had a negative finding in the PFU. Readers are then invited to discuss the report and decide if they agree with the picture painted by the editor.

The 2013 Annual Editorial Report from VG is divided into "things we are proud of"; investigative project, innovations, prizes, international coverage, and "things we are not proud of". In this latter section, the editor in chief, Torry Pedersen, lists the numbers of corrections, regretting some cases where they had mistreated people or invaded the privacy, lamenting the low number of female sources,

admitting that sports coverage were given to much space and resources, and revealing the average annual salary of the journalists (NOK 711,059, approximately €86,000) and the editors (NOK 1.2 mill, approximately €145,000).

But for those wondering if *VG*'s well-established system for handling complaints, as described above,

actually works, the most relevant information is the fact that *VG*, an aggressive tabloid with a daily circulation of 164,000 and a total daily readership on all platforms of 2.3 million in a population of 5 million, was not held in breach of the ethical code even once through the whole of 2013, and that the same was true for 2012 and 2011. As Torry Pedersen says: The system guarantees quality.

A photograph of a busy street in Pakistan. In the foreground, a man in a light-colored kurta and trousers walks towards the camera. Behind him, a yellow taxi with license plate PL8084 is visible. To the right, a white truck with 'K B' on its side is parked. In the background, there are several multi-story buildings and a large 'RC' sign on a tall structure. The sky is clear and blue.

Despite all its problems, despite the many controversies, the Pakistani media had grown to be a national institution that many could be proud of.

PAKISTAN

Glimmers of hope, but ethical journalism requires more legal backbone

>> ZAFFAR ABBAS

“Despite all its problems, despite the many controversies, the Pakistani media had grown to be a national institution that many could be proud of. But what dictators, anti-democrats and right-wing extremists could not achieve in decades, the media seems to have done to itself in a few short weeks. It is time for the few good men and women left in this profession to stand up and be counted.”

– Excerpt from editorial published in *Dawn* newspaper on May 19, 2014

In April 2014 a tragic incident shook the media in Pakistan. A prominent journalist, also a leading television talk-show host, was shot as he was driving out of the airport in Karachi. Hamid Mir was hit seven times and was extremely lucky to survive. Although Pakistan has for a long time been considered one of the most dangerous countries for journalists, mainly because of the manner in which dozens of media persons have been gunned down by various warring groups, the attack on Mr. Mir led to a very different kind of controversy. Many media experts believe that what ensued in the aftermath of this incident resulted in the virtual death of self-regulation, or for that matter all ethics in the Pakistani media.

The media company, the Jang-Geo group, that Mr. Mir works for, unleashed a vicious campaign against the country's premier intelligence agency with unsubstantiated allegations against it for the attack.

This was soon followed by an equally vicious campaign in a number of newspapers and on several television channels against the Geo-Jang group, accusing it of undermining the armed forces and its intelligence agency, the ISI. Some media groups editorially took the position that the Geo-Jang

group's tirade against the security institution was at the behest of the government, which had developed serious differences with the military leadership on a number of policy issues. At the same time, many critics of these media houses accused them of campaigning against Geo-Jang on behalf of the military establishment. The allegations from both the sides had some merit but, as subsequent events proved, one of the reasons was also the commercial interests of these warring media houses.

During this internecine media conflict readers and viewers observed some gross violations of the internationally-recognised codes of media ethics. As animosities developed they witnessed the Pakistani media, or a large section of it, at war with itself.

Fast forward to August 2014 and we see a large section of the media playing a highly partisan role during a serious political crisis in Islamabad involving two opposition groups that want to bring down an elected government through street agitation, and were stopped through the use of brute police force. During the non-stop coverage of the crisis, news stories were published and broadcast with clear slant, and several talk-show hosts and news presenters became players in shaping public opinion in support of or against the government. Even some of those media houses that have their own codified system of self-regulation decided to put those rules aside while taking a plunge into this conflict.

So, what went wrong? Did we reach the current pass because of the absence of effective systems of self-regulation, or because some of the media owners and editors, for reasons of monetary gains, decided to ignore the regulatory or monitoring systems they themselves had created? An even bigger question: were these slippages unintentional, or are they

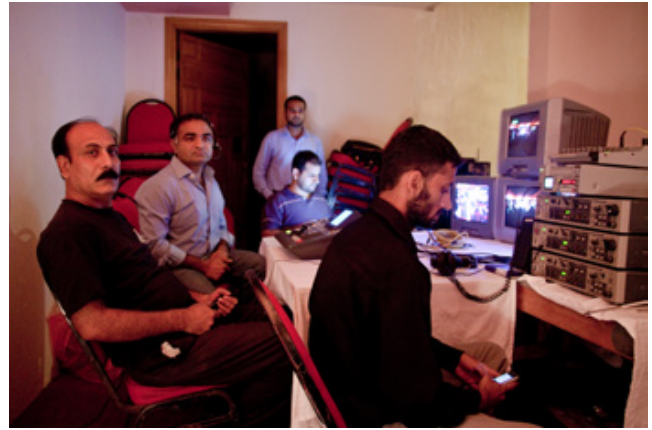
indicative of a bigger malaise which has its roots in the manner in which the media industry has taken shape in the country in the last couple of decades?

In order to understand this development, it's important to look at the evolution of the media industry in Pakistan. This includes the media's transition from a period of direct and indirect censorship to a fairly free press, the emergence of privately-owned television channels and then a period when political and commercial interests started to play an active role in shaping news content.

The first four decades since the country's inception in 1947 was the period when, most of the time, media worked under highly-regulated government controls. During these years newspapers did grow in number but there were fewer quality publications in the country. However, they too worked under repressive media laws and were often subjected to closure or censorship. The radio waves remained under complete state control, and when television came to the country in the 1960s, it was directly run and managed by successive governments. During this time journalism was viewed more in terms of the quality of writing than as a free and independent medium for disseminating information.

This period saw the emergence of a very strong and professional journalists' body, the Pakistan Federal Union of Journalists (PFUJ). And though at a very early stage of its creation it did adopt a proper 'code of conduct' for working journalists, due to the prevailing situation most of its energies were spent on working for journalists' labour rights and on the campaign for press freedom. The situation within newspapers was also not too different. Though many professional editors and journalists were aware of the need for self-regulation, very little attention was paid to this crucial aspect of journalism. Unfortunately, during this time, many journalist activists thought an increased emphasis on self-regulation would be another form of self-censorship.

The mid-1980s mark a watershed in the struggle for press freedoms. Not only did the unions win court cases against repressive press laws, the peoples struggle for the restoration of democracy compelled successive governments to open up the media, and allow almost complete freedom. The newly earned freedom led to remarkable growth in the press industry and compelled journalists to adopt new investigative journalism tools to expose corruption and poor governance.



Sensationalism started to replace serious journalism ... and in many cases political and commercial interests started to play a dominant role in the selection of news...

With the turn of the century, the government also agreed to loosen its control over the electronic media, and within a decade nearly two dozen television channels emerged on the scene, broadcasting round-the-clock news. This rapid mushrooming of 24/7 news channels was a completely new phenomenon. At one level it marked remarkable growth in the media industry, and even resulted in the improvement of wages for journalists. But at a different level, it also threw up unexpected challenges. With the commercial and industrial activity not picking up at the same pace, the battle for survival for television companies resulted in an ugly competition for viewership ratings, and for getting the bigger share from the relatively small advertisement pie.

The result was not very unexpected. Sensationalism started to replace serious journalism, concepts of ethics and self-regulation were set aside, and in many cases political and commercial interests started to play a dominant role in the selection of news and the airing of views. Though this trend was more evident in television, a number of newspapers also failed to remain immune.

It would be wrong to say that the concept of ethics and media regulation have never existed in the country. These issues have been talked about from the very early years, have been codified in some cases, and in some areas are still being implemented successfully. For instance, the main journalists'

union, the PFUJ, has from its very inception incorporated in its constitution a fleshed-out code of conduct. At a later stage, the editors' body, the Council of Newspaper Editors (CPNE) also came up with its own code which was acceptable to the publishers' body, the All Pakistan Newspapers Association (APNS). With the advent of privately-owned television companies, a body representing the owners was formed. But to date, the Pakistan Broadcasters' Association (PBA) has not been able to agree on its own code of ethics.

At the national level, the Pakistan Electronic Media Regulatory Authority (PEMRA) is responsible for regulating television and radio outlets, and has its own code of conduct. But the recent inter-media war has exposed its ineffectiveness, and efforts are now being made to develop a new and more effective code for the electronic media. The government-appointed Press Council of Pakistan (PCP) is still in its infancy, and though it has a codified system of receiving and addressing complaints, it remains largely ineffective.

Although many newspapers and television companies say they follow their own systems of self-regulation, only two newspapers, *Dawn* and *Express Tribune*, and one television channel, Geo, have publicly declared their respective codes of conduct. In the case of the *Express Tribune* and *Dawn*, there also exists the institution of an internal ombudsman or readers' editor, though these systems too require improvement.

There are several factors behind this failure or ineffectiveness of the systems for making the media more responsible to its audiences. The haphazard growth of the industry, the lack of investment in journalists' professional training, the absence of the institution of professional editors in most media houses and the direct commercial or political interests of owners can contribute to the current state of affairs.

Many media monitoring groups and experts believe that self-regulation at the enterprise level to resolve public complaints in Pakistan is largely a slogan adopted by media houses to satisfy sections of civic society that make demands through blogs or some of the noisier civic forums. It is seldom, if ever, accompanied by the setting up of a credible system of dealing with complaints, nor is it viewed as a powerful means of engaging with audiences. Short-sighted self-interest and empty protestations of self-regulation by media houses is simply a smokescreen to deceive

governments that demand an effective resolution to complaints made by their own departments, in the interests of curtailing criticism about corruption and incompetence in governance.

In other words, in the Pakistan of today, the self-regulation of media houses at the enterprise level is an amorphous series of behavioral practices. A major reason for this is the distinctive characteristics of media houses vis-a-vis the mix of media. Such self-regulation depends on the mix of print media in the media house (that is periodicity, the political complexion of newspapers, etc.), the linguistic differentiation of various newspapers and periodicals and the existence of responsible editors.

Legal advisors for a media group or individual medium are usually a crucial factor in the response that emerges. The response of the print media in such a media house tends to be a little more meaningful, if the newspaper is in English rather than in the vernacular language Urdu, and even less so if a newspaper is printed in regional languages – which due to financial resources or distance from the core of the modern print media publishing find themselves less able, or are perhaps less inclined, to pursue complaints.

Hameed Haroon, the CEO of Pakistan Herald Publications Limited, which publishes *Dawn* newspaper, and the current president of APNS, puts the issue into context. He believes the near absence of a formal and efficient industry-wide mechanism for the print media (PCP being only a skeletal organisation in its infancy); the low priority accorded to a non-powerful complainant versus national politicians or major advertisers, who are in a position to swiftly retaliate in case a medium does not choose to vent their complaints in print adequately and tend to be given priority over private individuals whose complaints tend to be put on hold; and the arrogance of the television managements and editors in ignoring complaints – which appears to be the norm – all contribute towards low quality of self-regulation at enterprise level.

According to him, the effective parameters that govern self-regulation include the conscience of editors and journalists on the one hand and the desire of media houses not to be involved in costly and long drawn-out litigation on the other. "Whereas these are important factors in many countries, they emerge as the only effective parameters or checks on media behavior," he believes. "Self-regulation has been reduced to a somewhat meaningless and ill-functioning

mechanism in Pakistan.” However, he hastens to add that individual newspapers, such as *Dawn*, with a powerful, functioning and autonomous journalistic group of decision-makers, tend to be more meticulous and non-discriminatory in addressing corporate and even individual complaints.

Javed Jabbar, a former minister of information and broadcasting and a known campaigner for the development of ethical values in media, believes that although media houses do engage with the audience, “this engagement is mainly media-centered, when the audience gets to be seen or heard in the media.” According to him, randomly chosen or carefully selected citizens invited to a television studio entertainment or discussion programme, or citizens participating in a program recorded on the streets outside the studios, are given the transient pleasure of being featured in the media, in a reflection of how the media “engage” with their audiences. “But with only a few exceptions, in general, this opportunity provided to audiences is too brief and, in any case, the duration of discussion is entirely controlled by the media, not by the audience,” he says.

Though aware of its limitations in the Pakistani context, Professor Tausif Ahmed Khan, chairman of the Department of Mass Communications at the Urdu University, nevertheless believes that the only way to enhance professionalism in the media is by encouraging the concept of self-regulation. “It strengthens objectivity and promotes the role of the media as a fair and unbiased provider of information,” he points out.

This view is endorsed by Rameeza Nizami, owner and managing editor of the Nawa-e-Waqt group that also publishes the English-language newspaper, *The Nation*. “There’s not one government or non-government body that all media houses agree is able/worthy of monitoring the media,” she says. Although her media group doesn’t have a codified system of regulations.

Ms Nizami says readers’ complaints are taken quite seriously if they pertain to a story being considered unfair or slanderous. However, she says those are not the only kind of complaints. “There are regular instances, for example, of readers complaining about an advert featuring the bare legs of an actress, in a hair removal cream ad, suggesting it is a failure of the organisation to have allowed such an ad to be printed,” she explains. Again, she says, self-regulation works best here. “Were such complaints the domain of some press council, perhaps with a



The voluntary national systems are largely toothless ... I have rarely seen them intervene, even in cases of serious abuse.

– Talat Aslam, senior editor at *The News*

member of the government-run Council of Islamic Ideology on the panel, it would be much more difficult to handle them with grace”.

Her views are echoed by Talat Aslam, senior editor at *The News* (the English-language newspaper of the Jang-Geo group). “To be honest, the voluntary national systems are largely toothless and cosmetic in nature,” he says. “I have rarely seen them intervene, even in cases of serious abuse”. As for self-regulation, he says in the case of *The News* there is a more conventional mechanism where specific complaints are accommodated in either the ‘Letters to the Editor’ section or as clarifications in which the points of view of aggrieved parties find space. In the latter case, he says, the reporter is also given the right of reply to any accusations of distorting facts. However, he admits that at times the reporters tend to misuse this system and in their rebuttal repeat the same allegations.

Both these newspaper do not have the institution of an internal ombudsman or readers’ editor. In fact, Ms Nizami sees no point in having such a system and insists on proper editorial filters that work. “There can’t be one great overlord of oversight who raps people on the knuckles if they are found to have erred,” she says. According to her, every department head has to perform that role, otherwise it becomes a case of waiting for the ombudsman to get a complaint before you take note of something that is obviously wrong.

The fact is that in a country where most publishers and editors are not prepared to accept the internationally agreed code of ethics, or evolve their own codified rules, it's difficult to imagine that the concept of an internal ombudsman or readers' editor can work effectively. Yet the *Express Tribune* and *Dawn* introduced their own mechanisms for addressing public complaints in this manner.

The concept is quite new to the country and journalists working in these organisations are taking their time in understanding and accepting the system. But at least in the case of *Dawn*, the belief is that the institution of the Readers' Editor has the inherent ability to forge a powerful instrument for self-correction, and therefore all media houses should be encouraged to adopt this system.

If the concept was to be accepted by the media houses in Pakistan, generally, but not invariably, the effectiveness of a Readers' Editor will be governed by multiple factors such as:

- ▷ The actual importance a media group or individual enterprise places on the printing or broadcasting of truthful and, more importantly, factually verifiable information. There are too many organisations in Pakistan that choose to neglect this and the veneer of self-regulation is largely an excuse disguising the prevalence of real abuse in the system. The tardiness of litigation tends to reinforce such negative forms of behavior mostly in favour of media organisations that have committed errors.
- ▷ The development of professional editor-controlled and administered news mechanisms that adopt standard procedures for verification and fairness in editorial comments and which act to pre-empt the commission of errors in reporting or help render transparent the process of evaluation and determine fairness.
- ▷ The creation of documentation and archiving that indexes past and present complaints in such a way that precedence in decision-making by the Readers' Editor can ensure the generation of a consistent response with respect to any complaints that have been generated and which demonstrate any violations of general principles and/or the degree of correction which results from the occurrence of such complaints.

Mr. Jabbar, a strong advocate of the concept, believes the Readers' Editor should be independent of internal controls and influence, but at the same time completely detached from the day-to-day work

of the newspaper. "A Readers' Editor's role has to be carefully modeled and conducted, walking the fine line between attempting detachment and being too close to the Original Sin," he explains.

A Readers' Editor or ombudsman can only be as effective as the formal and informal guidelines that govern his or her appointment inside a media house. If there exists a real desire by such an enterprise to put forward the truth and to ensure that reasonable substance exists within news reports for the verification of such truths, then the development of effective safeguards will largely pre-empt the commission of offences by the media, and will be successful in laying the foundation of a self-regulating mechanism with fewer violations. A fair and impartial treatment of complainants by the Readers' Editor, with no arbitrary exceptions, will lead to a strengthening of the mechanism over time.

Arbitrariness by the Readers' Editor tends to weaken the institution of self-regulation as effectively as too low levels of self-regulation. Given the defects in Pakistan's legal system, draconian and ineffective defamation laws and the non-functioning Access to Information Act serve as powerful distortions to the environment surrounding a Readers' Editor. Abuses with respect to such laws tend to further distort information, particularly with respect to corruption by politicians and civil servants shielded by a legally validated excessive secrecy, thereby preventing the exposure of such actions.





New and more effective codes and systems of complaints will have to be worked out in consultation with media bodies and with the help of civil society organisations.

“The Readers’ Editor functions in an imperfect world, and self-regulation by itself cannot demonstrate valid results without reference to the legal framework in which his decisions are made,” says Mr. Haroon, CEO of *Dawn* newspaper. “Imperfect laws are not designed to sustain the freedom of press and a concomitant freedom of expression, nor will the end-result be a reasonably designed environment for self-regulation in an enterprise.”

But can such a system work on its own or will there still be a need for an external regulatory mechanism? Using the example of the Hamid Mir affair, which triggered a vicious media war, Mr. Jabbar says no other instance better illustrates the fact that self-regulation simply cannot be the sole mode for regulating media conduct.

He says self-regulation should be conducted within public regulation legislated by Parliament after extensive consultation with citizens, all segments of the media, advertisers, etc. Such state-based regulation alone can provide the parameters that place the public interest as the over-arching framework within which the media should function. And though many media practitioners disagree, he believes “it is possible to attempt such

an approach without unduly curbing the freedom of expression.”

Recent events, along with numerous other incidents from the past, show that voluntary self-regulation on its own has failed to prove effective. Most media experts are convinced that if the media is to flourish in the country as a responsible tool for disseminating information, and earn the respect of readers and viewers, it will have to evolve a multi-tier regulatory system. Crucial to this exercise is for all media houses to adopt voluntary codes of ethics based on nationally and internationally recognised codes. The code may remain ineffective without an internal system of attending to complaints.

Media owners and editors would have to recognise the importance of an internal ombudsman or readers’ editor, largely based on points discussed above. This too may not work on its own unless a system of an external ombudsman or complaints commission is created; a complainant that is not satisfied with the internal scrutiny can then have the opportunity of reaching out to an independent body.

Media regulators and the PCP-run complaint commission have remained ineffective and

controversial mainly because they are managed by the government. The challenges thrown up by the recent controversies show that if such regulators are to succeed, new and more effective codes and systems of complaints will have to be worked out in consultation with media bodies and with the help of civil society organisations. And the only way they

will earn the respect of the media houses and the general public is if, instead of government control, there is parliamentary oversight.

If the Pakistani media is to regain its lost glory and respect there is no alternative to a better worked-out multi-tier system of regulation.

Links to codes of ethics of media associations and individual enterprises

Electronic media regulator PEMRA

http://www.pemra.gov.pk/pemra/images/docs/legislation/Code_of_Conduct.pdf

Pemra rules

<http://www.pemra.gov.pk/pemra/images/docs/legislation/coc.pdf>

Press Council of Pakistan Code of Conduct

<http://presscouncil.org.pk/ethical-code-of-practice/>

Pakistan Federal Union of Journalists

<http://pfuj.pk/code-2/>

Geo TV's code of conduct

<http://www.geo.tv/asool/>

Dawn newspaper's Code of Ethics and role of Readers' Editor

<http://www.dawn.com/code-of-ethics/>
<http://www.dawn.com/news/1124403>

The Express Tribune's Code of Ethics

<http://tribune.com.pk/code-of-ethics/>

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The Star

**BREAD
PRICE
TO RISE
AGAIN**

The coming of democracy to South Africa 20 years ago placed the media on the agenda for transformation... space opened up for private commercial and community broadcasters...

SOUTH AFRICA

Government threats as media get their act together

>> FRANZ KRÜGER

Along with the rest of the world, South Africa's media have faced enormous economic and technological pressures, but what sets them apart is the overriding influence of political pressure, which has shaped the media landscape and the form of media regulation in particular.

The coming of democracy to South Africa 20 years ago placed the media on the agenda for transformation. Broadcasting was extensively restructured, with attempts made to turn the SA Broadcasting Corporation (SABC) from a mouthpiece of the apartheid state into a genuine public broadcaster. At the same time, space opened up for private commercial and community broadcasters, which have become important players with growing audiences.

Calls for the transformation of the private print media focused on demands to make the community of owners and editors more demographically representative of the population, and to eradicate all vestiges of racism in the news.

Addressing editors in 1997, Nelson Mandela said: "Whatever measures have been taken, the truth is that the media is still in the control of the whites, and in many cases conservative whites, who are unable to reflect the aspirations of the majority."

This kind of criticism was seen as generally legitimate and newspaper companies made efforts to change. A majority of title editors are now black, although the gender balance has not shifted much.

As the honeymoon atmosphere of the Mandela years faded newspapers adopted an increasingly critical attitude to the new elite, and relations between the media and the ruling African National Congress have worsened. The party accuses the press of

hostility, a lack of patriotism, and sometimes claims that racism lies behind the growth in reporting of corruption or government failures. It even accuses journalists of operating like an opposition party.

These kinds of attacks are really directed specifically at the private print media, even though their audience is dwarfed by that of the SABC. Nevertheless, the tension has led to a range of other steps, including threats of legal action for defamation; new legislative measures; a move by groups friendly to government to invest in the media; talk of withdrawing government advertising from media seen as hostile; and support for alternative voices such as community media.

The Press: A case for treatment?

A strong focus has been a campaign to forge a new self-regulatory system for print. The ANC criticised the self-regulatory system as compromised; it was "a toothless dog", party spokesperson Jackson Mthembu told a delegation from the Committee to Protect Journalists (CPJ) in 2011. It was ineffective as newspapers continued to print false stories about ANC members, he said.

A series of party conferences adopted recommendations calling for the creation of a Media Appeals Tribunal (MAT), answerable to Parliament and with disciplinary powers over media.

The party cast this initiative as an attempt to restore balance in the weighing of media rights against those of individual citizens: "This discourse....relates to the need to balance the right to freedom of expression, freedom of the media, with the right to equality, to privacy and human dignity for all," read a resolution from the 2007 Polokwane conference.

The media saw things differently. The proposal for a MAT was, they said, an attack on media freedom, and they resisted it strenuously. Thabo Leshilo, then chair of the Media Freedom sub-committee of the SA National Editors Forum (Sanef), said the plan, together with other measures, “eat away” at media freedom and created an atmosphere of fear. It would weaken scrutiny of politics and the exercise of power.”

Media responded by launching a review of the self-regulatory regime and hammered out significant changes, first through a committee set up by the Press Council of South Africa (PCSA), then through a Press Freedom Commission chaired by retired Chief Justice Pius Langa.

The revamped PCSA has been in operation since the start of 2013, and remains voluntary and independent, and is funded entirely by publishers, but other changes have been made:

- ▷ The system is now described as “independent co-regulation” rather than self-regulation, and according to its constitution “involving exclusively representatives of the press and representatives of the public”. In other words, state involvement is explicitly excluded, and individuals with political links are barred from serving. The 12-member council is evenly split between public and media representatives, but the chair, who is required to be a retired judge, is the 13th member and pushes the media into the minority. This change abolished the previous media majority.
- ▷ There is a new working process led by principal functionaries. At the head is the Director, responsible for the council’s administration and its public face. He is charged with raising awareness of the council, its code and ethical issues generally, both in newsrooms and in the public arena. There is an Ombudsman who adjudicates complaints, as before, while a new position of Public Advocate has been created, who is meant to be “the champion of the complainant throughout the process”, as PCSA director Joe Thloloe puts it. She is a complainant’s first point of contact who attempts to deal with issues through mediation. Only if this fails is the matter passed on to the Ombudsman.
- ▷ Several changes were made to the code. There is stronger protection for children and a new preamble was written, which included a new definition of public interest, while provisions on independence and conflicts of interest were included for the first time. Issues of privacy, reputation and dignity were given greater focus, while some guidance was added on use of anonymous sources.
- ▷ On the thorny question of sanctions on offending media, the council rejected calls for tougher penalties such as fines. The mainstay of the council’s armoury remains moral pressures: orders for apology, retraction and the publication of adverse findings, arranged in a newly developed “hierarchy of sanctions”. Monetary fines can be imposed, but only for cases where a newspaper fails to co-operate with the system. In extreme cases, it can be expelled from the council, thereby losing a degree of protection.
- ▷ The council has the right to determine how much space should be devoted to the publication of an apology or adverse finding — so-called “space fines” — and the council makes more extensive use of the right to determine prominence, in reaction to criticism that newspapers tend to hide their apologies.

An important development in this process of reform has been the strong debate over the use of a waiver, a statement complainants have been required to sign in which they declare they are using the council’s offices instead of seeking legal remedies, and promising not to take the matter to court. Critics seized on this as evidence that the media were expecting the public to give up a fundamental constitutional right.

But others pointed out that the waiver prevents forum shopping, and could expose the media to double jeopardy, where complainants “test” their case at the Press Council and then launch a lawsuit in order to secure monetary damages. The issue remains controversial, and, in the end, the council decided to drop the requirement of a waiver on a trial basis and may review the issue later.

On other matters, the council’s appeals mechanism remains substantially unchanged. If either party is unhappy with a ruling, they have the right of appeal, and this is considered by the chair of the Appeals Panel, a retired judge. If he accepts the appeal, a small panel looks at the matter again. This is the end point of the process available through the council, although a court might well consider a review of a PCSA decision if it was approached.

On other issues the council opened itself up to third party complaints from people not directly affected by a particular report, confirmed the procedure of hearings conducted without legal representation and introduced new deadlines to make the system faster.

So far so good, but the reform process is still ongoing. The council continues to focus mainly on print,

although its jurisdiction was extended to the online versions of its member publications and discussions have begun with online publishers to explore ways of covering independent online publications as well. Broadcasters, and the journalists who work for them, continue to fall under the Broadcasting Complaints Commission of SA (BCCSA), an entirely separate body.

Press self-regulation facing its own credibility test

The major question now facing the council and its supporters is whether or not they have done enough to fend off the unwelcome attention of the government and ANC critics.

There are positive indications the new arrangements are working. For one thing, it is well used. The number of complaints lodged has seen a steady increase. According to figures presented by the current Press Ombudsman, Johan Retief, to a seminar at Wits University there has been a steady increase during the years that the controversy around self-regulation raged, which itself raised the council's profile. There is a particularly sharp increase in 2013, the first year of operation of the new arrangements.

Year	2010	2011	2012	2013
No of complaints	212	256	285	529

The council has become more efficient and reduced the time it takes to resolve complaints. According to Retief in 2010, it took an average of just under 137 days between the submission of a complaint until a formal finding was reached. By 2013, that figure had dropped to 67, and figures for the early months of 2014 showed a further drop to 51 days. This improvement is significant, since one of the advantages of self-regulation over the courts is that it is faster and more accessible.

The introduction of the public editor is another winner. Mpumelelo Mkhabela, chair of Sanef, says: "The Public Advocate system works well for us as editors, and it means we have to publish fewer apologies. Often as editor you have already noticed that a mistake has been made and it is easy to comply and correct it."

Mediation has always been the first and preferred way to resolve an issue, but it is now in the hands of the new public editor. She acts as the complainant's champion and can even initiate complaints. As a

result, the number of complaints dealt with without a formal finding has increased from 69% in 2010 to 79% in the early months of 2014, according to Retief.

Latiefa Mobara, the current Public Editor, gives a telling example in the story of a complaint from somebody whose son was electrocuted at an electrical substation in Vanderbylpark, south of Johannesburg. A local newspaper reported that the incident occurred while he was stealing copper wire. "After the funeral, the complainant submitted proof to the newspaper that her son was in fact homeless, and not a thief, and provided them with police case files," she says.

The newspaper failed to correct the mistake, and the complaint found its way to the council. Mobara says: "When I contacted the editor, we agreed that they would do a follow-up human interest story, as it was too late to publish a correction for a story published last November. Last week I received a letter from the complainant thanking me for honouring her son's memory."

She says the majority of complainants are "people who have never accessed the Press Council before; who are not sure whether they have a right to complain, and are often scared to complain to the newspapers for fear that they would be victimised."

Of the criticism that the system has been that it is biased in favour of media, Retief's figures show an even split between rulings going for and against the media. Although only 11% of complaints in 2013 were fully upheld, just over 40% achieved partial satisfaction. The rest were dismissed.

In most cases, editors co-operate when findings go against them. A study by academic Julie Reid found no instance of publications failing to comply with a ruling. The issue of the waiver, however, caused an investigative weekly, *Noseweek*, to withdraw from the system. There is concern that others may follow.

The issue Retief sees as far away the biggest cause for complaint is that newspapers fail to approach the subjects of unfavourable reportage for a response, or ask too late. He says about 90 percent of complaints are on this alone.

Other concerns of readers are the use of single anonymous sources; headlines that present allegations as fact; and what Retief calls the "007 syndrome: license to kill". This is where allegations of corruption are made "but stories are not followed through to say whether the person was cleared or not."

According to Ferial Haffajee, Editor of City Press, the revamped system has forced journalists and editors to think carefully before taking editorial decisions.

Previously, she says, “the locus of ethical practice or decision-making was in the newsroom. This is one place where it should be, but in my experience it was editor-dependent and so it was uneven and did not always make for journalism of a higher conscience.”

Haffajee says the system has created work for her and her team. “I feel like I am always extending rights to reply, negotiating with Latiefa, working out how to place apologies properly or discussing in Sanef how we are to deal with space fines or other elements of the system.”

Even so, she admits that the benefits are enormous. “Truth be told, I am a better journalist and editor for the new system. A more ethically conscious one. I am a pain in the butt to my colleagues with constant requests for source declaration, multiple sourcing or spiking their copy because it has too much opinion in it. The system works. I dislike it intensely.”

Nevertheless, there are still concerns about the work of the Press Council. Haffajee sees a tendency to want to place limitations on opinion, and an excessive respect for authority figures that sometimes comes through in rulings. She also says that the ombudsman sometimes embarks on information gathering, whereas he should make findings based on information reported, and that rights to reply are being pushed further than is the norm in journalism.

Mkhabela echoes some of this concern: “The rulings from the ombudsman and the appeals panel need to be readable by journalists so they can reasonably predict what sort of stories will be a problem. They must show consistency in how the code is applied to different complaints.” He also says the system could be more proactive in raising its public profile. Although journalists understand it, “the public could understand better how it works.”

Other elements of media self-regulation

As in other countries, broadcasting is subject to greater regulation than print, and broadcasters operate under licence. The Electronic Communications Act requires broadcasters to respect a code of conduct developed by the Independent Communications Authority of SA (Icasa), but allows exemption where broadcasters operate through a code enforced by an independent

body that is accepted by Icasa.

This legal technicality allows radio and television stations to operate under a self-regulatory body, the Broadcasting Complaints Commission of SA (BCCSA), established in 1993. Almost all broadcasters are part of this system, including the SABC and most community broadcasters. Icasa deals with issues of compliance to licence conditions, but rarely with complaints about journalism.

The recognition from Icasa does give the BCCSA a slightly stronger link to statute than the entirely voluntary Press Council. But it is “light touch” legislation, much in the mould of the Royal Charter proposals being developed for press regulation in the United Kingdom.

These arrangements have sometimes been held up by the ANC as the model for its proposed MAT. In fact, the commission is in most respects very similar to the Press Council. It is set up and financed by the National Association of Broadcasters (NAB), and refers to itself as an “independent judicial tribunal”. The BCCSA’s website emphasises that “it is entirely independent from (the broadcasting industry) and it would be in conflict with its corporate independence to be called an ‘industry body’.”

Like its counterpart in print, the commission sanctions largely involve apologies, retractions and the like. It does have the power to impose fines up to R60 000, but rarely does so. It also makes attempts to resolve complaints amicably before conducting a formal hearing.

According to the July 2013 review, the most recent available on its website, 1616 complaints were received over the previous 12 months, although more than a third were held to fall outside the BCCSA’s jurisdiction. A minority were dealt with formally, and there were 62 adjudications and 55 rulings, the report says.

Long-serving chair Kobus van Rooyen writes: “The main concerns, as in previous years, have been the protection of dignity, privacy and reputation, balance and the right to reply in programmes which deal with matters of public importance, court reporting, the matter of sufficient information regarding content and appropriate age restrictions and advisories relating to films that are broadcast.”

In-house ombudsmen or public editors are not prominent features of the landscape, and this mechanism has waxed and waned over the past

few years. The *Mail & Guardian*, an independent weekly, has had a part-time ombud for many years, while the *Times Media Group* appointed a public editor to serve all its titles, including the giant *Sunday Times*, the *Sowetan* and others. However, the post was scrapped early in 2013 when the last incumbent left and wasn't replaced.

More recently, *Primedia*, an important operator of talk and other radio stations, appointed prominent advocate George Bizos as public editor. Titles belonging to the largely Afrikaans group *Media24* tend to have public editors on staff. But they are senior editors whose list of functions include dealing with reader complaints when they arise.

In addition there are media self-monitoring a peer review processes at work. With the intensity of debate around the media and its transformation, regular critiques come from academics and other commentators in various forms.

The lobby group Media Monitoring Africa (MMA) is specifically dedicated to monitoring media issues and conducts research on media work including coverage of electoral politics, treatment of children's issues, and race and xenophobia. A feature of its website are short pieces of commentary on media performance that are labelled either "get mad" when the media get it wrong, or "get glad" when they get it right.

The question of effectiveness

South Africa's mechanisms for media accountability are well used, and work smoothly. Ultimately, the test of success must be the quality of journalism and the media's credibility among the general public. And these are very hard to measure.

In terms of quality, South African journalism has a strong tradition of investigative journalism, and several media support investigative teams who produce work of high quality and social impact. At the same time, there are tabloids with a steady diet of sleaze, scandal and gossip.

And these are troubled times for journalism. As elsewhere, newspapers have been cutting costs in the face the changing media landscape — Wits University's *State of the Newsroom* report for 2014 counted almost 600 media job losses. As staffing levels and editorial investment shrinks, mistakes increase and quality is compromised.

According to Anton Harber, head of journalism at Wits University, problems of conflicts of interest –




both political and other – and payment for stories are issues that must be tackled. The latter has come to greater prominence with the trial of paralympian Oscar Pistorius, during which the family of Reeva Steenkamp, who he was convicted of killing, charged substantial sums for giving interviews to the media.

The media's standing with the public is mixed. On the one hand, they continue to come in for a great deal of criticism with much general but unsubstantiated grumbling about "declining media standards." Criticism is often politically motivated, and it is difficult to distinguish what is legitimate and what is simply expedient.

Major exposes such as those on the enormous amounts of public money spent on the Nkandla home of President Zuma have struck a chord with the public. Journalism's role in bringing this kind of information to the fore is widely appreciated. But the future remains unclear.

The ANC's campaign for a statutory body to discipline the press has gone quiet. The party declared itself satisfied with the reforms instituted in 2013, and has been concerned to emphasise its commitment to media freedom. Nevertheless, as the Wits *State of the Newsroom* report puts it, the MAT proposal "still exists as a threatening resolution of the ruling party."



Milne: No matter how imperfect things are, if you've got a free press everything is correctable, and without it everything is concealable.

Ruth: I'm with you on the free press. It's the newspapers I can't stand.

–Tom Stoppard, *Night and Day* (1978)

UNITED STATES

Media self-regulation: A questionable case of American exceptionalism?

>> BILL ORME

The British saga of parliamentary inquiries into news-media excesses — featuring something with the airport-potboiler title of the “The Leveson Inquiry” and the proposed replacement of a “Press Complaints Commission” by an even more oxymoronically named “Independent Press Standards Organisation ” — can seem bafflingly alien to journalists on the other side of the Atlantic.

Most peculiar of all from an American media perspective is the apparent underlying presumption that some form of collective ‘self-regulation’ is the only alternative to state regulation of the proudly free press that John Wilkes proclaimed 250 years ago to be every Briton’s ‘birthright.’

That British tabloids routinely flouted privacy laws and paid bribes for news leaks and did many other nefarious and probably illegal things — that is understood in US media circles. That those politicians and their constituents would be angered and demand punishment for this behavior — this we also understand.

That a socially plausible response to all this would be a system of state-endorsed regulation of the press through an ancient Royal Charter seems borderline bizarre, however, and profoundly distressing.

After all, the British tradition of a feisty, free-spirited press is our legacy as well. The combative colonial-era press of which the founding fathers of the United States were so zealously protective was an overseas extension of 18th century British journalism, with its parallel legal battles against seditious libel and in defence of editorial independence.

But Lord Justice Leveson’s tribunal could never be convened here, we tell ourselves.

And we are right.

To the few Americans who follow such things, Britain’s media-regulation debates seem like further evidence of the colonists’ wisdom in severing their ties to the crown in the first place. This attitude could be dismissed as just another self-satisfied assertion of ‘American exceptionalism.’ But in this area, in fact, the United States is objectively exceptional, legally and culturally.

The United States is hardly alone in having a long tradition of a free and vibrant press. Sweden, for example, can claim an even longer history of independent journalism. So can the Netherlands. And so, without question, can Great Britain as well. But the United States is unique in enshrining press freedom as a founding principle of the nation-state itself, with an unambiguous constitutional prohibition against state regulation and censorship. Its language is clear and direct: “Congress shall make no law ... abridging the freedom of speech, or of the press.”

As a consequence of this unusual First Amendment legacy, the very concept of ‘self-regulation’ is anathema to most American journalists, because it is read to imply that government regulation is the understood alternative. The very term ‘self-regulation’ can sound dangerously akin to the mandatory guild-like oversight of lawyers through bar associations and doctors through the medical associations, which are in effect deputised by government as licensing authorities.



Yet nobody in the United States needs a government permit or a journalism degree or any other sort of credential to publish a newspaper, or to write a news story, or, now, to post a blog update or an online video report. This is also the tradition in most other established democracies. But in the United States it is something more than that — it is a firmly established principle of constitutional law. That is not a trivial difference.

The one true self-regulatory tradition in American journalism is collective opposition to official regulation, backed by the firm belief that they had the law on their side. For two centuries private US news organisations have sought to defend and extend protections of media independence by recourse to the courts, not to legislatures or the executive.

(The recent proposal for a ‘shield law’ protecting journalists from becoming forced evidence-providers in federal prosecutions is a significant and, to some, worrisome departure from that tradition, as it opens the door to a statutory definition of ‘journalist’ as a condition for that protection.)

The First Amendment alone was never a guarantor of that independence. Journalists and publishers — and their lawyers — had to fight for those rights. There were as many setbacks as there were advances, especially in wartime, with censorship imposed or encouraged even by the greatest and most progressive US presidents, Abraham Lincoln and Franklin Roosevelt.

The most significant Supreme Court victories for press freedom came just a half century ago, most notably *Times v. Sullivan* in 1964, requiring public figures filing libel suits against news organisations to prove ‘actual malice’ and willful disregard for the facts, and the Pentagon Papers case in 1971, which recognised the implicit constitutional prohibition against pre-

emptive ‘prior restraint’ censorship of news reports. That tradition of adversarial litigation continues: media companies are now preparing for new court battles to keep their reporters from being jailed for refusing to disclose their notes and the identities of their sources to Obama Administration prosecutors.

But the self-image of US journalists as neither self-regulated nor state-regulated is also something of a myth. There are powerful peer-pressure mechanisms in place — and never more so than today, when the news business is under acute economic pressure and the purportedly “liberal media” is a constant target of conservative grassroots and boardroom hostility.

It is widely recognised in the profession that there are many areas of legitimate concern over media conduct, which remain, properly, outside the jurisdiction of any courtroom. As a result, there are many significant self-regulating mechanisms in American journalism culture, most of them focused on issues of ethics and accuracy. These include the voluntary but influential codes of ethics promulgated by peer groups such as the **Society of Professional Journalists**, which are mirrored in turn by the codes of ethics adopted by individual news organisations.

Many reputable American news media had to dismiss staff journalists for well-documented cases of plagiarism, or outright fabrication, or failures to disclose clear conflicts of interest — and the editors and producers overseeing those journalists were often collateral damage as well.

The names of now-infamous serial fabulists like Janet Cook (formerly of the *Washington Post*), Jayson Blair (formerly of *The New York Times*) and Stephen Glass (formerly of the *New Republic*) remain widely known in the US media years after their transgressions were first exposed, their case histories studied as cautionary tales in journalism schools. The cumulative effect of these media-ethics scandals has been profound, permanently altering internal editorial oversight procedures and external public-accountability practices in newsrooms across the country.

It is a rare news organisation today that does not provide online forums for readers’ comments for all to read, including direct challenges to the accuracy or fairness of the news reports in question, on online platforms provided free by those very news organisations. Journalists’ personal email addresses are routinely appended to their news stories in many online publications, and responses to readers’ email

inquiries are increasingly considered a mandatory aspect of journalists' jobs.

Internet news sites are also increasingly adopting ethical and editorial guidelines. The **Radio and Television Digital News Directors Association** recently updated its ethics code. The **Online News Association** is encouraging its members — including self-employed bloggers — to develop their own codes of behavior.

Over the past decade, most major American newspapers have also adopted the growing practice of designating semiautonomous media ombudsmen or public advocates who receive, investigate and report to the public on complaints and questions about their own news coverage. Many have also begun covering the US news media as a regular business-journalism beat.

Reinforcing this informally self-regulating ecosystem are peer-review academic publications that subject US journalism itself to scrutiny, such as the *Columbia Journalism Review* and the *American Journalism Review*, and more mainstream-oriented radio and television news programs focused on the news business and journalism ethics, such as *National Public Radio's* "On the Media" and *CNN's* "Reliable Sources."

As has often been noted, none of these changes in American media self-regulation or self-examination have been externally imposed or collectively managed.

Broadcast journalism: An exception to the exception

This is all a bit too neat, however. There is one clear exception to the non-regulated US media norm and it is a rather big and fundamental one: broadcast journalism, which even in the Internet area remains the most important source of news for most of the public. Radio and television programming has been federally regulated since the broadcast industry's inception.

Indeed, the main reason almost all American radio and television stations have regular news programs at all today is the original requirement by government regulators that broadcast companies provide public-service content as a condition for retention of their radio frequencies. That requirement was usually preemptively fulfilled by some combination of occasional educational programming and regular public affairs shows, including hourly news bulletins.

In contrast to most European broadcasting, the American radio dial was occupied from the start almost exclusively by advertising-financed commercial stations, which were heavy on popular music and sports and light on public affairs. (Nonprofit, federally subsidised but donation-dependent National Public Radio — now the only America radio network with a well-staffed commitment to original news reporting — is a relatively new phenomenon. To protect its hard-won editorial independence, NPR has hired its own ombudsman to receive and respond to public queries about accuracy and perceived political bias.)

From the beginning, US radio news reports were usually scrupulously non-ideological as well, in conspicuous contrast to the rambunctiously partisan 'yellow' press of the era. This just-the-facts professional neutrality was not mandated by law, but was seen by media owners as a politically prudent exercise in self-preservation — or self-regulation. Terse wire-service bulletins provided ideologically colorless text for most news reports, as is still the case for US commercial radio news programming today.

That non-partisan, non-confrontational Associated Press and UPI ethos then shaped American network television news at its onset in the 1950s. Edward R. Murrow's acerbically critical *CBS News* coverage of Senator Joe McCarthy and his communist-conspiracy Senate hearings was hardly representative of television news, either then or today, which is precisely why it is still so widely remembered. Many local *CBS* affiliates at the time complained privately to the network's owners about the *CBS News* decision to openly challenge McCarthy — not because they questioned the veracity or importance of the reporting, but because they feared that they could lose their valuable broadcasting licenses in reprisal.

They didn't lose their licenses, however. It was and remains extraordinarily rare for owners of local commercial television and radio stations to face any serious legal or political challenge to the routine renewals of their broadcast frequency allocations. And in the 1980s, under the Reagan Administration, the Federal Communications Commission relaxed or eliminated many longstanding if rarely enforced strictures on broadcast news, such as 'equal time' guarantees for opposing political opinions and candidates and 'right to reply' provisions giving free television air time to the protests of the aggrieved subjects of critical local news stories.

Yet that federal regulatory authority — even if never punitively exercised — remains a powerful



Regulatory legacy can be seen in the contrast between local news and the cable and satellite news networks

influence on US broadcasting culture and news content today.

That regulatory legacy can be seen starkly today in the contrast between local television news and the cable and satellite news networks, which do not rely on federally assigned VHF and FM and AM frequencies. Take the two *Fox News* outlets in New York City, for example: The flagship *Fox News* cable channel is the unapologetically right-wing scourge of the Obama Administration, with its hosts excoriating all things liberal and capital-D Democratic 24 hours a day. Yet local *Fox News* programs on over-the-airwaves *Channel 5* are politically indistinguishable from competing New York City newscasts. Though often leading with mayhem and sensation in the characteristic Murdoch manner, the *Channel 5* Fox reports have no visible ideological coloration whatsoever. Nor does the news from the local *CBS*, *NBC* and *ABC* affiliates have any noticeable political edge.

Would American broadcasting companies point to this common adherence to long-established broadcasting norms as an example of voluntary self-regulation? Not likely. The candid might acknowledge that it is an example of collective self-preservation, with all broadcasters behaving similarly in response to the same regulatory and market realities. And some might fear that active collaboration among these companies in setting and abiding by collectively adopted broadcasting

standards could be considered unlawful collusion under federal antitrust rules.

Each newsroom sets its ethical dial

In US media, self-regulation is generally accepted and understood to be professionally acceptable and practically enforceable only within the institutional confines of each individual news organisation, each with its own distinctly tailored and voluntarily adopted code of ethics for its own employees and other contributors. Any publishers or broadcasters who may opt for lax or nonexistent ethical norms or for overt political bias or for content that may be morally or ideologically repugnant to many people are seen as operating well within their First Amendment rights.

But collective, formal self-regulatory structures for news reports or any other media content are considered by most media companies and individual to be alien, unnecessary and impractical at best, and unethical if not borderline illegal at worst.

The best evidence of media aversion to collective self-regulatory structures of any sort comes from two exceptions that ultimately proved that rule: the earnestly conceived and diligently run state-level press councils of Minnesota and Washington. Both have now shut down for good, victims of public indifference and professional antipathy.

While not unique — there were similar efforts to create press councils in Hawaii, Massachusetts and a few other localities — the Minnesota and Washington were widely considered the two most successful such experiments. It is probably not coincidental that both states have long traditions of progressive political reform and unusually civil public discourse, which some see as linked to Nordic immigrant mores, and perhaps by osmosis to their borders with Canada as well. Having voluntary forums where local media reporting and ethics could be openly examined was an idea embraced by civic leaders in both states, as well as by many local journalists.

The Minnesota Press Council was founded in 1970, after the model of what was then the British Press Council, in order to “promote fair, vigorous and trusted journalism by creating a forum where the public and the news media can engage each other in examining standards of fairness.” After four decades and 155 public hearings on cases of alleged local media misbehavior, the Council closed its doors in 2011.

The Washington News Council emulated Minnesota's example, with a self-assigned mandate of "holding this state's news media publicly accountable for accuracy, fairness and ethics" and a similar program of hearings on public complaints of media transgressions. It ceased operations just recently, after 15 years. Announcing its closure in May 2014, the Washington Council said it had been "the only news council left in the United States that reviews citizen complaints against media organisations and holds public hearings to review and vote on the quality of print, broadcast or online stories."

This obituary was objectively accurate. Yet the council's demise was little lamented locally, and little noted elsewhere, even among US journalists.

The Minnesota and Washington Councils received hundreds of formally submitted complaints over the years from private citizens and others — corporations, public institutions, elected official — about alleged political bias, uncorrected factual errors and other ethical breaches in news reports. Some of these cases were then aired publicly in quasi-judicial hearings presided over by local judges. ("a sitting justice of the state supreme court chaired the Minnesota Council's hearings" it proudly reported.)

Many local news organisations refused to participate, contending that council hearings aired what were in effect civil libel allegations that would not survive judicial scrutiny. The aggrieved citizens filing complaints were often subjects of news stories that were unflattering, or worse, but not demonstrably inaccurate nor beyond the bounds of legally protected commentary.

From the start, the Minnesota and Washington Councils were dependent on two things that ultimately proved undependable: public interest and private funding. Requests from the public for hearings on alleged media misconduct plummeted in the Minnesota Council's final years, from 142 in 2003 to 50 in 2008, 35 in 2009, and 25 in 2010, according to Tony Carideo, the council's president.

Carideo, in one of his final web postings as president in 2011, blamed the Internet: "The proliferation of blogs, which allowed news consumers their own distinct voices, email and comment sections to online news stories, provided an instantaneous outlet for complaints, concerns and commentary on the news. Our hearing process, which was both thorough and, as a result, time-consuming, couldn't measure up to the instant access allowed by electronic media."

John Hamer, the Washington council's long-serving director, posted similar comments in 2014. "We had a great 15-year run, and we helped a lot of people who were damaged by media malpractice," Hamer wrote. "But the news media have changed tectonically since we began. The eruption of online digital news and information made our mission of promoting high standards in journalism much more difficult, if not impossible."

The rise of Internet media also relentlessly reduced the profit margins of the Minnesota Council's chief patron, the *Minneapolis Star-Tribune*, the state's leading newspaper, which ended its once-generous philanthropic support.

While the Minnesota Council's biggest funders were private media organisations, the Washington News Council relied heavily on corporate donations from such leading Seattle-based businesses as Boeing, Microsoft, and Puget Sound Energy, the region's private electric utility monopoly — all constant subjects of local news coverage. The Microsoft-derived Bill & Melinda Gates Foundation was a major donor, as was Bill Gates' father, Bill Gates Sr., who sat on the council's board. Several council board members were also contributors to city and state political candidates, raising further conflict-of-interest questions. The state's two leading newspapers refused to participate in council hearings on their own reporting, with their editors questioning the council's objectivity and legitimacy.

While the former heads of the now-defunct state press councils understandably lamented the demise of their cherished institutions, they should perhaps have declared victory instead: Newspaper readers and radio listeners and television viewers are now doing their work for them, on line, every hour of every day, and the journalists and the companies that employ them are paying close attention.

At the same time, the increasing power and civil-liberties encroachments of the post-9/11 national security state — from the CIA and the NSA and the FBI to hundreds of state and municipal police departments — has properly refocused U.S. media industry attention on the specter of government obstruction and surveillance of independent journalism. And once again, the American media's preferred approach to collective self-regulation will be in the form of collective self-defense, with further jointly waged legal challenges to government constraints and intrusion on free media and free speech.



If this grim situation is to change it will take a fresh revolution, less of a political upheaval, but more of an internal, professional revival inside journalism and media at all levels.

Journalism and self-regulation in need of a new revolution

>> GREGORIO SALAZAR

Since the approval by referendum of the Constitution of the Bolivarian Republic of Venezuela, on December 15, 1999, which created the so-called Fifth Republic, a process of political, economic and social revolution has overwhelmed the oil-rich country creating historic divisions and political turmoil in which media have played a central role.

This process, masterminded by Hugo Chavez Frias, who died in March 2013, was to create a vision of 21st century socialism. It began with a process of accelerated legal reforms of property rights and attempts to control the oil industry but led to deep polarisation within society and the creation of two sides of roughly the same size.

In 2002 the fractures led to open conflict and an infamous coup attempt. The divisions continue to this day. In the most recent presidential election, in April 2013, the chosen successor to Hugo Chavez won by just 223,000 out of a total vote of 15,000,000.

The role of media and journalism has been crucial in these turbulent times. In the conflict of 2002 some 19 people, including a photo journalist were killed in Caracas. This attempted coup, in which some media were actively engaged in seeking the overthrow of Chavez, marked the breaking point in media-government relations and placed journalists at the heart of the political confrontation, where they remain today.

These circumstances create an almost impossible task for self-regulation, respect for journalistic ethics and commitment to transparency and good governance across media.

Today the media, both private and official, work in the shadow of the Chavez Government's decision

to create a "new communication order" in response to the "media plot" around the coup. Later this would become what they term "communication hegemony" or what; some observers might call in line with a concept developed by Umberto Eco as "media populism".

Chavez and his supporters understand that revolution cannot be conceived without the overwhelming use of media, especially television, and without controlling influence over all communications. This became an essential *sine qua non* condition for the "Bolivarian project".

The media landscape 15 years on is very different one from that of the second half of the 20th century, an era of private media domination. Chavez adopted a two-pronged strategy. He invested huge political effort and money in building the biggest government media platform ever known in Latin America and, at the same time, he put in place a concerted campaign to overcome private media or to control them.

A researcher from Andrés Bello Catholic University, Marcelino Bisbal, lists the impact of the assault on media and journalism:

- ▷ strong intervention from the State;
- ▷ exclusion of political and social actors in Government media;
- ▷ laws limiting free expression and the right of communication;
- ▷ elimination of dissident voices;
- ▷ closure of media;
- ▷ restricted access to public information;
- ▷ direct and indirect censorship, encouraging a culture of self-censorship;

- ▷ intimidation and threats to media and journalists;
- ▷ official ban on public advertising for critical media; and, recently,
- ▷ denial of foreign currency to import newsprint and other materials.

As if this wasn't enough, Chavez used his discretionary presidential power, even up to his last national broadcast on December 8, 2013, to commandeer radio and television airtime whenever it suited him and without consultation. Using these methods he challenged his critics, including media labour unions in the private sector, and created fresh political and ideological hostilities with all his opponents.

To create its own information landscape the government has used three strategies. First, it uses the law to isolate the main television station and dozens of radio stations with technical obstacles over dates of concession, use of the radial electric spectrum, failures in the license documents, or problems over property rights all of which effectively blocked national radio broadcasting of dissident voices.

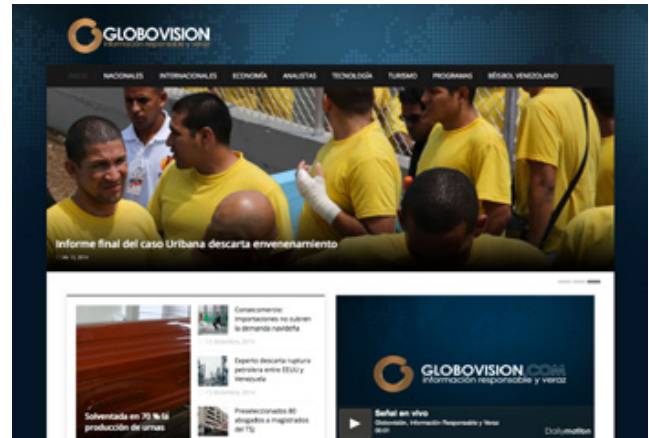
Secondly, it controls the flow of vital public advertising and starves private media that don't toe the line of much-needed resources. The government has transferred power from the private to the public sector. In the private sector 4.200 companies have closed down since 1998. And many of the service companies, industries and banks which used to be important media advertisers belong today to Government, by way of purchase, confiscation, or expropriation.

Government controls their allocation of advertising to media and does so in a biased and politically driven way. At the same time, the economy has been hit. Venezuela is the country with the worst-performing economy in Latin America.

The third strategy is to encourage the purchase of media by its political friends or others who are ready to seek favours from the state and government. This has led to massive ethical problems and conflicts of interest that have encouraged media self-censorship.

New owners and new censorship

To understand the media crisis and the impact of political polarisation it is useful to analyse the case of *Globovision*, the country's first 24-hours news channel. After the controversial



Globovision quickly became the only audiovisual counterweight to the government's attempts to control the communications landscape.

closure of RCTV in 2007 and seeing the other channels opt for a moderate editorial approach, *Globovision* quickly became the iconic voice of opposition, the only audiovisual counterweight to the government's attempts to control the communications landscape and to smother voices of political opposition.

The network worked hard to maintain its independent stance and was repaid with high levels of audience support, even if only in the cable system to which it was virtually reduced.

But after years of pressure in April 2013 it announced it was being sold. In an open letter to the public and to its 500-strong workforce, the main shareholder explained the reasons for selling up:

"We are economically unviable because our income no longer covers our cash needs. We are politically unviable, because we are in a totally polarised country where an all-powerful government wants to see us fail. We are legally unviable because our licence is expiring and there is no chance of renewal, on the contrary, we are stalked by government institutions, backed by the Supreme Court which cooperates with all what can harm us."

This catalogue of obstacles may well mean see off other media that refuse to come within the orbit of government influence. The Government approach to *Globovision* sent out a clear message, it provided a threat and a voice of opposition that had to be crushed.

The press revealed shortly after the sale that two of the new owners have already made profitable and rewarding business with government. Soon emblematic shows that reflected the old Globovision perspective were eliminated or suffered censorship. This caused one of the partners to resign and led to a stampede of reporters and anchors to the exit.

The channel has opted for a quieter life. It has abandoned its critical stance and investigative journalism. It brandishes a new torch of balance that contrasts with times when they used to insist that any bias was justified in defence of pluralism and the survival of democracy. Not surprisingly, their captive opposition-minded audience is gone as the network now emphasises a new editorial approach that favors the government.

Next in the firing line was the sale of the Capriles Chain, a 70-year old company that owned the highest number of daily papers across the country. An unknown organisation, Latam Media Holdings, a part of the British Hanson Group was the reputed buyer for, it was reported, more than 200 million dollars. Immediately the Board was occupied by renowned politicians from the ruling party, increasing the scope for government influence. And even more than it had been in the past.

In 2003 the Chain separated from the Bloque de Prensa Venezolano and in the process obtained great advertising benefits for the daily *Ultimas Noticias*. Now cases of direct censorship appeared, and most of the editorial chiefs and several journalists resigned or were fired.

In July of 2014 came the turn for legendary daily *El Universal*, founded in 1909. The purchasing company, Epalisticia, was especially created for the purpose and was found to be operating from a modest apartment in Madrid. It paid around 100 million euros and appointed a new director, who talked of impartiality, but then cut links to some 30 journalists and writers known to be critical of the government and censored editorial cartoons for good measure.

The decision to use news provided by the official agency AVN instead of reports prepared by a correspondent on a serious union battle in the national steel company enraged journalists who denounced the action in some free space for trade unions articles that the national union, the SNTF has in some dailies.

All of these cases have provoked debate inside journalism, where there is now work on a collective

defence of the ethics code; criticism over incidents of censorship, made through social networks; and discussion on alternative ways to get news to the public through, for instance, personal blogs. In this way, journalists of the *Ultimas Noticias Group*, and journalists at the economy tabloid *El Mundo*, and *El Universal* are closing ranks against censorship and to protect the public's right to know.

As foreign correspondent Phil Gunson explains: "Media are treated as merchandise that can be bought and sold just like any other product. There are new invisible owners talking through their spokespersons. There is little effort to say who the owner is. When the merchandise is information and we don't know who is sending the message, we can't tell whether there is bias or what is the intention guiding the message".

Journalism in a land of divisive politics

Venezuelan journalists have as basic organisations the Colegio Nacional de Periodistas (CNP), the Sindicato Nacional de Trabajadores de la Prensa (SNTF) (National Press Workers' Union), and the Círculo de Reporteros Gráficos (CRGV) (Graphic Reporters Circle). The Colegio, created by a law in 1972 (23), establishes a compulsory register of professionals and is the main body for self-regulation of journalism according to the Venezuelan Journalist Code of Ethics (CEPV, Código de Ética del Periodista Venezolano), which is backed up by law.

For their part, journalists working in the official media are not free to join these traditional bodies and have created several groups of their own which routinely back up the government's communications strategy and who freely criticise their colleagues still able to work in the independent and private media.

The code of ethics dates back to 1976, and it acquired for both sides in the polarised media society an unusual importance. In the prologue of an official reprinting it notes that "The exercise of the profession in recent years reveals a situation of persistent violation of the Code of Ethics". And regarding media it states: "Private media companies have assumed a political role which is not their responsibility, adulterating in their action the dynamics of communications and the flow of information and weakening the right of Venezuelans to receive truthful and timely information as required by the Constitution of the Bolivarian Republic of Venezuela in its articles 57 and 58."



As the revolution began to overwhelm media, the ethical imperative of impartial and balanced journalism was put aside. As sociologist Marycler Stelling explains: “In Venezuela we are living times of confrontation of two distinct projects, but it is also a time of symbolic violence, through elections. I believe that we are at war, and during war everything is valid. But in Venezuela the battles are being fought on two fronts, through the ballot box and through the media.”

She adds that although the media battle front is a form of symbolic confrontation, in which political armies use information as their weapons of choice, but there are casualties. “We are the victims,” she says. “The receivers, as citizens our right to information is limited and disrespected”.

The programming of official media to propaganda has seen a new intolerance of public complaints, particularly when voiced through private media. Anything that does not fit with the official vision of reality is summarily denounced as “a campaign”.

Everywhere censorship is at work. And those who go “off message” are quickly dealt with, even on the government side. The show *Contragolpe* (counterattack) on government channel VTV, and hosted by Vanessa Davies, emblematic journalist and member of the official party PSUV, was shut down after an interview with Vice-President Rafael Ramírez in January 2014 because her questions over the economic crisis needed the Vice President.

The protests over this censorship came from the traditional media groups and associations, but not from her fellow partisan colleagues. Nevertheless, Davis continues to belong to the PSUV and is director of the state daily paper *Correo del Orinoco*.

Likewise, Nicmer Evans, a young political analyst and identified with the official party, who has criticised economic policies was censored recently in several media and his accounts in Twitter, Facebook, and electronic mail were hacked.

Radio journalist and CNP ex vice-president, Alonso Moleiro says: “The journalists of Chavism see themselves, above all, as political militants before they are journalists. They don’t hide it: they assume it very proudly. They approach facts already with an answer in their heads. They don’t have the slightest interest on refreshing their points of view with different ideas or opinions. They are completely convinced that the best way for humanity is to follow the lines they have chosen.”

What hope for ethical journalism and editorial independence?

Given this range of problems, both internal and external, it is difficult to see how ethical journalism, motivated by individual conscience and a broad sense of public responsibility for pluralism and free speech, can flourish in the political conditions of Venezuela.

But as part of this investigation, a group of journalists and media experts covering different specialties was questioned about the validity of self-regulation and the professional independence of Venezuelan journalists. Here are some of the responses:

- **César Bátiz**, director of *Poderopedia* web: “The concept of self-regulation is not recognised in Venezuela, which does not mean that there is no consciousness regarding social responsibility of media and journalists or respect for the Code of Ethics in the Professional Exercise. More worrying, is when it comes to media self-regulation, the interests of media owners and managers is more important than those of the journalists.”
- **Eduardo Orozco**, ex-President of the National Guild of Journalists: “The idea of “self-regulation” is mandatory, especially in audiovisual media, for fear of the Law of Social Responsibility in Radio and Television,” but it has been seen as initiative of journalists with the code of ethics of as an important point of reference in professional work. But the efficiency of self-regulation very much depends on the strength of organised journalists”.
- **Eligio Rojas**, Últimas Noticias: “I think that self-regulation does not exist as a value for the

Venezuelan journalist. There is resistance, for example, to grant the right to a reply. I do not see in the colleagues any attitude of humility for accepting errors or bias in presenting facts or manipulation. We think that we are doing everything right”.

- ▷ **Elvia Gómez**, Political Editor of *El Universal*: “There are two fundamental texts in Venezuela: The law on the exercise of journalism and the code of ethics. However, for over a decade, self-regulation works in an unequal manner; it represents the professional norms obeyed mostly by journalists serving media in the private sector, but it is widely unknown by those serving media under the influence and control of the state”.
- ▷ **Néstor Garrido**, director at the National Guild of Journalists: “There are general notions about ethics, usually transmitted mouth to mouth, and not understood from direct knowledge of the code. Basic topics like balanced news, right of reply, verification of sources, or prohibition of bribes to hide or promote information are known to everyone. However, I observe that the majority has only a vague notion about what they mean”.
- ▷ **Luz Mely Reyes**, Director of *Daily 2001*: “Self-regulation is almost nonexistent. Prior to 1998 there were attempts to persuade journalists to work on self-regulation mechanisms, but with of polarisation and politicisation of media, this way of protecting quality journalism and the right to information is not established as policy in Venezuelan media or journalism. Self-regulation just doesn’t exist in Venezuela, either as a working system or established policy in media. Instead, what I see is that media enterprises adjust to suit their interests and decide to publish or not to publish certain topics according to their self-interests.”
- ▷ **Magaly Ramírez**, professor Andrés Bello Catholic University: “I consider that our social responsibility and reporting is not subject to ethical analysis before publication to measure the impact on the community when certain information, political or socially sensitive, is published. Self-regulation is often mistakenly thought to be a form of self-censorship, it is a process that works according to what suits at any particular moment and as a result is not efficient here”.
- ▷ **Carlos Correa**, Director of the NGO *Espacio Público*: “We do not have a code of ethics which is alive, and which is actively discussed. That has a lot to do with the hyperpolarised context that

the country is experiencing, where an “anything goes” attitude is installed.

- ▷ **Phil Gunson**, international correspondent: “There are many colleagues with a very clear understanding of ethics. That has saved us from worse. And to the surprise of some who thought that Venezuelan press was bad we now find that in the British press, despite having many good newspapers, also has very bad ones. Many Venezuelan journalists, maybe thanks to their university professors, have a clear understanding of ethics and in many cases much more than media owners”.
- ▷ **José Pulido**, teacher, chronicler, writer: “Although in media and among journalists self-regulation is based on respect for human rights, the National Constitution and the code of ethics, it is also true that an arbitrary and threatening political and social reality makes it difficult to follow this through and when they do it irritates violent people and those who don’t like these playing by the rules”.

Inside media: Maintaining standards

Over the years only three newspapers in Venezuela have had a Readers’ Defender, an internal post that aims to maintain quality in the name of the audience: *El Diario de Caracas*, *El Nacional* and *Ultimas Noticias*. In *El Nacional* it was created during 2014, when its pagination was reduced due to lack of foreign exchange for paper import, but the post was not kept for their digital edition. In 1998 the paper’s style guide was also published preceded by some ethical guidelines called “editorial policy”.

Later on, the post of Defender was adopted by the daily *Últimas Noticias*. Journalist Sebastián de la Nuez, who held the post, recalled the central lines of his work: “It was about encouraging self-criticism, to encourage respect for ethics and to support self-regulation. We were looking to encourage participation and to help develop a critical approach from citizens. It was also a way of improving the daily’s relationship with public”.

Sometimes he came up against the editors as in 2004, when Special District Attorney Danilo Anderson was killed, when the daily adopted the term “terrorism”, for which, according to *La Nuez*, there are still no clear definitions.

Today, the work of the reader’s defender of *Ultimas Noticias*, the only one still functioning in the country, deals mainly with formal aspects of



Despite being a constitutional right, the right to reply is not granted frequently. I think that most requests come from Government entities to private media.

– Néstor Garrido

language. This daily and *El Universal* have style guides which include some ethic guidelines.

One key issue for editorial guardians is the question of right to reply which, in Venezuela, has some surrealistic aspects. The debate became heated during the first attempted coup d'état in 1992 by Hugo Chavez. A constitutional reform proposed the inclusion of two new articles: limitations to media property and another one dedicated to the right to reply.

This sparked a massive backlash which led to the reforms being withdrawn. In 1998 Chávez took over the proposal for a new Constitution and finally approved by referendum in 1999, in which text the Right to Reply was consecrated: *“Article 58. Communication is free and plural, and implies duties and responsibilities indicated by the law. Every person has the right to timely, truthful and impartial information, without censorship, in accordance with the principles of this Constitution, as well as the right to reply and rectification when that person is directly affected by inaccurate or scurrilous information. (...)”*.

In 2000 a columnist criticised by Chavez in his marathon Sunday programme *Aló, Presidente* claimed his right to reply. It was not granted, so he tried an Appeal for Constitutional Protection. In June 2001

the Supreme Court ruled that *“...the media have no right to reply, neither those who habitually exercise journalism in them nor those who maintain columns or programmes in them, or those who through “announcements” cause a reaction in the contrary”*.

This contradicts Article 58 of the Constitution, which says that right belongs to “every person”. Here are some thoughts from journalists on the right to reply:

- ▷ **Eligio Rojas**, legal advisor of Últimas Noticias: “The right to reply should be taken by journalists as a kind of watchdog. It’s a space not only for the responder, but also for the journalist to think about how things can go wrong. It helps us to be humble and reminds us that we do not know everything. Its inclusion in the Constitution is a way of granting fundamental rights: honor, dignity, reputation, the free development of personality, among others. Despite this journalists are not open-minded about granting it”.
- ▷ **Néstor Garrido**: “Despite being a constitutional right, the right to reply is not granted frequently. I think that most requests come from Government entities to private media”.
- ▷ **César Batiz**: “Although it is a concept with certain recognition among the public at large, its impact did not change significantly after being included in the Constitution”.

Summing up: obstacles on the road to ethical journalism

In Venezuela the work of media and journalists is set in a highly political and polarised social reality which poses enormous ethical challenges for all media – both journalists working in the private sector and those working for the state information system.

The frustrations of recent years and the failure to maintain standards has led many journalists to take sides, while some struggle to maintain their ethical balance, others have moved into militant journalism, or what is known as “barricade” journalism. However it is termed, the quality of independent editorial media coverage is diminished.

Although the code of ethics of the Venezuelan journalist exists and is the major reference point for any talk of media self-regulation it does not figure in the daily working environment of journalists. It can be used to combat the worst forms of censorship when they arise, but on the whole it is not widely observed in journalism.

At the same time the one clear protection and constitutional right of the audience – the right to reply – offers an important opportunity to rectify the worst of unethical conduct, but the right has been dramatically reduced by a decision of the Supreme Court and if it exists at all it is mainly being used by government officials to try to counter the critical opinions and reporting of some journalists in the private media sector.

Inside journalism, the notions of transparency and good governance are barely recognised. Newspapers and other media do not set themselves ethical benchmarks and subject themselves to principles of good governance. In editorial work the self-regulating notion of the Defender of the Reader is almost entirely absent from journalism and in the only newspaper where the post still exists, it is not seen as a form of self-regulatory.

The situation inside media is made worse in times of economic downturn when the need to maintain a flow of official advertising becomes a top priority

for media managers. As a result there is less risk-taking in journalism and lower levels of criticism of government policy and actions.

Not surprisingly, then, there has been a recent trend towards purchase of media by business people related to government which has multiplied the instances of censorship and created an editorial atmosphere in which self-censorship thrives. This further strengthens the government's political project to create an information and communications landscape which is compliant and largely uncritical.

If this grim situation is to change it will take a fresh revolution, less of a political upheaval, but more of an internal, professional revival inside journalism and media at all levels. There is a need for more media solidarity to respect ethics, the independence of journalism and the values of pluralism and free speech. Until then the challenge of creating an ethical media system based on principles of self-regulation will remain.

CONTRIBUTORS

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