

ITP MEDIA REFERENCE BOOK

Working Material

State, self- and co-regulation:
Legal frameworks and professional standards
for independent news media



Media Development in a Democratic Framework (ITP Media) is a Sida-financed training programme that provides a forum/platform for constructive, creative dialogue between high-level representatives from media, government and civil society on how to improve self-regulatory and regulatory frameworks for the media. The underlying need for this programme is the demand from citizens for trustworthy, free, independent and professional journalism, which is prerequisite for a functional democracy. Self- and co-regulation of both legacy and social media are a means to that end.

NIRAS Sweden AB organised this ITP in cooperation with International Media Support (IMS), Fojo Media Institute/Linnaeus University, and Global Reporting Sweden AB. The organisations have formed a consortia with shared responsibility for the quality of processes and programme content.



NIRAS International Consulting is one of Europe's larger development consulting actors working with donor funded projects on four continents in more than 50 developing and emerging economies. We offer tailor-made solutions and transfer skills that help reduce poverty through e.g. activities facilitating inclusive economic growth, promoting equitable societies and improved health, and mitigating climate change. Our expertise covers the entire development agenda, including key areas such as governance issues, democracy and human rights, gender equality, water, agriculture, forestry, land administration, climate change, employment and health. NIRAS has a strong expertise in implementing Sida financed International Training Programmes within different fields of development.

Fojo Institute is Sweden's leading institute for media development, strengthening free, independent and professional journalism in Sweden and globally, as expressed in the 2018-2022 strategy. Fojo is an independent institution at the non-profit and public Linnaeus University, one of Sweden's biggest universities. We use our experience in Sweden and internationally to strengthen free, independent and professional journalism using a wide range of strategic approaches. For more than 45 years of continuous operation, Fojo has been engaged in more than 100 countries, strengthening the institutional capacity of our partner organisations and trained more than 50 000 journalists. In recent years Fojo has increased its efforts to promote plurality of voices, in media content as well as in the industry as a whole, to create an enabling environment and to improve professional public interest journalism.

International Media Support (IMS) is a non-profit organisation that works to support local media in countries affected by armed conflict, human insecurity and political transition. Everywhere, citizens and leaders need information they can trust to make the decisions that develop their societies in a peaceful and democratic way. IMS supports the production and distribution of media content that meets internationally recognized ethical standards and works to ensure safe media environments.

Global Reporting is a media and communication company, focusing on journalism, strategic communication and global development. We are offering everything from communication strategies, events, seminars, training and moderating to writing/editing, photography and graphic design. Our broad subject knowledge and our experience from more than one hundred countries enable us to describe processes and events without resorting to clichés. Several of our staff members are journalists and we are regularly on journalistic assignments around the world. We are the host organisation for Sweden's foremost arena for discussions on global issues, Global Bar.

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PREFACE

The need for trustworthy journalism has never been greater. Millions of people around the world are looking for reliable information that can help them understand and cope with the many challenges facing our societies and our planet today. At the same time, traditional news media are confronting existential challenges, with deepening public distrust in established print and broadcast outlets coinciding with the fracturing of business models that once sustained the news business worldwide.

It is not just free media but democracy itself that is facing grave threats. Following several decades of expansion and vibrancy in many parts of the world, the space for participatory democracy and freedom of expression is now contracting, with intolerance and authoritarianism gaining ground, including in some long-established democracies. Journalists increasingly find themselves under political, legal, economic and even physically violent attack.

There are many challenges, but also opportunities. Never before have so many people in the world been connected to each other. Never before has it been so easy to reach out and share information and news about abuse, corruption and misdeeds – or any other topic.

In these turbulent times, the continued contributions of professional, responsible journalism are more essential than ever. Independent and accountable journalism is a vital element of democracy, with the news media serving as watchdogs and sources of essential information for the public at large, protecting and aiding the exercise of all human rights.

Digitalisation and new forms of distribution have changed the basis of news production. These technologies make it easier than ever for legitimate journalism – and also other relevant participants in the public sphere, such as human rights activists, NGOs, political opponents, etc. – to reach people in most parts of the world.

Yet those same people are also exposed to an ever increasing online supply of both misinformation – rumours, myths, and factual errors – and disinformation, which is maliciously disseminated for polit-

ical or other deliberate purposes. In contrast to editorial media, the online platforms hosting content providing and sometimes promoting these false or misleading reports are largely exempted from legal accountability.

For all these reasons, there is an urgent need to find new ways to support and enable public-interest journalism as an essential contributor to a political culture of transparency and democratic accountability. Rebuilding trust in the news media is one of the greatest challenges facing democratic societies everywhere in the world today.

The International Training Programme (ITP) on *Media Self-Regulation in a Democratic Context* – supported by Sweden's International Development Agency (Sida) and implemented by NIRAS Sweden, International Media Support (IMS) of Denmark, Global Reporting Sweden, and the Fojo Media Institute at Linnaeus University – is currently operating in more than 20 countries in Africa, Asia, Latin America and the MENA region. The programme has the overall objective of strengthening mechanisms for media self-regulation and independence. The ITP technical workshops, strategy sessions and course materials, including this reference book, are intended to stimulate and aid programme participants in pursuing their own national and regional initiatives in this area, with principles and practical models for media self-regulation.

In all national media environments, it is important to analyse both official regulation of the news business. What is legitimate? What is not? Is state regulation supportive or punitive? What are the relevant international norms? And what self-regulatory systems and principles are used by media to strengthen their own professional standards?

It is a core premise of this reference book and the overall programme that effective self-regulation is an essential method for the news media to maintain its independence, professionalism, and public trust. Self-regulation is a voluntary process where journalists, publishers and others who are engaged in the production of journalism develop their own over-

sight and feedback systems, in accord with accepted professional and ethical norms. Hence, if media does not regulate itself in a sensible trustworthy way, the state will step in and regulate but with the risk of violating fundamental values of freedom of expression and freedom of media.

Through its system of fellowships, training sessions and guided consultations, the programme provides a forum for constructive, creative dialogue on ways to improve self- and state-regulatory frameworks for media in a wide spectrum of countries with different political histories and media landscapes. These dialogues are built on trust, with participants including not only journalists and others from the media industry, but also legislators, regulatory authorities, academics, civic leaders, and representatives of other sectors of society with different stakes and interests in media standards and regulation.

It is a full-scale capacity development programme, with the goal of facilitating constructive change, leading to more effective, inclusive, and sustainable approaches to media self-regulation on the local level. The ITP combines on-line courses and study visits to Sweden, Denmark, and countries in the participants' own home regions.

The participants, in close collaboration with project facilitators, strive to identify specific ideas or proposals that could contribute to the achievement of the programme's objectives and the participants' own priorities, catalysing a transformation process on a national level where senior professionals ("change agents") discuss common concerns and implement solutions.

Proposals for change and action produced through this consultative process will evolve over the course of the programme, as participants share their experiences, deepen their knowledge of these issues, and engage with new networks of like-minded colleagues, both regionally and internationally. From the perspective of the programme, the central question could be formulated as follows: *How can statutory, self- and co-regulation jointly contribute to the development of sustainable, professional and independent news media, avoiding both onerous state controls and self-censorship, while promoting freedom of expression and public democratic debate?* This reference book material was created to help answer that question by providing a useful guide to the relevant legal and professional frameworks, philosophies, histories and current challenges

in the field of media regulation and self-regulation around the world today, with models for improving these mechanisms and strengthening public trust in the news media. This is a critical time for both the media and democracy itself in all parts of the world, and it is our hope that this programme, its training materials and growing network of participants and contributors will help drive the needed change.

A team of professionals with complementary competences produced this reference book. Bill Orme has authored this material, with Dr. Joan Barata, Dr Haron Mwangi and Anette Novak contributing with valuable comments and insights.

Please note that this SECOND draft edition reference book should be considered as a working material that needs to be used by our staff and participants in the field in order to make sure that the content and selection of examples are relevant. It is not a material that is intended to be read from cover to cover but rather be used as reference material for discussion and seminars on content matters of the programme.

Although, the process to develop this material has been difficult, the real test of its usefulness is how it will be valued by the participants, i.e. in that sense the true quality assurance of this material will be done by the readers and participants themselves. We look forward to your comments and insights to further develop this reference book material together.

Joakim Anger, NIRAS (Head of Programme, co-designer of the ITP and Lars Tallert, Fojo Media Institute (Co-designer of the ITP)

INTRODUCTION AND KEY CONCEPTS

The purpose and structure of the reference book

The purpose of this ITP and this reference book material, is to look at ways to strengthen independent journalism with a “public interest” mission, both through voluntary self-regulation and a better understanding of official oversight and legal safeguards for the news media, in all its different forms and political environments.

This reference book is neither intended as a media development ‘bible’ nor as a set of policy recommendations, but as a guidebook for understanding different regulatory challenges and systems. It provides examples of precedents and options for local media initiatives and reforms, both statutory and voluntary. It does not promote any specific regulatory models as optimal because there is no one-size-fits-all framework for media support and oversight. One fundamental assumption in this programme is that all countries need to develop their own regulatory and self/co regulatory frameworks based on their historical, legal, journalistic, democratic, and cultural traditions.

The learning objectives with this reference book is that the participants will have an overall understanding of key concepts related to regulation and self-regulation of media.

Specific learning objectives

- Explain how media regulation and self-regulation of media are the main elements of any democratic society.
- Critically discuss the relationships between key concepts of media regulation and self-regulation, freedom of expression and public democratic discourse
- Comprehend how to use and search the various parts of the reference book.



This section consists of a summary of what we mean by media regulation and self- and co-regulation, why it is crucial to understand these issues from a democratic perspective, how media regulation and self-regulation have developed over the years and which challenges we see ahead.

Though there is a sequential logic to the ordering of these chapters and course materials, no one should feel an obligation to read it all in order or in fact all of it. Some will be more interested in media standards or media history than media law; others will prefer to go directly to specific national examples of media regulation, and self- and co-regulation. The manual is intended as a reference guide, with pointers to other resources and publications relevant to the support and regulation of the news media and the interests of the public it serves. Programme participants and managers are encouraged to make suggestions for future editions.

Throughout the text, and the course discussions guided by it, is critical to consider relevant regional and national realities – differences in legal systems, political cultures, economic resources, broader measures of ‘human development’ – in the context of media regulation and support for independent news media. Yet there are shared principles, purposes, technologies, and histories shaping those current realities as well as the prospects of the news media in all countries.

The most common frameworks for state regulation and self-regulation vary not just from country to country, but also from one category of news media to another. Privately owned media is different from publicly supported media; within the former, print media differs greatly from broadcast media, historically, economically, and legally. Emerging online-only news services are found in both the non-profit sector and the commercial media industry.

Private broadcasting companies’ news organisations operate and are hence regulated within a broad-

er commercial sphere, with government-licensed transmission rights and income often derived primarily from entertainment programming and other ‘non-news’ sources. Publicly financed public-service broadcasters have quite different missions and governance norms. (State media and other official information services which provide government views and data fall outside the scope of this programme, though it is important to recognise that government publications and communications systems can provide a legitimate, useful public information function.)

The dominant social media platforms and other global digital communications services are still another economic and legal category, posing regulatory challenges to governments and the gravest existential threats to commercially financed news organisations and public trust in the media.

State regulations and legal obligations for the news media are neither inherently objectionable philosophically nor unreasonable operationally. Indeed, a clear legal framework for media is required to protect the interests of the news business and the public alike. The critical distinction is between official regulations that are legitimate and necessary and state controls that are incompatible with media independence and broader rights of free expression.

Why is media being regulated? – a brief background

The history of media regulation begins with the application of the printing press to book production from the mid-15th century onwards in Western Europe. Initially, printing was simply a more productive alternative to the copying of manuscript texts by hand, which had not been formally regulated, although in practice it took place mainly under the oversight of authorities of church or state.

As the printing trade and industry expanded, especially after 1500, both church and state took an increasing interest in the content of what was being printed and published, especially with a view to combating heresy or dissent. This led very widely to the licensing of all printers by the state and/or the requirement for advance approval by church authorities for texts to be published. The export and import of books were also controlled or forbidden. Authors and printers could also be severely punished for publications deemed heretical or treasonable. In more



autocratic states, such as the Ottoman and Russian Empire, printing was simply banned for two hundred or more years.

Between the 16th and 19th centuries in Western Europe and North America, the history of media regulation was one of struggle against restrictions on publications waged in the name of political freedom and human rights, but also on behalf of the printing trades and industries, including the rights of authors. The freedom to publish was achieved by gradual change in Europe during the 18th century.

For most of the world during the modern era, repressive and punitive media regulation in the interest of state power has been the norm. A new dimension to regulation was added by the invention of new media during the 19th century, especially the electric

telegraph, then the telephone and wireless, which led to public radio broadcasting from 1920 onwards. All these media were closely regulated by national laws that were more or less required by international agreements relating to technical requirements (e.g., radio frequency allocation). They also served other interests of state, including military and economic considerations. Often regulation took the form of control by state bodies or public monopolies.

Print is of course the oldest news medium, and remains in many ways the freest, and in many places still also the most influential, in terms of setting national news agendas and framing public affairs dialogues. Broadcast news, though it has been directly regulated by government authorities since its inception, has equal or greater importance as a source of independent reporting and public information in much of the world. Broadcast media (radio and television) were the most closely regulated of all media nearly everywhere during the twentieth century and they have never achieved the degree of freedom enjoyed by print media.

Social media combines elements of both those mediums in addition to its own global communications and information platforms, with vast audiences and legal complexities presenting the greatest current regulatory challenges for governments and democratic societies generally. These three main forms of news media and distribution operate in parallel, co-existing with differing though overlapping functions and audiences. All are facing their own distinct but interlinked challenges, from reporting in widely varying political environments, to securing and retaining public trust, to basic economic survival.

The evolution of news media from the earliest daily newspapers of the 18th century to the broadcasting era of the 20th century to today's digital age is a story of past and continuing technological and regulatory change in every part of the world. This manual reviews the universal principles and international agreements that uphold the rights of independent media and public access to information under all national governments.

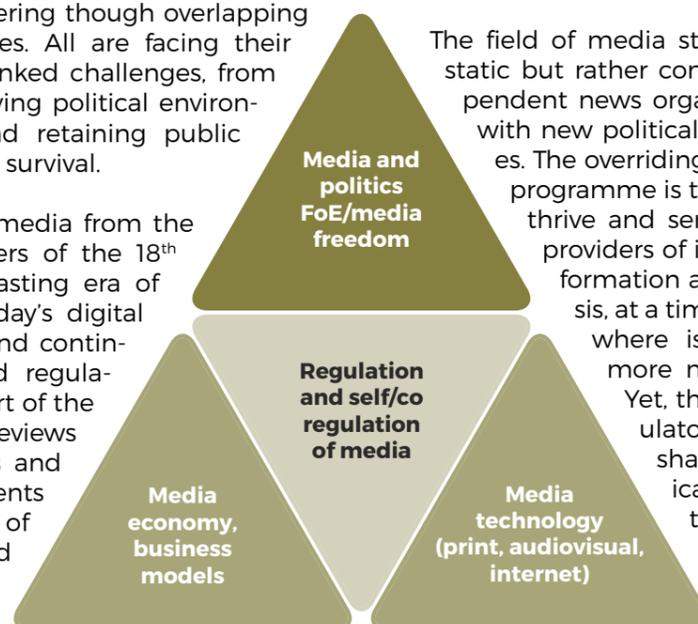


Figure 1: Regulation and self-regulation of media in a wider context

The different national examples of constitutional frameworks for the news media and self-regulatory mechanisms examined here all operate within this broader global context.

The coronavirus pandemic is just the latest example of international events and crises affecting news organisations everywhere, with journalists personally disrupted in their workplaces and communities like everyone else while they assume even greater public responsibility as reliable sources of news and information. Sudden sharp declines in advertising revenue drove many local news organisations out of business despite strong public demand for their news services.

Even in a post-Covid universe, the global media landscape will bear permanent marks from this period, from learned new experiences in 'virtual' reporting and editorial management, to lessons in detecting and combating online misinformation and disinformation, to institutional responses to the imposition of authoritarian controls on journalism and public information.

All of this will have an impact on the future course of media regulation and self-regulation, as well as on journalistic methods and mediums. It is our hope that this manual will remain useful and relevant during the inevitable continuing changes in news media over the next few years.

The field of media structure regulation is not static but rather constantly evolving, as independent news organisations are confronted with new political and economic challenges. The overriding goal of this text and this programme is to help the news media to thrive and serve the public as trusted providers of independently verified information and factually based analysis, at a time when journalism everywhere is under threat, and yet more needed than ever before. Yet, the regulatory and self-regulatory framework of media is shaped by economic, political and technological factors in society.

Each of these different segments of the glob-

al news media has been shaped by their distinct respective histories and technologies. The ways media are regulated is very much intertwined with and influenced by:

-  **Technological means of distributions (printing press, broadcasting channels and internet etc);**
-  **Economic conditions and freedom to start developing media outlets and competing with different business models;**
-  **Systems of ruling, i.e., democracies normally provide less regulation (and more freedom) for media than authoritarian and semi-authoritarian states.**

Social media is currently in a period of re-regulation where regulatory frameworks are amended to reflect new economic and/or political priorities.

How is regulation of media connected to the public discourse in the digital age?

The notion that a democratic society requires civic engagement with an upright communication between citizens and political decision-makers is deeply rooted in the ideals of democracy. Throughout history this has been done through different platforms, or public spheres, which enables public discourse among citizens as a communicating network of information and perspectives, which is "reproduced through communicative action".

The principle of the public sphere entails an open discussion of all issues of general concerns in which those relevant to the public good could be subject to informed debate and examination. The ability to be a part of the public discourse in such a sphere is therefore a fundamental part of freedom of speech and assembly, a free press and the right to freely participate in political debate and decision-making.

Already in Ancient Greece, Aristotle argued that

society needed a public forum (i.e the "agora", the public square) that is accessible for everyone, where each citizen could critically and reasonably address the policies of the municipality. The emergence of public forums, where public discourse was possible, became vital for the further building of democracy. Even though freedom of expression and freedom of media have a fundamental value in themselves, it is also an essential cornerstone for a free debate and what we in this reference book refer to as the public democratic discourse. Thus, a free debate on societal issues on different levels such as the local and national level, provide proper and well-informed decisions in both directions between citizens and political decision-makers.

Traditional media – in the form of radio, newspaper and television – has since the 19th century played a central role as a tool to promote public democratic discourse and debate. This is still true in many of the countries that are participating in the ITP where traditional media still holds a central role as a great power in framing the perceptions of people's reality on questions of interest to society. In relation to democracy and public discourse, media is not only a mere consumer product, but media content should also be considered as a "public good" that facilitates public discourse and provides channels of relevant information to form opinions and facilitate public debate. Actors in newspapers, TV and radio have previously had a "gate-keeper" role that enabled public debate through its channels in order to generate discussion on issues that became available for the public. As a gate-keeper within this context, you have the power to set the tone and agenda for the public discourse as well as the political agenda since issues and realities are framed to a high extent through these channels.

With the advent of social media, the very conditions of democratic discourse have changed in many ways. New forums for political debate have evolved, forums that are governed by different

norms and rules than those of the pre-digital media world. Even though the possibility for the public to actively partake in the public debate has increased significantly, actual participation still tends to be limited to certain groups and fractions. The democratic discourse is governed by a logic on its own, different from the logic we know from traditional media.

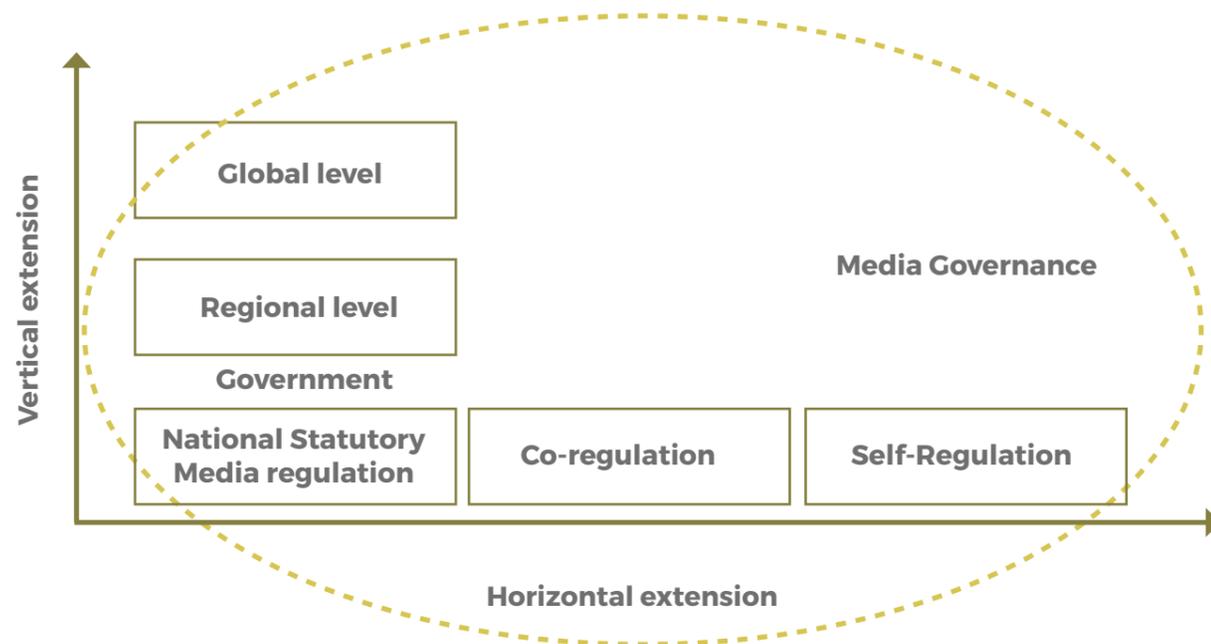


Some researchers refer to this as the post-Gutenberg era, where the power of the printing machine becomes increasingly less relevant for both media and the public discourse. In that sense, social media has moved us back in time to the “agora” (or rather a myriad of “agoras”) where everyone is a publisher and (at least theoretically) has the same opportunities to have their voice heard. However, the modern “agoras” are heavily intermediated by the filtering and algorithms established by online platforms

Digital platforms that function as social media have thus enabled a new way of sharing, writing and discussing everything with everyone, creating “new” public spheres or, as sometimes is described, cacophonies of undigested thoughts. Thus, the digital era has made it possible for a new sort of public discourse, which has the potential to change the political landscape through new ways of setting the agenda. However, this is not without challenges in a democratic framework at a time that has been variously described as a period of populism, post-truth and misinformation/disinformation.

Also, the digitalisation and technological convergence has made the boundaries separating other policy fields – such as information technology, communication, telecommunication and cultural policy – increasingly “porous” as digitalisation blurs the traditional technological and regulatory distinction.

Figure 2: Media governance as an analytical concept adapted from Puppis (2017)



For an overview of the different origins, communications functions, market forces, and regulatory legacies shaping each of these mediums – print, broadcast, and internet – see the manual’s annex: [“Gutenberg to Google: Media History and 21st Century Challenges”](#).

Media governance and media policy

Regulation of the media normally takes place within a broader framework of principle and policy and politics. We can think in terms of a hierarchy with three main levels consisting of theory, policy and regulation, in increasing degree of specificity, followed by means of implementation.

As shown in Figure 1, an overarching idea such as that of freedom of expression or human rights is expressed in broad policies for communications media. Such ideas provide direction and legitimation for proposals and actions to secure the public interest. These policies have then to be implemented in regulations that are applied either formally, as legal or administrative rules, or informally as voluntary industry and professional self-regulation. The matters regulated or self-regulated are: media structure, conduct and content, plus various technical and organisational matters.

The relationship between statutory and self-regulation

Regulation refers to the whole process of control or guidance, by established rules and procedures, applied by governments and other political and administrative authorities to all kinds of media activities.

Thus regulation is always a potential intervention in ongoing activities, usually for some stated “public interest” goal, but also to serve the needs of the market (for instance, by supporting competition) or for reasons of technical efficiency (e.g., setting technical standards).

Regulation takes many forms, ranging from clauses in national constitutions



Media governance is a term which refers to the institutional infrastructure in which the regulation and self-regulation happen in the institutional framework, in other words the “rules of the game”.

The concept of media governance covers “all means by which media are limited, directed, and encouraged ranging from the most binding laws to the most resistible of pressure and self-chosen disciplines”.¹ Media governance encompasses all international and regional accords, national legislation, and rules imposed by the media on itself.² The media governance system is formed and influenced by e.g., historical, political, economic, cultural and technological factors in each country but also developments on the regional and international level especially since global internet platforms have become powerful players changing the playing field for media (see section 6).

Media policy refers to the political field in which competing ideas about desirable structure, conduct and performance of media are discussed and circulated. It encompasses the formulation and implementation of rules and decision that aim to shape the media system. Media policy is thus not only about the output of the policy-making but also about the actual process of formulating and implementing rules and regulations.

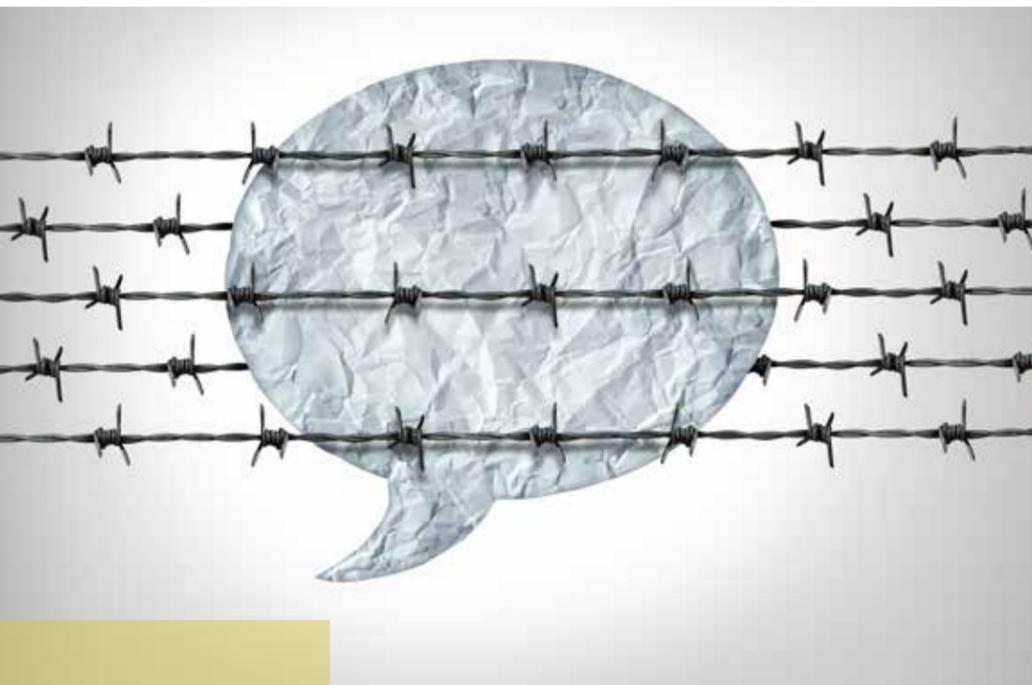
¹ McQuail, Deuze (2020)

² Please note that the concept “governance” should not be confused with “government” which in this model is one player among many others who are setting the rules for the game.

and laws to administrative procedures and technical specifications or something that is imposed by the industry itself. In the latter case, we are usually speaking of ‘self-regulation’, where internal controls are applied, sometimes in response to public pressure or criticism from outside. The goals of these self-regulatory mechanisms are first and foremost to protect the public’s right to information and the principles of press freedom and freedom of expression more generally, while maintaining high professional standards and public confidence in independent news reporting.

Self-regulation can work effectively only if there is a professional consensus about media rights and ethics, with oversight structures that are independent from government regulatory powers or related legal frameworks for the news media.

Self-regulation is an ongoing process that constantly needs to be revised and updated by journalists and media proprietors themselves, with input from the public that they serve. A major challenge is establishing codes of ethics and agreed standards for both news and opinion articles for these content producers, along with independent systems for monitoring and sanctioning violations of these agreed standards, including mechanisms for public complaints.



Official regulatory systems and self-regulatory initiatives by the news media vary greatly from region to region and country to country due to a wide range of historical and social factors. Yet there are also many common denominators and shared principles.

The many different national examples presented here of constitutional frameworks and self-regulatory institutions, such as press councils, are meant to be illustrative, not exhaustive, and not necessarily the best models of their kind. Media priorities and the practical possibilities for fairer, more transpar-

ent state regulation and more effective approaches to self-regulation are different in every country. In all regions and political systems, however, people have the same basic rights to freedom of information and communication. Media standards and public confidence in the media need to be strengthened everywhere, continually.

Better understanding of official regulatory norms and structures and the wide range of self-regulatory systems and initiatives in different parts of the world can help journalists and their news organisations to achieve those goals.

The main building blocks of the regulatory and self-regulatory system

The regulatory and self-regulatory system (i.e., the media governance system) consist of some key elements that are similar but not the same in the countries that are participating in the ITP.

The generic model presented in Figure 3 is based on the Swedish and Danish system. It is important to note that the model is not prescriptive, i.e., we do not argue that participating countries should apply it. We rather present it as an illustration describing the most important building blocks of such a system.

Another integral element of this self-regulation agenda is the monitoring and advocacy for reform, where appropriate, of governmental media regulations and oversight bodies. The media itself is often a driver for change in media law and regulation, in consultation with civil society groups, relevant professional associations and public officials.

Self-regulatory systems differ widely in structures and impact, but they share the conviction that it is far better for journalists, publishers, broadcasters, and others in the profession to determine themselves what the most appropriate ethical principles and journalistic procedures are, rather than to have legislators or magistrates regulating what they print or broadcast. In areas where governmental legal frameworks are necessary – for example, regarding certain aspects of the provisions of audio-visual media services, or allegations of defamation or privacy violations in media reports – legislation and regulation should ideally be harmonised with self-regulatory systems.

Different constructive approaches to this kind collaboration between public regulatory mechanisms and the media industry and its own standard-setting procedures are examined here as examples of “co-regulation.”

Freedom of expression and public democratic discourse – the foundation of media freedom

Freedom of expression is particularly important for the media, who play a special role as the bearer of the general right to freedom of expression for all and provide a public space for sharing of information and ideas. Social scientists often consider a free, independent and professional media as the “fourth estate” and a key component of a functional democracy alongside the legislative, executive and judicial powers and institutions. The question of who is watching the watchdogs often boils down to a matter of if media shall or can do it themselves (though a self-regulatory framework) or if the state by law need to regulate the media sector.

A functional democracy is thus very much dependent on how well the population interacts with each other in a free debate and dialogue and to what extent the media can play its role as facilitator of such an open discussion, i.e., what has been referred to as the public democratic discourse. The very infrastructure of media consists principally of the basic elements set out in Figure 3, all of them thoroughly addressed in sections of this reference book.

The foundation of this model is the Declaration of Human Rights where it is stated that the linked principles of free speech, free media and freedom of information are cornerstones of democratic governance.

Figure 3: Main building blocks of regulatory and self-regulatory framework



The Universal Declaration of Human Rights, adopted by the founding members of the United Nations in 1948, articulates these principles in its famed Article 19:



“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

The UN Human Rights Committee has stressed that ‘expression’ is broad and should not only be confined to political, cultural or artistic expression that most people agree with; it also includes controversial, sometimes false or even shocking expressions. The mere fact that an idea is disliked or thought to be incorrect does not justify its censorship. In fact, freedom of expression is truly tested when opinions with which you do not agree are expressed or, as Noam Chomsky said: “If we don’t believe in freedom of expression for people we despise, we don’t believe in it at all.” Without freedom of expression, new and innovative ideas will be suppressed and hence the best decisions will not be made. Freedom of expression is thus the central element for an open and respectable efficient public discourse where all individuals have the opportunity to express their own opinion.

Chapter 1 covers both international and regional accords related to freedom of expression and media freedom.

National legislation and media laws

On the next level, we have national legislation regulated by the constitution and other media laws. All democracies have some freedom of expression which entitles both individual and media organisations to express their opinions openly. However, in most countries, freedom of expression has its limitations, and some countries freedoms are highly restricted.

Media regulations are rules enforced by the jurisdiction of law that differ across the world. This regulation – via laws, rules or procedures – can have various goals, for example, interventions to protect a stated “public interest”, encouraging competition and an effective media market, or establishing common technical standards.



Also, media outlets often have a particular legislation. Broadcasting services (audiovisual) are fairly regulated in many countries. The regulatory framework could have democratic purposes, cultural policies, economic protection, and economic purposes. Social media has until recently been fairly unregulated, but this is changing.

Chapter 2 covers official state/statutory regulation of media.

Please note that Figure 4 refers only to the Media Self regulatory system, not the official/statutory Regulation

³ This section is a brief and not complete summary of the self-regulatory policies and practices.

Self-regulatory system

Based on national legislation on how media can operate in many countries, there is some form of self-regulatory system. This self-regulatory system can be divided in internal and external forms of self-regulatory policies and practices and formalised and informal.³



The inward codes of ethics/conduct for the specific journalist (internal/formal)

eg., Provide accurate news, publish corrections to errors, respect privacy and integrity, exercise care in the use of pictures, Ensure balance: listen to each side, be careful with naming / identification.



Ombudsman functions at the media houses (internal/formalised) A media om-

budsman handles complaints from readers, listeners or viewers about accuracy, fairness, balance and good taste. He or she recommends appropriate remedies or responses to correct or clarify media content, and thus helps the media; to improve the quality of reporting, to secure that the media are more accessible and accountable to their audiences, and thus more credible, to resolve some complaints that might otherwise become costly lawsuits., to criticise the company and its journalists when criticism is fair - and defend it when criticism is unfair. The ombudsman function here refers to the internal organisational set up in each media house.

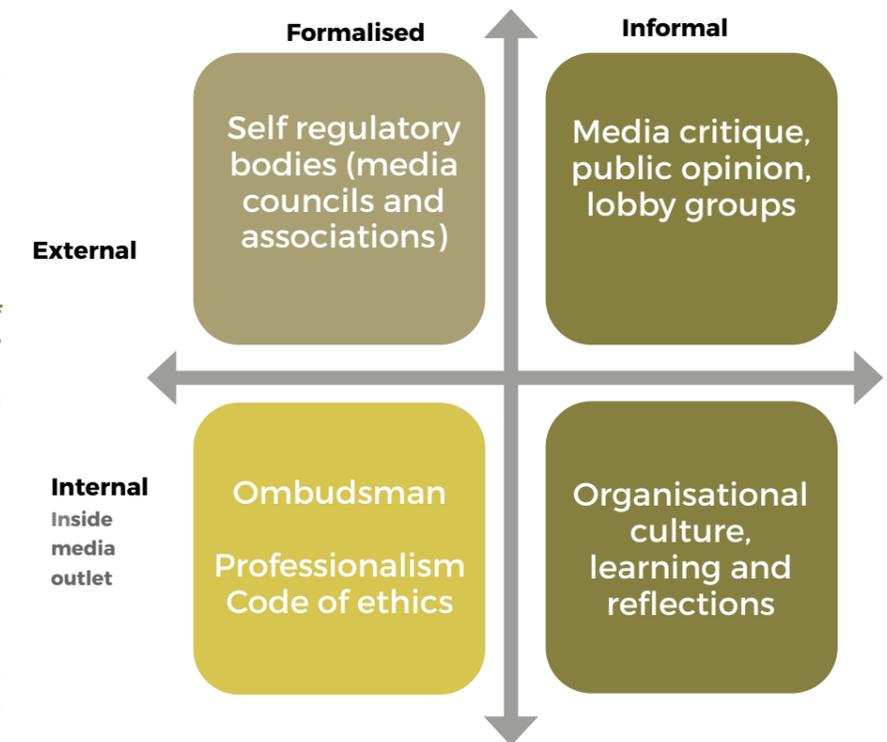


External self-regulatory policies and practices consist of the formal practices such as professional associations/user associations (inter-organisational level) and peer review (informal/external). These can consist of ethical standards set up by the journalist unions or editors guilds etc.



Media/press council (formal/external) A media council is an association and regulations set up by the media outlets themselves to avoid and protect media

Figure 4: The key components of the self-regulatory system based on McQuail



from state interference. At its core, a media council is a way for journalistic media to regulate journalistic conduct. It provides the opportunity for anyone to lodge a complaint against a specific publication in the media when they feel that a journalist or editor has breached ethical principles. That complaint is then considered by a body of stakeholders, who will look at both sides of the argument and decide whether, according to them, the moral guidelines of doing journalism were respected in the process. The difference between a legal court and a media council, obviously, lies in the fact that the latter cannot punish or sanction a misbehaving journalist or media outlet. The efficacy of media councils rests on outlets and journalists cooperating with the procedures and respecting the councils' decisions. The way in which these procedures work differs to a great extent between the different media councils in various regions. In Sweden, an appointed Media Ombudsman works on the inquires before they are handled by the media council. Some media councils are fully voluntary with no interference by the state. Others are based on legal provision, for example in Denmark and Kenya, which often is referred to as co-regulatory set up.

In all countries there are also informal mechanisms such as journalism-focused media, critics, academics, and ad-hoc collaborations. The market force itself could also be considered as an informal self-regulatory mechanism. An internal informal self-regulatory mechanism consists of organisational culture and internal reflections and learning. The informal self-regulatory mechanisms and systems can be very effective in some countries.

In sum, there are at least five good reasons for the self-regulation of media

1	It preserves editorial freedom and independence and minimises state interference from state actors
2	It promotes a focus on quality and accuracy in the media
3	It secures transparency and accountability of media
4	It provides the users/citizens the right to complain
5	It protects journalists from political pressure and “court journalism”

In almost all cases, self-regulation is a preferred solution to statutory regulation since it protects the freedom of media. However, freedom comes with responsibility and accountability. If media outlets (both legacy and social media) are spreading mis- and disinformation, a pressure will build up to regulate the content by law and thus infringe on fundamental freedom of expression and media freedom.

That said, there is no silver bullet to success and no country has a perfect system for regulation and self-regulation of media. Also, countries like Sweden and Denmark could, for example, be legitimately criticised that they have too many exceptions from international standards of freedom of expression and freedom of media in their legislation.

Although we see a convergence between countries, all teams participating in this ITP need thus to find their own way to influence aspects of the regulatory and self-regulatory system, which is consistent and coherent to their own political culture and media governance.

Chapters 3, 4 and 5 cover these aspects in detail.

For more info on how we work with change processes and change initiative, please see our our ITP change manual.

DIALOGUE

- Discuss media's role in your society. In what way does media play a role in the democratic public discourse in your country? Discuss how globalisation and digitalisation has changed media's role the last 5–10 years?
- Media regulation is subject to strong influence from local and national aspects of history, culture and circumstances. Discuss how media regulation has been formed by historical, political, economic, societal/cultural, technological and legal features in your country? Are different types of media regulated in different ways? Why is that?
- Do you have a self-regulatory framework in your country? If yes, what are the main building blocks and how do they currently perform? What is the main purpose and benefits of the a self-regulatory framework in your opinion?



Some key concepts

We have gathered some key concepts to provide an easy overview of what they involve and an understanding of their meaning in this context. Even though these concepts are defined below it is important to highlight that these are concepts with working definitions.



Public discourse: The public discourse plays a vital role in open, democratic societies. It is an important forum through which people can voice their concerns and form opinions.

Moreover, public discourse provides input for decision making processes. “Public discourse” signifies speeches, publications and other statements made in pursuit of making rational and effective decisions on political and political matters.

Traditional media has the last 100 years been an important link between the people and public officials and provided the very infrastructure for the public discourse. However, with social media the editors of traditional media does have the same powers as they used to have.



Media Policy refers in this text book to the political field in which competing ideas about desirable structure, conduct and performance of media are discussed and circulate. It encompass the formulation and implementation of rules and decision that is aiming to shape the media system, i.e. the rules of the game or media governance. Media Policy is thus only about the output of the policy making but also about the actual process of formulating and implementing rules.



Media Governance, refers an academic term which refers to the institutional infrastructure in which the regulation and self-regulation, into the institutional framework or the rules of the game. Thus the concept governance should not be mixed up with government which is one player among many others that are setting the rules for the game. The concept media governance covers “all means by which media are limited, directed, encouraged ranging from the most

binding laws to the most resistible of pressure and self-chosen disciplines” (Denis MacQuail, 2003)



Media regulation refers here to the specific instruments and rules that are imposed on media organisation in order to achieve policy goals. Media regulation consist of

- **Official or statutory regulation:** Regulation enforced by governments. See section 2 for more information
- **Self-regulation:** Regulation exercised by platforms the platforms and media themselves. In many more developed democracies, the self-regulation of legacy media consist of ethical standard by the individual journalist, ombudsman function at the individual media houses and media councils set up the media houses themselves as to clarify the “rules of the game”, i.e., what should be published and not. Also, in most democracies there is also an ongoing debate/criticism from other media and the public on what should be published.

That debate could also be considered as part of the self-regulatory system. Social media actors have their community standards and other terms and policies as the first line of self-regulatory system that everyone signs to be a member of the platform. Often these terms are much stricter on what can be said that the legislation that governs freedom of expression at large.

- **Co-regulation:** A system in which the general guidelines and expected results of platform policies are defined in a legal instrument, with input from multiple sectors, which must be applied directly by platforms taking into consideration the local and regional context and in line with human rights principles.

Some key concepts



Media council and media self-regulatory organisations are used interchangeably in this guide and refer to the organisations or entities that we studied. This means the organisation as a whole, including the executive office (its day to-day staff), the complaints-handling body, its board, and all other parts of which the organisation may consist.



Media regulation In assessing regulatory norms and needs for the media, it is useful to define the different (though sometimes overlapping) categories of news services, analysing each separately:

- **Private news media companies:** Newspapers & other periodicals (print & digital), broadcasters (radio and television and online commercial news services (digital only)
- **Publicly owned and financed news enterprises:** National public service broadcasters. Others: Educational-institution media operations, etc.

- **Non-profit non-governmental news media:** Independent investigative journalism organisations, news services of charitable foundations, religious organisations, universities, advocacy groups and 'hyperlocal' community news sites as well as community radio.



Media accountability refers to the fact that media not only have freedoms but also responsibilities and can (or even should) be held to account for the quality, means and consequences of their publishing activities to society in general and/or to other interest that may be affected. The social responsibility of media is one of the main reasons for media to restrain itself and impose a self-regulatory mechanism in order to be held to account while at the same time protecting itself from illegitimate interference from the state and other actors.



”

All means by which media are limited, directed, and encouraged, ranging from the most binding laws to the most resistible of pressure and self-chosen disciplines.”

– Denis MacQuail's definition of media governance, 2003

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CHAPTER 1

MEDIA RIGHTS AND STANDARDS: NATIONAL, REGIONAL, INTERNATIONAL

Before examining models and practices of media self-regulation, it is imperative to first review existing legal protections and obligations for news media on both the national and international level.

Media self-regulation does not take place in a legal vacuum; it exists in parallel, it complements and in some cases it has to be seen as an alternative to statutory norms and standards. Nor does state legislation and regulation function in legal isolation: National governments are obligated to abide by international human rights law and other relevant regional norms.

State or statutory regulation should be understood not solely or even primarily as official oversight mechanisms or agencies, or statutory requirements or restrictions, but as all the many elements of legal systems that are relevant to journalism and news media operations. Those legal systems include (or should include) protections for press freedom - and freedom of expression more broadly - that are mandated by international agreements to which national governments are signatories, as well as by their own national constitutions.

The legal universe in which media operate can be envisioned as a system of concentric circles, with the innermost circle populated by local regulatory statutes and bodies such as state information ministries and broadcasting licensing authorities. Those laws and institutions function within wider circles of constitutional guarantees and procedures for parliamentary and judicial oversight. National courts, agencies, and legislatures must then conform in turn to norms established in the still wider circles of international law, including specific obligations in global or regional intergovernmental accords.

The outermost circles in this national and international legal universe are comprised by the foundational texts and treaties underpinning international human rights law, beginning with the historic accords drafted and adopted in the aftermath of the Second World War and continuing with further global agreements up to the present day.

Several are specifically relevant to media rights and regulations: These range from the Geneva Conventions of 1949, which establishes the right of jour-

nalists to report from conflict zones as non-combatant civilians, to recent UN Security Council resolutions on stronger protections for working journalists, to the commitments of all 193 UN member states in the 2015-2030 Sustainable Development Goals to “ensure public access to information and protect fundamental freedoms,” including freedom of the press.

The most far-reaching and influential of these international agreements, in terms of recognising the role and rights of independent media, are the Universal Declaration of Human Rights, adopted by the founding members of the United Nations in 1948, and the subsequent, legally binding International Covenant on Civil and Political Rights of 1966. Both accords affirm the rights of all

people in all countries “to seek, receive, and impart information and ideas through any medium and regardless of frontiers.” Yet the codification and enforcement of these internationally guaranteed rights takes place at the national level, within often very different national legal frameworks, political traditions, and degrees of media independence.

These national laws and policies and regulatory systems are not the only factors determining the overall “enabling environment” for news media, which is also shaped by other societal norms and forces, from national histories and cultural factors to economic resources, civic engagement, and educational standards. The complex and detailed set of ‘media development indicators’ developed by UNESCO to assess these widely varying national media environments takes into account scores of different legal, economic, and political variables. See BOX: Media Indicators: UNESCO Framework for Assessing Media Development.

Unlike underlying social structures, national laws and regulatory bodies can be revised or reformed through media pressure and political action. A key

element of effective media “self-regulation” is informed and constant vigilance by the media itself of these official regulatory structures and actions.

National constitutions and legal standards

The most significant of the concentric legal circles that both protect and circumscribe media independence are those set by national constitutions. This section covers - Citizens’ rights, historical traditions and state institutions governing the freedom of media and information in sovereign nation-states. Media regulation has many local variants, all of which should in theory align with international law and best practices. But these are national standards and functions, fundamentally, with legal frameworks determined by national constitutions and regulations drafted in accord with those constitutional directives and precedents. Those laws are then administered by national authorities, under the oversight of national legislatures and courts.

Though national political cultures and “unwritten” societal norms are equally important factors in the observation of constitutionally recognised rights, the latter help shape the former. It is always important to have strong constitutional safeguards as a starting point. Some legal experts make a distinction between “normative” constitutions - with provisions that are binding not just in theory but in practice, with constitutionally guaranteed citizens’ rights protected by an independent judiciary - and purely “political” constitutions, with statements of principles and delineations of government structures that are subject to executive interpretation, with few if any avenues for individual appeals or legal constraints on executive power.

Even a very good “normative” constitution is just a starting point. In many societies, the protection of constitutionally promised press freedom rights has improved greatly over time, due to increasing judicial independence and continued pressure from civil society and the media itself. Some countries, however, have experienced severe regression after earlier progress in press freedom law and practice. The exercise and protection of press freedom rights is a constant, dynamic process, with the press and public at the forefront.

Country examples

Following are several examples of national constitutions with guarantees for freedom of media and information, drawn from diverse regions and adopted or amended at different historical points over the past two and half centuries:



United States: The U.S. Constitution was ratified in 1787, with its 'First Amendment' making it the first national constitution to explicitly protect the press against restrictive regulation. The

first of its original ten amendments states plainly: "Congress shall make no law [...] abridging the freedom of speech, or of the press." Yet some press freedom rights were not fully recognised under U.S. law until almost two centuries later, in the 1960s, when The New York Times won precedent-setting court cases preventing attempts at censorship and Congress passed the Freedom of Information Act.

Reporters and publishers are still sometimes threatened with legal action for the publication of classified government information. The federal "FOIA" statute does not cover Congress, the President, or local governments in the 50 U.S. states, which have their own varying access-to-information regulations. Journalists in the U.S. continue to advocate and litigate for better access to news events and official information, legal protections for their sources, and the prosecution of threats and assaults against reporters.



Switzerland: The strong press freedom protections in the Swiss constitution are among those adopted in several European countries after mid-19th century revolts against autocratic governments. The constitution adopted by Switzerland in 1848 "was heavily influenced by the U.S. Constitution and the ideals of the French Revolution," the Swiss government notes in a website with the official multilingual texts of the current and previous

versions of its Constitution. Amendments in the 1990s strengthened and updated the provisions of the original 1848 Constitution, which was one of the first on the European continent with explicit guarantees of free speech and a free press.

Today, the Swiss Constitution is one of the few specifically ensuring the rights of citizens to communicate and get information electronically, and the rights of journalists to protect confidential sources. Article 16 of the Constitution states that "every person has the right to freely receive information and to disseminate information, from widely accessible sources." Article 17 is devoted to "Freedom of the Media" and states:

1. Freedom of the press, radio and television and other forms of dissemination of information and [media] productions by means of public telecommunications is guaranteed.
2. Censorship is prohibited.
3. The protection of [journalists'] sources is guaranteed.



Mexico: Adopted during the Mexican Revolution, the Constitution of 1917 recognised a wide range of social and political rights, including freedom of the press. Media independence was nonetheless limited under the long-governing Institutional Revolutionary Party. The Constitution was amended after the ruling party's defeat in 2000, with language updating and strengthening its press freedom provisions:

Freedom of speech, opinion, ideas and information through any means shall not be abridged. Said right shall neither be abridged through any indirect means, such as abuse of official or private control over paper, radio electric frequencies or any other materials or devices used to deliver information, nor through any other means or information and communication technologies aimed at impeding transmission or circulation of ideas and opinions. No statute or authority shall establish prior restraints, nor shall it abridge freedom of speech

In 2012, the Constitution was amended further to give federal authorities specific powers to investigate and prosecute crimes against "freedom of expression and information." The post-2000 amendments also included new guarantees of public access to information, including mandates for the creation of an "autonomous" agency to oversee compliance with these provisions and guarantees of public internet access:

Every person shall be entitled to free access to plural and timely information, as well as to search for, receive and distribute information and ideas of any kind, through any means of expression. The State shall guarantee access to information and communication technology, access to the services of radio broadcast, telecommunications and broadband Internet.



India: As the world's largest established democracy, India is inherently important unto itself in the area of press freedom and media regulation, and as an influential regulatory example for other countries in Asia and elsewhere. Media in the early decades of India's independence were dominated state-run broadcasters and print media largely reflecting the views of the then-ruling party, but today the country has hundreds of independent newspapers and broadcast news outlets.

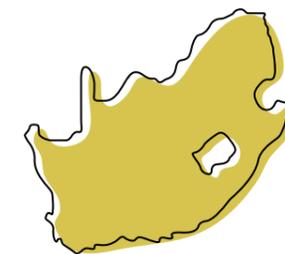
India's 1950 constitution guarantees the right "to freedom of speech and expression" (in its own Article 19). However, the constitution also allows the government to limit freedom of expression "in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."



Sweden: In 1766, the Kingdom of Sweden became the first country to adopt a comprehensive law curtailing state censorship, protecting press freedom and recognising the public's right to see official documents.

That pioneering statute was effectively nullified under subsequent monarchs, however. In the latter half of the 19th century, several landmark court cases and parliamentary initiatives restored protections for the rights freedom of expression and media.

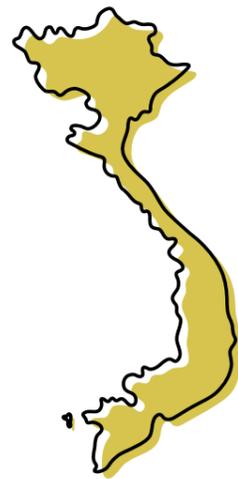
Sweden's current constitution was adopted in 1974 and includes both principles from that 1766 law, with strong affirmations of the "freedom of the press" and "the public nature of official documents." The Constitution includes detailed requirements for state disclosure of government records, in effect giving additional constitutional force to an access to information law. A law strengthening constitutional guarantees of freedom of expression in all media – print, broadcasts, film, online – was adopted in 1991.



South Africa: The 1996 post-apartheid constitution of South Africa is considered among the most advanced in the world in its explicit guarantees of freedom of media, freedom of expression, and the right of public access to information. That explicitly includes the right not just to government information, but to any information deemed pertinent to the exercise of other constitutionally guaranteed rights under South African law, such as protections against racial or gender discrimination and citizens' rights to clean water, clean air and a 'heathy environment.'

Journalists have used these provisions in court to obtain information on the environmental practices of private mining companies, for example.

Yet the South African constitution also mandates clear limits to citizens' and media's rights of free expression, stating that the exercise of those rights "does not extend to propaganda for war; incitement of imminent violence; or advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm."



Vietnam: Vietnam's Constitution of 2013 is an important countervailing example of a system of law and government that is explicitly authoritarian, with strict limits on freedom of speech, media and access to information. Those restrictions would appear to contradict the seemingly clear language of the Constitution's Article 25, which states:

Citizens have the right to freedom of speech and freedom of the press, and have the right of access to information, the right to assembly, the right to association, and the right to demonstrate. The exercise of those rights shall be prescribed by law.

Though political speech and the rights of free expression are in theory guaranteed by this and other passages in the constitution, along with other civil liberties, there is wide latitude for government restrictions: "Human rights and citizens' rights may not be limited unless prescribed by a law solely in case of necessity for reasons of national defence, national security, social order and safety, social morality and community well-being." The 2014 Constitution reaffirms the primacy of the Communist Party in the country's political system, which it defines as a "direct democracy" run by a network of Party institutions and consultative processes, as opposed to direct elections.

National news media are comprised exclusively of outlets either operated or authorised by the ruling party and national government. There are no independent print or broadcast news organisations, in accord with this clear constitutional directive: "The State and society shall develop [...] the mass media to meet the People's demands for information and to serve national construction and defence."

By definition, then, there is no legal or political space for media "self-regulation" in Vietnam, as all media are licensed and managed by the state.

Vietnam is one of many national examples demonstrating the limits of constitutional guarantees alone, unless supported by institutions such as an independent judiciary and a political culture that not just tolerates but encourages dissent and dialogue. Within these strictures, however, some Vietnamese news organisations and journalism associations have sought to improve professional standards and public access to reliable news and information services. The experiences of media operating within Vietnam's legal and political structures may offer some useful lessons for journalists and media support in other state-run systems in Asia, Africa, Eastern Europe, Latin America and the Middle East.



Tunisia: The Tunisian Constitution of 2014 was adopted by the country's newly elected constituent assembly after the "Jasmine Revolution" of 2011, which ended the regime of a long-serving dictator and ignited the uprisings elsewhere in the region that came to be known as the "Arab Spring." The 2014 Constitution replaced the post-independence constitution of 1959, establishing democratic rights, structures and procedures for Tunisia as "a civil state based on citizenship, the will of the people, and the supremacy of law." It clearly affirms the rights of free expression and media independence in its Article 31:

Freedom of opinion, thought, expression, information and publication shall be guaranteed. These freedoms shall not be subject to prior censorship."

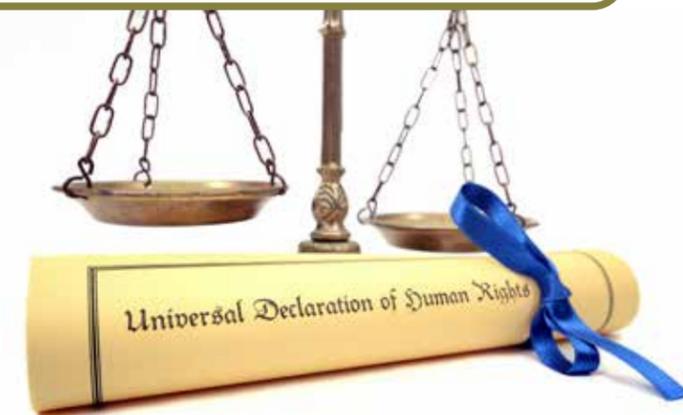
Freedom of opinion, thought, expression, information and publication shall be guaranteed. These freedoms shall not be subject to prior censorship."

Despite those constitutional safeguards, independent media still face potential legal risks from content deemed culturally or religiously offensive. Tunisia's telecommunications code makes it a criminal offense to "harm others or disrupt their lives through public communication networks," and the penal code criminalises public speech or publications that could "cause harm to the public order or public morals," including from statements perceived to be critical of Islam, which is constitutionally recognised as the state religion. Legal actions against media have been rare, however, since the constitution's 2014 ratification. Tunisian print, broadcast and online news outlets enjoy legally protected freedoms with few parallels in the Arab-speaking world. The numbers of radio and television stations have more than tripled since the establishment of democratic government and adoption of the constitution, reflecting both the political opening and more transparent broadcast licensing procedures. Online news sites have also proliferated. But the number of newspapers has plummeted, from more than 200 under the prior regime to an estimated 50 or fewer in 2020, in part because many had been dependent on state advertising and other government support.

Global treaties and international principles for freedom of expression

The international legal principles and frameworks governing the news media are derived from broader human rights guarantees of freedom of expression and public access to information.

The most important of these in terms of scope, history, the establishment of legal precedents, and precise articulation of those rights are the two "Article 19s" of the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966. Both the "UDHR" and the "ICCPR" set templates for many subsequent regional accords on human rights and civil liberties, as well as providing guiding frameworks for international and regional institutions devoted to protecting those rights, as seen in the examples cited further below.



These are the texts of each Article 19, from the UDHR and the ICCPR, respectively:

- **Universal Declaration of Human Rights:** 'Everyone has the right to the freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'

- **International Covenant on Civil and Political Rights:**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.'

These two foundational documents of the United Nations affirmed the linked principles of free speech, free media and public access to information – the people's 'right to know' – as fundamental human rights and cornerstones of democratic governance.

The Universal Declaration of Human Rights (UDHR) was adopted by the founding members of the United Nations in 1948 as a statement of principles, which while not legally binding on UN member states articulated the guiding vision and aspirations of the new international body. The prescient language of its Article 19 – recognising the rights of freedom of expression and information “through any medium and regardless of frontiers” - has deeply influenced the drafting of many national constitutions, regional human rights accords, and charters of civic organisations and human rights campaigns throughout the world ever since.

In 1966, the International Covenant on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly in 1966 as a multilateral treaty and later ratified by the legislatures of UN member states, with all the attendant legal obligations for those signatory governments.

In contrast to the UDHR version of Article 19, the ICCPR text includes provisions for “certain restrictions” on media freedom, to protect “national security” or “public morals.” In its guidance for the proper interpretation and enforcement of the ICCPR's Article 19, the UN Human Rights Commission has cautioned

that government use of these exceptions should be minimal, targeted, and “necessary” under the terms of national and international law, stating additionally: “Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they were predicated.” (See full text of the UN Human Rights Commission 'General Comment number 34' on Article 19 in Annex 2.)

UN human rights authorities and experts in freedom-of-expression law advise that any limitation on press freedom imposed by national governments on the basis of these ICCPR 'restrictions' should meet what is known under international law as the “three-part test” : it should be 1) clearly 'provided by law' under one of the specified Article 19 exceptions; 2) serve a provably 'legitimate' public policy purpose under those terms; and 3) be demonstrably 'necessary' for the achievement of those specific declared legal or policy aims.

The ICCPR also permits additional and specific legal restrictions regarding the dissemination of propaganda for war and, particularly, on hate speech, stating in its Article 20 that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

As with Article 19, UN authorities have issued detailed guidance to avert excessively restrictive national interpretations of these Article 20 provisions, with the aim of protecting legitimate political discourse, media freedom, and artistic expression. The 2013 UN “Rabat Plan of Action” on hate speech sets what the UN defined as “a high threshold for defining restrictions on freedom of expression, incitement to hatred, and for the application of article 20 of the ICCPR,” with a six-part “threshold test” taking into account:

1. **The social and political context,**
2. **Status of the speaker,**
3. **Intent to incite the audience against a target group,**
4. **Content and form of the speech,**
5. **Extent of its dissemination and**
6. **Likelihood of harm, including imminence.**



UN support for media rights: Agencies, policies, and responsibilities

Though the Article 19 commitments of the ICCPR apply to the UN member states that signed and ratified the Convention, the United Nations is itself obligated to monitor and assist their enforcement. The two UN institutions most directly responsible for upholding and defending press freedom are the Office of the UN High Commissioner of Human Rights and UNESCO, the UN agency that is explicitly mandated to support independent media and public access to information and monitor progress and problems in this area.

Of the senior UN officials who report directly to the Secretary General, the High Commissioner of Human Rights has the most direct responsibility for documenting and responding to violations of media rights, under the terms of Article 19 of the ICCPR. The High Commissioner serves as the chief policy advisor to the UN Human Rights Commission, which is comprised of a rotating elected membership of UN member states.

The High Commissioner's office also proactively supports press freedom through its mandate to provide “technical expertise” on human rights issues to governments and to help individuals to “claim their rights.” The Commissioner has also advocated exten-

sively for the right of public access to official information, including in intergovernmental organisations, beginning with the UN itself.

The United Nations Human Rights Committee is the body responsible for overseeing compliance with the rights enshrined in Part IV of the ICCPR (including article 19). The Committee has issued various Comments regarding freedom of opinion and expression, as well as specific country reports describing the progress made and the challenges faced by Member States in the protection of this right. In General Comment no. 34, of particular relevance, the main elements of the right to freedom of expression within the universal system of human rights are developed.

The Human Rights Council is an inter-governmental body within the UN system made up of 47 States responsible for the universal promotion and protection of human rights. The Universal Periodic Review (UPR) is the 'human rights exam' all UN Member States take every 5 years. 42 States are peer-reviewed each year during three Working Group sessions. The UPR is a unique mechanism of the Human Rights Council aimed at improving the human rights situation on the ground of each of the 193 UN Member States. NGOs can actively contribute to the UPR process through so-called stakeholder submissions. Each UPR review is based on 3 reports about the human rights situation from the State under Review that are produced by the State under review, civil society and

national human rights institutes, and the Office of the UN High Commissioner for Human Rights.

Human Rights Council's Special Procedures mandate holders are made up of special rapporteurs, independent experts or working groups composed of five members who are appointed by the Council and who serve in their personal capacity. Special procedures mandate holders undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to States and other actors bringing alleged violations or abuses to their attention; conduct thematic studies and convene expert consultations; contribute to the development of international human rights standards; engage in advocacy; raise public awareness; and provide advice for technical cooperation.

In particular, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression is an independent expert appointed by the United Nations Human Rights Council. The Special Rapporteur's main responsibility is to study cases and write reports on the global situation of the rights to freedom of opinion and expression, as well as to develop standards for issues connected with the protection and safeguarding of this right. There are other rapporteurs who work on themes that overlap with freedom of expression and media freedom issues, such as cultural rights, minority issues, arbitrary detention, torture and disappearances.

UNESCO's mandate is to promote and protect press freedom and "the free flow of ideas by word and image", in the language of its charter. As a practical matter, UNESCO

provides policy guidance, technical support and systematic documentation of progress and reversals for the cause of press freedom around the world.

Supporting freedom of expression and information is the responsibility of all UN officials and institutions, however, not just those specifically devoted to the tasks of defending human rights generally or freedom of information specifically. That obligation was reinforced by the unanimous 2015 adoption by the 193 UN member states of the Sustainable Development Goals, or SDGs, in which all signatories pledged in Target 10 of SDG16 to "ensure public access to information and protect fundamental freedoms," including press freedom. Progress toward this and the



other global goals is being monitored formally and publicly by the UN through the year 2030, based on annual reporting from its member states.

The indicators adopted by the UN to measure compliance with SDG16.10 include the adoption and "implementation" of access-to-information laws, and assessments of the safety of working journalists, as measured by incidents of unlawful or punitive detention and targeted assassinations of news media personnel. UNESCO leads these documentation and awareness-raising efforts, with support from the High Commissioner for Human Rights.

Led by UNESCO, UN agencies and field offices are also collaborating on the "UN Plan for Action on the Safety of Journalists and the Issue of Impunity." This initiative has the explicit backing of the UN Security Council and General Assembly, each of which has passed resolutions in recent years calling on the UN agencies and Secretariat to take measures to protect journalists operating at great risk in conflict zones and in countries with high indices of criminal violence and threats to press freedoms. These steps include assistance where requested by member states in the investigation and prosecution of violent crimes against journalists which are intended to discourage or punish independent reporting.

There are also voluntary networks of UN member states with commitments to strengthen media freedom and government transparency, both in their own home countries and internationally. The Global

Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies – known more succinctly as the 'Alliance for SDG16' – is a group of UN member states that have pledged to cooperate on SDG16 priorities, including commitments to access to information and the safety of journalists. Other coalitions of UN members such as the Open Government Partnership (OGP) and the Community of Democracies also promote press freedom, access to information, and anti-corruption policies.

Background: Regional institutions and accords

Between the national realm of national constitutions and authorities and the global arena of international legal instruments such as the ICCPR and institutions such as the United Nations, there is a critical intermediary layer – another concentric circle – comprised of regional groups of nation states.

The most institutionally developed of these regional institutions are the Council of Europe, the African Union (AU), and the Organization of American States (OAS). Other important norm-setting regional bodies include regional security alliances, subregional trade pacts, and treaty bodies and policy coordination groups in areas such as human rights and environmental standards. These three regional associations have varying degrees of oversight and influence on the sovereign states that make up their memberships, but all are increasingly important in setting regional standards on a wide range of civil liberties and media issues, including protections for journalism and guarantees of access to both official and independent information.

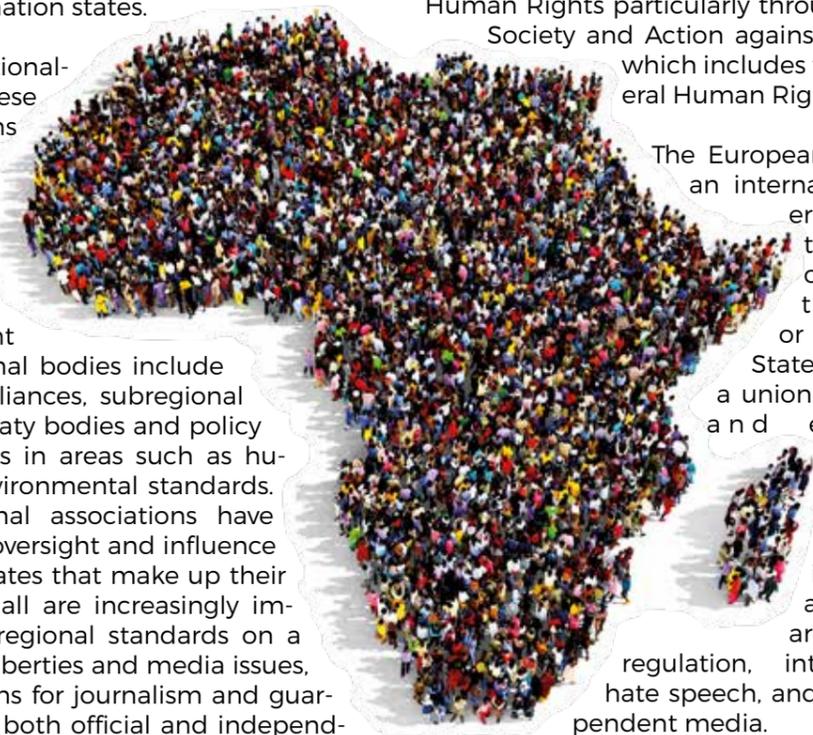
The AU, comprised of 54 countries with a combined population of about 1.3 billion, is an increasingly important force in setting continental standards for media rights and public information regulations. In the Americas, the OAS, with 35 members, including every nation in the Western Hemisphere except Cuba, has shared treaty commitments to freedom of

media and information and regional institutions – a human rights tribunal and commission; a rapporteur monitoring free expression issues – which provide supranational protections for press freedom and public access to information. Asia is an exception to these regional integration trends, due to its immense scale and complexity, but the ten-nation ASEAN bloc in Southeast Asia is taking on some comparable regional normative and institutional rules.

The Council of Europe (CoE) is the leading human rights international organisation in Europe. The Committee of Ministers and the Parliamentary Assembly, assisted by committees such as the Steering Committee on Media and Information Society, adopt soft law standards that guide and assist in the interpretation of the Convention. The CoE keeps freedom of expression and media standards under constant review and provides assistance to ensure their respect, in line with Article 10 of the European Convention on Human Rights particularly through the Information Society and Action against Crime Directorate, which includes the Directorate General Human Rights and Rule of Law.

The European Union (EU) is not an international or inter-governmental organization. The EU is based on a series of treaties that create a group or "confederation" of States which operate as a union in relevant political and economic aspects. It has been playing an increasingly important role in shaping shared policies in such critical and legally complex areas as audiovisual regulation, internet governance, hate speech, and public aid to independent media.

With 27 countries and nearly 450 million people, and an economy larger than either the United States or China, the European Union would have a global impact in these policy areas even if its actions only affected EU member states directly. But EU policies have repercussions beyond Europe's borders, in part because they affect the global behaviour of transnational corporations that cannot thrive without a com-





petitive presence in the European market. Much as emissions standards for automobiles set by the U.S. state of California become de facto global standards for major automakers – most big automobile manufacturers depend significantly on sales in the United States, the world's biggest market, and there is no practical way to sell cars in the U.S. without meeting environmental requirements in the country's largest state – the social media rules set by the EU in such areas as data privacy, anti-monopoly restrictions and editorial content liability may soon become international regulatory norms as well.

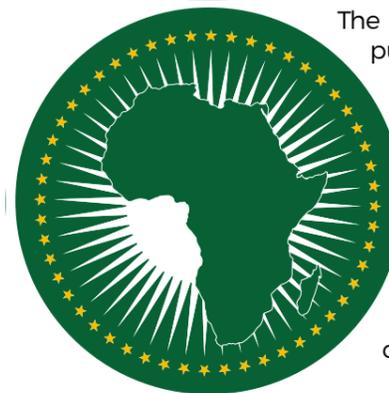
These emerging EU standards and policies are closely watched by lawmakers in the trilateral North American trade bloc (Canada, Mexico and the United States) and are being studied as possible regulatory norms in other regional intergovernmental bodies.

The OAS and AU both have formal cooperation agreements with the EU in the areas of human rights and civil liberties, including freedom of information and media. Each of these regions can learn from the legal systems and practical experiences of the others in this area, experts agree. Judges in Latin America, for example, have cited decisions by the European Court of Human Rights in cases involving media requests for public disclosure of official documents.

Africa: The African Union.

The AU has clear treaty commitments to the principles of press freedom and public access to information, with institutional structures to advocate for and help implement those rights. The AU's African Charter on Human and Peoples' Rights states unequivocally in its Article 9 that: 'Every individual shall have the right to receive information' as well as the right 'to express and disseminate opinions within the law.' The rights of free and independent news media and the rights of all to 'seek and receive' information from governments and others are delineated in detail in the Declaration of Principles on Freedom of Expression in Africa, which was adopted by the AU-affiliated African Commission on Human and Peoples' Rights in 2019, in an updated and expanded version of the earlier Declaration, with extensive new guidelines for freedom of expression principles and practices in internet forums and platforms (see Chapter 6). The Declaration also includes recommended governance standards for public broadcasters, among other provisions relevant to both publicly and privately owned news media organizations.

The African Commission on Human and Peoples' Rights has been increasingly active in promoting media rights, access to information laws and broader goals of government transparency. In 2004, the Commission established the office of the Special Rapporteur on Freedom of Expression and Access to Information in Africa with a wide-ranging mandate in the field, including the authority 'to analyse national media legislation, policies and practice within [AU] Member States, monitor their compliance with freedom of expression and access to information standards in general and the Declaration of Principles on Freedom of Expression in Africa in particular, and advise Member States accordingly.'



The Rapporteur's office has published a 'model law' on access to information as guidance for national ATI statutes and policies on access to information rights and procedures specific to national election periods, among other reports and policy manuals.

The AU's other principal body empowered to promote and protect press freedom and access to information under terms of the African Charter is the African Court on Human and Peoples' Rights, based in Burkina Faso. This regional court has not yet acquired legal influence comparable to its counterpart institutions in Europe or the Americas, however. As of 2020, the African Court's authority had been recognized in principle by just 30 of the 55 AU member states, with only eight countries further recognizing the Court's right to hear and rule on cases brought by individuals or non-governmental organizations in their national jurisdictions.

Asia: Central, South, East and the Pacific.

By some standard geographical definitions, "Asia" stretches from the southeastern Mediterranean to the archipelagos of the South Pacific. As an extraordinarily diverse and physically immense area that is home to more than half the world's population, Asia is not and has never been an administratively integrated region. It does not have shared institutions and legal instruments such as those established within Africa, the Americas and Europe.



Nor, many Asians would argue, does Asia have shared histories and cultures of the kind that have facilitated intraregional integration in Africa, the Americas and Europe. As a consequence, there are no formally agreed regional human rights pan-Asian standards nor enforcement mechanisms for media independence, public access to information or for freedom of expression more generally. Moreover, the region's largest and most influential country would actively oppose such regional measures or accords were they to be proposed.

Even Asia's subregions are immense in terms of both population and economic output: Southeast Asia alone, though less populous than either South Asia or East Asia, has more people than North America and the European Union combined. Yet on this subregional level there are some significant commonalities, shared commitments, and important intergovernmental institutions. The Human Rights

Declaration of ASEAN – the Association of Southeast Asian Nations, comprised of ten neighbouring member states stretching from Myanmar in the ASEAN northwest to Indonesia’s Papua provinces in its Pacific southeast – explicitly recognises the rights of freedom of opinion and expression, paraphrasing Article 19 of the UDHR in its own Article 23:

“Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person’s choice.”

In 2016, the ASEAN countries adopted a ten-year, four-point ‘Strategic Plan for Information and Media’, of which the first stated priority is: ‘Advancing cooperation and ASEAN-level agreements to provide regional mechanisms to promote access to information.’ Many member states of the Arab League are categorised as “Asian” under some international agreements. (Seven northern African members are also member states of the African Union.) The Arab League’s Arab Charter on Human Rights recognises in its Article 32 “the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries,” echoing the language of Article 19. The Charter has no binding enforcement mechanisms, however. The Arab League’s recently founded Arab Court of Human Rights cannot review cases or receive direct complaints or requests for action from individual or institutions in League member states.

The Organization of American States and the Americas: North, Central & South.

The OAS has 35 member states, ranging widely in size and economic strength, from such small low-income countries as Haiti and El Salvador to the region’s superpower, the United States. Cuba is the only nation in the Western Hemisphere that is not an OAS member. The combined OAS population is about one billion. The OAS actively promotes media freedom and public access to information as rights guaranteed by its Charter and other regional treaties and accords. This includes technical and policy support for the drafting and enforcement of access to information laws and legal protections for independent news media.

The American Convention on Human Rights, the binding charter of the OAS member states, echoes the commitments of Article 19 of the UDHR and IC-CPR, stating in its Article 13: ‘Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice.’ Article 13 goes further: ‘The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions...’

The OAS Inter-American Court of Human Rights has ruled that Article 13 of the Convention expressly ‘protects every person’s right to access information under the control of the State, with the exceptions permitted under the strict regime of restrictions established in the Convention.’ The Court, based in Costa Rica and functioning as a regional court of appeal for human rights cases, has overturned several national court rulings supporting government refusals to grant public information requests, setting legal precedents for the public right to information not just in the country in question, but throughout the region as a whole. The Inter-American Court has also issued important rulings on the right to publish without prior censorship, countermanding national court decisions to restrict publication of journalistically factual material on broadly asserted national security grounds.

In parallel, the Inter-American Commission on Human Rights and its Special Rapporteur for Freedom of Expression provide legal analysis and policy guidance for OAS member states on press freedom rights and the principles of public access to information. The OAS Rapporteur for Freedom of Expression collaborates actively with counterparts in the UN, the AU, and the OSCE, which together regularly issue joint statements of concern and policy recommendations for collective action to strengthen media freedoms and protections.

In 2010, at the request of OAS members, the OAS Department of International Law drafted an influential ‘model law’ on access to information which was adapted by several Latin American countries for their own statutes. Most OAS member states have now enacted access to information laws, with recent laws

in several Latin American countries – Mexico, Brazil, El Salvador, Uruguay – considered by experts to be among the best of their kind in the world.

UNESCO, in partnership with the OAS and the Ibero-American Network of Law Schools, has trained hundreds of Latin American judges in this important emerging area of Inter-American law, with detailed online courses and in-person seminars on legal principles and precedents pertinent to freedom of expression, public access to information, and the safety of journalists. The program “toolkit” or course manual is a useful reference resource on media law for Latin American journalists and academic specialists as well as for practicing attorneys and judges (Caja de herramientas para escuelas judiciales iberoamericanas: formación de formadores en libertad de expresión, acceso a la información pública y seguridad de periodistas).

Europe: Council of Europe, the Organisation for Security & Cooperation and the European Union.

The Council of Europe and European Court of Human Rights

The European Convention on Protection of Human Rights and Fundamental Freedoms was adopted in 1953 and remains Europe’s preeminent regional human rights instrument. In its Article 10, a slight rephrasing of the UDHR’s Article 19, the Convention states: ‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.’

The 27 current EU member states are all signatories to the European Convention on Protection of Human Rights and Fundamental Freedoms, as is the European Union itself. The Convention’s other signatories include 20 European countries which are not EU member states, among them Norway, Russia, Switzerland and the United Kingdom. The Council of Europe oversees enforcement and implementation of the Convention’s binding human rights guarantees.

The Convention established the European Court of Human Rights as a tribunal to rule on cases brought by people in signatory states who contend that their rights as defined by the convention have been violated. Its decisions are implemented by the Council of

Europe, which was also founded in conjunction with the 1953 Convention. As it has already been mentioned, the Council maintains an active online ‘Platform to promote the protection of journalism and safety of journalists’ with an archive of Court judgments and Council actions in that area.

The CoE has adopted several subsequent accords and protocols protecting press freedom and public access to information, among them its Convention on Access to Official Documents. Adopted in 2009 and ratified by ten European nations as of 2020, the Convention guarantees the right of access to all official documents held by public authorities, with exceptions for information restricted from dissemination on clearly defined grounds, such as security or privacy. The Convention has been welcomed by journalists and civil society leaders as a major legal and practical advance in this area. As the Council of Europe notes, the Convention ‘is the first binding international legal instrument to recognise a general right of access to official documents held by public authorities.’

The Platform to Promote the Protection of Journalism and the Safety of Journalists is a public space to facilitate the compilation, processing and dissemination of information on serious concerns about media freedom and safety of journalists in member States. This is a project launched upon the signature of an agreement between the CoE and a series of international NGOs and associations of journalists. Currently the Platform counts of 14 partners from this field.

The Platform allows the contributing partners to post alerts, subject to their own verification processes and standards. Each contributing partner is responsible for information which it posts. When the circumstances allow it, the Council of Europe and a member State which is directly referred to in information posted on the platform may post reports on action taken by their respective organs and institutions in response to that information.

The Organisation for Security and Cooperation in Europe

Another important regional institution in this field is the Organisation for Security and Co-Operation in Europe (OSCE) whose 57 participating countries include all 27 EU member states. The OSCE also has partnerships for development cooperation with six countries in the MENA region: Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia.



The OSCE engages in research, advocacy and technical support for media freedom and the right to information, primarily within its own pan-European region but also internationally. The OSCE places special emphasis on issues related to the 'safety of journalists, media self-regulation, access to information, professional reporting on the internet, freedom of expression and new media technologies.'

The OSCE states further: 'The Organization promotes sharing of best practices across the OSCE region to strengthen freedom of the media in line with international standards and OSCE principles and commitments.' The OSCE's work in this field is led by the office in Vienna of its Representative on Freedom of the Media, which the OSCE calls 'the only inter-governmental institution mandated to protect and promote media freedom in 57 OSCE participating States.' The OSCE Representative has two assigned priorities: 'observing media developments as part of an early warning function; and helping participating States abide by their commitments to freedom of expression and free media.'

European Union: EU Accords, Institutions and Policies

The EU strongly supports the principles of media freedom and public access to information as fundamental rights of all people in its own jurisdictions, as well as elsewhere in the world. Freedom of expression and information is enshrined in its founding agreements as binding obligations for all EU member states and as essential to the functioning and le-

gitimacy of the institutions of the European Union itself.

These rights are stipulated in the EU's legally binding Charter of Fundamental Rights, adopted in 2000 by the European Parliament and the European Commission and Council of Ministers and ratified by all EU member states in the Treaty of Lisbon in 2009. All laws and actions by EU member states must be consistent with the Charter's provisions. The Charter closely follows the specifications of citizens' rights and governments' obligations in the European Convention.

The Court of Justice of the EU has the authority to countermand national policy actions or nullify national laws held to be in contravention of citizens' rights under the terms of the Charter, which incorporate commitments from previous regional and international human rights accords to which all EU members are signatories. The Charter's Article 11 on "Freedom of Expression and Information" states the following:

- *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*
- *The freedom and pluralism of the media shall be respected.*

In 2014, the EU adopted the "EU Human Rights Guidelines on Freedom of Expression Online and Offline," as policy guidance and a summary of EU legal

obligations in this area for EU institutions, officials, and member states. These guidelines also apply to EU international development programs beyond Europe, with six stated priorities:

- **Combating violence and threats to exercise of Freedom of Expression and impunity for such crimes;**
- **Promoting laws and practices that protect Freedom of Expression; promoting Media Freedom and Pluralism;**
- **Discouraging interference with impartial or critical reporting;**
- **Promoting and respecting Human Rights in cyberspace and ICTs;**
- **Promoting Best Practices by Companies;**
- **Promoting Legal Amendments and Practices to strengthen Data Protection and Privacy.**

Through grants and policy support, the EU is increasingly active in aiding voluntary national press councils and other mechanisms for self-regulation of the news media.

The European Union has also taken recent legal steps to protect rights to information and privacy in the digital and corporate realm. Its newly adopted General Data Protection Regulation (GDPR) requires social media companies to abide by GDPR restrictions on the use and sharing of personal user data and to provide users with access to personal information collected by those corporations. The GDPR rules for managing, archiving, and providing access to personal data also apply to governments and other public institutions.

DIALOGUE

- What are the provisions in your own constitution regarding freedom of expression and media independence? In your opinion, should constitutional guarantees of press freedom respected by executive authorities and protected by national courts? If yes why and if not why not
- In your opinion, are regional or international institutions in the protection of press freedom relevant rights in your country? Are journalists and civic leaders in your country aware of national obligations in this area under regional accords or international law?
- Should media organizations or civil society groups do more to strengthen public awareness and state enforcement of national and international legal protections for free speech, media independence, and public access to information? Please motivate your answer

Box 1 Media Indicators: Evaluating the “enabling environment” for independent journalism

State regulation and self-regulation are critical factors in the functioning of independent news media, but are not the only important determinants: What academic analysts call the “enabling environment” for public-service journalism is comprised of a wide range of elements, many outside the effective control of the media itself, and some beyond the capability of governments to affect significantly. These include social values, national economic structures, political legacies, the fairness and effectiveness of law enforcement, national communications infrastructure, gender and racial equity, educational levels, labor standards, language barriers, and many other variables.

In 2008, following extensive regional research and consultations with scores of experts around the world, UNESCO published a detailed set of indicators for assessing the state of media development on the national level, with a primary emphasis on the “enabling environment” for editorially independent and economically sustainable news media. This UNESCO “framework” for media indicators was then adapted and updated for national use in a wide range of countries, with assessments in each of its five interrelated media development categories :

1. A **system of regulation** conducive to freedom of expression, pluralism and diversity of the media: existence of a legal, policy and regulatory framework which protects and promotes freedom of expression and information, based on international best practice standards and developed in participation with civil society.
2. **Plurality and diversity** of media, a level economic playing field and transparency of ownership: the state actively promotes the development of the media sector in a manner which prevents undue concentration and ensures plurality and transparency of ownership and content across public, private and community media.
3. Media as a **platform for democratic discourse**: the media, within a prevailing climate of self-regulation and respect for the

journalistic profession, reflects and represents the diversity of views and interests in society, including those of marginalised groups. There is a high level of information and media literacy.

4. **Professional capacity building** and supporting institutions that underpins freedom of expression, pluralism and diversity: media workers have access to professional training and development, both vocational and academic, at all stages of their career, and the media sector as a whole is both monitored and supported by professional associations and civil society organisations.
5. **Infrastructural capacity** sufficient to support independent and pluralistic media: the media sector is characterised by high or rising levels of public access, including among marginalised groups, and efficient use of technology to gather and distribute news and information, appropriate to the local context

More than 20 countries conducted assessments of their national media environments based on the UNESCO Media Development Indicators. The “MDIs” were later further refined in partnership with the UNESCO Statistics Institute and used for a series of evaluations in another 60 countries. Reports summarizing these evaluations are available online from UNESCO and are a valuable resource for media professionals, academic researchers and civil society activists analyzing media regulation and self-regulation on the national level.

Separately, in 2010, UNESCO published another set of indicators to gauge gender equity and “sensitivity” in both the editorial content of news media reporting and the management and staffing of news organizations. Among the many measurements employed are data on gender balance in quoted news sources and the representation of women in the senior ranks of editors and media executives.

Developed in partnership with the International Federation of Journalists, UNESCO’s “Gender-Sensitive Indicators for News Media ” are currently being revised after further consultations with journalists and experts in media and gender issues.

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CHAPTER 2

OFFICIAL REGULATION: STATE AGENCIES, MINISTRIES & COURTS

The primary aim of this programme and manual is to seek practical ways to strengthen public trust in independent journalism and protect it from unnecessary and disproportionate state interventions through voluntary “self-regulatory” practices within the news profession itself.

These include codes of ethics, collaboratively managed institutions such as press councils, transparent best-practice reporting guidelines, proactive engagement with readers and viewers, and many other useful disciplines and mechanisms. The goal is to both improve the quality and public accountability of the news media and prevent undue official interference in their reporting or management.

But before examining self-regulatory systems for independent news media, or cooperative ‘co-regulatory’ mechanisms managed by media and government together, it’s important to first review generally accepted principles and mechanisms for legitimate regulation and oversight of media content or institutions. Some are primarily designed to support and protect news organizations and the free flow of “in-

formation and ideas,” while others are intended as setting the limits to the exercise of the rights to freedom of expression and freedom of information.

Enabling and “positive” legal mechanisms are considered essential by most media experts, independent journalists and news organizations in democratic societies. Limits and conditions to media freedom according to international standards and specialized regulatory oversight bodies are also widely considered legitimate, and even necessary in many cases.

Public adoption and enforcement of these laws and regulations must be fair, transparent, and professionally competent. Monitoring by the media itself of state regulatory policies and actions is also an essential element of “self-regulation” by journalists: Keeping a close watch on government in this as in all other areas is the news media’s job.

The role of the state in the field of communication is thus not only to refrain from interfering with the rights to freedom of expression and freedom of information, but to initiate actions and implement ac-

tive or positive measures which promote the exercise of such rights.

State regulation may constitute a legitimate instrument to frame the exercise of freedom of expression and to avoid unjustified violations of the rights of others and of other principles linked to the general interest. In any case, as noted already, such rule can only represent or impose and interference that is necessary and strictly proportionate to freedom of expression and must be clearly provided for by a legal norm.

General affirmative legal protections

Many countries have general legislation recognizing and protecting the rights of media

organizations and individual journalists to obtain and disclose information from both governmental and nongovernmental institutions and protect the identity of confidential sources, such as those provided under statutes, legal precedents, or constitutional provisions in:

- **Switzerland:** Explicit new safeguards for journalists preserving the anonymity of confidential sources added to the Swiss constitution’s press freedom provisions
- **Chile:** Court rulings overturned demands by military authorities for prior review and official redaction of published commentaries by and press interviews of former army officers regarding Chilean military policies and practices.
- **South Africa:** The protection of confidential sources upheld as a constitutionally guaranteed prerogative of news organizations by South Africa’s High Court, which recognized the “essential and critical role of the media” in democratic systems and said journalists’ “sources should not be revealed, particularly, when the information so revealed, would not have been publicly known.”

Access to information

The right to access to information is founded on the broader right to freedom of expression and encompasses the right of every individual to seek and obtain information held by public authorities. There are now almost 150 countries worldwide that have access to information laws. The proper recognition and protection of this right has become a basic pre-condition of a democratic society. The RTI Rating, a joint initiative of Access Info Europe and the Center for Law and Democracy encompasses the most relevant comparative law standards. The indicators are divided into seven different categories, namely: right of access, scope, requesting procedures, exceptions and refusals, appeals, sanctions and protections, and promotional measures.

In a recent global recognition of this principle, all 193 UN member states pledged to “ensure public access to information” as one of the commitments of UN Sustainable Development Goals, adopted to guide global and national development policies from 2016 to 2030. They further promised to report periodically on the implementation of access-to-information guarantees. Media and civil society groups provide parallel independent reports to both the UN and national audiences on the use and status of these laws. (See Box)

Many countries are also signatories to other binding regional treaties and agreements, such as the Council of Europe Convention on Access to Public Documents and the more recent Aarhus and Escazú agreements, which require governments to provide access to information on environmental issues such as air pollution and climate change.

Safety of journalists

Protecting media and journalists from attacks or intimidations of all nature, preventing such threats, and the issue of impunity constitute fundamental elements at the core of the effective and full enjoyment of the right to freedom of expression and freedom of information. Safety of journalists (including physical, psychological and legal angles) has been placed at the top of the priorities in the human rights agenda of most relevant international and regional organizations including the United Nations, UNESCO, the Council of Europe, the OAS, and the ACHPR

Civil libel laws

These laws provide legal recourse to individuals or institutions whose reputations or livelihoods have been unfairly harmed by falsehoods disseminated recklessly or maliciously by media organizations, individual journalists or other institutions or individuals. Civil suits against journalists for stories or statements deemed to be 'defamatory' or 'slandrous can result in fines or other penalties, including court orders in media cases for the publication of retractions or apologies.

Journalists' groups and media lawyers in established democracies acknowledge that people are sometimes wrongly and unfairly accused of wrongdoing in the media or other public forums and deserve a legal opportunity to correct the record and clear their names. It is also widely considered appropriate for judicial authorities to impose penalties on journalists or anyone else for making knowingly false and slanderous public accusations against innocent parties.

The corollary of the international media rights campaign against criminal libel statutes is recognition of civil libel laws as a legitimate and even sometimes necessary alternative. Yet civil libel laws can also be misused, with negative consequences for press freedom and independent journalism. Among the more common abuses of civil libel or defamation laws are:

- Excessive damage compensations, out of proportion to the gravity of the accused offense and often beyond the capacity of the journalist or news organization to pay, with bankruptcy sometimes the intended consequence of the financial penalty
- Libel "venue shopping," with plaintiffs seeking the most media-unfriendly national legal and judicial environments to file suits against news organizations for alleged defamation, regardless of where the story was originally published or broadcast (i.e., a libel suit filed in a UK court against a magazine based in the US, under the theory that digital publishing puts anything published anywhere under the domain of national laws elsewhere)
- Financial harassment of news organizations by corporations or wealthy individuals through the repeated filing of spurious lawsuits, to discourage critical reporting by raising legal defence costs

for media companies. This increasingly common practice of "Strategic Litigation Against Public Participation," or SLAPP, as the tactic is labelled, has prompted "anti-SLAPP" initiatives in the EU and elsewhere. A proposed EU anti-SLAPP directive would speed dismissal of such lawsuits and require litigants found to be abusing libel laws to pay legal fees incurred by defendants.

- Suits filed by public officials alleging that critical news coverage of a government or specific officials is 'defamatory' or unacceptably disrespectful of national leaders or institutions. These 'lèse-majesté' arguments against investigative reporting or critical commentary on heads of government or other officials have been rejected by national courts in many countries as well by international human rights officials and institutions. To the contrary, modern libel law cases in most established democracies set lower standards for proof of defamation or 'reckless disregard for the truth' for suits filed by public officials than by other private individuals, as public officials are subject to greater media scrutiny and public criticism than ordinary citizens. The UN Human Rights Committee has stated that "all public figures, including those who hold the most important political positions, such as Heads of State or Government, may be the legitimate subject of criticism and political opposition," and publishing or broadcasting a statement that "insults a public figure is not enough to justify the imposition of penalties."

Criminal legislation

Many countries in the world use criminal law provisions to ban hate speech and to protect rights and interests such as the right to reputation, religious sentiments, national security, the integrity of national symbols and the absence of discourse that may be particularly offensive to certain collectives.

Regarding the usually called crimes of slander and/or defamation, the already mentioned General Comment no. 34 by the UN Human Rights Committee declares that "State parties should consider the decriminalization of defamation and, in any case, the application of criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty". It also establishes that "simply considering that a declaration insults a public figure is not enough to justify the imposition of penalties" and that "all public figures,

including those who hold the most important political positions, such as Heads of State or Government, may be the legitimate subject of criticism and political opposition", as a result of which it "expressed concern regarding laws on matters such as lèse-majesté, contempt, lack of respect for authority, lack of respect for flags and symbols, defamation of the Head of State and protection of the honor of public officials", stating that "laws should not establish penalties whose severity depends on the criticized person. States should not prohibit any criticism of institutions, such as the armed forces or the administration"

Despite the prohibition of hate speech and propaganda for war under article 20 ICCPR, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has established that hate speech necessarily requires "the concurrence of a real and imminent danger of violence resulting from the expression, the author's intention to incite discrimination, hostility or violence and careful examination of the context in which the hate is expressed by the judiciary", taking into account that "although some types of expression may generate concern from the point of view of tolerance, civility and respect for others, there are cases in which neither civil nor criminal penalties can be justified", as well as that "the right to freedom of expression includes forms of expression that are offensive, disturbing and alarming", and therefore "not all types of incendiary, hateful and offensive expressions can be regarded as incitement", hence "the concepts should not be combined".

Regarding the impact of the adoption of certain criminal provisions aimed at penalizing terrorist activities, the UN Special Rapporteur on the promotion and protection of fundamental human rights and freedoms in the fight against terrorism has emphasized the need to restrict the criminalization of expressions to cases in which there is a "message to the public with the intention of inciting the commission of a terrorist crime, provided that such conduct, whether it advocates a terrorist crime or otherwise, leads to a risk of one or more crimes of such a nature being committed".

On the protection of religious sentiments as a possible basis to restrict freedom of expression, offending religious sentiments, General Observation no. 34 emphasizes that "the prohibition of demonstrations of disrespect for a religion or any other belief system, in-

cluding the laws on blasphemy, is incompatible with the Covenant", as a result of which it is not admissible for these prohibitions to give rise to the "prevention or punishment of criticism of religious leaders or remarks on religious doctrine or dogma".

In relation to public safety and public order, General Comment no. 34 recalls that this principle cannot be used to "suppress information of legitimate public interest that does not harm national security, to prevent the public from accessing this information or to prosecute journalists (...)".

Freedom of expression and COVID-19

The imposition of restrictions based on the protection of the right to health (particularly in the context of COVID-19) has been tackled by the UN Human Rights Committee on 24 April 2020, through a specific statement on derogations from the ICCPR in connection with the COVID-19 pandemic. The statement contains relevant specific indications including that States shall not derogate human rights protections if they are able to obtain their public health objectives on the basis of non-exceptional provisions, and the fact that freedom of expression and access to information and a civic space where a public debate can be held constitute important safeguards for ensuring that States parties resorting to emergency powers in connection with the COVID-19 pandemic comply with their obligations under international and regional human rights standards. On 14 July



2020, the United Nations Human Rights Council has adopted a resolution that requires States to “refrain from using (...) public health laws to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law, including by ensuring that all measures taken to counter threats related to (...) public health are in full compliance with international human rights obligations (...)”.

The United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has expressed in a report particularly focusing on disease pandemics and the mentioned right, that: “(i)ndividuals and their communities (...) cannot protect themselves against disease when information is denied to them, when they have diminished trust in sources of information, and when propaganda and disinformation dominate the statements of public authorities”

Last but not least, regarding the emerging issue of disinformation, it is important to stress that such a notion covers speech that falls outside already illegal forms of speech (defamation, hate speech, incitement to violence) but can nonetheless be harmful. It is in any case problematic as it has direct implications on democracy, it weakens journalism and some forms of traditional media, creates big filter bubbles and echo chambers, it can be part of hybrid forms of international aggression, through the use of State-controlled media, it creates its own financial incentive, it triggers political tribalism, and it can be easily automatised. Tackling disinformation requires undertaking a broad and comprehensive analysis incorporating diverse and complementary perspectives, principles and interests.

Due to the direct connection with the right to freedom of expression, an excessive focus on legal, and particularly, restrictive measures could lead to undesired consequences in terms of free exchange of ideas and individual freedom: general prohibitions on the dissemination of information based on vague and ambiguous ideas, including “false news” or “non-objective information”, are incompatible with international standards for restrictions on freedom of expression, State actors should not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda), State actors should, in accordance with their domestic and international legal obligations, and their pub-

lic duties, take care to ensure that they disseminate reliable and trustworthy information, including matters of public interest, such as the economy, public health, security and the environment, and public authorities must promote a free, independent and diverse communications environment, including media diversity, ensure the presence of strong, independent and adequately resourced public service media, and take measures to promote media and digital literacy.

All these principles do not only apply to possible criminal provisions but also to restrictions adopted via civil or administrative law legislations that do are not fully aligned with the three-part test standards mentioned above, particularly with regards to the need for such limitations to be necessary and proportionate.

Audiovisual/broadcasting regulation

Since the 50s of the 20th century, audiovisual media (mainly what is known as traditional audiovisual media, that is to say, radio and television) have been the object of particularly intense intervention by the authorities of the State. This intervention (generally known as “regulation”) has particular features compared to forms of State control vis-à-vis other means (in particular, written media). As a matter of fact, and precisely in application of the mentioned principle of proportionality, many States of the world have reduced the number of legal and regulatory rules applicable to written media to the minimum, thus leaving this space to co and self-regulation.

These are the most important areas which usually cover the regulation of audiovisual communication:

Content regulation: This implies the establishment of standards which directly govern the exercise of freedom of expression through the audiovisual media. These are standards that are oriented, in particular, to guarantee the honesty of information, the separation between editorial and commercial content, pluralism and diversity of voices, particularly in electoral periods, or the absence of content which incite hatred or discrimination.

Protection of minors: The protection of minors in the context of audiovisual services includes the introduction of restrictions and limitations which are geared

exclusively to protecting children and adolescents from content that may harm their physical, moral or social development. In some exceptional cases, this may lead to the prohibition of the distribution of certain content (in Europe, this applies to pornography broadcast via free over-the-air broadcasting). Normally, these are rather more restricted limitations, for example, the prohibition of the broadcasting of certain content during a specific time.

Pluralism: The guarantee of pluralism is one of the most important areas of regulation of audiovisual services in democratic societies. The standards aiming to protect pluralism impose duties and limits on the media power in order to promote the transparency of companies and to avoid the constitution of oligopolies or monopolies and, consequently, the decrease in the quality of public space and number of voices present there. The protection of pluralism and diversity is therefore not exclusively linked to the protection of free competition in the market for audiovisual communication services, but above all to the guarantee of the presence of diverse and plural discourses that allow free formation of the public opinion as well as the presence of different social groups in the audiovisual space. Pluralism has different perspectives: linguistic, cultural, territorial, content and genres, etc.

Public service media: The public service media consist of an activity carried out under the responsibility of the public authorities with the aim of providing citizens with audiovisual content that fully meets their needs in the field of information, culture, education and entertainment. This notion is to be differentiated from State media. State media is mainly a tool for the dissemination of propaganda and messages directly elaborated and decided by the political authorities. In these cases, there is not a real separation between the government authorities and its media apparatus, especially with regard to the editorial power of decision. UNESCO and several other international organizations have published best-practice guidelines for the governance of public-service broadcasters, emphasizing the critical importance of structures ensuring editorial independence and financial sustainability as shields against undue government political influence. A detailed UNESCO “comparative legal survey” of PSB corporations and regulatory systems illustrates the wide range of official oversight and support of public broadcasting in democracies around the world, with no single ideal governance model.

A few illustrative examples of successful PSB corporations are cited here below, with summaries of their different governance structures:

CBC, Canada:



The Canadian Broadcasting Corporation was created with strong legal protections for editorial independence, under the oversight of a board “comprised of prominent citizens from the fields of law, medicine, accounting, business and the arts, representing all regions of the country” with further customary or legal requirements for gender, language-group, and political balance. With both national and provincial-level news broadcasts, CBC is the dominant broadcast news provider for Canadians in all parts of the country, on both television and radio.”

PBCJ, Jamaica:



News programming with a high degree of public trust for accuracy and editorial independence; PBCJ operations are overseen by a board of directors including designated representatives from different professional fields (banking; accounting; law; education; the arts; sports) and civil society sectors (people with disabilities; human rights advocates; religious groups; women’s groups; youth groups; etc.)

NHK, Japan:



The Japanese national broadcasting corporation is overseen by a 12-person Board of Governors selected by the Prime Minister with the consent of both houses of parliament (the Diet). They must be deemed “capable of making fair judgements and having wide experience and knowledge of relevant issues, including the fields of education, culture, science and industry.” *Each of Japan’s eight regional districts must have at least one resident on the Board; governors cannot be civil servants, political party officials, or have “substantial interest” in any private media enterprise. No more than four Governors may belong to any one political party*

GBC, Ghana:

The Ghanaian Broadcasting Corporation is one of Africa's oldest and most respected public broadcasting corporations. It has gained increasing editorial autonomy and professional news-gathering capacity in recent years, with 24-hour news radio and television news operations widely trusted by the Ghanaian public for their accuracy and objectivity, including in the coverage of closely and hotly contested national elections. GBC's operations are supervised by a 10-member professional, non-political board, appointed and overseen by Ghana's National Media Commission (see chapter below on co-regulation)

NPR, United States:

National Public Radio in the United States has an unusual governance and financial structure compared to most public-service broadcasters. NPR is federally chartered but receives relatively little direct taxpayer support; it provides daily news programming for annual subscriber fees to hundreds of affiliated radio stations around the country, all operating as non-profit institutions, without commercial advertising. Many of these stations originated as radio services for universities or other educational institutions, with FM frequencies allocated for that purpose in the regulatory structure established for the U.S. broadcasting industry in the 1930s. Most now operate independently of those institutions, however, relying instead on revenue from donations by individual supporters and charitable foundations.

NPR's news programs are editorially independent and nonpartisan, with the largest national radio news audiences in the United States, far surpassing listenership for any of the country's commercial news networks. The NPR hybrid model of financing and managing a non-profit public-interest radio news service, with both centralized national news and independent local non-commercial stations, could potentially be adapted elsewhere, such as Latin America and sub-Saharan Africa, where community radio is common.

Advertising and other forms of commercial communication: Audiovisual communication service providers often use advertising and other forms of commercial communication (sponsorship, product placement, etc.) as sources of funding. It is therefore important to have, within the general framework of the regulation of audiovisual communication services, standards that limit and frame commercial content in order to grant adequate protection to adults and minors and avoid false advertising, abusive messages or harmful commercial content.

Independent regulatory authorities

The existence of a legal and regulatory system for regulating audiovisual content also requires the creation of the most appropriate authorities for its interpretation and application.

The creation and proper legal and institutional framework of the regulatory authority is undoubtedly one of the most sensitive issues in relation to the adoption of a specific model of regulation of audiovisual communication. The existence of independent reg-



ulatory authorities in the field of communication is justified within the framework of international standards and comparative practice in the fact that the audiovisual legal regime is very specific and highly technical, and therefore requires to be applied by an organization with a special degree of expertise, specialization and independence.

The independence of these authorities is postulated both vis-à-vis the political orientations of the government and the pressures or influences likely to be exerted by the sector which is the subject of regulation. Citizens must be enabled to appeal the decisions adopted by regulatory authorities before independent courts.

Public financing of media

From taxpayer-financed public broadcasters to public subsidies and grants to independent news organizations, there is a wide range of precedents and mechanisms for state economic support for the news media. Public financing initiatives are becoming more accepted in many countries as traditional commercial business models for news organizations lose ground to competition for advertising revenue from social media networks, with local newspapers and broadcasters cutting back on reporting capacity or shutting down entirely.

Yet there is an inherent tension between state aid to the news media and the commitments of journalists to editorial independence and investigative scrutiny of governments in their news columns and broadcast reports. Among many complex ethical and legal issues is the basic question of who qualifies: How does a government define a 'news organization' for the purposes of subsidies or tax breaks? Does a blog run by self-employed 'citizen journalists' qualify? If not, why not? Should tax incentives or financial aid be directed mainly to small local news organizations, as those are the most endangered? If so, how can 'small' be categorized? Staff numbers? Revenues? Population of the community they say they serve? Should energetic new online news services be prioritized for support? Or established small-town newspapers, which despite shrinking subscription and advertising income retain deep local reader loyalties and irreplaceable knowledge of local affairs and history? What are the best metrics to ensure that aid to news organizations is invested in journalism?

There are few easy answers to these questions. Both



long-established and newly proposed forms of public financing for independent news media provide some useful models and lessons, including:

Tax breaks for non-profit news: Also common in many countries are tax exemptions for non-profit news organizations. These mechanisms for indirect public support of news organizations include tax deductions for charitable contributions to these non-profit news sites and exemptions from sales taxes or import tariffs for purchases of essential tools and materials for news organizations, from printing presses and newsprint to radio studio equipment and transmission towers. Beneficiaries of these tax breaks range from small community radio stations to well-known online investigative journalism organizations to specialized news services operated by other non-profit institutions, such as universities and religious groups. There are opportunities in many countries to expand the scope and impact of such tax benefits for non-commercial news providers.

Direct aid to wholly independent news enterprises – whether private businesses or non-profit organizations – is a newer and more complex category of public support for media, however.

Some current illustrative initiatives of public financing of media



Canada “Local Journalism Initiative”

Launched in 2019, this Canadian federal government program of direct grants for the hiring of local reporters for independent local news organizations was based in part on similar projects in other countries, such as the privately funded “Report for America” in the US and BBC’s Local Democracy Reporting Service. The stated purpose of the Local Journalism Initiative (LJI) is to “support the creation of original civic journalism that is relevant to the diverse needs of underserved communities” by helping Canadian media organizations hire reporters to cover those communities.

The Local Journalism Initiative is administered by seven independent non-governmental organizations, representing different segments of the news media industry. In its first year, LJI grants were credited for the hiring of 105 journalists by 95 newsrooms across Canada, according to project managers.



New Zealand “Sustainable Journalism” fund

The New Zealand government’s “Investing in Sustainable Journalism” initiative was announced in 2021 as way to help local news organizations to “continue to produce stories that keep New Zealanders informed and engaged and support a healthy democracy.” The three-year program will provide more than \$40 million in direct grants for specific journalism projects that recipient news organizations say could not have been undertaken without this kind of additional financial support.

The government said the program is intended to help “provide transitional support to media organisations as the sector evolves in a way that ensures the longer-term sustainability of New Zealand’s media.” Managed by the public broadcasting corporation NZ On Air, the Sustainable Journalism fund says it is seeking proposals “from all NZ media entities: from large organisations through to small,



Sweden state support to private news organizations

local entities, and Māori, Pacific and ethnic media. Organisations must show their projects fill a public interest service and would otherwise be at risk or not produced without this fund’s support.”

[Details to be provided by Swedish colleagues; what I understand is the subsidy program’s targeted support to smaller newspapers (and also broadcasters?) in communities that might otherwise be served by one de facto monopoly newspaper – or by no local news organization at all. Also pertinent to other countries would be the selection and oversight systems set up to ensure editorial independence and eliminate suspicion of government favouritism.]



European Commission “NEWS Initiative”

This collective endeavour by EU member states is intended to strengthen the financial sustainability of independent news organizations by expanding and coordinating existing EU media support programs and providing new resources, through loans as well as investments in newsgathering operations. The European Commission says this “NEWS Initiative” will “increase the coherence, visibility, and impact of actions supported under different funding streams, while fully respecting the independence of the media.”

Direct equity infusions into private news companies can be facilitated through the ‘Invest EU’ investment guarantee program, with the EU “co-investing with funds coming from philanthropists, foundations, and other private partners,” the Commission said in launching the initiative in 2020.

In a parallel effort “to help the sector thrive in the digital economy and society,” the Commission announced plans to convene a “European News Media Forum to engage with stakeholders, including media regulatory authorities, representatives of journalists, self-regulatory bodies (media/press councils), civil society, and international organisations.”



Business regulations

Business regulations comprise a separate area of legitimate state oversight of media, with some regulations affecting most private companies in all industries, and others specifically applicable to media enterprises. Examples of the former include tax regimes, import tariffs, and licensing fees; labour codes, including safety and health protections and non-discriminatory employment practices; distribution and licensing rules; business reporting requirements for publicly held companies; cooperation with regulatory bodies; and other rules and oversight systems for private businesses, affecting though not specific to media organizations.

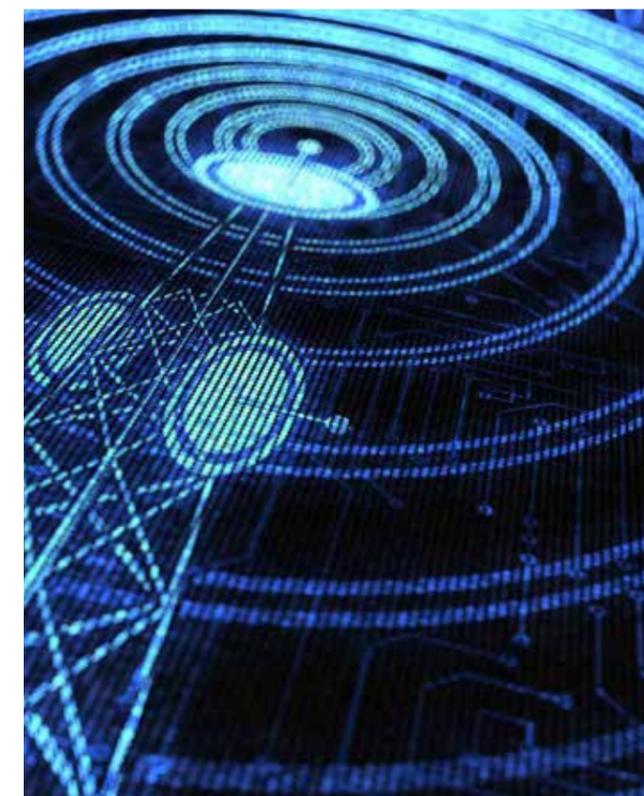
Government enforcement should be monitored by media and civil society organizations to ensure that these rules and standards are not applied selectively or punitively against news services for critical coverage of governments or other national institutions. This critically important principle has been emphasized in several international initiatives promoting freedom of expression and media independence.

The May 3 1991 “Declaration of Windhoek on Promoting an Independent and Pluralistic African Press” - a landmark statement of principles by African media,

civil society and political leaders that has been commemorated ever since in the UN’s annual May 3 celebration of World Press Freedom Day – took particular note of the importance of equitable and supportive enforcement of business regulations. The Windhoek Declaration specifically called on African governments to remove “economic barriers to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as newsprint, printing equipment, and typesetting and word processing machinery, and taxes on the sale of newspapers.”

Similarly, the 1994 “Declaration of Chapultepec,” signed by Latin America’s leading news organizations and journalism groups as well as heads of government in OAS member states, demanded non-discriminatory enforcement of business regulations affecting media enterprises:

“Tariff and exchange policies, licenses for the importation of paper or news-gathering equipment, the assigning of radio and television frequencies and the granting or withdrawal of government advertising may not be used to reward or punish the media or individual journalists.”



Business regulations that are specifically applicable to news media companies:

- Rules for corporate registration of media companies, such as disclosure of ownership and management structures of privately held media companies
- Special requirements for media management and ownership, such as prohibitions against foreign investors; preferential tax treatment or postal rates for locally owned news outlets primarily covering local news; anti-monopoly rules preventing corporate media dominance in a given geographical area or market segment; affirmative requirements for diverse (ethnic, language, regional) representation in management and/or ownership of broadcast licensees and related private media enterprises
- Public disclosure and independent audits of circulation data for newspapers and audience measurements for broadcast programs, as a means of ensuring consistencies in advertising rates, especially for state advertising, and in some cases for verifying eligibility for state subsidies or other support
- Regulations on the placement and content of advertising, for public health reasons; factual accuracy; protection of minors; adherence to political advertising strictures as stipulated by election laws; and other factors
- Anti-monopoly regulations, such as rules prohibiting joint ownership of dominant print and broadcasting news businesses in the same local media market; or requiring diversity of ownership in state allocation of national broadcasting licenses; or mandating the inclusion of a variety of news channels and other programming providers in locally licensed cable and satellite television services or internet service providers, which are often effective monopolies within given geographical areas

DIALOGUE

- Does your national government provide direct or indirect subsidies to independent news organizations? If so, how, and to what effect? If not, is such public support merited? Advisable? Potentially damaging to media independence? How might it work?
- Are national Access To Information laws and systems working as intended? Do journalists use them for investigative purposes? Is there public awareness of their rights to government data and documents and other information? Are media and/or academic institutions and/or civil society groups conducting independent assessments of ATI laws?
- Public Service Broadcasters: Does your country have one? If not, why not? If so, is it a publicly trusted independent news source? Does it have a wide audience? Do opposition leaders or other government critics appear on its news programs? If not, why not?

Box 2

Access to Information: a human right

The right to “access to information” is guaranteed under Article 19 of the UDHR and the ICCPR. This means that people are entitled to “seek and receive” information of all kinds – political, cultural, educational, economic, scientific – as a necessary corollary to freedom of expression and freedom of the press.

This right includes the narrower but critical realm of official data, documents and other information held by government institutions at every level, from the municipal to the international. It is in that latter sense – the public’s right to get information from the governments that serve them – that the principle of public access to information is most commonly understood, and legislated.

Access to information (ATI) laws have become indispensable tools for journalists and civil society activists, as well as for ordinary citizens seeking information about themselves and their communities. Yet until the 21st century, national laws guaranteeing this right were rare.

Sweden was the first country to enshrine this principle into law, in 1766, with the passage by the parliament in Stockholm of ‘His Majesty’s Gracious Ordinance Relating to Freedom of Writing and of the Press’, which abolished censorship of books and newspapers and required authorities to provide public access to official records. It was not until 200 years after that pioneering Swedish statute – in 1966 – that the U.S. enacted its Freedom of Information Act, widely considered the first such comprehensive legislation of the modern era. (A ‘FOIA request’ became generic journalistic shorthand for a formal appeal for government information.)

In 1970, Norway and Denmark adopted their own ATI laws, followed by France and the Netherlands in 1978, and Australia and New Zealand in 1982. Canada passed its Access to Information Act in 1983, and Colombia became the first Latin American country with a freedom of information statute in 1985. But for decades, those countries were exceptions.

As recently as 1990, only 13 nations had enacted access to information statutes. By 2020, however, nearly two-thirds of the UN member states had adopted such laws, reflecting the growing recognition that specific legal guarantees and administrative mechanisms are required to make this right a practical reality. Many other countries are now drafting similar laws.

In the UN Sustainable Development Goals, all UN member states pledged to ‘ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements [SDG16.10].’ Progress in achieving this goal is measured by the adoption and “implementation” of ATI laws, with data compiled by UNESCO from both official and nongovernmental sources. National governments are also presenting regular reports to UN monitoring bodies. In parallel, independent journalists’ groups and other civil society organizations are conducting their own evaluations of the use and effectiveness of national ATI laws, with a consistent methodology and reports submitted to UNESCO.

The SDGs commitment to access to information by all UN member states represents a potentially profound political change for people and governments worldwide: It is now a universally recognized principle that official information should be publicly available, except for narrowly defined legally defensible exceptions to that rule.

Until recently, even in long-established democracies, official records were commonly considered the property of the state, not the public, unless courts ruled otherwise. The SDGs requirement for public reporting on ATI progress by UN member states should accelerate implementation of these statutes and help dissuade future governments from repealing or declining to enforce ATI laws adopted under prior administrations.

In at least 90 countries, access to information laws are reinforced by specific constitutional guarantees of the public’s right of access to information. While providing clear guidelines for the executive and the courts and safeguarding this right for citizens now and in the future, these constitutional provisions must still be supplemented with statutes spelling out clear standards and

mechanisms for governmental disclosure of official information. Those laws often mandate the establishment of new state agencies and systems dedicated to providing physical and online access to official information. Equally important, many set requirements for the proactive disclosure of official information on government websites and other platforms.

In most cases, current laws meet or exceed accepted international standards for such legislation. Older ATI laws in long-established democracies of Western Europe and North America are often less comprehensive than the more recent laws of Africa, Asia, Eastern Europe and Latin America. South Africa's post-apartheid constitution includes what some consider the strongest articulation of that right in any constitution in the world, stating in its Section 32 that 'everyone has the right of access to any information held by the State' and ensuring the "horizontal application of the right of access to information held by another person to everyone when that information is required for the exercise or protection of any rights."

Many of these laws were passed only recently, however, and have yet to be fully implemented.

Every national law is different, just as every national political culture is different. An imperfect law can still be effective in a country where freedom of expression and information and government accountability has been the norm, not the exception. Conversely, a near-perfect statute will be ineffective if the government lacks either the capacity or commitment to implement the law. When there is political will, capacity gaps can usually be overcome.

Ultimately, though, public awareness of the laws – and the rights on which they are based – is the key to implementing access to information legislation, experience has shown. Particularly important is the active, visible use of these laws by the news media and civil society activists, which puts a public spotlight on its purpose and potential for positive social impact.

The Global Right to Information Rating index is an excellent online resource for understanding and evaluating these laws, with full texts and clause-by-clause comparative assessments of all

national ATI statutes. Yet even without that degree of detail, there are some general questions that journalists and others should ask about their own national ATI laws and systems:

- Can information requests be filed online? Are there rules for timely government responses to public queries? Are requested documents provided free or for a fee? \
- Is there an independent institution dedicated to overseeing the law? Does it have sufficient resources and enforcement powers? What is its technical capacity?
- Does the ATI law cover government at all levels – national, provincial, municipal? Does it apply to the legislature? The judiciary? Police and armed services? State corporations?
- How do journalists use the law? Is information from ATI requests cited in news stories? Have ATI laws helped journalists expose official mismanagement or corruption? Do national courts support the rights of journalists to obtain official records with ATI laws?

RESOURCES on Access to Information laws and rights:

- Freedom of Information Advocates Network: www.foiadvocates.net
- Rating of all ATI/RTI laws globally: www.RTI-Rating.org
- UNESCO International Day on Universal Right to Information: <https://en.unesco.org/idu-ai2017/about-day>



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CHAPTER

3

INTERNAL SELF-REGULATION: NEWSROOM ETHICS AND ACCOUNTABILITY

Reporters and editors and news broadcast producers around the world practice “self-regulation” on a routine daily basis without ever thinking about the term, or even the concept.

The exercise of journalism – as a craft, as a public service, as a personal vocation – has long been guided by codes of conduct, both written and unwritten, enforced voluntarily by individual journalists as a matter of self-discipline and professional pride, and also involuntarily, as directives by editors and publishers and other news managers, or as requirements for participation in professional bodies, such as journalists’ unions or media industry associations.

These professional codes or guidelines range from basic “tools of the trade” – how to verify and report facts, appropriate ways to conduct interviews, familiarity with the legal rights and obligations of working journalists, and so on – to broader ethical standards,

including a commitment to serving the public interest and seeking accountability from public officials “without fear or favour,” to quote one newspaper’s famous mission statement. It is in the best interest of both the journalism profession and the public at large when these principles of expected professional behaviour are codified and publicly communicated. Limited legitimate state regulation of the media is more likely to remain limited when it is paralleled by well-publicized professional codes of conduct for news organizations, including the articulation and enforcement of ethical standards and best-practice reporting procedures.

These standards-setting guidelines should be voluntary, not mandatory, and should be observed as an end in itself: raising the quality and credibility of news reporting and related public affairs coverage and commentary, in order to better serve the public interest.

Internally imposed codes reinforced by ‘external’ watchdogs and guidelines

Ideally, self-regulatory guidelines and systems combine mutually reinforcing ‘internal’ codes of conduct (adopted and enforced within each newsroom) and collective ‘external’ mechanisms for self-regulation, such as national professional associations, independent press councils, and media monitoring institutions in academia and civil society. Both are essential.

Unlike other professions with public service obligations – medicine, the law, policing, teaching – the practice of journalism does not require state licensing or certification of credentials. Nor should it. Everyone in a democracy is entitled to speak and publish freely on

any topic, regardless of their expertise in the subject, or whether or by whom they are paid to do so. Governments in democratic systems should not be permitted to decide who is and who is not a journalist. That is for peers and the public to judge.

For that reason, it is in the interest of working journalists and the news organizations that employ them to publicize and observe agreed professional guidelines. That in turn requires adequate professional training, either within newsrooms, or by journalism education programs. Public trust in the news media depends on confidence in journalists’ reporting competence and adherence to ethical standards, yet few newspaper readers or television viewers are aware of these professional codes of conduct. There is no single agreed itemization of ethical norms or best-practice reporting standards in the journalism profession, with written codes of conduct varying greatly from country to country and from newsroom to newsroom. Both internationally and nationally,

however, journalists’ unions and other professional associations have adopted codes or guidelines for the members reflecting a consensus within their membership on professional and ethical norms. Perhaps the most widely consulted example of a universal professional code of this kind is the “Global Charter of Ethics for Journalists,” first adopted in 1954 and revised most recently in 2019 by the International Federation of Journalists (IFJ), the leading global association of journalism unions, with scores of national and local affiliates around the world. The Charter’s 16 points cover a wide range of ethical obligations and professional ‘do’s and don’ts,’ beginning with this basic statement of principle: “Respect for the facts and for the right of the public to truth is the first duty of the journalist.” (see BOX: Global Charter of Ethics for Journalists)

These formal professional codes of conduct and other forms of voluntary external self-regulation still depend on internal observance of those norms by individual journalists and news organizations. Internal and external self-regulatory practices should be consistent and complementary and mutually reinforcing. Both are important – but without the first, with best-practice professional guidelines rigorously and conscientiously followed within news organizations and by individual journalists, the second ‘external’ dimension matters little.

Inward policies and practices within the newsroom

Media self-regulation begins in the newsroom. All serious news organizations must strive to adhere to basic professional standards of accuracy and fairness, and dedication to the public interest. Professional best practices include admission of mistakes and public disclosure of clearly articulated and enforced codes of ethics and ‘style’ guides.

Internal self-regulation in news organizations can be divided into two distinct though interrelated categories – ‘inward’-facing policies and practices within the newsroom, from procedures for reporting and editing to personnel management; and ‘outward’-directed mechanisms aimed at improving accountability and interaction with subscribers/viewers, subjects of reporting, and the public at large. Examples of ‘Inward’ internal self-regulation include:

Codes of Conduct

- i. Written codes of conduct, requiring adherence to clearly articulated ethical standards and reporting and publication/broadcasting procedures. These codes of conduct should be publicly accessible on the websites of news organizations and should be reviewed and revised periodically by staff reporters, editors, and other news managers. (One example of the need for continual reconsideration and revisions of these internal codes is the fast-evolving area of guidelines for staff professional personal use of social media sites, such as Facebook and Twitter.)

Among the most influential of these internally enforced codes of conduct in the news profession worldwide are the ethical guidelines for staff journalists at the leading international news agencies, such as AP, AFP, EFE, and Reuters. A representative excerpt from the former:

The 10 Absolutes of Reuters Journalism

- **Always hold accuracy sacrosanct**
- **Always correct an error openly**
- **Always strive for balance and freedom from bias**
- **Always reveal a conflict of interest to a manager**
- **Always respect privileged information**
- **Always protect their sources from the authorities**
- **Always guard against putting their opinion in a news story**
- **Never fabricate or plagiarize**
- **Never alter a still or moving image beyond the requirements of normal image enhancement**
- **Never pay for a story and never accept a bribe**



Some illustrative national examples:

In the United Kingdom, most news publishers voluntarily ascribe to the guidelines of the national Press Complaints Commission's Code of Practice, with detailed legal and ethical norms in areas such as privacy rights, the protection of sources, prohibitions on "clandestine devices and subterfuge," restrictions on personal investments by financial journalists, and some general principles and distinctly British admonishments ("The Press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact").

In contrast to accepted journalism ethics in many other countries, the UK Code permits payments by news organizations to confidential sources and interview subjects and others for their cooperation and information, with certain stipulated exceptions, such as jurors in an ongoing trial and "convicted or confessed criminals." The Code is often supplemented by internally adopted and enforced rules of conduct in news organizations, such as The Guardian, which contractually requires staff adherence to both PCC rules and its own "Guardian News and Media Editorial Code."

Many Latin American news publishers and broadcasting organizations have their own internal codes of professional conduct, as do the trade unions representing journalists in the region and professional associations of publishers and managers. (Among the many examples are the Code of Ethics adopted in 2015 by the Colegio de Periodistas in Peru and the 2019 Code of Ethics of the Asociación de Periodistas de El Salvador.) Journalism groups and press freedom advocates have also joined with civil society organizations and public officials in drafting public statements of principles for protecting journalists against violent attacks and for safeguarding the independence of media and civic voices in online forums in the region. Yet there is widespread recognition among journalists in the region that published professional standards are often insufficient, with many reporting challenges and situations requiring additional input from

colleagues and experts in the field. To help fill that gap, the Fundación Gabo in Colombia – founded by the late Nobel laureate novelist and journalist Gabriel Garcia Marquez – runs an online "Consultorio Ético" where Latin American journalists can seek and share professional advice on ethical questions.

The Independent Journalists Alliance of Indonesia was founded in 1994 at a time of harsh military rule and strict controls on local news media, yet it grew to become the country's preeminent journalists association and defender of press freedom. The AJI Code of Ethics is admirably straightforward, stating what journalists are and are not, and what they should do and shouldn't do. The Code says that journalists should:

1. Respect the public's right to obtain correct information
2. Always check information and only report facts and opinions with clear sources
3. Not confuse facts and opinions
4. Not hide important information of public interest
5. Provide a place for those who do not have the ability and an opportunity to voice their opinions
6. Maintain the principles of freedom and balance in reporting, reporting as well as criticism and comments
7. Reject any form of interference from any party that hinders press freedom and newsroom independence
8. Avoid conflicts of interest
9. Reject all forms of bribery
10. Use ethical and professional means of obtaining news, pictures and documents
11. Immediately rectify or withdraw news items found to be wrong or inaccurate, accompanied by an apology to the public
12. Respect the right of reply and the right to corrections
13. Not use their positions or information for personal gain
14. Not plagiarize
15. Reject ethical violations by other journalists
16. Reject hatred, prejudice, condescension, discrimination, in matters of ethnicity, race, nation, gender, sexual orientation, language, religion, political views, people with special needs or other social backgrounds
17. Respect the rights of sources to provide background information, off the record, and embargoes
18. Maintain the confidentiality of confidential information sources, the identity of victims of sexual crimes, and perpetrators and victims of underage crimes
19. Respect privacy, while serving the public interest
20. Avoid presenting news reports in publications or programs promoting obscenity, cruelty, violence, or sexual crimes
21. Uphold the presumption of innocence and avoid slander, defamation and character assassination



Stylebooks

- ii. 'Stylebooks' with detailed editorial guidelines going beyond standard vocabulary and grammar rules to stipulate proper phrasing and terminology of references to (for example) ethnic minority or religious groups; as with codes of professional conduct, editorial style guides should also be reviewed and updated regularly by newsroom managers.

Complementing or included in their internal professional codes of conduct, the stylebooks of international news agencies such as Reuters, AP, AFP, EFE and others are also often used as internal guides by news organizations subscribing to those news services, making them standard-setters for the news media globally. In the broadcasting industry, the internal standards of leading international networks play a similar role.

The BBC's internationally influential style guide is one of the few which are freely and accessible online, with ethical and best-practice reporting guidelines for BBC journalists as well as editorial terminology rules.

- The often overlooked social and political impact of editorial style guides can be seen in evolving journalism terminology used in covering migrants, from the once-common 'illegal aliens' to the less prejudicial 'undocumented workers' or 'unauthorized immigrants,' and the common confusion or conflation of such terms as 'asylum seekers' and 'refugees.' As noted by the International Centre for Migration Policy Development in a review of migration coverage by European and Middle Eastern news organizations, "The language of reporting is often laced with hate-speech and loose language, talk of "waves", "invasions" or "tides" and ignorance of the correct terminology to describe migrants, refugees, displaced persons and their status."
- Editorial style guides are also published by non-governmental and media organizations specialized in specific subjects (such as climate science or economics) or regions and population groups. In the US, for example, style guides are produced by the National Association of Black Journalists (with recommendations on "terms and language usage of special interest or relevance to our membership and our community") and the

National Center on Disability and Journalism ("for journalists, communication professionals and members of the general public who are seeking the appropriate and accurate language to use when writing or talking about people living with disabilities").

Personnel policies

- iii. Personnel policies and management: News organizations which editorialize against ethnic, racial, religious and gender prejudice in national political life and hiring and business practices should 'practice what they preach' internally, with non-discriminatory hiring and payment practices, including clear goals for redressing gender imbalance and minority under-representation. Increasing diversity in newsrooms is not just the right thing to do ethically, it is the smart thing to do journalistically, improving news coverage and reader/viewer connections within a wider range of communities and audiences. Other examples of best self-regulatory personnel practices include:

- Providing appropriate training, equipment, insurance, security and legal support for staff and freelance journalists on dangerous assignments, either locally or abroad
- Opening safe internal channels for internal dissent, questioning of management decisions and editorial procedures and priorities

Content auditing

- iv. Monitoring ("auditing") of content (print, broadcast) to identify and correct errors and oversights ('sins' of both omission and commission) and bias (conscious or unconscious) in reporting practices, with regular auditing conducted either internally or independent experts in academia or journalism associations.

These exercises frequently reveal unconscious or unnoticed patterns of bias and oversights in news coverage, helping to strengthen the quality of reporting over time. Examples include:

- Tracking and redressing chronic gender imbalance in identified story sources and interview subjects, especially within certain news and current affairs subject areas where habitual reliance

on male commentators and 'experts' is particularly pronounced, such as economics, science, and national security.

- Analysing patterns of thematic coverage of certain social issues or of communities, to detect and critically examine recurring simplification or stereotypes or misunderstandings in news stories about these subjects. In one such exercise, a leading Colombian newspaper asked a team of Colombian experts (economists, sociologists, demographers, educators) working on UN-funded antipoverty programs to review a full year of the paper's coverage of the country's poorest towns and rural districts. The analysis showed what the paper's editors agreed was an often-superficial portrait of these areas and communities, with stories focused primarily on crime and violence, with little attention to underlying social and economic problems, and lacking the sustained investigative and political reporting that characterized its coverage of Colombia's major cities.

Privacy rights

- v. News media companies are required to respect individual privacy rights and broader protections from public identification for minors and victims of sexual assault, among other special protected categories.

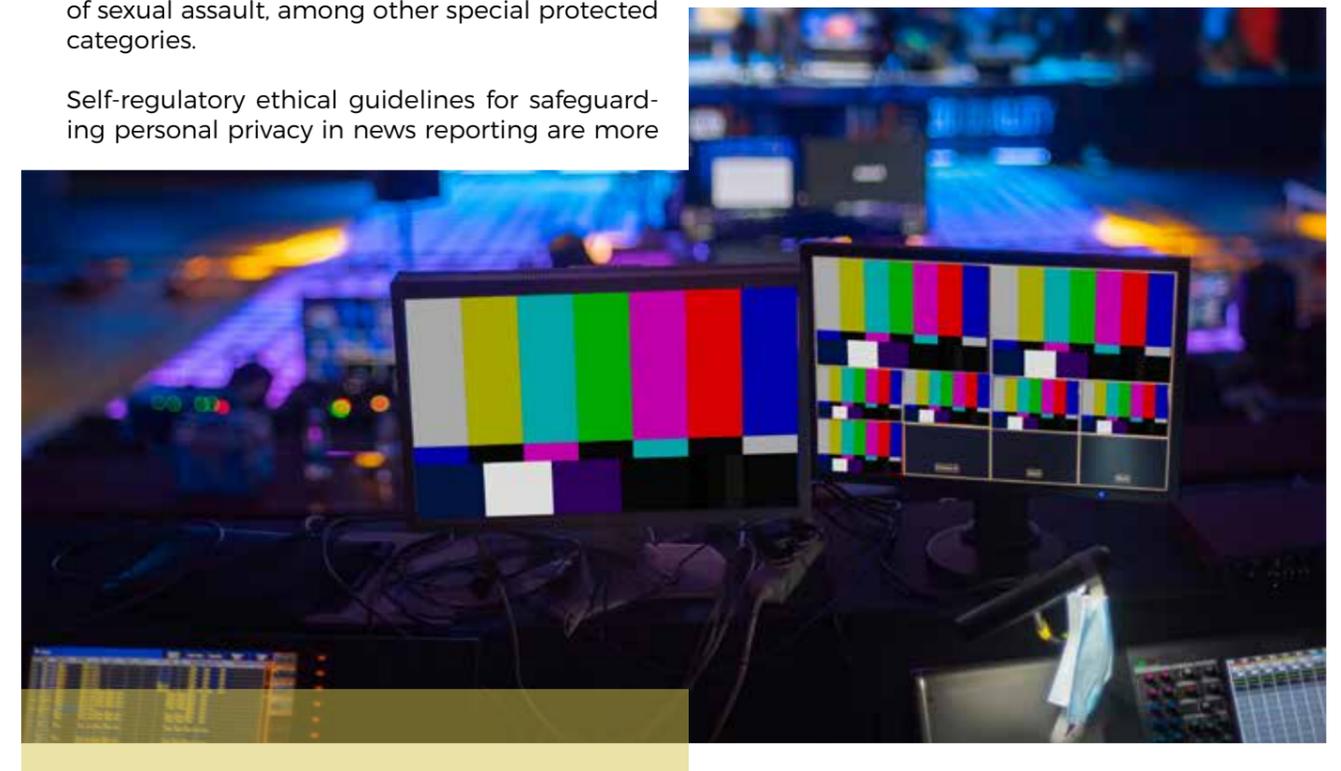
Self-regulatory ethical guidelines for safeguarding personal privacy in news reporting are more

stringent than legally enforceable standards; as matter of internal policy, many responsible news organizations routinely decline to identify the names of minors or crime victims that are available in publicly accessible police or court records, for example.

One controversial area of individual privacy rights related to the requests from individuals to demand the removal of articles or other personal references in online news archives that they contend portray them inaccurately or unfairly due to the passing of the time since the original piece was published, or which simply deprive them of desired and defensible anonymity.

Press freedom and media lawyers generally oppose the concept of legally mandated editing or erasure of archival documents, which they see as retroactive censorship of public records.

This does not preclude the addition by a news organization of clarifying content to an archived news item if the original report was found to be inaccurate, incomplete, or otherwise misleading; many newspapers append such 'corrections' or 'editor's notes' to stories in online archives.



'Outward' self-regulatory policies and practices:

Ombudsmen

- i. 'Ombudsmen' – also known as 'public editors' or by similar titles – serve news organizations as designated public liaisons with readers (or viewers) who have queries or complaints about news coverage and as editorially independent analysts and critics of that coverage.

As the word suggests, the term as well as the concept of an 'ombudsman' originated in the Nordic countries, but is now widely understood and in practical use in most parts of the world.

These 'ombuds' (as they informally call themselves) serve a wide range of public and private institutions. Their specific roles and responsibilities working for and within news organizations have become increasingly understood and accepted within the media globally, with a recognized international association - the Organization of News Ombudsmen and Standards Editors (ONO) - providing ethical and operational guidelines for the profession.



ONO defines the purpose of a media 'ombudsman' this way:

- "A news ombudsman receives and investigates complaints from newspaper readers or listeners or viewers of radio and television stations about accuracy, fairness, balance and good taste in news coverage. He or she recommends appropriate remedies or responses to correct or clarify news reports."

ONO says their job is to help news organizations:

- "Improve the quality of news reporting by monitoring accuracy, fairness and balance;
- Become more accessible and accountable to readers or audience members and, thus, more credible;
- Increase its news professionals' awareness of public concerns;
- Save time for publishers and editors, or broadcasters and news directors, by channeling complaints and inquiries to one responsible individual; [and]
- Resolve complaints that might otherwise be sent to attorneys and become costly lawsuits."

Rights to Replies or Retractions

- ii. The "right of reply" is a controversial concept as a binding legal requirement among news media organizations and press freedom advocates, most of whom strongly assert that is ultimately the prerogative of publishers and editors or broadcast producers to determine what content appears on their news pages or programs.

As an alternative, there are voluntary policies and structures that news organizations can adopt to address the legitimate concerns of individuals or institutions who contend that their activities or beliefs were inaccurately or misleadingly reported. Among them are:

- Classic 'Letters to the Editor' columns, prominently displayed alongside a newspaper's own editorials and opinion articles; broadcast equivalents have included features on radio news shows with excerpted voicemail messages from listeners and television news segments with video comments from viewers
- Online Readers Forums and 'chat rooms' monitored and moderated by news organization editors



- Corrections columns or departments, as standard daily or weekly features of newspapers and broadcast news shows, with factual errors or misstatements of opinions corrected for the record; these corrections should also be appended to the digital versions of the news reports in question stored in public online archives. Complex or unethically wilful examples of erroneous reporting may also require detailed 'editor's notes' examining those errors.

- iii. As noted above, many individuals and some courts and lawmakers have asserted the right of people to demand retroactive editing or complete retraction of digitally archived news stories that they contend depicted or quoted them inaccurately or unfairly, or which omit clarifying or exculpatory developments or information that emerged after the original story's publication.

For many journalists and human rights advocates, this would amount to unacceptable court-ordered censorship of public records that accurately reflect and preserve what was known and reported at that time. Some news organizations, however, have made voluntary accommodations to what they see as justified "requests to be forgotten," such as:

- Appending journalistically confirmed updates or subsequently published news items to original stories in online newspaper archives, in a similar format to the addition of a publication's own later corrections or editor's notes to digitally files story (One example would be a news report about someone previously charged with a crime who was later 'declared innocent.)
- Removing links to online records of past news reports of arrests for offenses that were either never proven, shown to have been falsely charged, or committed by minors who were identified by name in contravention of subsequently adopted editorial policies



Transparency

Transparency: Public accountability, disclosure, and advocacy

- 1. Public outreach and input:** Connecting to readers and viewers by such steps as putting email addresses for reporters at the end of their stories, and establishing clear internal protocols for staff replies; inviting school groups and community associations for staff-guided newsroom tours; asking reporters and editors and broadcast producers to speak at local forums and public events about how they do what they do, and why.
- 2. Publication of ethical standards:** One of the simplest measures a news organization can take to strengthen public trust is public disclosure of its own internal ethics codes and 'stylebook' rules – guidelines that their readers or viewers would not otherwise know about.
- 3. These could be reproduced or adapted from the codes of professional ethics and reporting practices of national journalism unions or associations of publishers or broadcasters,** or the style guides of the major news agencies, or the organization's own written standards for reporting and staff ethics. These documents should be freely and easily accessible online. What matters most is that these news organizations and the journalists and managers who work there consult and abide by their codes of conduct – and that subscribers or viewers who read those guidelines will recognize that they are seeing them put into practice.
- 4. Professional advocacy:** The ethical values and professional concerns of news organizations can be constructively communicated by public participation in initiatives by media and civic groups on such issues as the protection of journalists against violence; legal safeguards for news sources; enforcement of access-to-information laws; legal harassment of news organizations by corporations or political adversaries; and rhetorical attacks on media and journalists by political leaders.
- 5. Full disclosure of ownership and management:** The corporate and personal identities of the owners and senior executives of news organizations should be openly and accurately reported by those same news organizations, whether or not national laws require such disclosure.

DIALOGUE

- **'Inward' Internal Self-Regulation:** Do leading newspapers or broadcasters in your country have written professional standards for their staff journalists? If so, are these 'codes of conduct' known by most journalist? If yes are the publicly available on corporate websites, or communicated in other ways? if not, why not ?
- **'Outward' Internal Self-Regulation:** Do news publications in your country routinely correct factual errors? How do readers or viewers with specific queries or complaints about news coverage communicate with local newspapers or broadcasters?
- **Ownership and management:** Is it clear who owns and runs private media organizations in your country? Are their assets and balance sheets a matter of public record? Is Income from state advertising reported? Is such public disclosure mandatory, or voluntary? What difference does it make?



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CHAPTER 4

EXTERNAL SELF-REGULATION: OVERSIGHT BY PEERS AND THE PUBLIC

Media councils, professional groups, peer review

External self-regulation mechanisms can be usefully divided into 'formal' structures and processes, such as professional associations and press councils with complaints procedures, and 'informal' media-monitoring by peer groups, academia, and civil society, which also address the news media and public as a whole, rather than individual news organizations.

The former is collective exercises – typically representing or monitoring news organizations and individual journalists on a national level – while the latter kind of informal input and oversight is often provided by independent academics or nongovernmental institutions outside the world of working journalists.

Both are helpful, and should be mutually supportive. But every national media culture is different, with distinct histories and structures, and varying mixtures of formal and informal oversight. Press Councils, for example, are relatively common in Eu-

rope and increasingly accepted in Africa and parts of Asia, but exceedingly rare in Latin America and North America. Unions are important standard-setters for professional ethics and practices in many countries, yet in others largely confine themselves to contract negotiations and related workplace issues. And in a number of countries, there is only limited internal corporate enforcement or even acknowledgement of ethical standards and codes of conduct adopted by national professional bodies representing the news media.

Formal institutions: Professional associations and press councils

Formal self-regulatory institutions are discussed here in greater detail, as they are just that: formal, with mandates and operational structures that can be analysed and perhaps adapted and improved upon in other national and regional media contexts. Most democratic countries with independent media have a variety of formal professional bodies operating nationally or more locally, from journalism unions



and publishers associations in print media to industry groups representing radio and television broadcasters. Many have adopted their own professional codes of "practice" and ethics, and many play an active and important role in monitoring governmental media regulations and court rulings and defending media freedom in their respective countries.

Less common, but increasingly accepted and influential in many parts of the world, are formal "press councils" or "media councils" that adopt and publicize national codes of conduct for news organizations and provide channels for public complaints about media conduct as an alternative to legal action. Some operate entirely voluntarily and independently of state legal or financial sup-

port; others are chartered under national law and receive some public subsidies, with news organizations required to participate. While the earliest such institutions were founded in northern European democracies, press councils could arguably have their greatest utility in newer emerging democracies, where they are seen by some in the media as effective mechanisms to avert state controls over news content and journalism institutions.

Regional and international associations of journalists, news business proprietors, media lawyers and press freedom advocates and other professionals also have significant influence on independent media freedoms and standards around the world. All these institutions make important contributions to national and international self-regulatory efforts to protect and strengthen and deepen public trust in independent news media.

Press councils / media councils

National Press Councils or Media Councils have varying mandates and structures, with two distinct models predominating:

1. **Councils that are completely voluntary** in terms of media participation and independent in their management and financing, with procedures and impact based on principles of institutional transparency, public accountability, and peer review; their credibility and effectiveness depends on a combination of responsiveness to public complaints and queries, rigorous and respected professionalism in their personnel and procedures, and collective media-industry support. These Councils are independent professional advisory bodies, with no direct state funding or enforcement powers.
2. **Publicly financed Councils that are invested with legal authority** to impose sanctions or require publication of corrections, or impose other disciplinary measures, with participation by news organizations in these bodies and/or proceedings also sometimes required by law. In some of these cases Councils can also impose penalties on news organizations that do not participate in the Councils or abide by its rulings.

Only the first category – administratively independent and wholly voluntary, without any legally authorized regulatory powers – fits squarely in the realm of 'self-regulation.'

The second category of Councils could be considered examples of 'co-regulation,' as hybrid institutions combining official status and formal authority with significant operational autonomy and oversight by representatives of the news media itself. (See Chapter Four.)

There is a further division separating many 'press councils' from 'media councils,' with some originating and remaining within the sphere of the print press exclusively – newspapers, magazines, and digital versions of both – while others include all news media in their domain, with broadcasters represented and participating as well as newspaper journalists and owners. The rise of digital-only news sites and "citizen journalism" online has posed further procedural and philosophical dilemmas for media councils, as has the blurring of lines in many countries between traditional news media and advocacy organizations. As noted in a 2012 study of press councils conducted for the Reuters Institute:

The reality is that Press Councils around the world are grappling with profound challenges. The role and status of new media; the privileges and responsibilities of ‘professional’ and ‘amateur’ journalists; converging content across print, broadcasting, and online platforms; financial austerity; the withdrawal of significant publications from voluntary regulatory systems; and debates over punitive sanctions – these are just some of the issues testing Press Councils around the globe.

There is increasing consultation and collaboration among these different kinds of national ‘press councils’ and ‘media councils,’ such as through the **Alliance of Independent Press Councils of Europe (AIPC)**.¹ The AIPC works with member groups and its several non-European affiliates to revise and modernize the structures and processes of these institutions to include online media platforms and news organizations. The AIPC identifies these guiding principles for all its member and affiliate media councils:

- The regulation of editorial content in the media should be independent of government;
- Media content regulation, whether national or regional in its coverage, should be based on nations differing cultures;
- The writing of Codes of journalistic ethics and their administration is the business of journalists and publishers, who take into account public feelings, and not the business of governments;
- It is not possible to operate a universal Code of ethics, and that the imposition of supranational Codes and regulatory organisations, either at the European or global level, should be opposed.

Media Ombudsman of Sweden and the Office of Media Council

The world’s first and still continuously operating council of its kind, the Swedish Media Council (Mediernas Etiknämnd previously Pressens Opinionsnämnd, PON) was established in 1916 as a self-regulatory body for national news organizations and a forum for public complaints or queries about news coverage and ethics.

The self-disciplinary system of the Swedish media is not based on legislation. It is entirely voluntary and wholly financed by four press organisations and four broadcasting companies: The Swedish Media Publishers’ Association, The Magazine Publishers’ Association, The Swedish Union of Journalists, The National Press Club, Swedish Radio (SR), Swedish Television (SVT), Swedish Educational Broadcasting Company (UR) and TV4.

The Media Council is composed of four judges, who act as chairmen, 16 representatives from each of the above-mentioned media organisations, and 12 representatives of the general public who are not allowed to have any ties to the media business or to the media organisations.

In 2020 ‘Press ombudsman was changed to change to ‘Media Ombudsman’ and from 2020 also radio and TV has the same ethical standards and are part of the same system drawing up the Code of Ethics for Press, Radio and Television in Sweden

The Media Ombudsman, MO, (previously Allmänhetens Pressombudsman, PO, established in 1969) is appointed by a special committee consisting of the Chief Parliamentary Ombudsman (JO), the chairman of the Swedish Bar Association and the chairman of the National Press Club.

The Media Ombudsman MO describe its work in the following way: ⁴ Complaints from the public against newspapers, magazines or the broadcasting companies are first handled by the Media ombudsman. The MO is also empowered to take up matters on his/her own initiative, provided that the person or persons concerned are in agreement.

Any interested members of the public can lodge a complaint with MO against newspaper items they regard as a violation of good journalistic practice. But the person to whom the article relates must provide written consent if the complaint is to result in formal criticism of the newspaper.

When a complaint is filed, MO’s task is to ascertain whether it can be dealt with by a factual correction or a reply from the affected person, published in the newspaper concerned. MO may contact the newspaper for this purpose. If the matter cannot be settled in this way, the Media Ombudsman may undertake an inquiry if he suspects that the rules of good journalistic practice have been violated. He/she will then ask the newspaper’s editor-in-chief to respond to the allegations of the complainant. That person will in

his/her turn be offered the opportunity to comment on the newspaper’s reply. Complaints must as a rule be filed within three months of the original publication.

Once the inquiry is concluded, MO has two alternatives: either (1) the matter is not considered to warrant formal criticism of the newspaper, or (2) the evidence obtained is weighty enough to warrant decision by the Media Council.

If MO writes off a complaint (option 1) the complainant may appeal that decision directly to the Media Council. Nothing prevents the complainant from taking the matter to a regular court of law after review by MO and the Media Council. To file a complaint with MO is free of charge. MO also answers queries from the general public on matters of press ethics. A newspaper or broadcasting company that has been found to violate good journalistic practice is expected to publish the decision of the Media Council. It shall also pay an administrative fine.

In recent years, roughly 600 complaints have been registered annually. Roughly five % of the complaints lead to public criticism of the media by the Media Council. The large majority of complaints have been written off for various reasons, e.g. because the complaints were unsubstantiated, or the newspaper printed a correction or a reply.

Please note that Media council (i.e. the former Press Council is sometimes confused with but is distinct from the ‘Swedish Media Council (Statens medieråd)’, a government agency (under Ministry of Culture) dedicated to “empowering of minors as conscious media users and protecting them from harmful media influences.” as well as coordinating the Swedish national media and information literacy effort..”⁵)

Two illustrative examples of “voluntary and independent” press councils:

Press Council of Serbia

Serbia’s Press Council began operations in 2011 with support from a wide range of national media organizations and some initial financial aid from Norway and other foreign donors. The Council includes a sys-

tem for receiving and adjudicating public complaints about news reports or alleged ethical misconduct by news organizations or individual journalists, based on voluntary participation and compliance by local news outlets. The UK-based Ethical Journalism Network reported that within a few years of its founding the Council had become widely accepted by the national media community, with 78 different Serbian news organizations signed on as members. These cover the full spectrum of news outlets in the country, from newspapers and magazines to broadcast news organizations to digital-only news operations.

Serbia’s Press Council describes its mandate this way: The Press Council is an independent, self-regulatory body that brings together publishers, owners of print, online media and news agencies, and professional journalists. It was established to monitor the respect of the Code of Journalists of Serbia in the print and online media, as well as in news agencies, and to address complaints by individuals and institutions about the content of those media.

The competence of the Council is also to mediate between injured individuals, i.e., institutions, and newsrooms, as well as to issue public warnings for violations of ethical standards set out in the Code of Journalists of Serbia. The Press Council is also engaged in training to comply with the Journalist Code and is working to strengthen the role of the media in Serbia.

We strive for responsible and professional journalism, with the mission to protect Serbian citizens from abuse in the print and online media and at the same time raise the quality of journalism in Serbia. We will act in accordance with the Code of Journalists of Serbia and our own conscience, respecting the laws and under the slogan: Fast, free, fair!



⁴ <https://mediombudsmannen.se/about-the-media-ombudsman/>

⁵ See <https://www.statensmedierad.se> for more information

Press Council of Indonesia

Indonesia's Press Council is an independent non-governmental organization staffed and overseen by national media representatives, with a mandate to protect press freedom and strengthen the credibility and professionalism of the country's news media. The Press Council is an active member of the Global Forum for Media Development, an international network of some 200 national and international media-support NGOs.

Prior to its relaunching as an independent NGO in 1990, the Council had been a government-appointed body, with formal though limited regulatory authority over ethics and editorial management in both print and broadcast news media. Under its current governing statute, the Press Council is managed by a democratically elected board, whose members include representatives of the national journalists' professional association; of private media companies' business organizations; and "community leaders, press and/or communications experts and other fields selected by the journalists' organization and the press company organizations."

The Press Council's stated purpose is to:

- Protect freedom of the press from outside interference
- Conduct studies in media development
- Enact a code of ethics and oversee compliance with the code
- Consider and find solutions to public complaints about press reports
- Develop communication between press, public and government
- Assist journalists and media owners in setting media regulations
- Increase journalistic professionalism

Gather data about media companies. The Council's "Commission for Public Complaints and the Upholding of the Press Code" establishes ethical standards and provides a forum for public complaints about the press. Its decisions are not legally binding, but "educational," with the weight of "moral sanctions," the Commission says. The Council also maintains a Commission of Laws and Regulations, which supports "further guarantees for press freedom and access to information" and "studies legislation potentially harmful to press freedom." Its guidelines for resolving "conflicts between the public and the press" are the following:

First: Settlement through the right of reply. This method of settlement gives opportunity to individuals or groups to present versions that differ from the printed or broadcast reports. This is the shortest, most practicable, and least expensive channel. The right of reply is guaranteed by law

Second: Settlement through the Press Council. If the two sides are unable to reach agreement, they can call in the Council as mediator. This requires more time, probably several weeks or months, depending on the case. (The Council will not handle complaints about media reporting that are being adjudicated in the courts "unless the complainant is prepared to sign a statement pledging not to use the Press Council's recommendation in any legal process or court trial.")

Third: Settlement through legal channels. When one or both sides are not satisfied with a decision of the Council, or one side or both do not wish to appeal to the Council, they can go through the courts.



Professional associations and Institutions

i. **Journalism unions** have as their primary mission to advocate for their members' labour rights, appropriate financial compensation, safety protections in the field and workplace, and legal protections for the exercise of their profession in often hostile environments. Unions and related professional associations of working journalists have also played a key role in many countries in the adoption and observation of codes of professional ethics, in many cases before the endorsement of equivalent standards by the news organizations that employed them. The largest global confederation or 'umbrella' grouping of journalism unions is the **International Federation of Journalists**¹, which as noted previously drafted and adopted its first recommended code of ethics for journalists in the early 1950s.

ii. **Industry associations** of newspaper publishers and editors; broadcasting industry groups; other industry 'chambers' or professional bodies, national & regional, have critically important influence in setting standards and defending the interests of news media organizations and press freedoms generally around the world. Among them are global organizations such as the **International Press Institute**,¹ the **World Association of News Publishers**,¹ and the World Association of Community Radio Broadcasters (AMARC),¹ as well as regional bodies representing newspaper owners and managers, such as the **Inter-American Press Association / Sociedad Interamericana de Prensa**¹ and the **Africa Editors Forum**, and radio and television organizations such as the **European Broadcasting Union**¹, an association of public-service broadcasters with 115 members in 56 countries. Almost all these national and regional associates have national chapters or affiliates.

iii. Advocacy groups working nationally, regionally, and globally on behalf of press freedom and independent media development also contribute to self-regulatory protections, governance and standard-setting for the news media worldwide. Among the hundreds of nongovernmental organizations in this field are such leading international press freedom and media support groups as the **Committee to Protect Journalists (CPJ)**, **Reporters Without Borders (RSF)**, the **Global Forum for Media Development (GFMD)**, and the **International Freedom of Expression Exchange (IFEX)**, a collective communications and action network for scores of national and regional press freedom NGOs. The many important regional organizations working to defend the rights of journalists and strengthen independent media and public access to information are the **African Media Initiative (AMI)** and **Media Institute of Southern Africa (MISA)**; Latin America's **Fundación Gabo and Observacom** (Observatorio Latinoamericano de Regulacion, Medios y Convergencia); the **Southeast Asian Press Alliance (SEAPA)**; **AccessInfoEurope**; and the **Association of Caribbean Media Workers**.



Informal mechanisms: Peers, critics, academics, and ad-hoc collaborations

Because informal self-regulatory mechanisms operate informally, outside official institutions of the news media, they have no shared mandates or unifying philosophies, or even any assured audiences, either within the news media or in the public at large. They are nonetheless important and influential.

These mechanisms range in approach, from journalism peer reviews and media critiques by civil society groups and academic experts, to ad-hoc exercises in collective self-regulation, such as shared monitoring of social media for hate speech or incitement abuses during a national election.

Several examples of informal, external self-regulatory actions and actors are noted briefly here. Some be studied and adapted in other national media contexts – group reporting initiatives linked to elections, for example, or social issues such as gender equity or climate change. Others depend entirely on the efforts of individual critics and scholars or commit-

ments by relevant established institutions, such as university journalism schools.

1. Media monitoring and criticism: from individual academics, independent institutes, trade publications and scholarly journals, and specialists and activists in specific thematic areas (climate science, criminal justice)
2. Journalism education: instruction in ethics, writing, broadcast news producing with studies of media examples to emulate (or not)
3. Scrutiny by rival news organizations (“media” beats)
4. Discussions in press clubs and other professional groups and forums
5. Adoption of ‘codes of conduct’ for coverage of elections or civil protests
6. Reporting on attacks, threats against journalists from all media and regions
7. Status assessments by journalism associations and civil society groups of media-related national commitments under regional and international agreements, such as official access-to-information procedures and government measures to protect threatened and endangered journalists

DIALOGUE

- **‘Formal’ External Self-Regulation:** Is there a ‘media council’ or any similar institution in your country where people can lodge complaints or request factual corrections about news reports published in local newspapers or aired by radio or television news programs? If not, would such an institution be desirable? Feasible? Effective?
- **‘Informal’ External Self-Regulation:** Do professional journalism associations and/or civil society organizations in your country conduct ‘audits’ or assessments of national news coverage of specific events (elections; national emergencies; etc.) or thematic issues (i.e., climate change; education; race relations; gender inequities; healthcare)? If so, what lessons have been learned from these assessments? If not, could/should this be done?

Box 4 Global Charter of Ethics for Journalists

The IFJ Global Charter of Ethics for Journalists was adopted at the 30th IFJ World Congress in Tunis on 12 June 2019. It completes the IFJ Declaration of Principles on the Conduct of Journalists (1954), known as the “Bordeaux Declaration”.

The Charter is based on major texts of international law, in particular the Universal Declaration of Human Rights. It contains 16 articles plus a preamble and defines journalists’ duties and rights regarding ethics.

Preamble

The right of everyone to have access to information and ideas, reiterated in Article 19 of the Universal Declaration of Human Rights, underpins the journalist’s mission.

The journalist’s responsibility towards the public takes precedence over any other responsibility, in particular towards their employers and the public authorities. Journalism is a profession, which requires time, resources and the means to practise – all of which are essential to its independence.

This international declaration specifies the guidelines of conduct for journalists in the research, editing, transmission, dissemination and commentary of news and information, and in the description of events, in any media whatsoever.

1. Respect for the facts and for the right of the public to truth is the first duty of the journalist.
2. In pursuance of this duty, the journalist shall at all times defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism. He/she will make sure to clearly distinguish factual information from commentary and criticism.
3. The journalist shall report only in accordance with facts of which he/ she knows the origin. The journalist shall not suppress essential information or falsify any document. He/she will
 - be careful to reproduce faithfully statements and other material that non-public persons publish in social media.
4. The journalist shall use only fair methods to obtain information, images, documents and data and he/she will always report his/her status as a journalist and will refrain from using hidden recordings of images and sounds, except where it is impossible for him/her to collect information that is overwhelmingly in the public interest. He/she will demand free access to all sources of information and the right to freely investigate all facts of public interest.
5. The notion of urgency or immediacy in the dissemination of information shall not take precedence over the verification of facts, sources and/or the offer of a reply.
6. The journalist shall do the utmost to rectify any errors or published information which is found to be inaccurate in a timely, explicit, complete and transparent manner.
7. The journalist shall observe professional secrecy regarding the source of information obtained in confidence.
8. The journalist will respect privacy. He/she shall respect the dignity of the persons named and/or represented and inform the interviewee whether the conversation and other material is intended for publication. He/she shall show particular consideration to inexperienced and vulnerable interviewees.
9. Journalists shall ensure that the dissemination of information or opinion does not contribute to hatred or prejudice and shall do their utmost to avoid facilitating the spread of discrimination on grounds such as geographical, social or ethnic origin, race, gender, sexual orientation, language, religion, disability, political and other opinions
10. The journalist will consider serious professional misconduct to be:
 - Plagiarism
 - distortion of facts
 - slander, libel, defamation, unfounded accusations

11. The journalist shall refrain from acting as an auxiliary of the police or other security services. He/she will only be required to provide information already published in a media outlet.
12. The journalist will show solidarity with his/her colleagues, without renouncing his/her freedom of investigation, duty to inform, and right to engage in criticism, commentary, satire and editorial choice.
13. The journalist shall not use the freedom of the press to serve any other interest and shall refrain from receiving any unfair advantage or personal gain because of the dissemination or non-dissemination of information. He/she will avoid - or put an end to - any situation that could lead him/her to a conflict of interest in the exercise of his/her profession. He/she will avoid any confusion between his activity and that of advertising or propaganda. He/she will refrain from any form of insider trading and market manipulation.
14. The journalist will not undertake any activity or engagement likely to put his/her independence in danger. He/she will, however, respect the methods of collection/dissemination of information that he / she has freely accepted, such as "off the record", anonymity, or embargo, provided that these commitments are clear and unquestionable.
15. Journalists worthy of the name shall deem it their duty to observe faithfully the principles stated above. They may not be compelled to perform a professional act or to express an opinion that is contrary to his/her professional conviction or conscience.
16. Within the general law of each country the journalist shall recognize in matters of professional honour, the jurisdiction of independent self-regulatory bodies open to the public, to the exclusion of every kind of interference by governments or others.



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CHAPTER

5

CO-REGULATION:
A PARTNERSHIP
MODEL

The term 'co-regulation' as applied to media oversight institutions and practices covers a wide range of current and potential regulatory models, from press councils funded and appointed by governments, with some degree of regulatory authority, to purely advisory bodies run primarily by media and civic organizations, but with some legal standing and state financial support.

In some instances, these co-regulatory entities can receive and adjudicate public complaints against specific news reports or media companies, offering non-punitive forums for resolving disputes which might otherwise have been contested in courtrooms. Others serve more standard regulatory functions. Such institutions also sometimes support professional training programs and the promotion of codes of ethics for journalists and news organizations.

Governance structures for some public service broadcasters can in some cases be seen as models for co-regulation, with officials from government balanced on boards of directors by representatives of media unions and professional associations, along

with appointees from civil society or academia, for example. Yet public broadcasters are publicly funded, statutorily established institutions, with appropriate legal oversight mechanisms; there is no corollary to the purely private, voluntary participation by nongovernmental institutions or individuals that characterizes most 'co-regulatory' bodies and practices.

A common denominator of the different co-regulatory systems is a collaborative rather than adversarial model of media regulation, combining the publicly financed and legally established aspects of state oversight with the voluntary compliance and professional expertise that characterizes self-regulation. Ideally, this hybrid approach charts a third way between inappropriate government regulation of news media activities and content, and purely sectoral self-regulatory systems without mandated input or representation from other stakeholders with a legitimate interest in accountable, credible, independent news media. The overriding principles uniting these co-regulatory initiatives are a commitment to freedom of the media and broader rights of freedom of expression, and a recognition that oversight and regulation of the news media should not

include the chair and co-chair, who are required by the Council's governing statute to be judges or lawyers, recommended by Denmark's Supreme Court. Four of the eight seats on the council are reserved for media representatives, with two from the Danish Journalists Union and two representing the proprietors of Danish news organizations.

By most accounts, the Council has served the interests of the Danish public and the Danish media sector reasonably well over the three decades of its currently structured existence, acting fairly and professionally, and helpfully keeping some complaints about press coverage out of the courtroom. It is neither controlled by the country's dominant media companies nor used as an instrument by government to control independent news services. The Council's legitimacy rests in turn on a framework of relevant national legal safeguards and institutions, including an independent judiciary; a strong national union representing almost all media workers, with its own code of professional ethics; and a tradition of free speech and a free press, backed by both national constitutional guarantees and adherence to regional and international human rights instruments.

be left to either government or the media industry alone.

'Co-regulation' in
practice**Press Council of
Denmark**

The Press Council's mandate covers all Danish news platforms - print, broadcast, online - with the authority to hear and adjudicate complaints about allegedly unethical reporting practices, including knowingly inaccurate and/or malicious assertions in news stories. If a complaint is deemed legitimate, Council may tell news organizations to publish or broadcast corrections or replies by the aggrieved parties. The Council's eight members are named by the Danish Minister of Justice. That

Other countries

Illustrative examples:**Media Council of Kenya**

Financed by both government and fees from the media industry itself, Kenya's Media Council defines its mandate and structure as "a co-regulation model of media regulation, wherein the industry, the public as well the government collaborate to ensure that there is professionalism and accountability in the media industry as they serve the Kenyan public."

The Council's nine members are appointed by government but nominated "through an industry-driven competitive and participatory process," as stipulated in the law that established the Media Council in 2013.

Among the Council's activities are the promotion of professional standards for the news media; the legal accreditation of "media enterprises" in the country; and serving as a tribunal for public complaints against specific news reports or media outlets on grounds ranging from alleged failures of "fairness and accuracy" to violations of prohibitions against hate speech and the promotion of violence. Council decisions on these complaints have "the force of law," but can be appealed to Kenya's High Court. The Council's "Code of Conduct for the Practice of Journalism" contains detailed guidance on media ethics and professional reporting practices.

**National Media Commission
of Ghana**

The National Media Commission's self-described mandate is "to ensure that there is promotion of free, independent and responsible media so as to sustain democracy with a media that is independent from other organs of state. In order to promote these goals NMC is committed to maintain its independence from political influence. It shall ensure that the state-owned media is independent from government control. It shall raise professional standards among media practitioners and ensure fairness to the public. It shall protect

journalists from harassment and penalties arising out of their editorial opinions or content.” Among its functions, Ghana’s NMC oversees the operations and appointment of members to the board of the country’s public broadcasting corporation, GBC.



Press Council of India

The Press Council of India was established in 1966, making it one of the world’s oldest functioning national Press Councils, and the first such institution in the global South.

The Council can also be considered an early example of ‘co-regulation,’ though that term was not used at the time of its founding, as it combines oversight and complaint mechanisms directed by representatives of independent news publishers and broadcasters themselves, based largely on voluntary compliance, with quasi-judicial powers, including the legal authority to conduct hearings, summon witnesses and demand relevant documentation from media companies or state agencies. Constituted by an act of Parliament, the Council is partially state-funded, with additional mandatory financial contributions from registered news organizations in the country.

The Council’s rotating membership is selected through a nomination process managed by the Council itself, with its 29 members required to include 13 who are currently “working journalists” and another six who are news organization owners or managers, plus five members of parliament and three designated experts in law, science “and literature and culture.”

Any citizen in India is entitled to submit complaints or information requests to the Council regarding news reports or other media features on any subject by any legally registered news publisher or broadcaster in the country.

The Press Council maintains a public website where these queries and critiques can be submitted electronically.

The Council’s official history states that its governing statutes and ‘Complaints’ mechanisms were modelled after those of earlier Press Councils in



other regions, including the first such body, the “Court of Honour for the Press” established by Sweden in 1916. The Council adopted a Code of Conduct for journalists and news organizations to “ensure high professional standards” and “encourage a sense of responsibility and public service among all those engaged in the profession of journalism.”

One unusual feature of India’s Press Council is that it also provides mechanisms for news organizations and individual journalist or civic activists to file complaints against government bodies or any other institution “for interference with free functioning of the press or encroachment on the freedom of the press.”

The Council is empowered to investigate and publicize these complaints, both to demand specific appropriate action in such cases and to ensure generally “that any abuse of press freedom does not pass without anybody noticing,” the Council states in its founding statutes.



Media Council of Mongolia

Established in 2015, the Media Council of Mongolia (MCM) is the self-described “independent regulator for the printed press, broadcast media and journalistic online media in Mongolia.” Yet it is publicly funded, subject to public audits, and operates in part under the aegis of state regulatory authorities overseeing broadcasting licenses.

The MCM is overseen by a nonpartisan board comprised primarily of representatives of the media industry, unions, individual journalists, and academic experts. Its stated aim is “to support freedom of the media by helping media houses and journalists to follow professional and ethical journalistic standards in order to serve the public interest.”

Its main activities are receiving and investigating complaints from citizens “regarding potential breaches of Mongolian Media Ethics Principles by the newspapers, magazines, radio, television and online media that operate in Mongolia” and working “with the media industry to maintain and, where appropriate, help raise professional journalistic standards and ethical principles.”





Broadcasting Complaints Commission of South Africa

As its title indicates, the BCCSA covers broadcast media in South Africa, exclusively, as a co-regulatory body supplementing the state-run system for the allocation of radio and television frequencies and overall regulation of the broadcasting industry. The BCCSA is an autonomous body overseen by a self-selected board comprised of specialized attorneys, academics, and media experts (state employees, elected officials and media investors are not eligible). The Commission is supported by most South African radio and television enterprises, both private and public. This includes SABC, the country's dominant national public broadcasting corporation.

BCCSA is authorized to receive, investigate, and adjudicate public complaints about news reports or other programming by South African broadcasters. Its decisions are not subject to government review. The Electronic Communications Act of South Africa requires all licensed broadcasters to follow a code of professional conduct developed by the Independent Communications Authority (ICASA), but it allows broadcasters to enforce compliance with the code through participation in the BCCSA.

Legal recognition of the authority of this self-governed commission is based on a principle established in the South African Constitution, which states that: "Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or where appropriate, another independent and impartial tribunal or forum."



DIALOGUE

- Is the 'co-regulation' approach to media oversight currently used in your country or region? If so, how is it working in practice? Does it differ in input or impact from state regulation?
- Are there examples of current media regulation laws, practices or institutions in your country or region that might benefit from a more collaborative 'co-regulatory' approach?

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CHAPTER 6

GENDER IN MEDIA REGULATION^{1,2}

Introduction

News media content that is gender balanced and fair, without harmful gender stereotypes. Safe working conditions for all genders. Diverse and gender equal leadership and ownership. These are only some of the concerns for news media committed to fulfilling their democratic function in society, to be credible in relation to their audiences and to fully unlock their commercial potential.

Some of the issues at stake do not pertain only to the media sector and are often regulated through national law. If sexual harassment in the workplace is prohibited by law in a country, this also applies to media organisations. To support existing legislation or in the absence of such legislation, industry associations and individual media organisations may develop and adopt workplace policies.

At a higher level, transnational policies and declarations may support both legislation and policies on “lower” levels.

In summary, regulatory frameworks on gender equality and the media can be found on the following levels:

- **Supranational, involving two or more nations and range from sub-regional/regional to international instruments such as declarations and conventions**
- **Statutory, established by governments, State agencies and public administrative units. These include laws, policies, plans and strategies.**
- **Self-regulation, agreed by the media sector or industry, and co-regulation models established in collaboration with the State and/or other stakeholders. Voluntary ethics and practice codes are two examples**
- **Organisational level, within individual media houses, encompassing ethics codes, guidelines and institutional policies.**

For an exhaustive discussion on the media regulation ecosystem, refer to the introductory chapter in this volume.

These different levels are interconnected and often mutually reinforcing. The universal human rights of freedom of expression (FoE) and gender equality are laid down in international and regional conventions and are reflected in national constitutions and laws all over the world. Everyone has a right to FoE, not only the media or professional journalists. Does the right to gender equality across all spheres and sectors, including the media, set limits on media freedom and independence? Women constitute more than fifty percent of the population yet are only 25 percent of the people seen and heard in the news.³ Is this not a violation of their right to equality in freedom of expression? Should the state intervene and adopt regulation to protect and secure this right? Or should the onus be on the media sector itself to self-regulate in a voluntary manner?

There is no single answer to these questions. Media organisations exist in a complex reality where they are expected to function as a facilitator for freedom of expression, a watch dog that scrutinizes power and a provider of relevant and unbiased information to citizens. To safeguard freedom of expression, media have a specific status, at least in functioning democracies, and are to a high degree exempt from State regulation. Instead, media should govern themselves and impose ethical self-regulation. But

self-regulation mechanisms might be weak or absent, for example in authoritarian states that often also score low on gender equality indices.

In summary, different contexts call for different solutions. In general, self-regulation (or co-regulation) is a recommended way to promote gender-balanced and fair news content. At the same time media legislation or State policy that respect and protect the principle of media freedom may be necessary to promote women’s freedom of expression and to push the agenda towards a more gender-equal and diverse media landscape.

This chapter discusses the status of gender in media regulation (policy and legislation) and self-regulation, following a summary of salient gender issues in the media.

Background

Gender equality is a public interest issue, upheld in international norms and most national Constitutions as a fundamental human right, combined with laws prohibiting discrimination. Gender equality in and through media, information and communication is underlined in various policy instruments at global, regional and national and in some countries local levels. In the most important gender policy blueprint to date, The Beijing Declaration and Platform for Action adopted at the Fourth UN World Conference on Women in 1995, Governments agreed to “increase the participation and access of women to expression and decision making in and through the media and new technologies of com-

¹ This chapter draws from the *Global Study: Gender Equality and Media Regulation* (Macharia & Barata, 2022) published by the Fojo Media Institute, Linnaeus University (Sweden). The study was conducted in collaboration with the Department of Journalism, Media and Communication (JMC) at University of Gothenburg, with International Media Support (IMS) and the ITP Programme “Media Development in a Democratic Framework” as contributing partners. Large sections of the report’s text are cited verbatim here with permission from the publisher.

² Overall, a binary treatment of “gender” is applied in this chapter as in the Gender Equality and Media Regulation study despite the multiplicities of genders, in recognition of “woman/man” as primary categories that determine power relations of subordination and dominance in society. Unequal power relations result in discrimination, marginalization and exclusion of subordinate groups from access to resources, opportunities and rights. Women (including girls) are the largest discriminated-against group worldwide. As noted in the UN Special Rapporteurs’ 2010 Joint Declaration, women have historically been and continue to be marginalized from enjoyment of their right to freedom of expression (LaRue et al. 2010). Other systems that overlap with gender to intensify marginalization include factors such as race, ethnicity, sexual identity, class and (dis)ability. The Gender Equality and Media Regulation study identified some examples of laws and policies that apply a diversity perspective and acknowledge non-binary categories. Further research applying an intersectional lens is needed to comprehensively capture how these complexities and societal diversity are integrated in media regulation and self-regulation.

³ Global Media Monitoring Project (2020). <https://whomakesthenews.org/gmmp-2020-final-reports/>.

munication". (Strategic objective J.1.). State representatives also promised to "promote a balanced and non-stereotyped portrayal of women in the media (Strategic objective J.2.). Participation, access and fair portrayal are part of the range of gender issues in media.

Additional ones have emerged since the BPFa's adoption largely linked to digital platforms, including social media.

While "everyone has the right to freedom of opinion and expression" (Article 19 of the Universal Declaration of Human Rights), discrimination and exclusion persist, including on the basis of gender. In her 2021 report to the UN General Assembly, the Special Rapporteur on the promotion and protection of freedom of opinion and expression Irene Khan underlined among key impediments to women's freedom of expression (FoE), online sexual and gender-based violence, hate speech, attacks on female journalists and disinformation.⁴ The report was issued more than a decade after the four UN special rapporteurs on freedom of expression declared that equal enjoyment of the right to FoE remained elusive, and historically disadvantaged groups – including women, minorities, refugees, indigenous peoples and sexual minorities – continued to struggle to have their voices heard and to access information of relevance to them.⁵

Gender issues in media, information and communication are covered in a panoply of media regulatory frameworks adopted at international, regional, national, industry and media house levels worldwide.

A Synopsis of Gender Issues in Media

Under- and mis-representation in the news: The Global Media Monitoring Project⁶ reveals patterns of gender inequalities in the news media, persisting across time since the first monitoring in 1995 up to the latest edition in 2020, and replicated across world regions, with some variations. Only one out of four persons present as subjects and sources in



Definition: 'Sex' and 'gender'
'Sex' is the biological condition of being female, male or intersex. 'Gender' however is socially constructed, pertaining to the roles, expectations and behaviour associated with being a girl, woman, boy, man, trans, two spirit and other identities. 'Gender' varies across cultures and can change over time as societies evolve, for example, to acknowledge (or restrict) hitherto unrecognized gender minorities.

and of these, only one in five is a woman. In reality, Indigenous peoples are at least 8% of the region's population, half of who are women. Harmful gender stereotypes such as hypersexualized femininities and macho masculinities pervade media content. The extent of gender stereotypes in the news has remained unchanged; only three percent of stories in legacy media clearly challenge such stereotypes, the same proportion found in 2005 when this indicator was first measured.

Underrepresentation as newsroom editors: Research on 240 major online and offline news outlets in 12 countries spread across four continents found women to be only 22% of the top editors. (Robertson, Selva, and Nielsen 2021) The report underlines cross-market variation on this indicator, for example, none of the major news outlets in Japan – one of the study countries – has a woman as their top editor, in contrast to South Africa where a majority of the top editors are women.

Underrepresentation in management: In news organisations, men hold 75% of top management and board positions, while women are most present in routine news gathering roles. (Byerly 2011).

The patterns of overwhelmingly male decision-makers are replicated in the world's top social media companies: 60% of Meta (formerly Facebook), 73% of Twitter, 67% of Snapchat and 82% of YouTube board members are men.⁸

Digital gender gap: Internet penetration rates are higher for men than for women in all regions of the

legacy media (print, television and radio) is a woman, rising just eight points in 25 years. At the current pace of change it will take almost seven more decades to reach news gender parity⁷ at the world average level. The likelihood of under- and mis-representation is higher for groups and women from minority and marginalized sectors; for example, in Latin America, only 3% of news subjects and sources are from Indigenous groups

world. The internet user gender gap rose to 11.7% in 2020 in the least developed countries from 11 points in 2018. In the global North, the digital gender divide narrowed from 2 percent in 2018 to 1.3 percent in 2020.⁹

Sexualized harassment and violence against women journalists: The UN Plan of Action on the Safety of Journalists and the Issue of Impunity¹⁰ recognized the increasing dangers women journalists face, including "risk of sexual assault, whether in the form of a targeted sexual violation, often in reprisal for their work; mob-related sexual violence aimed against journalists covering public events; or the sexual abuse of journalists in detention or captivity" (para 1.17). It further underlined the role of "powerful cultural and professional stigmas" in preventing reporting, thus enabling impunity for these crimes.

While there are fewer women journalists among work-based fatalities, "women journalists and female media workers continue to face offline and online attacks putting their safety at risk. These attacks can range from harassment, trolling, doxing to physical and sexual assaults" (UNESCO 2020)

Online, almost three quarters of women have been exposed to some form of cyber violence including hacking, surveillance, harassment, malicious distribution and death threats (Broadband Commission for Digital Development 2015). Online violence is just as prevalent for women media workers: 73% of respondents to a survey of women journalists said they had experienced online violence and 20% said they had been attacked or abused offline in connection with online violence. (Posetti et al. 2020). Threats to women journalists and their female sources on digital platforms range from

UN Human Rights Council Resolution 45 on the safety of journalists

Adopted in October, 2020

10. Calls upon States:

(o) To take measures to prevent sexual harassment and other forms of sexual and gender-based violence, including threats, threats of rape, intimidation and harassment against women journalists, to encourage the reporting of harassment or violence by providing gender-sensitive investigative procedures, to provide adequate support, remedy, reparations and compensation for victims, including psychological support as part of broader efforts to promote and protect the human rights of women, to eliminate gender inequality and to tackle gender-based stereotypes in society, and to prohibit incitement to hatred against women journalists, online and offline, and other forms of abuse and harassment through relevant policy and legal measures that comply with international human rights law.

https://digitallibrary.un.org/record/3888335/files/A_HRC_RES_45_18-EN.pdf?ln=en

pernicious, gendered online harassment to overt, targeted attacks frequently involving threats of sexual violence and digital security breaches using Artificial Intelligence technologies." (Posetti and Storm 2018)

Online violence against women journalists may be addressed through action by States to ensure that laws and rights designed to protect women journalists offline are applied equally online, through data collection and public condemnation of attacks, harassment and violence against journalists and media workers. (Posetti et al. 2020) News organisations are urged to establish

⁴ Report on Gender Justice and Freedom of Opinion and Expression. (Special Rapporteur on the promotion and protection of freedom of opinion and expression, 2021)

⁵ Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade (LaRue et al. 2010)

⁶ Data from the Global Media Monitoring Project (GMMP), a research and advocacy initiative for gender equality in and through the news media. In five-year spurts since 1995, the GMMP has collected the statistical evidence of gender in news content worldwide. The global, some regional and country reports of findings from the sixth iteration held in 2020 may be downloaded from <https://whomakes-theneeds.org/gmmp-2020-final-reports/>.

⁷ Measured by the Gender Equality in the News Media Index (GEM-I), a composite indicator calculated from key GMMP indicators. See Djerf-Pierre & Edström, 2020 for details.

⁸ PostBeyond study findings reported in the article New Report Looks at Representation and Gender Diversity in Social Platform Leadership, by Andrew Hutchinson. March 2022. <https://www.socialmediatoday.com/news/new-report-looks-at-representation-and-gender-diversity-in-social-platform/619811/>

⁹ International Telecommunications Union (ITU) data. <https://www.itu.int/itu-d/sites/statistics/>

¹⁰ IPDC-UNESCO. CI-12/CONF.202/6. 2012

formal gender-sensitive procedures and systems for identifying, reporting and monitoring online violence against their staff, and that employers provide to staff online safety support, education and training. (ibid.)

Regulatory Frameworks

Broad objectives of gender and media regulation

Media regulatory frameworks include treaties, declarations, laws, policies and strategies established for various purposes such as to secure the public interest¹¹. Gender provisions in media regulation target at least two sets of issues:

- First is to protect and promote the right to gender equality within media structures, processes and content. This includes women's right to freedom of expression, participation, inclusion and non-discrimination.
- Second is to contribute to advancing gender equality and women's human rights in society through fair portrayal and representation in media content in view of the impact it has on all aspects of women's lives and evidenced through experience.

Supranational norms

Global and regional gender and media policy frameworks may be classified under three broad constellations (Table 1).

- Under one umbrella are gender policy frameworks with media-specific provisions, targeting content, structures, workplace practices, gender-based violence against women media workers, women's overall access to and participation in media.
- The second group brings together gender policy frameworks with media-relevant measures albeit without explicit mention of 'media'.
- The third are media policies with implications for gender equality. The provisions support either directly or implicitly the right to freedom of expression, the right to access to information and the right to communicate.



¹¹ See the introductory chapter in this volume for an exhaustive discussion on the rationale, history and structure of media regulation and self-regulation systems.

Table 1. International and regional gender and media frameworks

A. Gender policy frameworks with media-specific provisions.	B. Gender policy frameworks with media-relevant measures.
<p>Frameworks grouped here underline the media, for instance, media content, media workplace discrimination, gender-based violence against women journalists</p> <p>Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women "Convention of Belem Do Para". (1994) Clause 8(g) encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women.</p> <p>Beijing Declaration and Platform for Action. (1995) Section J. Strategic objective J.1. Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication. Strategic objective J.2. Promote a balanced and non-stereotyped portrayal of women in the media.</p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) 12.1(b): States Parties shall take all appropriate measure to eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination.</p> <p>Organization of Islamic Cooperation Plan of Action for the Advancement of Women (OPAAW). (2008) III3a) The Governments of the OIC Member States should adopt the necessary policies and programs for promoting education of women and girls and encourage women's access to advanced technologies including ICT in order to promote their role in the decision-making and development process; III4i) Combat gender-based violence in all its manifestations, including through awareness raising campaign involving men and boys, education and media campaigns.</p> <p>Recommendation of the Committee of Ministers to member States on gender equality and media. Council of Europe (2013) Comprehensive guidelines for: EU member states (establishment of legal frameworks, regulation, support of initiatives to combat gender stereotypes in media);</p>	<p>These frameworks do not mention 'media' explicitly, rather, they contain provisions that are relevant to media such as eliminating harmful gender stereotypes. Media images and narratives are a channel of such stereotypes.</p> <p>Convention on the Elimination of All Forms of Discrimination against Women. (CEDAW) (1979) Various articles address discrimination against women and women's human rights. Article 3 mandates States Parties to "take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men". Article 5 requires States Parties to "take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women"</p> <p>Organization of Islamic Cooperation Plan of Action for the Advancement of Women (OPAAW) (2008). III4h) Promote equality and fight against discrimination between girls and boys in education and culture so as to convey a positive and non-stereotyped image of girls and women and where appropriate, identify new pedagogical materials; IV5v) Social justice and well-being: Ensure that the discriminatory negative stereotypical images of women due to harmful customs and traditions are altered.</p> <p>The Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN. (2013) Declaration 3. Develop effective strategies to eliminate harmful practices which perpetuate gender stereotyping, violence against women and violence against children.</p> <p>Preventing and Combating Violence against Women (Decision No. 7/14). (OSCE, 2014) Indicator:</p>

A. Gender policy frameworks with media-specific provisions. Frameworks grouped here underline the media, for instance, media content, media workplace discrimination, gender-based violence against women journalists	B. Gender policy frameworks with media-relevant measures. These frameworks do not mention 'media' explicitly, rather, they contain provisions that are relevant to media such as eliminating harmful gender stereotypes. Media images and narratives are a channel of such stereotypes.
<p>media organisations (on self-regulation, adoption of ethics codes, reporting standards); adoption of content standards, working conditions, targeting access, representation, participation in management, avoidance of portrayal that could lead to sex discrimination, incitement to hatred and gender-based violence), and; implementation measures (policy review, adoption of national indicators for gender equality in media, sharing good practices, accountability channels, research and publication, media literacy).</p> <p>Convention on Preventing and Combating Violence against Women and Domestic Violence. Council of Europe (Treaty No. 210) (Istanbul Convention) (2011) III.14.2: Parties shall take the necessary steps to promote the principles referred to in paragraph 1 in informal educational facilities, as well as in sports, cultural and leisure facilities and the media; III.17.1: Parties shall encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity.</p>	<p>(B)3. Strengthen efforts to reach out to the public through public awareness and sensitization activities, in order to address negative stereotypes.</p> <p>Transforming our World: The 2030 Agenda for Sustainable Development. (2015) Goal 5. Ending discrimination against all women and girls in the public and private spheres. Target 5.b: Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women.¹²</p> <p>ECOSOC: Political Declaration on the Occasion of the Twentieth Anniversary of the Fourth World Conference on Women. (2015) "the transformation of discriminatory norms and gender stereotypes and the promotion of social norms and practices that recognize the positive role and contribution of women and eliminate discrimination against women and girls.</p> <p>Outcomes and recommendations from the 13th Triennial Conference of Pacific Women and Sixth Meeting of Pacific Ministers for Women. (2017) Various provisions on social norms, stereotypes and discrimination with implications for media.</p> <p>Outcomes and recommendations from the 14th Triennial Conference of Pacific Women. (2021) Work with partners in media and communications to ensure messages consistent with gender equality and women's rights.</p>
C. Media policy with implications for gender equality (only one supranational instrument located fits under this category) Unlike types A and B above that are about gender policy, this category lists the one supranational instrument specific to media policy found, that underlines the gender equality dimension explicitly or implicitly. Declaration of Windhoek (1993) on "free, independent, pluralistic media worldwide characterizing free press as essential to democracy and a fundamental human right".	

¹² Indicator 5.b.1 Proportion of individuals who own a mobile telephone, by sex. Goal: enhance the usage of enabling technology.. to promote the empowerment of women.

Global normative instruments protect both media independence and freedom on the one hand, and gender equality (including in and through media) on the other hand. The task of balancing rights and freedoms is worked out through regulation, particularly at the level of industry where adherence to codes is required as the professional standard.

Statutory regulation

Statutory media regulation are the rules and procedures established by governments and other State authorities to control or guide media activities.¹³ The global study on gender in media regulation analyzed policy and legal instruments from almost 200 nations. Only a handful of the instruments were found to contain gender-related provisions, the clauses underlining largely the right to non-discrimination on the basis of a list of identities, including sex or gender. The lack of further elaboration of gender-related issues indicates perhaps "a hesitation to delineate tighter boundaries and to leave the task of working out the details to other regulatory levels in industry and within media organisations". In the preface section of the Gender-Sensitive Indicators For Media in 2012, UNESCO underscored that use of the indicators was "not an attempt to limit [media freedom] but to voluntarily enrich these cardinal characteristics." (p.10)¹⁴ In gender policy instruments as well, media-related clauses are often prefaced by a reminder of the pre-existing obligation to uphold the right to FoE, perhaps in anticipation of the

tensions between competing yet complementary rights – that to gender equality (even in media) and to media freedom and independence.

There are a few examples of media-related authorities who have followed through on commitments¹⁵ to foster gender equality, such as the Higher Audio-visual Council of France (CSA) that is legally mandated to enforce fair representation of the diversity of French society in audio-visual and all media. A second example is that of Morocco's High Authority for audio-visual communication that, guided by principles that include commitment to freedom of expression and to fighting sexist images in news and advertising, regularly monitors gender stereotypes in content and imposes penalties in cases of non-compliance.¹⁶

Industry self-regulation

Self-regulatory instruments are often formulated as ethics codes, charters, codes of conducts, professional standards and declarations. They are more likely to carry gender provisions established by the industry or sector and not the ones established by the State. Common to numerous industry instruments is a prescription on gender non-discrimination and/or avoiding sexism. Gender is treated as one among several other possible forms of discrimination, with equal emphasis placed on biased treatment of people on the basis of race, disability, colour, and ethnicity. In the Beijing Platform for Action,

Intersectionality in codes: An example
The Canadian Broadcasting Standards Council (CBSC) created by Canada's private broadcasters administers industry codes covering various issues, one of which is the Equitable Portrayal Code.*

Aware of the cumulative societal effect of stereotyping, negative, inaccurate and unbalanced portrayal, the Code's objective is to overcome such portrayal "in broadcast programming, including commercial messages, based on matters of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability". (para III).

*Canadian Association of Broadcasters' Equitable Portrayal Code (2008). <https://www.cbcs.ca/codes/cab-equitable-portrayal-code/>

¹³ See the introductory chapter in this volume for a discussion on the relationship between statutory and self-regulation

¹⁴ UNESCO, 2012. <https://unesdoc.unesco.org/ark:/48223/pf0000217831>

¹⁵ For example, as signatories to the Beijing Declaration and Platform for Action, governments committed to: "Develop, consistent with freedom of expression, regulatory mechanisms, including voluntary ones, that promote balanced and diverse portrayals of women by the media and international communication systems and that promote increased participation by women and men in production and decision-making" (para 240. (United Nations 1995) This is one out of a series of commitments documented in the international gender policy blueprint adopted at the 1995 Fourth UN World Conference on Women in Beijing.

¹⁶ <https://www.haca.ma/fr>. Accessed February 28, 2022.



self-regulatory mechanisms are recognized as a means to eliminate gender-biased programming, address women's information needs, and enable women's participation in development of the new technologies (para 241).

Some instruments make reference to sexual orientation, portrayal of sexual minorities, and a few others to gender identity, for example, the UK's Editors' Code of Practice and the Australian Press Council's Statement of Principles. A handful of self-regulation tools sanction journalism that can incite hatred on the basis of gender, such as the Code of Conduct for Zimbabwean Media Practitioners.

Institutional policies

Gender and diversity concerns addressed in policies and codes within media organisations include:

- gender equality and diversity in hiring;
- sexual harassment and gender-based discrimination in the media workplace;
- gender and diversity issues in media output

Country case studies implemented in parallel to the global study on gender equality and media regulation generated insights from various media organisations reached.



Example 1. Zimbabwe.

The Constitution is clear on its support for gender equality. Various clauses reiterate the State's obligation to promote gender equality, guarantee gender equality and non-discrimination, and women's right to full and equal dignity

including equal opportunities in all spheres. The media organisations surveyed reported actions to address sex segregation of newsroom roles, such as requiring women and men journalists to handle "gender stories", assigning women to traditionally male-dominated beats of politics, business, and sports, and including gender modules in staff development. Six out of seven media houses studied have in-house guidelines in place and editorial policies prohibiting sexist, blatantly discriminatory or derogatory language.



Example 2. Sweden

According to the representatives interviewed, most Swedish major media houses do not have their own special ethical codes, apart from the ones that the media industry has agreed upon. The Swedish code of ethics has provisions on anti-discrimination, where sex is mentioned among a number of other grounds for discrimination. All organisations have to follow the anti-Discrimination Act and its measures for gender equality at the workplace. Public service broadcasters are obliged to follow the broadcasting permit, which requires gender equality and diversity in general to be reflected in content. While questions such as inclusive language and gender stereotypes are discussed frequently in newsrooms, written reporting guidelines are seldom elaborated. Managers reported that such documents tend to be forgotten or are not adhered to, and strategies, action plans or other written instructions are not considered very useful, preferring instead, dialogue and long-term thinking. Media houses tend to have digital tools that monitor the sex of sources, at times disaggregated by age and geographic location.

Social media platforms

Content moderation systems on social media platforms contain rules and standards aimed at protecting users against certain types of abuses, attacks, and other malicious actions including gender-based ones. For example, Meta's (formerly Facebook) hate speech policy sanctions attacks on people on the basis of "protected characteristics" that include sexual orientation, sex and gender identity. This policy underlines the impact of hate speech on society's freedom of expression: "... people use their voice and connect more freely when they don't feel attacked on the basis of who they are". The platform's bullying and harassment policy prohibits a range of actions through which online gendered violence occurs, such as "sexualised commentary" use of "female-gendered cursing terms", and attacks on persons "based on their status as a victim of sexual assault, sexual exploitation, sexual harassment or domestic abuse".

Notwithstanding, many of these rules do not necessarily refer to content that is illegal as defined by legislation, rather, their purpose is to create an environment of civility within users of the platform.

National legislation

Media legal frameworks generally focus on gender equality and women representation in media

content, particularly when it comes to combatting or avoiding sexist prejudices and stereotypes, as well as avoiding violence against women. At the same time, media organisations are also subjected to general provisions included in gender equality legislation precisely regarding equality of opportunities and payment conditions in different sectors of economic activity. Gender equality laws do not generally contain specific provisions beyond general principles, therefore, cases of gender inequality are usually tackled by Courts based on individual claims of violation of anti-discrimination provisions included in labour legislation.

Progress in this area relies on the adoption of voluntary codes of conduct by media outlets. Due to their obligations in terms of pluralism, diversity and effective enjoyment of fundamental rights, public service media particularly have examples of good practices regarding gender equality internal staff policies.

License tender procedures can also be used in order to promote gender equality in the media. Criteria including women ownership, presence of women in management and journalist responsibilities, and the inclusion of a particular focus/sensitivity regarding gender issues in the content proposal can be given relevance and value when considering the different bids. These elements may also be consequently incorporated into the license obligations accepted by the awardees.

¹⁷ <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>

¹⁸ <https://transparency.fb.com/en-gb/policies/community-standards/bullying-harassment/>

Change Actions

Insights from the global study point to a number of levers of change, including the following:

1. Establishment of proper and efficient gender-responsive self or co-regulatory mechanisms, which can be promoted through appropriate media policies and legislation.
2. Establishment or reinforcement of media practice codes, covering gender ethics in reporting and handling of gender issues.
3. Training of journalists and media professionals on freedom of expression and the right to equality and non-discrimination.

Discussion questions:

1. What provisions relevant to gender exist in your country: i) in statutory media regulation ii) at the industry or sector level?
2. What advantage do codes that treat gender equality as a single issue have over those that provide for gender equality among a longer list of issues such as race, ethnicity, disability, etc.?
3. How have gender discrimination and media sexism cases been addressed by the relevant compliance mechanisms in industry bodies or State agencies in your country?

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CHAPTER

7

SOCIAL MEDIA:
REGULATORY
CHALLENGES IN THE
DIGITAL AGE

The digital age began just before the dawn of the 21st century, and nothing has been the same since. Almost every industry and every institution everywhere in the world now relies on internet services and platforms and software and data systems and communications networks.

The news business is no exception

In all the many sectors of the media, regardless of their origins or regulatory mechanisms, communications within the workplace and with audiences and the world at large increasingly take place online. The internet is now a nearly universally used tool and medium for news organizations which were once seen exclusively as “print” or “broadcasting” enterprises. The distinction between “traditional” and “digital” media is decreasingly relevant in terms of people’s access to news and other public information services. Both state regulatory authorities and voluntary self-regulatory systems for the news media are being forced to recognize and adapt to this new social and technological reality.

Yet none of the traditional kinds of oversight mechanisms for media – whether legally enforced state regulation, voluntary self-regulation, or cooperative co-regulation – are completely equipped to meet the challenges of the digital age and the transnational corporations that deliver and manage the world’s dominant internet services. The various online platforms and hosting services commonly termed “social media” comprise a special category unto itself, requiring new regulatory approaches, both locally and internationally, given their unprecedented global scale and impact, and multiple complexities as both an extraordinarily effective amplifier and potential negative effects for traditional professional news organizations.

Intermediary

Online platforms and services operate outside traditional regulatory frameworks for the telecommunications and publishing industries, and even many of the conventional regulatory norms for retailers and commercial service providers, because

their core businesses are none of these things: they are services connecting individual customers or “users” to consumer goods and entertainment and information services, and to each other. For regulatory purposes these social media services have been largely protected from legal responsibility for the content hosted or connected on their platforms, in contrast to the news publishers exercising editorial control, whose materials are increasingly viewed through these intermediaries.

These “intermediation” services are not managed neutrally, but are designed, at least partially, to maximize public dependence on their platforms, collecting in the process detailed data about user demographics – from consumer and political preferences to social and professional networks –

which make them immensely attractive to advertisers and lucrative for their proprietors.

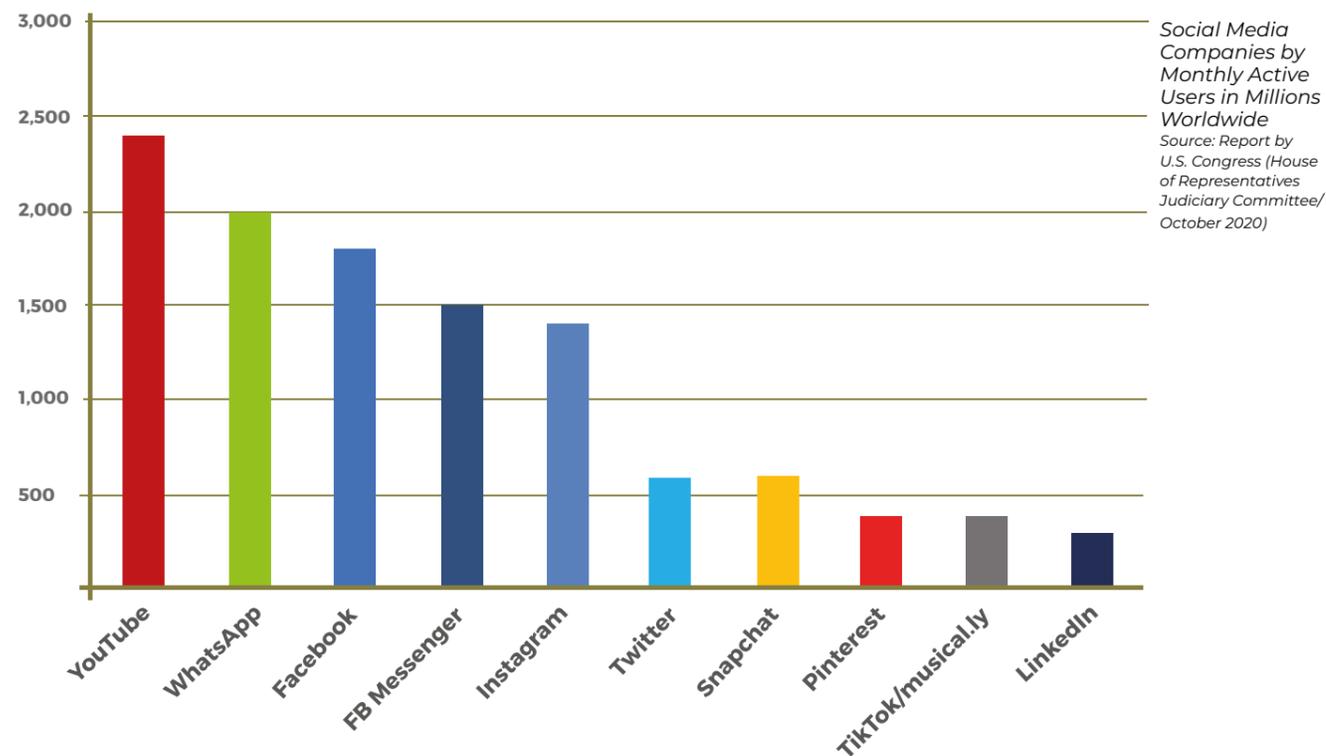
Besides the role of traditional legal instruments, hosting providers do generally moderate content according to their own – private – rules. Content moderation standards and principles consists of a series of governance mechanisms that structure participation in a community to facilitate cooperation and prevent abuse. As part of their own interests and business models, platforms tend to promote the healthiness of debates and interactions to facilitate communication among users. Platforms adopt these decisions on the basis of a series of internal principles and standards. Examples of these moderation systems are Facebook’s Community Standards, Twitter’s Rules and Policies or YouTube’s Community Guidelines. Platforms’ content policies are often based on a complex mix of different objectives: stimulating user engagement, respecting certain public interest values – genuinely embraced by platforms or as the result of policymakers and legislators’ pressures –, or adhering to a given notion of the right to freedom of expression. In any case, it is clear that platforms have the power to shape and regulate online speech be-

yond national law provisions in a very powerful way. The unilateral suspension of the United States former President Donald Trump accounts on several major social media platforms has become a very clear sign of this power.

Platforms do not only set and enforce private rules regarding the content published by their users. They also engage in thorough policing activities within their own spaces as well as play a fundamental role in determining what content is visible online and what content – although published – remains hidden or less notorious than other. Despite the fact that users are free to directly chose content delivered via online hosting platforms (access to other users’ profiles and pages, search tools, embedding...) platforms’ own recommender system are extremely influential inasmuch as they are in a central position among their interfaces and have become key content discovery features. Being true that final recommendation results are the outcome of a bilateral interaction between the user – including their preferences, bias, background, etc. – and the recommender systems themselves, it also needs to be underscored that the latter play an important gatekeeping role in terms of prioritisation, amplification or restriction of content.

There is a great and growing contrast between the original freewheeling, free-expression vision of the internet and the reality of the online universe today, which is dominated by giant transnational corporations which exercise quasi-monopoly power in their respective realms – most notably Google, as the go-to site for more than 90 percent of ‘search’ requests globally and owner of YouTube, which dominates the international internet video market with an estimated 2.4 billion regular visitors; and Facebook, as by far the biggest of the ‘social media’ enterprises, including its Instagram and WhatsApp subsidiaries. A 2020 U.S. Congressional report found that WhatsApp now has about two billion active monthly users and Instagram has 1.4 billion, in addition to the Facebook site’s estimated 1.8 billion.

The next tier of social media platforms, while still very large by traditional media standards, are far behind YouTube and the three Facebook platforms: Twitter with an estimated 580 million regular users, followed by Snapchat and Pinterest and TikTok and LinkedIn, all in the 200-400 million range.



Collectively, these huge private internet-based enterprises present the greatest challenge in the field of media regulation today, on the national level as well as for regional and international intergovernmental institutions and legal systems. Although, government supported imprisonment and killing of journalists pose a substantial threat for free media, the internet enterprises themselves currently pose a grave danger to democracy itself, as online misinformation and deliberately disseminated disinformation undermine public confidence in free elections, independent news media and public institutions. Yet those same social media forums can provide valuable channels for dissidence and pluralism in local and global political discourse.

As the noted social media analyst Yannis Theocharis has written, "Social media need to be seen as an incredibly potent medium in the toolset of both those who wish to strengthen democratic governance and those who wish to undermine it. They are used just as effectively and extensively as mobilizing tools by organized hate groups and those wishing to marginalize and silence others or challenge core democratic values, as they are used by activists and social movements aiming to strengthen citizens' political voice, increase the quality of democratic representation, or protest racial injustice."

Who is regulating whom? Social media, free speech, and the free press

The enormous power of these corporations to influence those public debates - by amplifying or silencing key voices and viewpoints, through automated algorithms or by content 'curating' decisions - has prompted concern across the political spectrum in scores of countries.

The decisions by Facebook and Twitter to block posts by a U.S. President are perhaps the best-known but certainly not unique examples of social media companies exercising their prerogatives to ban specific users or materials from their platforms. Among the many topics where Facebook and other platforms removed what they judged to be deliberate disinformation or dangerous misinformation are the Covid pandemic, national elections, climate change, racial and religious prejudice, and historical accounts of genocide. Facebook reports that it has identified and removed from its sites "hundreds of networks" designed to affect elections around the world with deliberate disinformation and "takes down millions of fake accounts every day" which the company says promote hate speech, publicly injurious misinforma-

tion on a range of issues, or online "harassment" of other Facebook users.

Critics say there is little transparency or consistency in these content-policing measures, and no mechanisms to challenge those corporate decisions. Especially problematic, they contend, is social media reliance on computer programs to monitor, promote and even "edit" content on their sites, further shielding corporate managers from legal accountability. An algorithm cannot be relied upon to differentiate between satire and news reporting, or between factual and fraudulent scientific data, or between photojournalism and fashion photography.

Proprietary software also determines the relative prominence of traditional news media on these platforms. News publishers and their industry associations around the world charge that Facebook and Google together function as unauthorized but de facto regulators themselves of the news business in much of the world, by deciding jointly the news sources and stories that billions of people will see.

In response, Facebook created an ombudsman-like advisory board with the mandate to review and make independent recommendations about its editorial policies and practices. But this self-regulatory approach has not mollified critics calling for legal oversight of social media forums. Facebook is under no obligation to take its advisors' advice, they point out.

Facebook has also been providing some direct grants to independent local news organizations in several countries as a philanthropic initiative, while opposing mechanisms that would legally obligate it to pay those news services for online use of their content. Google, for its part, launched its "Google News Showcase" site, with direct payments for content use to more than 500 news publishers around the world. These corporate initiatives were widely seen as responses to proposals for mandatory payment systems to independent news publishers by the two social media giants. Political pressure for legal regulation did not abate, however.

Regulatory efforts to date for social media have covered the entire spectrum of regulatory categories, from collective and company-specific self-regulation initiatives launched and controlled by the industry itself, to national attempts at state regulation of both the communications content on public social media

platforms, to the business structure and behaviour of the companies as private enterprises.

At an extreme, some countries - China, Iran, Syria - have blocked local access to international social media services. Others - such as Egypt, Ethiopia, Thailand, and Turkey - have imposed partial censorship of social media forums and news sites, over the objections of civil libertarians. India, the world's largest democracy, banned social media content judged to jeopardize its "sovereignty and integrity," and required media companies to cooperate with police investigations of online materials deemed illegal or offensive. In Brazil, widely considered a leader in progressive standards for social media regulation with the 2014 adoption of its "Civil Rights Framework for the Internet," judges ordered temporary shutdowns of the Facebook-owned WhatsApp network just two years later, citing those same rules.

Most proposals for systematic regulation of online media and commerce in democratic countries go beyond the "social media" platforms to include internet retailing giants (also known as marketplaces) such as Amazon, the fast-growing industry of "cloud computing" services (dominated by Amazon, Google, and Microsoft), and mobile phone apps and operating systems (a global "duopoly" shared by Apple and Google's Android). All these systems and technologies are interconnected in complex ways, and all have an impact on the media business. Related proposals to expand affordable broadband access and regulate internet service providers as public utilities (similar to water and electric power providers) could have long-term benefits for online news services. For the purposes of this programme and guidebook, however, the most relevant areas of current and proposed online regulation are those which most directly affect the news media, either as a content provider, or competitor, or both, now and in the immediate future.

Among these are a few new national initiatives to obligate major social media enterprises to pay local news organizations for proprietary editorial content that is shared on those commercial platforms. (Specific examples from Australia, France and other countries are discussed in detail below.) Yet many proponents of these media-compensation regulations on the national level still contend that only a coordinated international approach to social media oversight can ultimately succeed. These are global enterprises serving global audiences.

International legal standards for social media: The UN, the EU, and beyond

Some basic “supranational” standards for social media regulation are already in place.

Global institutions such as the United Nations and regional bodies including the European Union have several policies and legal instruments specifically applicable to online communications and information services. The overarching framework for this emerging international approach to social media governance can be found in Article 19, of the UHDR and the ICCPR, which remains remarkably relevant and adaptable to today’s Internet Era.

In 2018, the UN Human Rights Council adopted a resolution on the “Promotion, Protection and Enjoyment of Human Rights on the Internet” which states that ‘the same rights that people have offline must also be protected online, freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.’ This resolution reflected the recommendation of the Rapporteur for freedom of expression and media of the OHCHR (Office of the UN High Commissioner of Human Rights that “there should be as little restriction as possible to the flow of information on the Internet, except under a few, very exceptional and limited circumstances prescribed by international law for the protection of other human rights.”¹¹

In 2011, the UN Special Rapporteur on Freedom of Opinion and Freedom of Expression, the Special Rapporteur for Freedom of Expression of the OAS, the OSCE RFoM, and the ACHPR Special Rapporteur on Freedom of Expression, issued a joint declaration establishing guidelines to protect freedom of expression on the Internet, which advocates for promoting universal access to the internet and establishes that “cutting off access to the Internet, or parts of the Internet, for whole populations or segments of the public (...) can never be justified, including on public order or national security grounds” . Likewise, in a report issued in 2017, the UN Special Rapporteur underscores that network shutdowns invariably fail to meet the standard of necessity . This is also applicable to disruptions in the access to specific online services or

platforms. In the landmark case of Ahmed Yildirim v Turkey, the European Court of Human Rights established that blocking a whole domain name for the purpose of dealing with a specific piece of allegedly illegal content always requires “ascertaining whether a less far-reaching measure could have been taken”.

The mentioned Report by the Special Rapporteur also defines net neutrality as the principle that all Internet data shall be treated equally without undue interference. It also underscores that the freedom to choose among information sources is meaningful only when Internet content and applications of all kinds are transmitted without undue discrimination or interference by non-State actors, including providers. In addition to this, the Committee of Ministers of the CoE has adopted a Recommendation calling on European states to safeguard the principle of network neutrality in the development of national legal frameworks in order to ensure the protection of the right to freedom of expression and to access to information, and the right to privacy . The Recommendation also emphasises, among other things, that Internet traffic should be treated equally, without discrimination, restriction or interference irrespective of the sender, receiver, content, application, service or device. This network neutrality principle applies to all Internet access services irrespective of the infrastructure or the network used for the Internet connection and regardless of the underlying technology used to transmit signals. Last but not least, in the European Union “open Internet” rules were introduced with the adoption of the Regulation 2015/2120 of 25 November 2015 . On the basis of these rules, blocking, throttling and discrimination of internet traffic by Internet Service Providers (ISPs) is not allowed in the EU.

In 2018 the Committee of Ministers of the CoE adopted a Recommendation “on the role and responsibilities of Internet intermediaries”, which described these actors as “(a) wide, diverse and rapidly evolving range of players”, which:

“facilitate interactions on the internet between natural and legal persons by offering and performing a variety of functions and services. Some connect users to the internet, enable the processing of information and data, or host web-based services, including for user-generated content. Others aggregate information and enable searches; they give access to, host and index content and services designed and/or operated by third parties. Some facilitate the sale of goods and services,

including audio-visual services, and enable other commercial transactions, including payments.”

The intermediaries have become main actors in the process of dissemination and distribution of all types of content. They also play a very prominent role in ensuring the “visibility” of the content produced by traditional media, such as the written press or even radio and television.

As already mentioned, some intermediaries have adopted and usually implement private policies regarding illegal and other types of content that is lawful but that may be offensive or undesirable in a given context. This is the particular case of intermediaries providing hosting services, who tend to engage in granular content moderation, but can apply to a relatively wide and range of intermediaries that provide services for online storage, distribution, and sharing; social networking, collaborating and gaming; or searching and referencing.

The debate on regulation of content moderation systems contains a fundamental tension: on the one hand, States and certain civil society groups tend to ask intermediaries to make use of their own private regulatory tools to eradicate harmful and undesirable content, especially manifestations of hatred, disinformation, certain forms of propaganda, references to criminal acts and other similar behaviours.

On the other hand, organizations dedicated to the protection and promotion of freedom of expression, international human rights organizations and even some governments have expressed their concern that global private companies such as Google or Facebook often restrict or simply eliminate ideas, opinions and other content published by users on the basis of internal rules that are considered unjustified, abusive and ambiguous.

It is important to underscore that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has established, in a Report to the General Assembly of 6 April 2018 what is the main international legal principle regarding intermediaries’ responsibility for the content they facilitate: States and intergovernmental organizations should refrain from establishing laws or arrangements that would require the “proactive” monitoring or filtering of content, which is both inconsistent with the right to privacy and likely to amount to pre-publication censorship.

This principle is reflected in the legislation of many different countries in the world. In the United States, 230 of the Communications Decency Act (CDA) , applicable to a wide variety of online content with a few exceptions (mainly intellectual property rights and federal crimes which are covered by specific legislation). In the European Union, the so-called the e-Commerce Directive grants intermediaries enjoy liability immunities inasmuch as they perform a role of a mere technical, automatic and passive nature (although the definition and interpretation of such notions has proven to be quite controversial). Other countries also have similar legal regimes, derived from laws adopted in the course of the recent years, such as the already mentioned Marco Civil da Internet in Brazil, or the landmark 2015 Supreme Court case, in India Shreya Singhal v. Union of India .

In a very controversial decision, the European Court of Human Rights authorized sanctions against internet enterprises for hate speech on social media sites, notwithstanding their asserted immunity from liability for other content posted by third parties, the European Human Rights Court has ruled:

‘Internet news portals which, for commercial and professional purposes, provide a platform for user-generated comments assume the “duties and responsibilities” associated with freedom of expression in accordance with Article 10 § 2 of the Convention where users disseminate hate speech or comments amounting to direct incitement to violence.’

In 2018, the European Union’s General Data Protection Regulation (GDPR) went into effect, requiring social media companies and other commercial online platforms to both abide by GDPR privacy restrictions on the use and sharing of personal user data and provide users with access to personal information collected by those corporations. The GDPR requires both EU national governments and private companies in the EU to respond to requests from individuals for their personal data within one month, in ‘concise, transparent, intelligible and easily accessible form, using clear and plain language.’

The GDPR expanded and codified protections already recognized in recent amendments to the European Charter of Human Rights, which states in its Article 8 that:

1. Everyone has the right to the protection of personal data concerning him or her; and
2. Such data must be processed fairly for specified

purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

The EU's Audiovisual Media Services Directive (AVMSD) - originally covering only the traditional broadcasting industry in EU member states - was updated in 2018 to include "video sharing platforms" including YouTube and Facebook, with content standards for the "protection of minors against harmful content in the online world" and the prevention of online audiovisual "incitement to violence or hatred and public provocation to commit terrorist offences."

The European Commission is also implementing an "Action Plan against Disinformation" on the internet, with the establishment of a European Digital Media Observatory and a voluntary "code of practice" in which leading social media companies (Google, Facebook, Microsoft, Mozilla, Twitter, TikTok) "committed to put in place policies aimed at:

1. Reducing opportunities for advertising placements and economic incentives for actors that disseminate disinformation online,
2. Enhancing transparency of political advertising, by labelling political ads and providing searchable repositories of such ads,
3. Taking action against, and disclose information about the use by malicious actors of manipulative techniques on platforms' services designed to artificially boost the dissemination of information online and enable certain false narrative to become viral,
4. Setting up technological features that give prominence to trustworthy information, so that users have more instruments and tools to critically assess content they access online, and
5. Engaging in collaborative activities with fact-checkers and the research community, including media literacy initiatives."

Going further, the Commission has proposed a "single set of new rules" for "a safer and more open digital space" throughout the EU, including steep penalties on internet companies judged to have thwarted competition through their power as digital "gatekeepers" or to have failed to remove fraudulent or offensive content from their sites as required under EU laws. This complex and far-reaching initiative is comprised of two linked but separate proposed laws,

the Digital Services Act (DSA) and the Digital Markets Act (DMA). The proposed DMA legislation is directed primarily at online retailers and related marketing platforms. The DSA is more directly relevant to the news media and press freedom more broadly. Among other measures, the DSA would impose a detailed set of requirements for the major social media companies to disclose much of what they now consider proprietary data about their internal software-driven publishing and advertising operations, and to adopt transparent procedures for monitoring and 'curating' third-party content on their platforms and for responding to public queries and complaints about those editorial management decisions. Any EU member-state government could demand the immediate removal of "illegal content" - including but not limited to hate speech and deliberate disinformation- from any social media platform operating in any part of the European Union.

Perhaps the most controversial of the EU's current internet regulations is the 2019 "Directive on Copyright in the Digital Single Market," which includes new requirements for financial compensation for social media use of copyright-protected news stories, fiction, music, videos, and other such proprietary materials. It also introduces obligations for platforms to prevent users from uploading protected content, presumably via the use of automatic filters. It is important to note that the Government of Poland has precisely requested to the Court of Justice of the European Union to nullify some of the provisions included in the mentioned article claiming that "the imposition on online content-sharing service providers of the obligation to make best efforts to ensure the unavailability of specific works (...) and the imposition on online content-sharing service providers of the obligation to make best efforts to prevent the future uploads of protected works (...) make it necessary for the service providers - in order to avoid liability - to carry out prior automatic verification (...) and therefore make it necessary to introduce preventive control mechanisms.

Such mechanisms undermine the essence of the right to freedom of expression and information and do not comply with the requirement that limitations imposed on that right be proportional and necessary." Though strongly supported by European newspaper industry associations and many prominent film and music artists, the directive was criticized by international human rights organizations concerned about its possible impact on the free online

exchange of "information and ideas," as guaranteed by Article 19 of the UDHR and ICCPR. Also objecting were the social media platforms most directly targeted by the directive, such as YouTube (owned by Google) and Facebook. Six EU member states opposed the measure, which nonetheless passed with majority support. The directive requires national legislation by EU member states to come fully into effect, from 2021 onward.

A more recent EU regulation banning "the dissemination of terrorist content online" has also been hotly debated, with human rights and press freedom groups opposing the measure for posing "serious threats to freedom of expression and opinion, freedom to access information, the right to privacy, and the rule of law."

Among other provisions, the regulation authorizes any EU member state to demand the removal of what it considers "terrorist content" content from any online forum in any EU country, with the companies running the platforms given just one hour to comply. National governments are further authorized to "disable access in all member states" to online services hosting material deemed illegal under these new EU rules. In its initial approval of the regulation in March 2021, the Council of the European Union stated:

The aim of the legislation is a swift removal of terrorist content online and to establish one common instrument for all member states to this effect. The rules will apply to hosting service providers offering services in the EU, whether or not they have their main establishment in the member states.]

Both supporters and critics of the EU's varied regulatory initiatives agree that their influence will be felt far beyond Europe, both as legal precedents and as factors affecting the global behaviour of social media corporations.

Because of the size and strength of the EU as a world market, and the impact of its regulatory standards beyond its boundaries, some social media companies are beginning to follow EU guidelines in all their worldwide operations. But the EU's anti-disinformation initiative and digital copywrite directive have yet to transform social media practices regionally, much less internationally.

Only citizens of EU states can currently take legal action through the GDPR to enforce their rights to per-

sonal data collected by online media and marketing companies. Even within the EU, ensuring compliance has proved difficult.

Still, the EU is playing a critical role beyond Europe's borders by serving as a kind of policy laboratory for online regulation, providing possible models for other regions. Some EU rules governing social media business practices could be adapted by country groupings with subregional trade accords, such as Africa's EAC, South America's Mercosur, and North America's NAFTA. The three countries of NAFTA - now known officially as the US-Mexico-Canada Agreement, or USMCA - are each considering their own new social media regulations, which would then need to be harmonized intraregionally, similar to EU procedures.

Other further-reaching EU initiatives could provide models for regional bodies which similarly share human rights frameworks, such as the AU and ASEAN and the OAS, with adjustments for their own respective legal requirements. (OAS "Inter-American" legal norms include stronger prohibitions against prior censorship than EU standards, for example.)

The AU has detailed guidelines for online freedom of expression protocols and social media regulations that are already broadly compatible with EU policies, as well as with relevant UN agreements. The Declaration of Principles on Freedom of Expression and Access to Information in Africa by the African Commission on Human and People's Rights was revised in 2019 to include extensive specific recommendations for national policies on internet access, content moderation and "intermediation" rules, which represent a useful synthesis of current international thinking on social media regulations and related legal standards (see box: African commission: Freedom of Expression and Access to Information on the Internet).

International Legal Standards for Social Media: The UN, the EU, and beyond

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In 2018, the UN Human Rights Council adopted a resolution on the "Promotion, Protection and Enjoyment of Human Rights on the Internet" which states that 'the same rights that

National regulation: Content oversight and profit-sharing rules

That is not to say that there is no scope for constructive action on a national level.

Promising initiatives are already underway in many countries include social media monitoring collaborations between media and civil society organizations, with a special focus on misinformation and targeted disinformation during national elections, or natural disasters, or public health crises. There may be scope for productive interaction between such initiatives and the public liaison offices and advisory bodies for Facebook and other social media companies, especially if local monitoring efforts generate national and international press coverage. Moreover, the factual documentation collected and analysed by such national nongovernmental consortiums could in turn assist and influence intergovernmental regulatory parameters for social media companies in the Europe, Africa, Asia, and the Americas.

Also under consideration in many countries are regulations for online personal data access and privacy, similar to the EU's recently adopted rules; mandatory disclosure of the identities of online advertisers; imposing legal liability for publishing libellous or knowingly and dangerously false statements on social media sites; requirements for the breakup of quasi-monopoly social media companies into several separate independent enterprises, with restrictions against collaboration; and tax initiatives forcing online merchants to pay local and national sales and value-added taxes. While these regulations are mostly aimed at the business operations of social media companies, rather than the content carried on their platforms, some of these proposed reforms could indirectly benefit private news enterprises. Increasing platform competition and tightening data privacy rules could potentially help online news sites compete for advertisers and secure fairer compensation for social media use of their news content. Several

national regulatory initiatives, however, are intended to directly aid national and local news services. Most notably, some countries are adopting or debating legal mechanisms requiring payment to private news organizations by social media companies for use of their news reports and images on their websites and through their search engines. One recent news industry study estimated that Google alone makes close to \$5 billion annually from advertising income generated by users following news reports through Google links and news sites.

The many proposed new content, taxation, and marketplace-competition rules for social media in national legislatures worldwide indicate that these debates and plans are likely to continue for some years to come, with varying policy approaches having significant yet inherently unpredictable consequences for the news business.

In 2021, lawmakers in several countries with highly developed national media markets introduced social media regulations designed to support local journalism. Some are taking effect almost immediately; others could take years to adopt and implement. All are being watched closely in other national legislatures around the world.



Some key illustrative examples include:



Australia: Adopted in early 2021, Australia's 'News Media Bargaining Code' is the first national law of its kind, requiring foreign-domiciled social media companies to pay the country's news organizations for use of their originally generated editorial content, either on content-sharing websites and news-aggregation services, or through links to online content produced by search engines. The new 'Bargaining Code' authorizes Australia's many local and national news organizations to conduct collective negotiations with Google and Facebook and others to set conditions and fees for their content's use.

Google and Facebook drew worldwide attention and criticism by threatening to withdraw their online services from Australia entirely if the legislation were to be passed. Both companies then reversed course, agreeing to abide by the Code's terms, and creating their own direct contractual arrangements with Australia's largest private news organizations, as the Code also allows. Implementation of the law is overseen by the Australian Communications and Media Authority, which determines the eligibility of news organizations for compensation under the terms of the Code and appoints "mediators" and "arbitrators" to facilitate the negotiations. Though praised as a replicable precedent by media industry associations and lawmakers elsewhere in the world, the Australian Code was criticized on several fronts, including its implicit acceptance of private-data-based social media business models and what some observers considered disproportionate benefits for national newspaper chains, rather than more equitable support for all local news organizations, new and old and large and small.



France: Also in early 2021, France became the first EU member country to pass national enabling legislation under the terms of the EU directive strengthening "digital market" copyright protections for news publishers whose materials are "shared" on social media sites (see above). Under terms permitted by the law,

Google and the French industry association of new publishers (Alliance de la Presse d'Information Générale, or APIG) agreed to a "neighbouring rights" framework for licensing agreements with APIG member companies, plus paid participation in the Google News Showcase. Remuneration is based on criteria such as the publisher's local print circulation and internet traffic, with Google reportedly allocating about \$100 million to cover its estimated payments to APIG members over the first three years of the program. While welcomed by participating publishers and many independent industry observers, the Google accord was criticized by French news organizations not represented in the APIG, including some smaller newspapers and online news sites as well as Agence France-Presse (AFP), the international news agency. (Reuters, an AFP competitor, negotiated its own content-sharing contract with Google.)



Canada: The Canadian government announced in 2021 its intention to create a new regulatory regime with a “Canadian Code of Conduct” for Facebook, Google, other online platforms. The proposal includes financial penalties on social media companies for hate speech, incitement and other content already proscribed under Canadian law for print and broadcast outlets. In parallel, Canada’s government is planning to introduce a mandatory financial compensation system for social media content originating in national news organizations, a proposal modelled after Australia’s legislation, but with additional provisions for small community publications and start-up online news sites. Officials said the Canadian proposal may also incorporate features of the EU digital copyright directive, as in France, permitting collective negotiations by local news publishers with Google and other social media platforms.



United States: A proposed “Journalism Competition and Preservation Act” was introduced in the U.S. Congress, with support in both major political parties and wide backing from news publishers. The law would waive prohibitions against collective bargaining by U.S. media companies with social media services that use their editorial output without financial compensation. This would permit industry-wide payment arrangements for U.S. news media similar to those negotiated in Australia and France.

Bipartisan support was also building for a revision of the already mentioned Section 230 of the “Communications Decency Act” of 1996. This quarter-century-old legislation is widely considered the single most significant regulatory initiative in the history of the internet, as it protected online communications services against legal liability for any of the content on their platforms. Section 230 states: “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” Adopted a decade before the rise of Google and Facebook, this provision made the unregulated posting of texts and images by individuals and the wide sharing of content from third parties a legally tenable business proposition. It also permitted a free exchange of political opinion, artistic expression, and scholarly inquiry, as the online forums and internet providers that made this communication possible could not be sued in U.S. courts for content deemed injurious, inaccurate, or otherwise objectionable. Section 230 also authorized privately run internet platforms and service providers to remove content from their sites at their own discretion without fear of legal retribution.

Now, however, in response to the rising online dominance and political influence of Google and Facebook, many U.S. lawmakers want to revise or rescind this immunity provision. Some favour rules establishing corporate legal responsibility for online advertisements and other paid content. Others also want to mandate corporate accountability for de-



liberately malicious disinformation and recklessly dangerous misinformation on their platforms, especially those intentionally affecting public information and behaviour in national emergencies or elections.

Still others would go further, holding social media companies liable for everything written or shared on their forums. Civil libertarians who are highly critical of social media companies for many reasons nonetheless voice concerns about the impact of such far-reaching provisions on free speech and political discourse, much of which now takes place online.

Whether all or any of these proposals would meet the standards for free expression under U.S. constitutional law or the wider Inter-American system of human rights norms and agreements is very much a matter of debate. The social media industry in the United States is citing U.S. First Amendment free speech protections in public campaigns to limit revisions of Section 230 to just a few narrow exceptions to its broad exemption from legal responsibility for content on its plat-

forms. (Facebook summarized its position this way: “We support thoughtful updates to internet laws, including Section 230, to make content moderation systems more transparent and to ensure that tech companies are held accountable for combatting child exploitation, opioid abuse, and other types of illegal activity.”)

Whatever the U.S. Congress ultimately decides, it will have global repercussions. Facebook and Google and most other big social media enterprises are U.S. companies, founded in the United States and still operating under U.S. law, notwithstanding their large subsidiaries established for operational and tax purposes elsewhere in the world.

The U.S. remains by far the largest national social media marketplace, roughly equivalent on its own to the 27-nation EU market. Convergence between regulatory initiatives in the U.S. and the EU’s more quickly advancing oversight rules is likely to determine social media business rules and practices elsewhere in the democratic world.

Self-regulation: Can social media companies police themselves?

Whether to avoid state regulation, or as a good-faith effort to improve transparency and accountability to the public, or both, the social media industry has introduced several self-regulatory mechanisms and polices in the past few years.

Most are “internal” measures, adopted autonomously by each particular enterprise. These include new channels to receive complaints and queries from civil society and public officials as well as individual users of their services, and the disclosure of data on (for example) demands from governments for the removal of specific content from a company’s websites and a record of actions taken in response to those requests.

Some are modelled after news industry self-regulation, from the publication of written editorial standards and ombudsman-like public liaison offices to proactive “content moderation” of reader forums.

A few are collective initiatives, such as codes of



conduct drafted and promoted by industry associations. In several national and regional jurisdictions, industry groups including Facebook, Google, Twitter and others pledged to take specific steps to prevent the spread of misinformation and disinformation on their online platforms.

These joint industry self-regulation initiatives were adopted in parallel or in response to proposed statutory measures for social media regulation. Some include formal pledges and reporting commitments to governmental bodies, putting them more in the category of “co-regulation” initiatives.

One of the more controversial collective “external” self-regulatory initiatives is the “Global Internet Forum to Counter Terrorism (GIFCT),” established in 2017 by Facebook, Google, Microsoft, and Twitter with the stated aim of preventing the “exploitation” of digital platforms by “terrorists and violent extremists.” More than a dozen smaller social media companies later signed on to the GIFCT coalition and code of conduct, which include pledges to block or remove content promoting or depicting armed violence against civilians, such as live-streaming or videos of mass shootings or terrorist insurgent attacks on civilian targets. These guidelines have been criticized as overly broad by some media organizations and media groups, which point to the removal of material that they considered journalistically valid and politically significant, such as video documentation of violent attacks on non-combatants in Syria.

Some observers have also questioned the GIFCT’s acknowledged cooperation with state intelligence agencies. The GIFCT maintains a confidential shared database of “unique digital fingerprints” (or “hashes”) of “violent terrorist imagery or recruitment videos” that member companies have removed from their platforms.

In 2019, GIFCT was reconstituted as a non-profit nongovernmental organization funded by but operationally independent of its corporate founders, with an advisory board of representatives from civil society groups and seven national governments,

and four “foundational goals”:

- **Empower a broad range of technology companies, independently and collectively, with processes and tools to prevent and respond to abuse of their platforms by terrorists and violent extremists**
- **Enable multi-stakeholder engagement around terrorist and violent extremist misuse of the Internet and encourage stakeholders to meet key commitments consistent with the GIFCT mission**
- **Promote civil dialogue online and empower efforts to direct positive alternatives to the messages of terrorists and violent extremists**
- **Advance broad understanding of terrorist and violent extremist operations and their evolution, including the intersection of online and offline activities.**

Other examples of collective self-regulation by social media enterprises include industry-wide pledges of compliance with requests from governments to follow official public health standards in the online marketing of medicines, or to restrict paid political advertisements in accord with national legal requirements for domestically domiciled media companies.

Each company interprets and administers these policies in its own way. Opaque and seemingly inconsistent corporate decision-making in response to these requests and codes of conduct has led critics to propose formal oversight mechanisms for social media, analogous to those in place in many countries for monopoly utility services, such as electric power and water companies. Even though Facebook and Google and others may be headquartered elsewhere, and may not even have representation offices in many countries, national sales of advertising and availability of their online services puts their operations within the regulatory reach of national governments. Corporate initiatives for internal self-regulation on a global scale such as those summarized below are unlikely to address or alleviate these legitimate local concerns.



Illustrative country examples:



Zimbabwe: In many countries, civil society activists have urged social media companies to take voluntary collective steps in the articulation and enforcement of ethical standards and other self-regulatory policies. In Zimbabwe, for example, the Media Institute of Southern Africa (MISA) has promoted guidelines for content moderation on social media sites as part of its national “Digital Rights and Literacy Campaign,” focusing on the following key issues:

- **The content moderation policies of social media platforms**
- **Whether or not content moderation is important**
- **Circumstances under which an account can be suspended**
- **When platforms should restrict harmful political speech**
- **The right balance between content moderation, democracy and digital rights**

Local initiatives of this kind can have a productive influence on the policies and practices of national or regional social media forums, such as those hosted by newspaper websites or nongovernmental organizations. On the dominant global social media platforms, however, content moderation is typically managed internationally rather than nationally, with little deference to local priorities and preferences, especially in smaller countries. Nor do these companies readily embrace collective norms and standards, preferring to retain corporate autonomy in these practices. Companies such as Facebook or Google have rarely if ever adjusted their policies in response to civil society petitions or media critiques, unless simultaneously confronted by pressure from lawmakers for state regulation of their platforms.



Australia: One recent national example of collective “external” self-regulation by social media companies is the “Australian Code of Practice on Disinformation and Misinformation,” adopted in 2021 by Facebook,

Google, Microsoft, Redbubble, TikTok and Twitter.

The initiative was not entirely voluntary: The code was drafted by a national industry association in response to a formal request from the Australian government for corporate commitments to combat online disinformation and misinformation, along the lines of the pledges already made by most social media companies in the European Union.

Under the terms of the new Code of Practice, the corporate signatories promised to adopt a series of “safeguards to protect Australians against harm from online disinformation and misinformation, [including] a range of scalable measures that reduce its spread and visibility.” Participating companies further agreed to produce “annual transparency reports” documenting compliance with the Code’s provisions, in order to “help improve understanding of online misinformation and disinformation in Australia over time.” Yet the corporate signatories also made clear that they would assume only limited responsibility for “misinformation” on their platforms, citing the protections for “the open exchange of opinion, speech, information, research and debate and conversation” under Article 19 of the UDHR:

Signatories should not be compelled by Governments or other parties to remove content solely on the basis of its alleged falsity if the content would not otherwise be unlawful. Given its subject matter, the Code gives special attention to international human rights as articulated within the Universal Declaration on Human Rights, including but not limited to freedom of speech. Signatories are encouraged, in developing proportionate responses to Disinformation and Misinformation, to be cognizant of the need to protect these rights.



To each its own: Internal corporate self-regulation

For social media corporations, as with news media companies, internally enforced standards and ethics are the most important elements of self-regulation. But in contrast to the world of journalism, there is little consensus within the social media industry as to what is or should be acceptable professional behaviour in the management of their public forums and platforms. Nor has there been much corporate transparency about their own internal procedures and experiences in ensuring adherence to their stated corporate principles and policies.



Illustrative online platform examples:



Facebook: Perhaps the best-known example of corporate self-regulation in the social media industry to date is Facebook's "Oversight Board for Content Decisions," a recently created quasi-independent advisory body. The board's profession-

ally and internationally diverse members include respected experts in human rights law, journalism, democratic governance, and specialized areas of internet governance and freedom of expression issues. Among them are a former prime minister of Denmark; a long-time editor of Britain's *The Guardian*; a Nobel Peace Laureate from Yemen; a Colombian law school dean who previously served as OAS Rapporteur for Freedom of Expression; a leader of a prominent libertarian-leaning U.S. think tank; the Vice-Chancellor of India's National Law School; and the directors of two international internet-rights NGOs, one from Cameroon, and the other from Pakistan. Board members are appointed by Facebook and receive compensation for their services.

Facebook has stated that the board's purpose "is to promote free expression by making principled, independent decisions regarding content on Facebook and Instagram and by issuing recommenda-

tions on the relevant Facebook company content policy." The company said the board would review "a select number of highly emblematic cases and determine if decisions were made in accordance with Facebook's stated values and policies." Facebook is not bound to follow the recommendations of its Oversight Board, however, nor to disclose its own internal documentation about cases or corporate policies reviewed by the board. The Board is also precluded from reviewing corporate responses to requests from governments for the removal of specific content or users from Facebook pages. The Oversight Board's deliberations are separate from Facebook's internal content review systems and personnel, which the company says also rely on input from hundreds of independent journalists and academics in the non-profit International Fact-Checking Network.

One of the first such "highly emblematic cases" taken up by the Oversight Board was Facebook's decision in late 2020 to deny the then-US President further access to its platforms, in what the company said was a consequence of the President's alleged flouting of Facebook policies against misinformation, disinformation, and incitement of violence. Some critics contended the Facebook decision was taken years too late; others argued that it should never have been taken at all, given the President's prominence and legitimacy as the elected leader of one of the largest and oldest democracies.

Either way, the board's first major decision was guaranteed to be difficult, and greeted by criticism, as well as scepticism about its real degree

of independence from Facebook management. Moreover, the deliberately partial and selective nature of the Oversight Board's case review procedures effectively keeps most Facebook editorial decisions from being scrutinized by these new mechanisms, including cases that may be highly publicized and controversial in some countries. Over the longer term, it seems clear that however Facebook's self-regulatory efforts are managed or perceived, the establishment of an internal "Oversight Board" will not diminish political pressure for new official external oversight rules.

[NOTE: THIS SECTION SHOULD BE UPDATED BEFORE PUBLICATION TO INCLUDE FB BOARD ACTIONS AND PUBLIC/GOVT REACTIONS OVER NEXT 1-2 MONTHS.]



Google: Google has faced rising scrutiny from public officials around the world on four different fronts: first, for its near-monopoly status as the preeminent "search" provider on the internet; second, for its lucrative advertising-generating role as an online news "aggregator" and intermediary between individual internet users and independent news organizations; third, as the proprietor of YouTube, the dominant social media video service; and fourth, as the corporate home of the world's most widely used mobile phone operating system.

It is only in the second of these four areas that Google has taken significant steps towards reforms of its business practices. That this is the one area most directly affecting the news business worldwide is not seen as coincidental, as the company has been strongly criticized by the media both for alleged abuses of its quasi-monopoly power online

and for its voluminous use with little compensation of content from independent news organizations. Google has opposed mandatory news-media payment regimes, including the laws recently adopted in Australia and France and proposed in the U.S. and other countries. As noted, the value to Google of advertising revenue from search-linked news items is estimated at nearly \$5 billion yearly, at a time when ad income is plummeting at the news companies producing that content.

The most visible reform initiative was the introduction in 2020 of a "Google News Showcase" featuring both national and international selections of news articles from publications paid by Google to contribute to this new service. Though more of a new social media business product than such standard self-regulatory mechanisms as codes of conduct or advisory bodies, its creation was portrayed by Google as a voluntarily adopted and ethically motivated corporate reform. Google said it recognised the need for fairer compensation and content-placement arrangements for the online use of material from independent news services: "The business model for newspapers—based on ads and subscription revenue—has been evolving for more than a century as audiences have turned to other sources for news, including radio, television and later, the proliferation of cable television and satellite radio. The internet has been the latest shift, and it certainly won't be the last. Alongside other companies, governments and civic societies, we want to play our part by helping journalism in the 21st century not just survive, but thrive."

Among the nearly 500 participating companies to date are Reuters, the international news agency, and such prominent national newspapers as *Le Monde* and *Libération* in France; *Der Spiegel* and *Frankfurter Allgemeine* in Germany; *Folha de Sao Paulo* and *Jornal do Comercio* in Brazil; and the NewsCorp-owned *Wall Street Journal* and *New York Post* in the United States. The Google News Showcase is quickly expanding as an aggregated national news service in many countries, with unclear consequences for news organizations not included in the Google consortium. In Argentina alone, the Google News Showcase announced online distribution deals with 40 local news organizations, including both of the country's two dominant national newspapers, *Clarín* and *La Nación*.

The limits of regulation: Is the social media model itself the problem?

Some serious students of social media contend that regulation is beside the point – the medium itself is the problem, they say. The advertising-driven traffic-maximising model of Facebook, especially, and a few other similarly designed online platforms, is almost guaranteed to produce an unending supply of divisive and dangerous misinformation and disinformation, at a pace and scale that makes real-time monitoring and mitigation almost impossible. Social discord is “a feature not a bug” of social media software, these critics argue.

The economist Robert H. Frank puts it this way: “As the developers concede, Facebook’s algorithms are addictive by design and exploit negative emotional triggers. Platform addiction drives earnings, and hate speech, lies and conspiracy theories reliably boost addiction. [...] If the conscious intent were to undermine social and political stability, this business model could hardly be a more effective weapon.”

Yet defenders of social media – including some who support stricter oversight of Facebook and Google and others – can point to numerous instances where internet forums have provided invaluable political platforms for dissidents and creative outlets for artists in societies with few alternative opportunities for free expression. By regulating the giant social media enterprises more like public utilities, some suggest, these useful public functions could be preserved, while socially destabilising misinformation and incitement could be minimised. In societies where political dissent and creative expression is suppressed, however, a public-utility regulatory model could further restrict online space for free speech and independent news.

The public utility approach begs another question: If social media platforms are already acquiring the

characteristics of public utilities – with operational control of much of our communications infrastructure and news and public information delivery – why not create non-profit services to serve the same public functions, without the intrusion of advertising or appropriation of private user data?

Public broadcasting governance is an obvious paradigm. Some social media critics argue that there would be few technical or legal obstacles to the creation of social media extensions of public broadcasting services, with people enjoying access to moderated advertising-free online public forums much as they now use Facebook.

None of these ambitious proposals could be implemented quickly or inexpensively, however, and national initiatives are inherently difficult in the borderless online universe of social media. Private news media companies may prefer to strike deals with private social media platforms than be subjected even if indirectly to the state equivalent of a public utility regulator. And consumers themselves might object: Facebook and Google and WeChat and the rest can claim to have billions of satisfied customers, few of whom are publicly demanding such reforms.

What is beyond doubt is that the social media revolution poses the most significant challenges in news media regulation and sustainability today, with national legislators and industry leaders closely watching the many legal initiatives

now underway in other countries and regions. This is a highly dynamic, quickly evolving area of both technology and law, where policy proposals can become quickly outdated.

Initiatives that seemed well-conceived just five years ago can seem functionally irrelevant today, and few can confidently predict what online media technology and regulation will look like five or ten years from now.

DIALOGUE

- What are the most widely used social media services in your country and region? Are those platforms sources of daily local news for the general public? How has social media affected the traditional news media? Can independent online news organizations use or compete with social media networks?
- Do media or civil organizations monitor social media networks for misinformation or deliberate disinformation about local/national issues?
- What would you consider appropriate forms of state regulation of social media?

Box 6

AFRICAN COMMISSION: Freedom of Expression and Access to Information on the Internet

Excerpt from the African Commission on Human and People’s Rights’

“Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019)”

Principle 37: Access to the internet

1. States shall facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights.
2. States shall recognise that universal, equitable, affordable and meaningful access to the internet is necessary for the realization of freedom of expression, access to information and the exercise of other human rights.
3. States shall, in cooperation with all relevant stakeholders, adopt laws, policies and other measures to provide universal, equitable, affordable and meaningful access to the internet without discrimination, including by:
 - developing independent and transparent regulatory mechanisms for effective oversight;
 - improving information and communication technology and internet infrastructure for universal coverage;
 - establishing mechanisms for regulating market competition to support lower pricing and encourage diversity;
 - promoting local access initiatives such as community networks for enabling the increased connection of marginalised, unserved or underserved communities; and
 - facilitating digital literacy skills for inclusive and autonomous use.
4. In providing access to the internet, States shall take specific measures to ensure that marginalised groups have effective exercise of

their rights online.

5. States shall adopt laws, policies and other measures to promote affordable access to the internet for children that equips them with digital literacy skills for online education and safety, protects them from online harm and safeguards their privacy and identity.

Principle 38: Non-interference

1. States shall not interfere with the right of individuals to seek, receive and impart information through any means of communication and digital technologies, through measures such as the removal, blocking or filtering of content, unless such interference is justifiable and compatible with international human rights law and standards.
2. States shall not engage in or condone any disruption of access to the internet and other digital technologies for segments of the public or an entire population.
3. States shall only adopt economic measures, including taxes, levies and duties, on internet and information and communication technology service end-users that do not undermine universal, equitable, affordable and meaningful access to the internet and that are justifiable and compatible with international human rights law and standards.

Principle 39: Internet intermediaries

1. States shall require that internet intermediaries enable access to all internet traffic equally without discrimination on the basis of the type or origin of content or the means used to transmit content, and that internet intermediaries shall not interfere with the free flow of information by blocking or giving preference to particular internet traffic.
2. States shall not require internet intermediaries to proactively monitor content which they have not authored or otherwise modified.
3. States shall require internet intermediaries to ensure that in moderating or filtering online

content, they mainstream human rights safeguards into their processes, adopt mitigation strategies to address all restrictions on freedom of expression and access to information online, ensure transparency on all requests for removal of content, incorporate appeal mechanisms, and offer effective remedies where rights violations occur.

4. States shall not require the removal of online content by internet intermediaries unless such requests are:
 - clear and unambiguous;
 - imposed by an independent and impartial judicial authority, subject to sub-principle 5;
 - subject to due process safeguards;
 - justifiable and compatible with international human rights law and standards; and
 - implemented through a transparent process that allows a right of appeal.
5. Law-enforcement agencies may request intermediaries for the expedited or immediate removal of online content that poses imminent danger or constitutes real risk of death or serious harm to a person or child, provided such removal is subject to review by judicial authority.
6. States shall ensure that the development, use and application of artificial intelligence, algorithms and other similar technologies by internet intermediaries are compatible with international human rights law and standards, and do not infringe on the rights to freedom of expression, access to information and other human rights.

Principle 40: Privacy and the protection of personal information

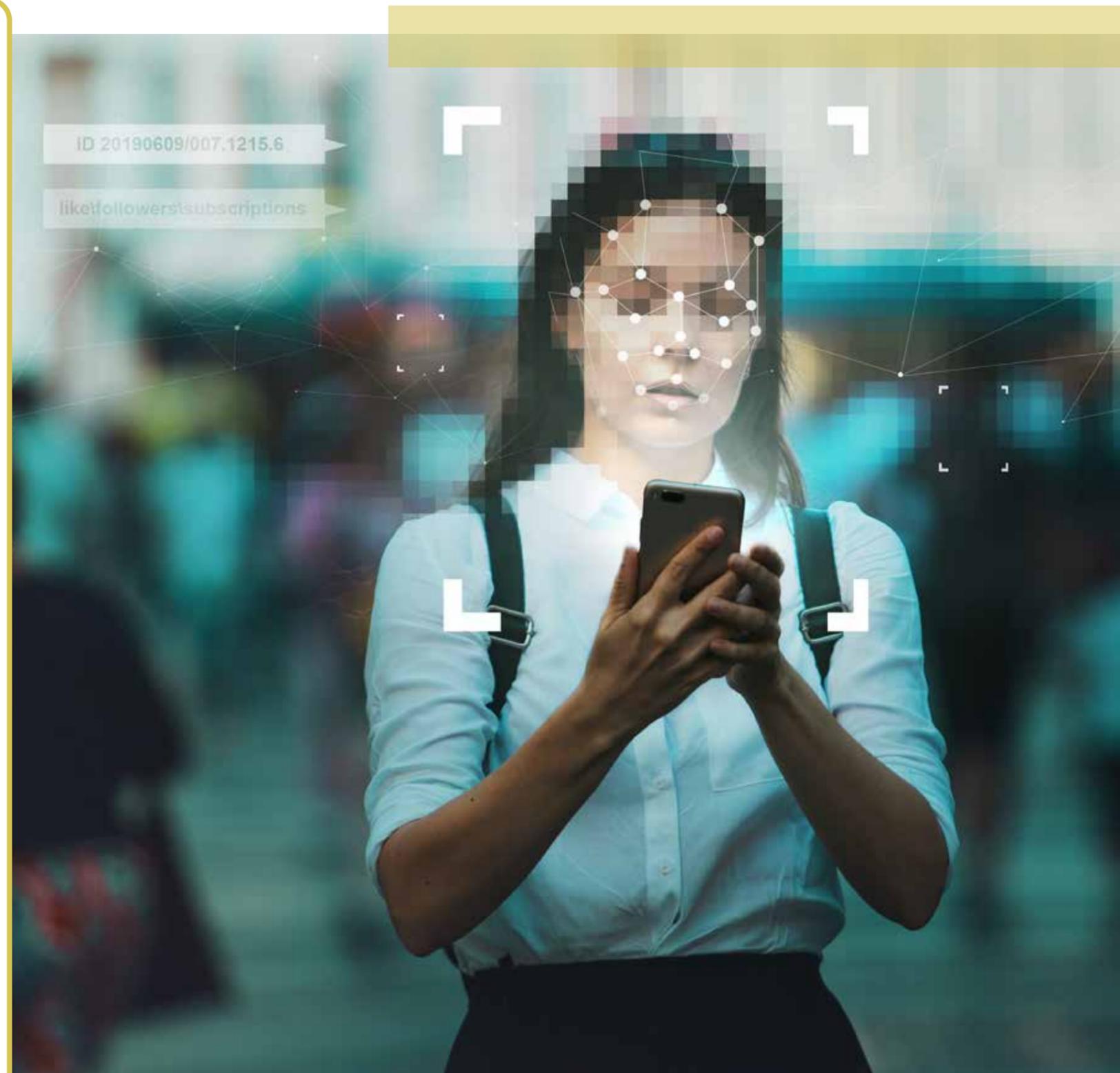
1. Everyone has the right to privacy, including the confidentiality of their communications and the protection of their personal information.
2. Everyone has the right to communicate anonymously or use pseudonyms on the

internet and to secure the confidentiality of their communications and personal information from access by third parties through the aid of digital technologies.

3. States shall not adopt laws or other measures prohibiting or weakening encryption, including backdoors, key escrows and data localisation requirements, unless such measures are justifiable and compatible with international human rights law and standards.

Principle 41: Privacy and communication surveillance

1. States shall not engage in or condone acts of indiscriminate and untargeted collection, storage, analysis or sharing of a person's communications.
2. States shall only engage in targeted communication surveillance that is authorised by law, that conforms with international human rights law and standards, and that is premised on specific and reasonable suspicion that a serious crime has been or is being carried out or for any other legitimate aim.
3. States shall ensure that any law authorising targeted communication surveillance provides adequate safeguards for the right to privacy, including:
 - the prior authorisation of an independent and impartial judicial authority;
 - due process safeguards;
 - specific limitation on the time, manner, place and scope of the surveillance;
 - notification of the decision authorising surveillance within a reasonable time of the conclusion of such surveillance;
 - proactive transparency on the nature and scope of its use; and
 - effective monitoring and regular review by an independent oversight mechanism.



Principle 42: Legal framework for the protection of personal information

1. States shall adopt laws for the protection of personal information of individuals in accordance with international human rights law and standards.
2. The processing of personal information shall by law be:
 - with the consent of the individual concerned;
 - conducted in a lawful and fair manner;
 - in accordance with the purpose for which it was collected, and
 - adequate, relevant and not excessive;
 - accurate and updated, and where incomplete, erased or rectified;
 - transparent and disclose the personal information held; and
 - confidential and kept secure at all times.
3. States shall ensure, in relation to the processing of a person's personal information, that the person has the rights to:
 - be informed in detail about the processing;
 - access personal information that has been or is being processed;
 - object to the processing; and
 - rectify, complete or erase personal information that is inaccurate, incomplete or prohibited from collection, use, disclosure or storage.
4. Every person shall have the right to exercise autonomy in relation to their personal information by law and to obtain and reuse their personal information, across multiple services, by moving, copying or transferring it.
5. Any person whose personal information has been accessed by an unauthorised person has the right to be notified of this fact within a reasonable period and of the identity of the unauthorised person, unless such identity cannot be established.
6. The harmful sharing of personal information, such as child sexual abuse or the non-consensual sharing of intimate images, shall be established as offences punishable by law.
7. Every individual shall have legal recourse to effective remedies in relation to the violation of their privacy and the unlawful processing of their personal information.
8. Oversight mechanisms for the protection of communication and personal information shall be established by law as independent entities and include human rights and privacy experts.



¹ <https://www.achpr.org/legalinstruments/detail?id=69>

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CHAPTER

8

BUILDING TRUST AND ENSURING A FUTURE FOR THE NEWS MEDIA

Looking forward, what are the prospects for the news media in the years and decades ahead? Should regulatory systems be revamped or re-thought to help assure their survival? Is self-regulation a viable alternative when independent news organizations are facing existential threats from free digital information services globally and authoritarian political forces locally?

What are the priorities and possibilities for constructive action? What can or should be done?

The challenges of monitoring and then (if necessary) reforming the many governmental regulations and institutions and policies relating to news media can appear daunting, beyond the capacity of most individual journalists or civic activists.

Yet as has been shown, there are many promising initiatives now underway in different parts of the world aimed at strengthening public support for independent journalism. Getting the basic principles right and learning from models and precedents in other countries and regions is a good starting point.

The legal, political, and philosophical complexities of social media regulation appear even more overwhelming, with reforms of these massive global enterprises seeming beyond the reach of normally formidable political forces and news organizations on the national and local level.

But it seems unquestionable that the future of independent news services will be determined in part by the evolving regulatory structures for social media platforms and search engines and related digital communications services. That's why it's important, at a minimum, to pay attention – and not to underestimate the impact of local civic activism and media scrutiny in this area, as in all other important facets of public life. Public opinion counts, and public opinion is shaped to a great degree by independent journalism. Everything in this area is interlinked.

But reform starts at home. Independent news organizations and their allies in civil society and elsewhere in public life can take a number of concrete measures to confront and potentially overcome some of their greatest current vulnerabilities.



The greatest self-regulatory challenge facing the news media today is to build public trust.

Confidence in traditional news providers is eroding, which threatens both the economic sustainability and the protected political status of independent journalism in many countries. Without public support for the news media, press freedom itself is imperilled, with grave implications for freedom of information and political and artistic expression for everyone.

Action is needed, both to strengthen protective legal frameworks and improve self-regulatory systems for independent journalism, in order to avert inappropriate state regulation.

By definition, this cannot be accomplished by the news media

alone. It requires public engagement and political support for the principle that editorially independent, legally protected, professionally competent and economically sustainable news media are essential to any democratic system – even when (or especially when) the news media is reporting on issues and exposing facts that many in the public and political leadership may find deeply uncomfortable.

Such action is not only necessary, but possible, both locally and globally. There are many practical ways for the diverse stakeholders and participants in this programme and elsewhere to effect positive change on the national as well as international level, helping to build better support structures for reliable, accessible, professional, independent news media.

Within the news business, articulating and adhering to rigorous professional standards is a basic first step – yet one too often bypassed in news organizations both large and small.

There are many models of this kind of professional integrity throughout the media world, from long-established national public broadcasters to the leading

international 'wire services' to new online non-profit investigative journalism organizations. Numerous professional associations of reporters and editors have also adopted strict codes of ethics. Several are highlighted as illustrative cases in this manual, but there are many other equally valid examples.

Still, only a minority of the thousands of news organizations in the world consistently strive to maintain the highest ethical standards, with written codes of conduct and policies requiring public explanations when those standards are not upheld. There is much room for improvement.

An equally important second step is making these codes of conduct public. This should include but go beyond publishing these written standards online, in visible and readily accessible form on the news organization's website. Journalists can and should do more to share and discuss these ethical and reporting guidelines with their readers and viewers – and with the broader public, including students, with the goal of improving what is now termed 'media literacy' in society at large. Greater public awareness of professional journalism standards can help enormously in combatting the misinformation and disinformation that is increasingly prevalent on social media sites as well as in many broadcasting and news publishing outlets.

Such efforts can all be considered aspects of voluntary but necessary 'self-regulation' of the news media, with an effort to go beyond the confines of the newsroom and engage with community leaders and the general public. Codes of ethical conduct for individual journalists and news organizations are also at the core of collective voluntary self-regulatory practices and institutions, such as media councils. Public input and participation in these institutions would be greatly strengthened by greater public understanding of journalism standards and practices.

The corollary is that the news media organizations should be held accountable if they fail to adhere to those proclaimed codes of behaviour.

At the same time, a better-informed public – a public with greater understanding and confidence in independent news organizations in their countries and local communities – would be a stronger ally of the media when journalism organizations are confront-

ing what they consider to be inappropriate and, in some cases, unlawful state intrusion into their operations and news reports.

Much needs to be done to regain (or gain) that trust.

In one recent international poll, the international public relations firm Edelman found that a large majority - 59% - of people in the 27 countries surveyed said they agreed that a) "Journalists and reporters are purposely trying to mislead people by saying things they know are false or gross exaggerations" and b) "Most news organizations are more concerned with supporting an ideology or political position than with informing the public."

Public distrust in media reliability was especially pronounced in East Asia (Japan, South Korea) and South America (Argentina, Brazil, Colombia), as well as in some of the oldest established democracies with long traditions of press freedom (France, the UK, the US).

The Edelman survey showed increasing distrust worldwide in "traditional media" - which to most people means newspapers and television - yet even deeper scepticism of social media.

Newspapers scored higher than the media industry average in public trust, with more than half of survey respondents saying they believe that most of what they read in their local papers is factual. Only a third reported similar trust in what they see on social me-

dia. But all those percentages are trending downwards, showing declining trust in all sectors of the news media.

Building (or rebuilding) trust is a circular dynamic, propelled in ideal circumstances by a 'virtuous cycle' of public support for independent news organizations with a public-service ethos, as opposed to a vicious cycle of decline, where falling readership and revenues reduce resources and damage the quality of once-trusted news outlets, driving them into a death spiral.

The best defence against this latter fate is continued investment in professional capability - trained journalists with sufficient institutional support and resources to do their jobs properly, and publishing or broadcasting platforms that can attract their intended audiences - matched by a clear commitment to public service and the highest ethical standards. Trust alone won't halt the erosion of advertising revenue, but experience has shown that it can help sell subscriptions, to digital news services as well as for physical newspapers. Trust is also a key factor determining where radio listeners and television viewer turn to for broadcast news.

The future of self-regulatory bodies in the age of digital media

The ideas, models, and structures of media councils as a form of self-regulation are largely based on as-

sumptions that relate to the pre-digital situation in the media. Some fundamental and underlying assumptions are for example that:

- the business of journalism revolves around a core group of media outlets that are well-organised, both internally (organised in media companies) and externally (within publishers' associations).
- media are trusted and trustworthy - meaning that they make an honest attempt at doing journalism, and do not have an agenda of spreading propaganda.
- the media outlets run a profitable business by selling advertisements alongside their editorial content.

Those fundamentals, as we now know, are shaky at best after twenty years of disruptive innovation caused by digitalisation. Advertisement revenues for print and broadcast media have fallen, with online advertisement not being able to make up for the decline of income, as brokers like Google and Facebook take a big cut.

This might jeopardise the respect for ethical standards. Even as the Global Charter of Ethics for Journalists 20 states that "the notion of urgency or immediacy in the dissemination of information shall not take precedence over the verification of facts, sources and/or the offer of a reply", the financial incentives to publish 'the scoop' may trump the ethical considerations.

On a structural/organisational level, we see that the shift towards the online sphere has proved to be problematic for many self-regulatory bodies. Although the first wave of digital native media outlets have become household names in the minds of the average media consumer, they tend to remain outsiders in the media landscape.

Unlike legacy media forms (print media and their online counterparts, as well as broadcast media in many countries), digital native media are not included in the self-regulatory by default.

Obviously, these problems are still of a different nature than the issues that social media raise for media councils. Given the concerns about potentially receiving a torrent of complaints about Facebook and Twitter, the question remains what the optimal amount of effort into taking up complaints about content on these platforms should be.

The efforts by political actors to regulate media, especially content published online and on social media in particular. Under the pretext of rooting out 'fake news', many countries have seen politicians (from different political alignments) seize the momentum created by the current political climate and introduce parliamentary bills or legislation that would hand governments or law enforcement new powers to intervene in what is being published online.

However, even as the act of reporting 'fake news' is an immoral one, it is not within the realm of unlawfulness - and it should be left outside of it. It is a slippery slope when speech can be suppressed when it is deemed 'fake news', given that the term would have to be defined by political actors in order to become part of the law. Even though today's political actors may have the best of intentions, a future government might not be benevolent, and twist such legislation in a way that allows them to suppress any speech that does not suit them well.

Therefore, media councils should oppose any efforts to pass legislation of this nature, even those that seem to stem from genuine concern that citizens might be misinformed. It may be even more important for media councils, though, to be pro-active and consider what role they can play in ensuring that this void will not be filled by government regulation.

A way forward

In thinking about the optimal approach to media regulation - both official state oversight and voluntary self-regulation - a highly useful metric is to consider if and how these systems and practices can strengthen the capacity and autonomy of public-spirited news media, and as a result help build and maintain public confidence in these independent journalism institutions.

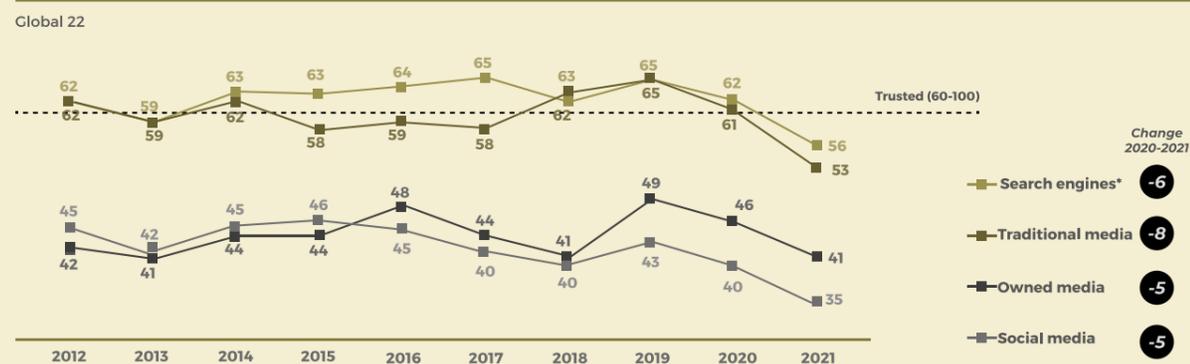
Economic sustainability is a crucial part of that formula. So are legal and security protections - and skilled professionalism, dedicated to serving the public interest. But the key is public trust.

If regulatory and self-regulatory reforms and initiatives can accomplish any of that, even on the margins, they are steps in the right direction.

Encouragingly, there are many good examples to study and follow, and many reasons to think that progress is not only necessary, but possible.

TRUST IN ALL INFORMATION SOURCES AT RECORD LOWS

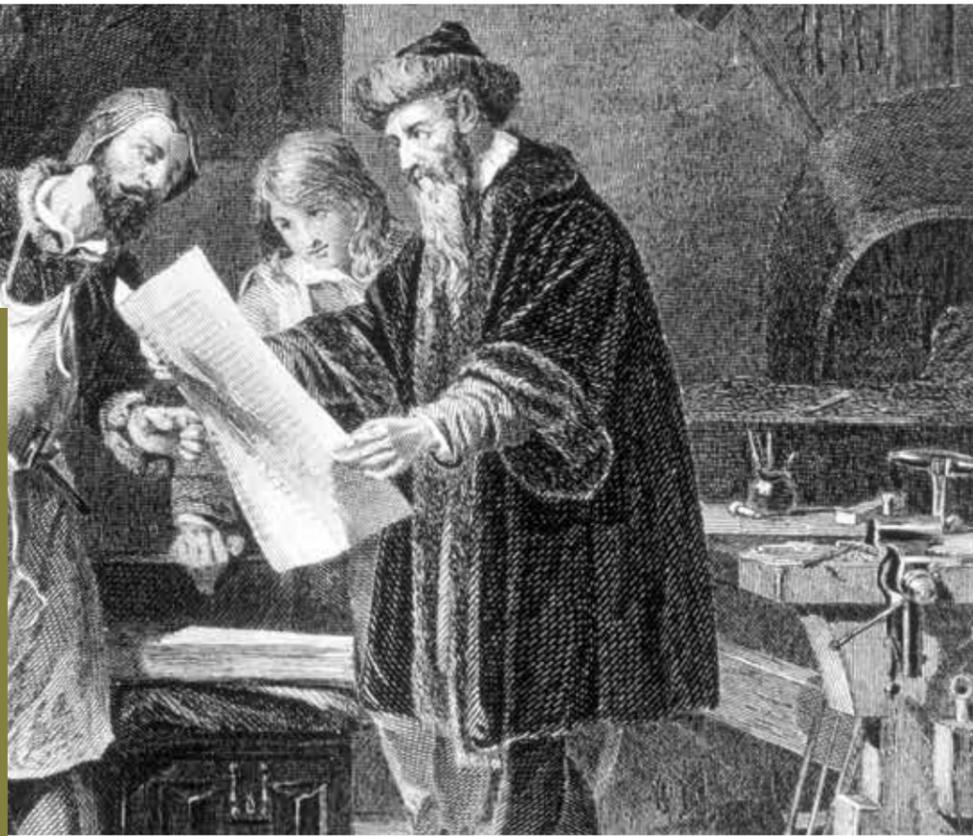
Percent trust in each source for general news and information



2021 Edelman Trust Barometer. COM_MCL. When looking for general news and information, how much would you trust each type of source for general news and information? 9-point scale; top 4 box, trust. Question asked of half of the sample. General population, 22; mkt avg.
*From 2012-2015, "Online Search Engines" were included as a media type. In 2016, this was changed to "Search Engines."

ANNEX 1

Gutenberg to Google: Media History and 21st Century Challenges



The history of media and journalism is inextricably intertwined with the history of what the UN's founders called "fundamental freedoms," including freedom of speech and freedom of the press. Each historic phase of media development was shaped by both official regulation in different forms and resistance to state controls over the written and spoken word.

The evolution of news media could be seen as sequential, with one technological era superseded by the next: printed newspapers as the sole daily news sources for the general public in the 18th and 19th centuries, followed by the broadcasting era, with radio transforming news reporting in the first half of the 20th century and television dominating its second half, and now the Digital Age of the 21st century,

with global "social media" giants at the forefront.

Yet rather than one replacing the other, all these different media continue to operate in parallel, co-existing with different though overlapping functions and audiences. All are facing their own distinct but interlinked challenges, from reporting in widely varying political environments, to securing and retaining public trust, to basic economic survival. And all also face different and continually changing regulatory requirements.

The differing approaches, constituencies and relationships to government and legal structures that distinguish these different kinds of news providers are products of their respective histories, and technologies. What follows is an overview of the historical origins, public communications purposes and market forces shaping each of these mediums – print, broadcast, and internet – which help explain where they differ and what they have in common in choices and



mechanisms for regulation and self-regulation.

Though traditional boundaries between these mediums are blurring, each still have distinct public information roles and regulatory norms in the media marketplace, globally and locally.

Newspapers: History, impact and prospects

For centuries now, daily newspapers have been the preeminent source of independently reported information about current events and issues in most countries.

That is still true today.

Newspapers have also long been in the forefront of determining and defending basic principles of press freedom and the appropriate limits of media regulation in all regions of the world – and that is also still true today.

Both these assertions would be met with skepticism by many media observers. The physical printing and distribution of newspapers is increasingly portrayed as an antique or "legacy" industry unlikely to survive much longer in an age of instantaneous digital communications. And the rise of social media has seemingly demolished many long-standing legal and professional norms in the news business.

Already, in much of the world, more people read news reports on their phones than on newsprint, a trend that is inexorably accelerating. And by some important measures, newspapers represent a relatively small and steadily diminishing portion of the media business globally. Even the biggest daily newspapers measure their subscribers in the millions, while global television networks count their audiences in the hundreds of millions, and the dominant social media companies reach billions of users worldwide. Hundreds of long-established newspapers around the world have ceased publication in the past few years as advertisers moved from print to digital platforms and younger readers stopped buy-

ing daily papers by subscription or at newsstands, relying instead on free social media and broadcast media services for their daily news needs.

Most vulnerable to these economic and cultural shifts are local newspapers serving smaller cities and rural communities, which had long survived on revenue from local advertisers – retailers, restaurants, movie theaters, auto dealers, real estate agents, individual selling used items in what were once called 'classified' ads – which now have cheaper and more efficient online alternatives for reaching consumers. Paid subscriptions to local papers have plummeted as well. In the United States, the country which had long had by far the largest number of daily newspapers and newspaper subscribers, total daily newspaper circulation has dropped steadily from more than 60 million copies in the 1990s to less than half that today. Even more worrisome, the number of journalists employed by U.S. newspapers has fallen by half in just the last 15 years, from nearly 80,000 to fewer than 40,000, according to U.S. government figures.

Similarly steep declines in newspaper circulation are transforming many other national media markets in wealthy industrial countries, such as Australia, Canada, Italy and Sweden. In the fast-growing cities of Latin America, where sidewalk kiosks once stocked dozens of newspapers, news-stand sales are steadily dropping as well; advertising revenue for the region's newspapers is falling even more sharply, despite paid ads and some subscription sales for digital editions.

In much of the world, the steady slide in newspaper advertising revenue was accelerated by the Covid pandemic, which devastated many once-reliable private advertisers, from global and national film studios to local theaters, sports and live music venues, along with thousands of local retail stores. Though these advertising losses were paralleled by rising demand for trustworthy news sources, spurring significant growth in digital subscriptions, the pandemic was the final blow for some struggling smaller newspapers, driving many into bankruptcy.

Yet newspapers are not yet an endangered species, despite widespread perceptions to the contrary. Newspaper circulation continues to grow in much of the developing world, with China and India showing the most consistent increases in recent years, in relative as well as absolute terms. Daily newspaper sales are also on the rise in such leading African countries

as Kenya, Ghana, Senegal and Nigeria. A number of newspapers in Europe and North America have built profitable online news services on the foundations of their print editions, strengthening the viability of both.

The World Association of News Publishers – an industry association representing some 18,000 private newspaper companies in 120 countries – estimates that their publications collectively have more than 600 million paying customers worldwide, counting both print and digital subscriptions, generating revenues of some \$60 billion yearly. Though digital-only subscriptions are increasing rapidly, physical newspaper customers still outnumber paying online readers by more than ten to one in most countries. Overall, including an estimated \$40 billion annually in advertising income, print newspapers still account for more than four-fifths of their members’ overall revenues, according to the Association.

More important than sales and circulation figures, arguably, is the enduring influence of newspapers on public opinion and national political culture, and on the legal frameworks governing media and freedom of expression in democratic societies. Newspapers still enjoy and exercise greater editorial freedoms in most countries than their broadcasting counterparts, and news publishers have continued to lead national and international legal battles against encroachments on media freedoms, acting both collectively and as individual news companies.

Despite declining paid readership, newspapers still shape the daily news agenda in most countries with independent media. Local radio and television news programs rely heavily on reporting by national newspapers and the international news agencies that are supported by the newspaper industry worldwide. Social media sites republish and react to newspaper stories continually, in ‘real time,’ as a key feature of their own business models. Investigative journalism remains the domain of established newspaper companies in many countries (though with many honorable exceptions in broadcasting and, increasingly, in



online-only news outlets, some of them organized as nonprofit organizations).

Still, if measured by reporting capacity and output, even as newsroom employment has declined in recent years, newspaper organizations in most advanced democracies still collectively produce more original reporting than broadcast and digital services combined.

Moreover, the distinction between “print” and “digital” media is increasingly a distinction without a difference. Almost all leading newspaper publishers now have online news services paralleling and supplementing their print editions, with many successfully charging for subscriptions to both. Most news reports being read on cell phones or laptop computers originate directly or indirectly from news organizations in the newspaper industry.

The divide between print and broadcast media is also blurring. Many private newspaper-based media organizations later acquired or founded radio and television stations and networks, with news operations shared among their various media properties. The common denominator of these “legacy” publishing organizations is that their primary business has always been the reporting of news, in contrast to the entertainment-centered programming and revenues of most broadcast media and online communications companies. The central legal and financial challenge for these commercial publishing houses today is to secure fair and consistent payment for the currently uncompensated online use of their journalistic output.

Print history, digital future

The history of journalism in the modern world is in many ways the history of newspapers. And the future of journalism will depend to a great extent on how and whether the digital successors to newspapers can achieve a similar self-sustaining mix of professional credibility, economic viability, editorial independence, and societal service and impact.

Though print newspapers remain at the core of hundreds of leading news organizations around the world, it is more useful to think of them as just that – ‘news organizations’ – rather than as ‘newspaper’ companies. A few have transformed themselves into digital-only news services. Yet their journalism ethos – their institutional DNA, as it were – remains very much formed by that shared history or “legacy” of factual daily newspaper reporting.

For many, that tradition dates back to the earliest periods of democratic self-governance in their respective countries, or even before that, as public affairs journals and individual news commentators played pivotal roles in fighting for the principles of freedom of expression and government accountability. Dozens of newspapers that are still published and widely read today can trace their histories back over more than two centuries.

Newspaper publishing, like all of the publishing industry, has its origins in the 15th century innovation of moveable type, and the subsequent proliferation of scholarly texts, religious tracts and social commentaries from hundreds of print shops across Europe. This in turn prompted what could be considered the first phase of modern regulation of

[Illustration: Tricentennial edition of Spain's Boletin Oficial del Estado in 1961]



the media, as state and clerical authorities imposed strict rules governing the content of publicly circulated texts and required official registration of printing presses and publishing houses. These publishing controls were paralleled in Asia, where licensing and censorship regimes instituted in imperial China were replicated in the dynasties of Korea, Japan and elsewhere in the region.

The European government “gazettes” that began publishing in the 17th century are generally considered the world’s first newspapers, with weekly editions featuring legal notices and proclamations and similar sorts of official information. It is a telling symbol of the industry’s transformation that two of the oldest periodicals of this kind remained in print production until the beginning of the 21st century, yet survive only as online publications today:

- Sweden’s Post-och Inrikes Tidningar or PoIT (“Post and Domestic Times”), founded 1645 as Ordinari Post Tijdender, the official state gazette, could claim to be the world’s oldest continually published newspaper until it converted to a digital-only format in 2007; and

- Spain’s Gaceta de Madrid, founded in 1661, was the world’s second oldest continually printed periodical, as the Boletín Oficial del Estado, until it too went exclusively online, in 2009. Please note that this is not a newspaper. It is the official state-owned gazette where legal provisions and other acts are published as a requisite to enter into force.

But the first true “newspapers” in the modern sense of the term – privately run, editorially independent publications providing news of the day to the general public – were founded in the 18th century. Some of those pioneering dailies have remained in operation ever since, with prominent examples in Austria, Canada, Denmark, England, Germany, Italy, Ireland, the Nether-

lands, Scotland, Sweden, Switzerland, and the United States. By the early 1800s, hundreds of independent newspapers were circulating in the capitals of Asia, Africa, the Arab states, Latin America and the Caribbean; many of these papers are also still in business today.

Newspaper publishing expanded further in the wake of Europe's "Revolutions of 1848," as rebellions against monarchical rule challenged state censorship of political commentary, scholarly inquiry and the arts. Several countries adopted new constitutions with strong protections for press freedom. Publishers took swift advantage of these new liberties: In Paris alone, it is estimated that the number of newspapers more than quadrupled within a year of the 1848 protests. Hundreds of newspapers began publishing in other major European capitals, as legal restrictions on both texts and illustrations were either rescinded or ignored. Though some of these advances were reversed by the reimposition of authoritarian rule in several countries, newspapers still proliferated on the continent, with legal safeguards for press independence surviving in many places, notably Belgium, Denmark, the Netherlands, Switzerland, and self-governing regions of modern-day Italy and Germany.

By the dawn of the 20th century, the newspaper business was booming worldwide: There were an estimated 12,000 daily papers published in Europe, and more than double that number in the Americas, in dozens of languages, with a wide variety of editorial viewpoints.

Current affairs reporting and commentary for a mass audience was also provided by new weekly and monthly newsmagazines beginning in the early 19th century, with many featuring the novelties of graphic illustrations and actual photographs of news events. With the advent of telegraph bulletins in the 1840s, periodicals could for the first time publish accounts of events in distant regions from as recently as the previous day. The newly established 'wire services' – Reuters and Agence France-Press in Europe, the Associated Press in the United States, among others – provided continually updated news stories to newspapers worldwide. The legal norms and 'self-regulatory' practices governing independent journalism in democratic societies also have their origins in these formative periods, with newspaper publishers and editors in the vanguard of asserting and defending press freedom rights.

Printing presses and press principles

The core principle of "freedom of the press" was its most literal original meaning – the right to own and operate a printing press, without onerous requirements for state licensing or content oversight or similar authorization procedures. The parallel democratic principle was that anyone should be able to chronicle news events or write commentaries on the issues of the day, and to have those texts published, just as everyone should be allowed to speak freely about these subjects, with no government permissions or credentialing required.

Those two concepts still shape most legal frameworks for media freedom in today's digital age, when anyone with a computer can be a publisher.

A logical corollary of these principles was that publications featuring news reports or opinions could be sold as openly and easily as bibles or novels or textbooks – or clothing or groceries or any other consumer goods. Publishers or authors had legal copyright protections for their published work, as well as legal responsibility in the event of lawsuits alleging the unlawful defamation of individuals, or disregard of legal restrictions against the publication of state security secrets, the disclosure of proprietary business information, or the dissemination of deliberate falsehoods intended to influence political or economic events.

But those limitations and penalties were increasingly seen as the rare exceptions to the freedom to publish. One key event in the history of the independent press was the British Parliament's 1695 revocation of the country's "Licensing Act," which for decades had restricted most publishing to a few crown-approved printworks in London, Oxford and Cambridge; within a few years dozens of editorially outspoken privately run newspapers were being published throughout the United Kingdom, a radical change which reverberated throughout Europe and Britain's global empire.

The right to report and opine in print without state interference was asserted by newspaper publishers and supported by leading parliamentarians and political commentators throughout the emerging democratic world from the 18th century onwards. In British-ruled New York City in 1735, a German immigrant newspaper publisher, John Peter Zenger,

won a landmark court case upholding his right to criticize in print the actions of the colony's Crown-appointed governor; this precedent had a profound impact on the future parameters of press freedom not only in the United States, but in the United Kingdom and elsewhere in the world. In 1766, the Swedish parliament passed a groundbreaking ordinance restricting state censorship, opening official records to public review, and guaranteeing "freedom of writing and of the press."

The French Revolution's Universal Declaration of the Rights of Man and the Citizen of 1789 declared that the "free communication of thoughts and of opinions is one of the most precious rights of man: any citizen thus may speak, write, and print freely."

That same year, the First Amendment to the new United States Constitution prohibited the government from adopting any legal measures "abridging the freedom of speech, or of the press." Within a few decades, the newly independent Latin American republics included similar provisions in their own constitutions, as did several of the newly reformed mid-19th century constitutional monarchies and republics of continental Europe.

Though it would not be until the latter half of the 20th century that codified enforcement of these rights would become the regulatory norm in most Western democracies, principles from the two prior centuries provided the foundation for current legal protections of media freedom.

The legal frameworks that were established for both the protection and regulation of newspaper journalism also now shape the basic statutory and judicial templates for online media, which enjoy similar legal safeguards against government editorial interference in most established democracies. Yet paradoxically, editorially independent print newspapers remain more vulnerable to legal reprisals than their online counterparts in many countries, from resource-draining libel suits to pressures against advertisers to punitive tax assessments.

This is in part because social media companies are often domiciled outside those national jurisdictions, and also because online news services are viewed as more ephemeral or politically marginal than prominent local newspapers. Small internet news outlets typically have relatively fewer assets to lose or to protect. And the multinational social media platforms

that host those online news services claim immunity from legal responsibility for the content of material published online, unlike newspaper publishers. Newspapers simply still matter more than social media sites in the political life of many countries, from daily coverage of government affairs and elections to corruption exposes to financial reporting.

Attacks on the press

If for no other reason than self-preservation, newspaper-based news organizations are also still commonly in the forefront of legal challenges to restrictions on press freedom, with many drawing on the expertise of in-house counsel specialized in freedom of expression issues and public access to government data and documents. Threats and physical attacks against journalists have also disproportionately targeted newspaper reporters and photographers, another telling if disturbing measure of the relative importance and impact of newspapers. Over the past three decades, the Committee to Protect Journalists has documented 892 cases of journalists who were murdered in reprisal for their reporting; 492 were newspaper staffers, most of them killed covering their own communities for local publications.

Yet increasingly, it is not only the powerful or the corrupt who view newspapers warily. Among the public at large, newspapers are often perceived and mistrusted as being driven by partisan ideologies or corporate interests more than by commitments to factual reporting in the public interest, industry surveys show. Radio and television news is considered more neutral and objective than newspapers in many countries, in part because broadcast news is often focused on basic factual and visual reporting on immediate events, without the controversial investigative or analytical reports or opinion columns found in leading print publications.

Skepticism about all news media – not just newspapers – is disturbingly becoming the norm, from young emerging democracies to the advanced industrial nations of Europe, East Asia and North America. Yet international surveys show that newspapers and their associated digital news services retain considerable trust among the public as sources of independently reported news.

Many have deep roots in local communities that have few parallels in either the broadcasting industry or new online news services.

Local news reported by locally based journalists should be a considerable comparative advantage for news publishers that have long served specific cities or regions in what has become an increasingly globalized media industry. In times of crisis – political, economic, environmental – reliable local news is a needed and highly valued public service. Surges in readership of on-line news sites of local news organizations reflect that demand.

Yet the harsh economic reality of this digital age is that free online access to news sites is not a sustainable business model for most local news enterprises, which lack the necessary scale to succeed as subscription-based or advertising-supported news services. Hundreds of long-established local newspapers have gone out of business in recent years in Europe, North America and other “mature” media markets. Few of the many new online-only local news services have the revenue or reporting resources to fill the void left by these fast-disappearing community newspaper enterprises.

The fragility and uncertain future of local newspapers is arguably an even greater public-information problem in the developing world. In regions of violent political turmoil or with high incidences of local corruption and organized crime, local journalists and their news organizations are uniquely vulnerable to intimidation and economic coercion – yet their local reporting is more needed than ever, for their own communities and to inform the world at large.

Newspapers in the 21st century must find a way to survive locally if they are to survive globally.

The Broadcasting Era: Radio and television reign supreme

THE RISE OF RADIO (1900-1950)

Radio broadcasts have been airing regularly around the world for more than a hundred years, from the first “wireless” transmissions at the turn of the century to the pioneering AM stations of The Netherlands (PCGG) and the U.S. states of New York and Pennsylvania, where



broadcasters in the 1910s included both universities and department stores. The rise of radio from a primitive technology with limited reach to a global phenomenon was faster and arguably more significant socially than the ascent of the internet a century later. By the early 1920s, both private and state-run radio news services were on the air in dozens of countries on all continents (among them: Afghanistan, Argentina, Australia, Brazil, Canada, Chile, China, Cuba, Denmark, France, Georgia, Germany, Hungary, Japan, Kenya, Latvia, Mexico, Russia, South Africa, Sri Lanka, Sweden, and the Philippines). Different early regulatory regimes produced different economic and programming models, from the editorially autonomous but publicly financed noncommercial radio of the United Kingdom (first chartered by the U.K. Post Office) to the Soviet Union’s state propaganda stations to the advertising-based free-for-all of the emerging U.S. broadcasting industry, which began operating on government-assigned frequencies across the country from the late 1920s onwards.

In media terms, the first half of the 20th century can be described as the Age of Radio, with listeners worldwide following real-time reports of two world wars and for the first time in history hearing their own leaders (and sometimes also their adversaries) speaking to them directly, in their own voices, often in real time.

Radio was embraced as a powerful new communications tool by political figures across the ideological spectrum from the 1930s onward, from Hitler and Mussolini on the fascist right to Franklin Delano Roosevelt and his U.S. “New Deal” to the

clandestine “Congress Radio” of India’s independence movement (an inspiration for such later insurgent broadcasters as “Radio Freedom,” the banned but hugely popular voice of South Africa’s African National Congress).

Radio news broadcasts also became a huge new market for the international news agencies – the “wire services” – which were previously run exclusively for and by newspapers. At the same time, radio permanently transformed the worlds of sports, music, and theater, bringing live events and recorded performances into millions of homes worldwide in a way that was unimaginable just a generation before.

Now, in the 21st century, despite competition from television and social media, radio has proven to be a surprisingly robust global survivor, remaining the dominant medium for public information and entertainment in much of the developing world, and an effective low-cost technology for ‘hyper-local’ news and community service purposes. Radio is a major feature of the media landscape in all regions and countries of the world.

Its reach remains unparalleled. Almost all households in the world have free access to over-air radio transmissions, which are broadcast by an estimated 50,000 or more radio stations worldwide. Radios are built into most of the 1.4 billion cars, trucks and buses on the road today. Local radio stations provide the most popular news and entertainment programming in much of rural Asia, Africa and the Americas, while also reaching hundreds of millions of listeners daily in the world’s largest urban areas. Leading national public radio news services – BBC, RAFI, NPR, CBC, CRI, SABC, Deutsche Welle and others – have large and growing international audiences through local retransmission and internet services, with podcasting adding a new ‘on demand’ dimension to their programming. Hundreds of local radio stations worldwide have followed suit with their online news programming and podcast productions.

Radio is here to stay.

THE TELEVISION ERA (1950-2000)

If the first half of the 20th century was the Age of Radio, the second half of the century was unquestionably the Age of Television. It is hard to overstate television’s social and political impact.

From the first-ever televised coronation of a European monarch in 1953 to the internationally broadcast assassination of an American president in 1963, television quickly and permanently transformed our experiences and memories of historical events. Around the world people watched vivid real-time coverage of moon landings, World Cup matches, UN debates, pop concerts, natural disasters, New Year’s celebrations, elections in long-established and newly independent democracies alike, popular uprisings from the Prague Spring to the Arab Spring, and armed conflicts as reported by television correspondents from the front lines of Southeast Asia, Latin America, Eastern Europe, Africa, and the Middle East.

Though the first experimental television broadcasts started in Europe and the United States in the 1930s, it was not until the early 1950s that most industrialized countries had regular television services with standardized technologies. In some countries television programming was provided primarily or exclusively by advertising-supported commercial broadcasters; in others, state-financed channels were dominant.

Many countries promoted a competitive mixture of the two in awarding television frequencies. Private



BBC: 1953

and public broadcasting corporations were both often required by terms of their government licensing to provide daily news programming. Nightly television news shows soon became the single most popular and influential sources of news and public information in many countries, with large national audiences for country-wide broadcasts equal to or greater than the combined circulation of daily newspapers. Many long-established afternoon and 'evening' newspaper editions ceased publication as television news provided real-time reporting on the day's events. The news readers or 'anchors' of nightly national news broadcasts became their countries' most widely recognized journalists, and television became the most important communications medium for political figures and public policy debates.

For decades, the over-air system of VHS and UHF broadcasts remained the norm for local and national television news in much of the world. Recently, however, those traditional terrestrial broadcasts have been supplemented and to a considerable degree overtaken by satellite-distributed networks, especially for national and international news. The global growth of these international satellite news services - BBC, CNN, Al Jazeera, Sky News, Euronews, Univision, and a few others - has been the most significant broadcasting phenomenon of the early 21st century. Even in an era of instantly accessible and hugely influential social media services, opinion surveys show that television remains the most widely followed medium for both local and international news in most areas of the world, especially for breaking news events.

Regulated from the start: key legal contrast between broadcasters and newspapers

From a regulatory standpoint, the critical historical difference between broadcast news services and print publications was that broadcasters almost everywhere were regulated by governments from their earliest days. This including state control over their most basic operational requirement: the ability to transmit their broadcast signals and be heard by the public - and, later, with the advent of television, to be seen as well.

The operative principle here was that the "airwaves" - the bands of frequencies on the electromagnetic



spectrum that are suitable for AM and FM radio signals and UHF and VHF television transmission - are a finite public good, not anyone's private property. As such, these frequencies may be leased and used conditionally and temporarily to commercial interests which must pay the state for that privilege, and adhere to any official requirements imposed on the content of their programming, as well as such technical broadcasting parameters as signal strength and geographical reach. The placement and operation of essential broadcasting infrastructure such as transmission towers and, later, satellite transmitters, is also under state control in most countries.

On a practical technical level, state regulation of the electromagnetic spectrum is also necessary to allocate and segregate the different frequency ranges required by different technologies, from radio and television to mobile phones to navigations systems for air travel and shipping to scores of other essential uses.

This is conceptually very different from owning and operating your own printing press. Legally, it is more like a renewable mining concession, in a country where the state retains subsoil rights and demands that its concessionaires adhere to strict common rules while keeping a careful distance from one another. The global, borderless nature of broadcasting

frequencies also requires cooperative international regulation, with treaty agreements and supranational oversight bodies dating back to the era of the telegraph. The International Telecommunications Union (ITU), an agency of the United Nations, sets global standards for the allocation and use of electromagnetic frequencies. The ITU traces its origins to 1865, with the convening of a pan-European "International Telegraph Conference" to regulate those new cross-border communications networks. International regulation of broadcast signals began in 1906, when the 29 member nations of the first International Radiotelegraph Conference agreed on frequency assignments and related rules for both maritime and overland radio communications - "wireless telegraphy," as it was then known.

As the ITU noted in 2006, in a ceremony commemorating the centennial of that 1906 conference, societal dependence on these nationally and internationally regulated electromagnetic frequencies has steadily intensified ever since, as these signals are used in hundreds of essential technologies, "from devices and appliances (such as personal mobile phones, radio-controlled watches, radio headsets); home and office networking (such as wireless access to networks, PC radio connection devices, remote control); navigation (radio positioning systems); intelligent transportation systems (toll control, collision avoidance, etc.); broadcasting (radio, TV and data); emergency communications (comprehensive radio disaster warning and relief systems), and object identification (e.g. RFID tags) as well as other more conventional applications."

Television occupies a narrow and increasingly crowded section of this electromagnetic spectrum, and its terrestrial signals require (like radio) high-rise, high-powered transmission towers perched atop tall buildings or hilltops. Big urban media markets often have six or more television stations sharing those airwaves. Licensing and oversight is needed to make this work.

Though the first experimental television broadcasts started in Europe and the United States in the 1930s, it was not until the early 1950s that most industrialized countries had regular television services with standardized technologies. Private and public broadcasting corporations were both often required by terms of government licensing to provide daily news programming, as a public service.

In many democracies there were official conditions and oversight institutions for this news programming, such as prohibitions against overtly partisan coverage of elections and obligations to provide viewers and listeners with official information bulletins in national emergencies, such as natural disasters or military conflicts. Taxpayer-supported public broadcasters had further layers of programming requirements and legal oversight.

Official codes of conduct for broadcasters also commonly included rules forbidding speech or images deemed offensive on religious or cultural grounds, or inappropriate for children if aired during daytime hours. Political advertising on radio and television was restricted or banned entirely during national elections in many countries, with some obligating broadcasters to provide free airtime to contending parties and candidates. In countries without free elections, it was common to ban dissident voices from the airwaves entirely.

The next television revolution: news beamed down from space

The later cable and satellite television networks were generally not bound by these legal strictures, as neither local physical cable systems nor distant satellite signals were categorized and regulated as finite public resources, unlike the electromagnetic spectrum. In most countries, the international news services beaming down from satellites directly to private homes or to local cable television systems were quite literally beyond the reach of national laws and regulatory authorities.

Making local oversight even more difficult, the leading international television news services do not broadcast in the national languages of many countries, unless those official languages include Arabic, Chinese, English, French, or Russian. Even so, foreign-language news programs have large and loyal local audiences in many countries.

The largest satellite television news services all broadcast exclusively in English: BBC, CNN, Sky News and Al Jazeera English, which has overtaken its core Arabic news service in estimated viewership.

Local television stations sending signals over the airwaves to the antennae of individual television receivers had begun seeming increasingly archaic to many



in the industry, as even local audiences increasingly relied on cable or satellite television subscriptions for local as well as international news and entertainment programming.

Yet only the former requires licensing in most countries, with accompanying community standards and civic obligations. Moreover, many local cable and satellite television services have also become the dominant local internet providers, offering nearly infinite additional news and entertainment options which similarly have no licensing or content obligations in most counties.

It is difficult to see how the 20th century paradigm of television licensing and legal obligations can continue without radical change in the age of the internet.

The Digital Age: from the World Wide Web to Google, Facebook & WeChat

It is just three decades since Tim Berners-Lee and his World Wide Web merged scores of internation-

al digital transmission networks into the vast global information and communications resource we know today as the 'internet.'

Nearly five billion people – about 60 percent of the world's population – now have regular access to the internet, according to UN estimates. Internet use varies greatly within and across regions, ranging from 90 percent in Western Europe and North America to less than 50 percent in sub-Saharan Africa. Yet even in the least developed countries the mobile phone is overtaking traditional media (both print and broadcast) for real-time news and information delivery

Throughout the world, Google and other internet 'search engines' (Baidu, WeChat, Bing) and social media services such as Facebook, Twitter, and Weibo are overtaking both print and broadcast news as the main conduit for information and commentary on current events. On a national level, that is also the pattern in almost every country, with the trend toward social media dominance moving even faster in the youngest 'emerging' democracies.

Collectively, these huge private internet enterprises

present the greatest challenge in the field of media regulation today, on the national level as well as for regional and international intergovernmental institutions.

The sheer size and transnational nature of these social media networks and their global audiences is without precedent. Facebook alone says it has 2.7 billion 'active monthly users' – and that is not counting the several hundred million additional regular users of other social media services owned by Facebook (WhatsApp, Instagram, and Messenger). Google claims it has about 1.5 billion "active users" – mostly of its search functions, but also of its free software and cloud storage programs – plus the estimated 500 million people who visit its YouTube subsidiary every day, in most parts of the world. (In China, which blocks access to Google and Facebook and other Western social media services, the equivalent national platforms – WeChat, Zhihu, TikTok, SinaWeibo, Taobao – together have about a billion estimated users.)

By contrast, the biggest international broadcasters estimate global audiences for their cable and satellite news services are about a tenth that size (BBC reaches a reported 300 million households; CNN and Al Jazeera each claim about 250 million). And the world's largest daily newspapers count their print and digital subscribers in the single-digit millions: Japan's Yomiuri Shimbun (9m) and Asahi Shimbun (6.6m); The New York Times (5.4m) and USA Today (4.1m) in the U.S.; India's Dainik Bhaskar (3.8m) and Dainik Jagran (3.3m); Xinhua 'Reference News' (4m) and People's Daily of China (2.6m).

All of those aforementioned television and newspaper corporations are regulated as publishers or broadcasters under the relevant national laws and state institutions in the countries where they are domiciled. This is not the case for Facebook, or Google, or their similar smaller (but still large) competitors. (China's social media sites should be analyzed in a separate parastatal category, but they too dwarf the country's older print and broadcast news organizations.)

Google and similar multinational social media platforms are primarily re-packagers or 'aggregators' of news stories and images originating in 'traditional' print or broadcast news organizations, expanding potential audiences for the latter but depriving them of the advertising and subscription revenue needed to finance original newsgathering. Facebook operates somewhat differently, in that most of the

news items on its sites are posted and shared there by the users themselves. But the advertising revenue impact is essentially the same, as advertisers find it increasingly more effective – and cheaper, in terms of people reached – to place ads on Facebook or Google than to pay for newspaper print advertisements or to advertise on the websites of those news organizations.

In the United States, for example, the Pew Research Center reported in 2017 that the majority of Americans polled by Pew said they followed what they termed "news" primarily through two online platforms, Facebook and Google. These two social media companies together control the vast majority of online referrals for news and the bulk of digital advertising revenue, in the United States as well as globally. Their growth is almost unprecedented: Facebook earned an estimated \$85 billion from advertising in 2020 alone, up from \$2 billion in 2010, while Google collected almost \$150 billion from online ads in 2020, compared to about \$25 billion ten years previously.

By contrast, total revenue for U.S. news publishers – the source of most of the national news content found on Facebook and Google – plunged from nearly \$50 billion in 2005 to about \$30 billion in 2010 to around \$20 billion yearly now.

Not all of that income drop can be attributed to social media competition, however. In North America and Western Europe, newspaper readership and revenues were trending downwards more than a decade before the creation of either Google (incorporated in 1998) or Facebook (2004). Yet the rise of those two online behemoths accelerated that decline, leading to closures of hundreds of newspapers in the U.S. alone. These same trends are transforming the advertising-based news business elsewhere in the world, with varying rapidity.

Even more worrisome for the news business, and for future of representative democracy more broadly, these social media services have become platforms misinformation and deliberate disinformation. The Facebook business model in particular is notoriously dependent on profits from user traffic generated by rumors, conspiracy theories and partisan attacks on political opponents.

The destructive political impact in long-established and younger democracies alike is well documented, but little has yet been done to control or counteract social media misinformation and

disinformation.

The news reports, political commentaries, photographic images and audiovisual presentations published on social media platforms have largely escaped regulation even by minimalist print media standards. Traditional news publishers assume legal responsibility for their published content, and can be subjected to libel suits, or punitive state sanctions in some extreme cases, if published reports can be shown to have been recklessly or knowingly falsified in a way that did provable harm to an individual, an institution, or the public interest. Neither Facebook nor Google face similar potential liabilities for presenting the same content on their own platforms, as they are legally not the “publishers” – and, indeed, they are not the originators or underwriters of these texts or images. They merely “share” them, for profit. Nor do the social media companies face the far greater legal constraints or content obligations commonly imposed on broadcasters, even though the social media industry shares some similarities with the radio and television industry. They are both electronic mediums, with services that users can access free of charge with their own electronic devices; news and other public information comprise an important but still minor component of programming, which is dominated by entertainment content, which for broadcasters must also adhere to regulatory standards; and both are largely supported by advertising, yet licensed broadcasters are generally required to document sources and payments for ads, and abide by official restrictions on texts and images used, unlike the social media multinationals.

In 2020, a consortium of European broadcasting as-

sociations – together representing more than a thousand broadcast networks and independent radio and television stations – appealed to the European Union to redress what they consider a double standard in media regulation. Their statement said in part:

Large online platforms play an undeniable role in access to content online, using algorithms to organise, rank, moderate and/or commercialise content and exploiting user data to maximise advertising revenue and profitability. Yet, they remain largely unaccountable to the public and their practices lack the necessary transparency. This is in sharp contrast to media services which are subject to specific regulatory standards and oversight in Europe. [...] Committing global online platforms to transparency and accountability is key to enable future generations to continue to have access to the trusted news and the rich plurality of views and information that media offers. This will facilitate the economic sustainability of Europe's media ecosystem in the digital era.

Signed by: The Association of Commercial Television in Europe (ACT); the Association of European Radios (AER); the European Broadcasting Union (EBU); the Association of Radio and Television Sales Houses (EGTA)

Regulatory efforts to date for social media have covered the entire spectrum of regulatory categories, from collective and company-specific self-regulation initiatives launched and controlled by the industry itself, to national attempts at state regulation of both the communications content on public social media platforms, to the business structure and behavior of the companies as private enterprises. But it is becoming increasingly clear that only a coordinated regional or global approach to social media oversight can succeed.

That is not to say that there is no scope for action on a national level. Useful initiatives already underway in many countries include social media monitoring collaborations between media and civil society organizations, with a special focus on misinformation and targeted disinformation during national elections, or natural disasters, or public health crises. There may also be scope for productive interaction between such initiatives and the newly constituted advisory bodies for Facebook and other social media actors, especially if local monitoring efforts generate national



and international press coverage.

Moreover, the factual documentation collected and analyzed by such national nongovernmental consortiums could in turn assist and influence intergovernmental regulatory parameters for social media companies in the Europe, Africa, Asia, and the Americas.

With the continuing economic viability of independent news media in serious question in long-established democracies, a number of national parliaments – among them Canada, Finland, New Zealand and Sweden – have approved special fund to aid local news organizations, as well as easing some tax rules to support nonprofit journalism services.

Pay to play: financial obligations for news reports on social media sites

Going further, lawmakers in France and Australia have backed systems forcing direct payments by Google and Facebook and other social media companies for the use of content originated by established news organizations in those countries. In the United States, the Congress is considering an initiative with bipartisan backing which would free the country's newspaper industry from anti-monopoly (“anti-trust”) constraints and let U.S. news publishers negotiate with Google and Facebook as a unified consortium to force systematic compensation for social media use of their journalistic output – similar to collective initiatives taken by associations of news publishers in France and Canada.

One common critique of both these approaches – taxpayer-financed media support funds, as in Canada and Sweden, or statutory obligations on social media corporations to pay other private media companies for news content sharing, as proposed in France and Australia – is that the news media beneficiaries tend to be established and often still-profitable newspaper chains, to the exclusion of new independent online news organizations that are already providing unique community and thematic reporting services in many places.

Moreover, there are no clear legal mechanisms to ensure that such payments to private media companies would be invested in additional journalism capacity (newsroom salaries, operating budgets, expanded coverage of underserved communities) rather than simply bolstering overall revenues and profit margins. A further criticism is that both kinds of

media-aid initiatives are economically feasible only in wealthier countries with mature media markets, lucrative advertising potential for social media and traditional media enterprises alike, and governments with well-established powers of taxation and regulation of private industries. Developing countries have few of these attributes, typically. Yet some of the largest and most influential developing nations – India, Mexico, Nigeria – are also considering moves to tax and regulate local commercial activities and locally generated news content on these social media platforms.

Any serious such national initiative in Asia, Africa or Latin America would likely inspire similar legislative action in other countries in their respective regions.

While journalists and other press freedom defenders in both wealthy industrialized countries and developing nations tend to favor some kind of legal mechanisms to compensate news organizations for use of their content on social media platforms, they have also voiced concerns that state-regulated subsidies or tax-transfer systems could be used to bolster media that are allied with government interests rather than for genuinely independent journalism.

These initiatives are examined in detail in the sections of this manual addressing public aid to the news media, and the final chapter on social media regulation. Reform proposals addressing the responsibilities of social media companies for the editorial content or economic compensation for the use of news reports shared or linked on their platforms are inextricably connected to broader regulatory issues in the online environment, from data privacy and anti-monopoly concerns to internet “neutrality” and public access to broadband services. How the resolution of these regulatory challenges will affect the viability, availability and reliability of professionally run news services is an open question.

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ANNEX 2

Code of ethics for press, radio and television in Sweden

The press, radio and television shall have the greatest possible degree of freedom, within the framework of the Freedom of the Press Act and the constitutional right of freedom of speech, in order to be able to serve as disseminators of news and as scrutinizers of public affairs. In this connection, however, it is important that the individual is protected from unwarranted suffering as a result of publicity.

Ethics does not consist primarily of the application of a formal set of rules but in the maintenance of a responsible attitude in the exercise of journalistic duties. The code of ethics for press, radio and television is intended to provide support for this attitude.

What can the Media Ombudsman review?

The Media Ombudsman can review printed newspapers and magazines, Swedish broadcast radio and television, as well as some online publications, i.e. online publications that are members of The Swedish Media Publishers' Association (TU – Medier

i Sverige) or The Magazine Publishers' Association (Sveriges Tidskrifter), alternatively having filed for membership of the Ethical Press System.

Provide accurate news

1. The role played by the mass media in society and the trust of the public of these media call for accurate and objective news reporting.
2. Be critical of news sources. Check facts as carefully as possible in the light of the circumstances even if they have been published earlier. Allow the reader/listener/viewer the possibility of distinguishing between statements of fact and comments.
3. News bills, headlines and introductory sections must be supported by the text.
4. Check the authenticity of pictures. See to it that pictures and graphical illustrations are correct and are not used in a misleading way.

Treat rebuttals generously

5. Factual errors should be corrected when called

for. Anyone wishing to rebut a statement shall, if this is legitimate, be given the opportunity to do so. Corrections and rebuttals shall be published promptly in appropriate form, in such a way that they will come to the attention of those who received the original information. It should be noted that a rebuttal does not always call for an editorial comment

6. Publish without delay critical rulings issued by the Swedish Media Council in cases concerning your own newspaper.

Respect individual integrity

7. Consider carefully any publicity which could violate the privacy and integrity of individuals. Refrain from such publicity unless the public interest obviously demands public scrutiny.

8. Exercise great caution in publishing information about suicide and attempted suicide, particularly with regard to the feelings of relatives and in view of what has been said above concerning the privacy and integrity of individuals.

9. Always show the greatest possible consideration for victims of crime and accidents. Consider carefully whether to publish names and pictures out of respect for the victims and their relatives.
10. Do not emphasize ethnic origin, sex, nationality, occupation, political affiliation, religious persuasion or sexual disposition in the case of the persons concerned if this is not important in the specific context or is demeaning.

Exercise care in the use of pictures

11. Whenever appropriate, these rules also apply to pictures.
12. Montage, electronic retouch and captions should be handled in such a way as not to mislead or deceive the reader. Whenever a picture has been altered through montage or retouch this should be stated. This also applies to such material when it is filed in picture libraries.

Listen to each side

13. Offer persons, who are criticized in a factual report, the opportunity to reply instantly to the criticism. Aim at presenting the views of all parties involved. Bear in mind that the sole objective of filing complaints of various kinds with various bodies may be to cause harm to an individual.
14. Remember that, in the eyes of the law, a person suspected of an offence is always presumed innocent until proven guilty. The outcome of a legal case should be published if it has been previously reported on.

Be careful with naming

15. Show careful consideration to the harmful consequences that might ensue for persons if their names are published. Refrain from publishing names if it might cause harm unless it is obviously in the public interest.
16. In case a person's name is not published, also refrain from publishing a picture of that person or details on occupation, title, age, nationality, sex, etc, which could enable identification.
17. Bear in mind that the entire responsibility for publishing names and pictures rests with the publisher.

More on Media Ethics

The code of ethics consists of a set of rules for members of the press regarding publicist decisions, it is not legislation. The rules serve as protection of the individual against publicity damages, beyond what the legal system can offer. The Media Ombudsman adhere to the media ethic rules in their assessments.

The legal framework concerning publications in newspapers and magazines are part of the Freedom of the Press Act (Tryckfrihetsförordningen, TF). TF gives each citizen the right to express her/himself in writing. The law also offers protection for the individual against defamation in newspapers. Broadcast media and online newspapers adhere to the corresponding rules in the Freedom of Expression Act (Yttrandefrihetsgrundlagen, YGL). If an individual considers her/himself to be subject of slander in media, there is the possibility of arbitrary prosecution. The Chancellor of Justice can also prosecute.

Rules of professional conduct

Swedish Union of Journalists; Strong journalistic integrity is crucial for maintaining credibility. Those who scrutinize society must also be able to withstand scrutiny. It is important that journalists show due respect when working in the field and that journalists while on duty strive to report correctly, in order to retain the confidence of the general public. Trust in the media and its employees is built upon following the rules of professional conduct.

The journalist's integrity

1. Do not take on journalistic commissions in your professional capacity from people outside an editorial management group.
2. Do not accept commissions, invitations, gifts, free trips or other benefits – and do not enter into any agreements or other undertakings – that may cast suspicion upon your position as a free and independent journalist.
3. Do not succumb to pressure from outside parties that aims to hinder or restrict legitimate publicity or to create publicity when it is not journalistically motivated.
4. Do not use your position as a journalist, or your press pass, to apply pressure for your own or someone else's gain or to obtain private benefits.
5. Do not use unpublished news regarding financial circumstances or measures taken by the state, local government, organizations, companies or individuals for your own gain or that of others.
6. Observe the regulations of the collective agreements for journalists, which state that employees may not be ordered to carry out degrading tasks or tasks that are contrary to their beliefs.

Acquisition of material

7. Show particular consideration to inexperienced interviewees. Inform the interviewee whether the conversation and other material is intended for publication. Be careful to reproduce statements and other material that non-public figures publish in social media.
8. Accommodate reasonable requests from interviewees who want to know in advance how and where their statements will be used.
9. Do not falsify interviews or images.
10. Show due respect when on photographic assignments and when obtaining pictures, espe-

- cially in connection with accidents and crimes.
11. Hidden camera and other hidden recording equipment, when used for the purpose of publishing, should be used only in exceptional cases, after careful consideration and when a journalistic evaluation has stated that the information is not available in any other way. Concerned parties should be informed that the recording took place and why it was carried out, before publishing the information.
 12. Respect copyright rules regarding text, images and sound.
 13. State the source when an account is based largely on someone else's information.



ANNEX 3

The Press Ethical Rules in Denmark



The Press Ethical Rules

Sound Press Ethics

The content and conduct of the media shall be in accordance with sound press ethics (Section 34(1) of the Media Liability Act).

The Press Council determines whether the conduct of the media is contrary to sound press ethics. Its decision is based on the "Advisory rules of sound press ethics" which formed part of the Media Liability Bill of 1991, but the "sound press ethics" standard keeps pace with developments in determination of what is unethical, and adopts standpoints on new situations that arise.

"The advisory rules of sound press ethics were revised on 22 May 2013"

(Adopted at the meeting of delegates of the Danish Union of Journalists on 23-24 April 2013 and at the annual general meeting of the Association of the Danish Media on 22 May 2013).

Fundamental views

Safeguarding the freedom of speech in Denmark is closely connected with the free access of the media to collect information and news and to publish it as correctly as possible. Free comment is part of the exercise of the freedom of speech. In attending to these tasks the media should recognise that the individual citizen is entitled to respect for his/her personal integrity as well as the sanctity of his/her private life and the need for protection against unjustified violation hereof. Visible and clear guidance on how to complain of media content and conduct should be made available by the media.

Breach of sound press ethics also includes the withholding of rightful publication of information of essential importance to the public and compliance with outsiders' demands for influence over the content of the media, if such compliance may raise doubt as to the freedom and independence of the media. Furthermore, a breach of sound press ethics exists if tasks that are in conflict with the present press ethical rules are imposed on a journalist.

Journalists should not have tasks imposed on them that are contrary to their conscience or convictions.

The rules cover the editorial materials published in the media. The rules also cover edited discussion contributions. If unedited discussion items are brought, visible and clear guidelines on such items should be published and an effective procedure for handling complaints of such items should be set up by the relevant medium.

The rules also cover advertisements and publicity in the printed periodical press and in the other media to the extent that specific rules governing these have not been laid down.

The rules apply to persons mentioned and depicted, including deceased persons, legal entities etc.

Content of the rules

A. Correct information

1. It is the duty of the media to publish information correctly and promptly. As far as possible it should be verified whether the information given or reproduced is correct.
2. The sources of news should be treated critically, in particular when their statements may be coloured by personal interest or tortious intent.
3. Information which may be prejudicial or insulting or detract from the respect in which individuals should be held shall be very closely examined before publication, primarily by submission to the person concerned. Submission should be made so as to give the person concerned a reasonable time to reply.
4. Attacks and replies should, where this is reasonable, be published together and in the same way. This particularly applies to insulting or prejudicial statements.

5. A clear distinction shall be drawn between factual information and comments.
6. The form and content of headlines and sub-headlines shall be substantiated by the article or publication in question. The same rule shall apply to newspaper placards.
7. Incorrect information shall be corrected on the editors' own initiative, if and as soon as knowledge of errors of importance in the published information is received. The correction shall be given in such a form that the readers, listeners or viewers may easily become aware of the correction.

B. Conduct contrary to sound press ethics

1. Information which may violate the sanctity of private life shall be avoided unless an obvious public interest requires public coverage. The individual is entitled to protection of his/her personal reputation.
2. Suicides or attempted suicides should not be mentioned unless an obvious public interest requires or justifies public coverage, and in that case the coverage should be as considerate as possible.
3. Victims of crimes or accidents shall be paid the greatest possible regard. The same rule applies to witnesses and the relatives of the persons concerned. Consideration and tact shall be shown in the collection and communication of pictorial material, including amateur photos.
4. A clear distinction shall be drawn between advertising and editorial content. Text, sound and images generated by direct or indirect commercial interests should be published only if a clear journalistic criterion calls for publication.
5. Special regard should be paid to children and other persons who cannot be expected to realise the effects of their statements or other involvement. Parental consent should be obtained before the publication of interviews or the like when indicated by the nature of the subject and the minor's age.
6. At the collection or publication of information, the confidence, feelings, ignorance, lack of experience or lack of self-control should not be abused.
7. Clandestine recordings should only be published if the persons involved have given their consent, or if the interests of society clearly supersede the claim for protection of the individ-

ual and it is not possible, or only possible with great difficulty, to obtain the necessary journalistic evidence in any other way.

8. Statements published in digital media will often be available long after their publication. Upon request to the medium, the availability of such previously published sensitive or private information may be hampered if possible and deemed reasonable.

C. Court reporting

1. The general Press Ethical Rules mentioned under A and B shall also apply to court reporting.
2. The rules for court reporting shall also apply to the preliminary steps of a lawsuit or a trial, including the consideration of criminal cases by the police and the prosecution.
3. Court reporting should be objective. At any time during the preliminary stages and the hearing by the court, the journalist should aim at a qualitatively equal representation of the points of view of the parties (in criminal cases the points of view of the prosecution and the defence, respectively). Coverage of a criminal case should be followed up by an account of the conclusion of the case, whether this takes place in the form of a withdrawal of the charge, acquittal, or conviction.
4. Family circumstances, race, ethnicity, nationality, creed, sexual orientation or membership of organisations should only be mentioned when relevant to the case.
5. As long as a criminal case has not been finally decided or the charge withdrawn, no information may be published which may obstruct the clearing up of the case, nor may pronouncements to the effect that a suspect or accused is guilty be published. When reporting on a criminal case, it shall clearly appear whether a suspect or an accused has declared himself or herself guilty or not guilty.
6. To the greatest possible extent, a clear objective line shall be followed in deciding which cases are to be covered, and in which instances the names of the persons involved are to be given. The name or any other identification of a suspect or an accused should be omitted if no public interest calls for the publication of the name.
7. Caution should be exercised in publishing statements to the effect that information has been laid with the police against a person mentioned by name. Such information should as a

rule not be published until the information laid has resulted in the intervention of the police or the prosecution. However, this rule shall not apply to statements referred to by the person informed against, or if the information laid is already widely known or is of considerable public interest, or if under the existing circumstances it must be assumed that the information laid was well-founded.

8. A suspect, an accused, or a convicted person should be spared from having attention called to an earlier conviction if it is without importance in relation to the offence concerning which he/she is now suspected, charged, or convicted. Previous criminal charges against a named person should not, as a rule, be mentioned in connection with other news.

Historical development

 **1960 The code “Sound press ethics in the coverage of criminal cases” is adopted by the Danish Newspaper Publishers’ Association.**
The code concerns itself in particular with legal and criminal matters. It also contains guidelines for the reporting of accidents, including the collection and reproduction of pictorial material, and rules dealing with the coverage of suicide and attempted suicide.

 **1964 Establishment of the Danish Press Council.**
At the instance of the Danish Newspaper Publishers’ Association, a council is set up to ensure that the rules adopted in 1960 are observed. The Danish Press Council consists of four members with a lawyer as chairman and three expert members, all nominated by the Danish Newspaper Publishers’ Association.

 **1968 Competence of the Danish Press Council expanded.**
The competence of the Danish Press Council is expanded so that it also covers serious offenses outside criminal reporting as such. The Danish Newspaper Publishers’ Association adopts the rules in accordance with the recommendation of the Press Council



1974 Revision of the rules commenced.

The Danish Newspaper Publishers’ Association sets up a committee to revise the basic rules in accordance with the Penal Code Council’s statements on the sanctity of private life (Report No. 601/1971). The committee consists of the chairman, Supreme Court Attorney Børge Koch, and representatives of the Association, the Danish Journalists’ Union and Danmarks Radio (the Danish Broadcasting Corporation). It is the wish of the Danish Journalists’ Union that rules be laid down “that can safeguard the conditions necessary for freedom of speech, free access to collect and publish information and news”, and rules to safeguard the integrity of journalists in connection with the exercise of their assignments.



1977 The report “Information concerning and draft of rules for sound press ethics and the brief of the Press Council” is released.

The committee set up in 1974 releases its report. The report contains drafts of advisory press ethical rules and the brief of the Press Council. It is proposed that the Press Council be established with 6 members: one chairman appointed by the President of the Supreme Court, one member appointed by the Danish Newspaper Publishers’ Association, one member appointed by Danmarks Radio, two members appointed by the Danish Journalists’ Union, and one public representative appointed by the Ombudsman of the Danish Parliament.



1981 The Danish Newspaper Publishers’ Association adopts the committee’s proposal for press ethical rules (“sound press ethics”).

The Danish Journalists’ Union and the Danish Newspaper Publishers’ Association are unable to reach an agreement on the committee’s proposal regarding the principles of “non-information” and journalists’ integrity, so only the Danish Newspaper Publishers’ Association accedes to the rules governing the Press Council.

The rules are advisory and contain three sections: correct information, conduct contrary to sound press ethics, and court reporting.



1985 Release of the Media Commission’s Final Report No. 1029/1985.

The Commission’s deliberations include proposals for the introduction of uniform press ethical rules and the foundation of a common complaints board for all mass media. This board is to be competent to issue orders for publication of corrections, reproofs etc.



1986 Appointment of the Media Liability Committee.

The brief of the Committee is, amongst other things, to examine the possibility of establishing a new body to be in charge of functions that were formerly the province of the Corrective Statements Board, the Press Council and the Radio Council. The Committee consists of a chairman, Justice of the Supreme Court Else Mols, and representatives of the Association of the Danish Specialist Press, the Danish Magazine Publishers’ Association, the Danish Newspaper Publishers’ Association, the General Directorate of the Royal Danish Post Office, the Danish Journalists’ Union, Danmarks Radio, TV 2, the Danish Bar and Law Society, the Ministry of Justice and the Prime Minister’s Office.



1990 The Media Liability Committee releases Report No. 1205/1990, which includes “Advisory rules of sound press ethics”.

The Committee emphasises in its report that detailed ethical rules should not be incorporated directly in the Act. They are an expression of the media’s own ethical standards. New situations may arise, and an ethical standard may be affected by the change of views over time. Finally, ethical regulations should be advisory only. The Committee therefore proposed that the Act should contain a general clause according to which the content and conduct of the media shall be in accordance with sound press ethics. It is a matter for the Press Council to determine whether conduct has been contrary to sound press ethics in an individual instance. Such determination shall not be entirely independent, since the Committee’s proposed “Advisory rules of sound press ethics” are to form the basis of what “sound press ethics” means in detailed terms. The Committee’s proposal for advisory rules was based on the rules adopted by the

Danish Newspaper Publishers' Association in 1981, but incorporated the principles of "non-information" and the integrity of journalists that the Danish Journalists' Union had wished to be included.

1991 Adoption of the Media Liability Act (Act No. 348 of 6 June 1991).
 The bill is in accordance with the rules of sound press ethics proposed by the Media Liability Committee. "Advisory rules of sound press ethics" forms an annex to the bill (Bill 132 of 6 February 1991).

1992 Appointment of the Press Council; entry into force of the Media Liability Act.
 As a complaints authority, the Press Council is briefed to discharge the functions hitherto the province of the Danish Press Council, the Corrective Statements Board and the Radio Council. The Press Council will consist of a Chairman and Deputy Chairman to be appointed upon recommendation by the President of the Supreme Court, two members to be appointed upon recommendation by the Danish Journalists' Union, two members to be appointed to represent the editorial managements upon recommendation by the media, and two members to be appointed as public representatives upon recommendation by the Danish Council for Adult Education.



ANNEX

4

Reference documents and additional resources

The Press Ethical Rules

[Partial list – to be reviewed & supplemented by suggestions from ITP managers, advisors. All reports and documents listed below are available freely online, with the exception of the WAN WPT report, provided as PDF to the ITP for citation in the manual and programme use but available online only to WAN members.]

(PDFs of all documents cited below available to be provided in full as manual annex through Basecamp.)

Introduction

- Freedom of expression, democratic discourse and social media Media and communication Volume 8 issue 4 (2020), Cogitatio
- Krämer Holz-Bacha (2020) Perspectives on populism and the media, Nomos

- McQuail, Denis (2010), McQuail's Mass Communication Theory (sixth edition)
- Puppis, Manual and Hilde van den Bulck, Media Policy and Media Policy Research from the Palgrave Handbook of methods for media policy research (2019)
- Thompson, G. (2020). Post-truth public relations: Communication in an era of digital disinformation.

Chapter 1. Media Rights and Standards: National, Regional and International

- UN Human Rights Commission 'General Comment' on ICCPR Article 19 (UN - 2011)
- Recommendations on ICCPR Article 20 (OHCHR & Article 19 - 2010)

- UN 'Rabat Plan of Action' on Hate Speech (UN - 2013)
- OAS-UNESCO 'Toolbox' manual for training Latin American judges in press freedom and access to information laws & treaty obligations (UNESCO -2017) (Spanish)
- World Press Freedom Index (RSF- 2021)
- UNESCO Framework for Assessing Media Development (UNESCO - 2008) {subject of CH2 box on 'media indicators'}

Chapter 2. Official Regulation: State Agencies, Ministries & Courts

- Selected National Constitutions (texts)
- Windhoek Declaration (UNESCO - 1991)
- Guidelines for Broadcasting Regulation (Commonwealth Broadcasting - 2008)
- Access to Information - A Practical Guide (EU - 2018) {subject of CH2 box}

Chapter 3. Internal Self-Regulation: Newsroom Ethics and Practices

- The Modern News Ombudsman: A User's Guide (ONO - 2020)
- Online Media Self-Regulation Guidebook (OSCE 2013)
- BBC Editorial Guidelines (2019)
- Digital Democracy and the 'Right to be Forgotten' (Botero et al - 2017)

Chapter 4. External Self-Regulation: Oversight by Peers and the Public

- Codes of Ethics – an international review (CIMA - 2011)
- Selected Codes of Ethics from national

journalism organizations around the world

- Regulating the Press: A Comparative Study of Press Councils (Reuters Institute - 2012)
- The Trust Factor' Report on Self-Regulation (Ethical Journalism Network - 2015)

Chapter 5. Co-Regulation: A Partnership Model

- Self-Regulation and Co-Regulation in the AVMSD - (EAV Observatory - 2019)
- Self-Regulation & Co-Regulation of Digital Media - (Universitat Wien - 2020)

Chapter 6. Social Media: Regulatory Challenges in the Digital Age

- Australian Code of Practice on Disinformation and Misinformation (DIGI - 2021)
- US Congressional Report on Media and Competition in Digital Markets (US HR - 2020)
- Democratic Standards for the Internet (Observacom - 2020) (Spanish)
- 'Table Stakes Europe' Report - (WAN-IFRA & Google News Initiative - 2020)
- European Commission Report on Combatting Disinformation Online (EC - 2018)
- IAPA Declaration of Salta on Digital Freedom (IAPA- 2018)

Chapter 7. Moving Forward: Building Trust and Ensuring a Future for 'News'

- Trust Barometer (Edelman - 2021)
- World Press Trends Report (WAN-IFRA - 2019)
- Media Councils in the Digital Age, EU (2020)



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