Pathways

to Operationalize
Media Self-Regulation

in Ethiopia

*A sector wide call for action to capitalize on
opportunities presented by reform efforts*

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Two members of the Media Law Working Group authored this report [Right to left: Solomon Goshu, Henok Semaegzer and Mesganaw Mulugeta]

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Introduction

The debate over what media regulation in Ethiopia should look like was settled by the country's new media law, at least from a legislative standpoint. A non-statutory co-regulatory framework gave the country's media an opportunity to self-regulate. While fervent ethnic nationalism, communal conflict and displacement continue to challenge Ethiopia's political transition, the country has been going through democratic transformation over the past three years opening up for more inclusion of broader sectors in society. As a result of the ongoing comprehensive reform program and changes in the policy landscape, actors in the media sector coordinated efforts to introduce legal and administrative measures that would increase the role of self-regulatory bodies in the media governance process in the country.

The fundamental question of how to operationalize a robust and functional self-regulatory mechanism for the media sector, which had been systematically weakened by decades of authoritarian control, remains a challenge. Strong state regulation and repression are etched in the institutional memory of media organizations. The difficult task of safeguarding public trust is further complicated by continued political ownership of the sector. Even though the new media proclamation prohibits political ownership of the media, in practice, Ethiopia's government is a majority shareholder in the news business followed by its political opponents who also finance, run, and operate media outlets directly or indirectly.

The process of creating a voluntary media accountability mechanism through the establishment of strong professional ethical practice is often a long and arduous journey. In Ethiopia, a decade-long effort by stakeholders in the media sector and international actors led to the formation of the Ethiopian Media Council (EMC) in 2016. Since then, more than 50 media organizations have become members of the EMC. However, the self-regulatory body is still struggling to become fully operational.

While it is necessary to have media self-regulatory institutions up and running, by no means does this mean a functioning system of self-regulation is actualized. To realize this, it is important to have a step-by-step process of sector-wide engagement in the operationalization of self-regulation since such structures are new to the country. This, in turn, entails a process of stakeholder engagement informed by local, regional and international experience aimed at forging a path towards consensus.

Strengthening the self-regulatory mechanism in Ethiopia is crucial at this particular time. The country's new media law provides an alternative to government regulation provided that media self-regulatory structures prove their effectiveness in enforcing their code of conduct. According to the media law, such requirements include functional and effective mechanisms for "a voluntary peer review and learning process used by media institutions by setting up and abiding by editorial guidelines, professional ethics and code of conduct to enhance professional expertise and devise a mechanism to entertain complaints and insure public accountability."

This study attempts to identify major challenges and opportunities in operationalizing a voluntary media accountability ecosystem that effectively investigates complaints through a process of peer-review.

About the report

On Feaburay 2 2021, the day Ethiopia's new media law was passed, MERSA Media Institute (MMI) in partnership with FOJO/IMS facilitated a sideline media stakeholder consultation with the aim of building consensus on operationalizing media self-regulation in the county. Influential editors, media owners, journalists, experts in media regulation and development, representatives of journalist associations, civil society organizations, and government met to discuss challenges and opportunities to operationalize an independent and functional self-regulatory mechanism.

This study on self-regulation is based on extensive desk review benchmarking local and other African experience and key stakeholder interviews. The report features five articles written by media leaders with the aim of presenting varied perspectives in identifying major challenges and recommendations on the way forward to operationalize media self-regulation in Ethiopia. The authors of this study believe such reflections not only help enhance the scope and output of this research, but also enrich the dialogue on the subject matter.

Summary of stakeholder engagement

Addressing leadership challenges and building broader coalitions to operationalize media self-regulation in Ethiopia

In late 2020, nearly three years into Ethiopia's much lauded democratic reform, the Horn of African nation faced yet another challenge—war between a rebellious northern region and the federal government assisted by neighbouring Eritrea. During this conflict, the two warring sides resorted to old tactics of using the media as a weapon of war propaganda. As the conflict soared, the propaganda war using mainstream and new media outlets intensified on both sides. Truth became a rare commodity. Information disorder became rampant as the population looked online to find a different narrative, only to find the digital space already trolled by propaganda machines. In both legacy and new media platforms, the value of truth as a currency of public trust in the media experienced a situation mirroring hyperinflation.

Before the start of the war in the north, Ethiopian media organizations were already operating under a credibility deficit resulting from their role in fanning ethnic diatribe that contributed to a number of communal conflicts. Public trust in the media was further eroded during the war.

It was under such difficult circumstances that 35 Ethiopian stakeholders gathered in Addis Ababa to discuss ways to strengthen public trust through the promotion of ethical standards, professional responsibility and media accountability.

Media self-regulation works best when key actors in the sector agree to form layers of voluntary accountability structures that are operational and credible. Participants of the consultation agreed that strong professional and ethical standards emerge when media outlets work together and achieve a functional and responsive peer review and accountability mechanism. However, they expressed concern that the editorial standard of individual media houses, as well as sector-wide media self-regulatory functions, are not responding to the public's call for a professional, ethical and responsible media sector. Participants stressed that the need for good journalism in Ethiopia is a matter of survival.

Major challenges in operationalizing media self-regulation in Ethiopia

Ethiopian media actors who participated in the February 2021 consultation organized by MERSA Media Institute deliberated on internal and external factors impeding the effectiveness of media self-regulatory functions in Ethiopia. Why is the Ethiopian Media Council, established in 2016, not in a position to effectively enforce its codes of conduct, investigate complaints and guarantee a mechanism for public accountability?

Making the Ethiopian Media Council work

Challenges	Opportunities
Lack of clarity and consensus on vision, mission and values Absence of well-framed, mutually agreed upon and communicated vision, mission and value statements at EMC is a major challenge identified by participants and members of the self-regulatory body. EMC's leadership is seen as unfocused and at times veering off from priorities in the promotion and enforcement of ethics, professionalism and public accountability.	**Enabling legal and policy environment** Recent improvements in policy, media and civil society laws have created space for the media civic space to thrive. Legal and policy frameworks that provide a non-statutory co-regulatory mechanism give media self-regulation an opportunity to play a vital role in the development and enforcement of media codes of conduct, public trust and accountability.
Dysfunctional leadership Participants said the track record of poor accountability of EMC's executive committee to its base is one of the major contributors to the perpetuation of dysfunctional institutional governance.	**Expanding membership base** Since its establishment in 2016, the EMC has managed to expand its membership base to more than 50 media organizations. This provides an opportunity to boost the legitimacy and inclusiveness of the self-regulatory body on the one hand and provides new fundraising prospects through membership contributions on the other.
Failure to build stakeholder consensus and ownership The membership base of the council is expanding. However, participants urged the leadership to do more work to build consensus amongst its members and the sector at large in order to be effective, inclusive and accountable. Participants asked the council to improve its legitimacy by doing away with its current "media owners club" status.	**Media development support** Local and international media development organizations could provide support to address EMC's institutional capacity gaps as well as funding opportunities to assist the council's efforts to improve professional and ethical standards in Ethiopia. The media council could create strategic partnerships with media development organizations to advance its mission and functions.
Gaps in resource mobilization and membership contribution collection Members of the council vowed to contribute a small percentage of their income to finance its operations. However, participants revealed only three members have made their membership contributions so far.	**Online media registration under new law** The new media law has provided an avenue for the legal registration of online media outlets that can be potential members of the council.
Underdeveloped institutional structure and capacity The media council is not immune to the challenges of underdeveloped Ethiopian media institutional structures, independence and capacity gaps.	**Regional and international best practice** The EMC is in a position to take advantage of regional and international knowledge and experience on how to operationalize and sustain media self-regulation.
Membership accountability Most journalist associations and trade unions suffer from a legitimacy crisis resulting from misplaced accountability priorities. A bottom-up drive for their very existence and operations is identified as lacking. Participants said, a self-regulatory body that is not responsive to its members will have a difficult time enforcing ethical and professional standards, much less convincing its members to respect and abide by peer-review rulings. Participants urged the membership of the council to hold its elected leaders accountable to internal policy and rule of law.	.

Call for action: priorities for the next year

Participants of this stakeholder consultation outlined common areas of concern and opportunities to work together to successfully establish, strengthen and operationalize an independent media self-regulatory mechanism in Ethiopia. They agreed on the following priority areas for mutual cooperation and action over the next year.

1. Operationalize effective complaint handling procedures

The basic rationale for the existence of a sector-wide media self-regulatory body is its function in establishing a media accountability mechanism that builds public trust and credibility. The effectiveness of such complaint handling procedures also helps media outlets avoid lengthy trials, administrative actions and fines.

Ethiopia's new media law provides a right to reply to the public, consumers and entities when they feel a media outlet has tarnished their reputation, violated their privacy or has acted in an unethical manner. Principles of journalism also dictate media responsiveness to public belief, criticism, feedback and a mechanism for handling grievances.

If a sector-wide media self-regulation in Ethiopia is to work, immediate priority should be given to operationalize EMC's complaints investigation panel. The EMC had announced the formation of a 15-member panel, but it is yet to investigate its first case. Immediate action should be taken to operationalize this media accountability mechanism and maintain dialogue with the public.

2. Holding annual meetings, enforcing rule of law and succession policy

EMC's bylaws state that a regular general assembly should be called once a year within 90 days from the end of the previous budget year. Such meetings are essential to report the organization's operations to its members, present audits, hold elections and enforce term limits in line with the council's bylaws. Participants learned during their deliberations that the EMC's general assembly has not convened as scheduled in the bylaw and they recommend an immediate convening of its members.

3. Collect membership fees and agree on operational financing policy

The EMC's membership base is expanding but its ability to effectively collect membership fees has not improved. Membership contributions, fundraising from domestic sources and taxpayer democratic funds are listed as sources of income in the bylaws of the EMC. It is important to note that there are differences in opinion among members of the EMC on foreign funding. Some members of the council insist that the organization's operational expense should be covered by its members to ensure its independence and avoid potential interference and shifting of accountability to foreign funders. Influential leaders of the council state that project-based foreign funding approved by the general assembly is justified, especially when members are not paying annual contributions. It is important that the media council resolves this issue by improving membership fee contribution and reaching consensus on income generation and operational funding policy.

4. Institutional capacity building

    It is recommended that the council explores partnership opportunities to address its internal capacity gaps and uplift the overall capacity, as well as professional and ethical standards of the media sector.

5. Build trust and credibility

    A sector-wide media self-regulatory body works when its members agree on and enforce basic rule of law and operational policy and procedures. The currency of a voluntary membership organization is its accountability to its members, adherence to articles of association, ethical standards, and its ability to instill public trust and credibility.

    Facilitating stakeholder and public forums aimed at building consensus and understanding on the roles and responsibilities of the council and its essential self-regulatory function are key to success.

Collection of articles from key stakeholders

Ethiopian Media Council: the long and arduous journey

By Sebsibe Kebede, executive director of Ethiopian Media Council

The Ethiopian media sector, as it stands at this time, is a collection of 168 public, commercial and community legally registered media outlets operating in Ethiopia. These include; 10 public radio and 12 public television stations, 15 commercial radio and 26 commercial television stations, 54 community radio and television stations, 3 educational radio broadcasters, and 13publicly-owned newspapers and 10 magazines, both at federal and regional levels, in addition to another 13 and 12 independent newspapers and magazines, respectively.

The legal basis for all operational media outlets in Ethiopia, in one way or the other is drawn from the FDRE Constitution article 29, where the right to freedom of expression and the press is boldly enshrined, and the subsequent mass media and access to information proclamation no. 590/2008. Although a new media law appears to be on the horizon, as part of a broader legal reform process the country is undergoing since the past two and half years, proclamation 590/2008 is still technically the prevailing media legal regime in Ethiopia, based on which a number of media professionals and organizations were able to establish free, independent and public-interest media outlets and professional associations.

Nevertheless, the media sector was never complete without a strong national media self-regulatory institution, founded up on a unified and standard journalistic code of ethics and regulation. And yet, the road to a national and credible and independent media self-regulatory institution was never easy; in fact, it was after a long and arduous journey that the Ethiopia Media Council was finally able to see the light of day.

Inception

The idea of an independent media self-regulatory entity, which latter come to be known as the Ethiopian Media council, first emerged during the consultation process of the then draft proclamation 590/2008, spearheaded by the state media regulatory agencies. However, the emergence was not spontaneous; nor was it one of those spur of the moment things. Fundamentally, it was an idea ignited by a provision in the draft proclamation, which was inserted to pave the way for a statuary self-regulatory body. This was met with staunch opposition from different members of the media sector in Ethiopia including but not limited to journalists, broadcasters and publishers. They argued forcefully that pushing a statuary self-regulatory agency would tantamount to interference and undermining the professional autonomy of media practitioners. Finally, the voices of dissent prevailed and managed to eliminate the particular provision from the draft proclamation.

However, this was a blessing in disguise since it provided the necessary push for media practitioners to come together to discuss the establishment of an independent media self-regulatory institution: the Ethiopian Media Council (EMC). Different journalist associations, publishers and broadcasters' associations as well as media institutions took the initiative to debate the idea of sector-wide self-regulatory institution, which come into fruition in 2016,

after a very long and grueling process. Mostly, it was the challenge of arriving at a consensus regarding the form and the substance of the would-be self-regulatory institution that took more than a decade. Just when this painstaking process came to a conclusion, another one started to emerge in the form of registering the new organization with the then Ethiopian Civil Societies Agency. Apparently, the agency for its diligent effort failed to find a suitable regulatory framework to register the Council.

The back and forth with agency continued for three years before the current reform come into the scene, leading to the revision of the civil societies proclamation. The new law allowed the EMC to be legally registered and start its operations in full force. By the time the Council acquired its legal registration, its membership has already grown to 46, incorporating media houses and various professional journalist associations. Among these, 10 are those having both television and radio stations, while the seven are just television broadcasters and another seven are just radio stations; meanwhile, 18 members are from the print media subsector and four associations represent journalists, broadcasters and publishers.

The next step was on the establishment process was ratifying organizational policy documents. Accordingly, the Council with the assistance of media professionals drafted its organizational by-laws and code of conduct, both of which were adopted by its members after adequate consultations and amendments. Most importantly, all members of the EMC have finally managed to agree fully on the all-too-important code of conduct and placed their signature to make it official.

All this notwithstanding, the ups and downs associated with the establishment of this unique body is not to be taken lightly. Heated and passionate debate on the roles and responsibilities of this institution was not to be forgotten that easily. One sticky point was ofcourse whether the EMC should embrace the support and recognition of the government. Ultimately, the idea was strongly decried by the members and stakeholders of the Council citing evidence that such arrangement is not only uncommon in the rest of the world but it also poses a serious threat to the institutional autonomy and professional independence of media practitioners and owners. Subsequently, the majority of the members have reached a consensus to keep the Council out of the shadows of the government and even remove the provision from the proclamation 590/2008.

However, the challenges of the EMC to start its operation and rollout its critical intervention in the media sector were far from over. Apparently, acquiring legal registration was another steep hill to climb for institutions like the EMC. In spite of having a legal basis to register, in the form of the then civil society's proclamation, the Council was blocking from doing so for another three years. This unique challenge was to remain until a political reform came to the nation and the infamous civil society's proclamation was revised in 2018.

Looking forward, the steps that should be taken to strengthen the media self-regulatory role of the Council are still quite important to the Ethiopian media sector. The experience of other countries informs that the same steps that the Council is taking are quite critical to actualize the regulatory role of such institutions. These include but not limited to ensuring editorial independence of all media institutions, discouraging government interference, improving quality of journalism and the media, and ensuring transparency in the media.

The road traveled

The structure of EMC has three leadership bodies. These are the general assembly, the executive committee and the Arbitration Panel. At end of the day, the primary role of the EMC is establishing and operationalizing the Arbitration Panel; however, the global health menace—COVID-19 pandemic—has played a role in complicating the work of the Council, especially its task of establishing the Panel. In spite of that, the subcommittee in charge of selecting candidates for this Panel has taken a step by submitting the names of candidates for members of the Assembly electronically and for voting to happen.

In this regard, elected Panel members represent various institutions, namely, the council of religious institutions, journalism schools, Ethiopian chamber of commerce and sectoral association, government executive bodies, House of People's Representatives, prominent individuals, retired judges, civic associations, Ethiopian lawyers association, teachers associations and media institutions. As it stands, the Panel has 18 members; and some of its major responsibilities would be to ensure the code of conducted (ratified by the general assembly of the EMC) is respected, conduct hearings when there is claim of violation and make its rulings, and ensuring that such violations do not happen again, based on the lessons learnt from previous cases. Apart from that, the Panel would also be the responsible body to safeguard the freedom and independence of the media; and support journalists to conduct themselves and their work at the highest possible ethical standards.

Apart from that, the Arbitration Panel would have its own part to play in ensuring compliance to some of the ethical standards accentuated in EMC's code of conduct such as media social responsibility, avoidance of hate speech, respect to human dignity, respect for right of replay and encouragement of the audience to offer feedback, discouragement of plagiarism, respect for the right of children and persons with disability, avoidance of defamation and in general respect for professional integrity. The implementation of these ethical standards, no doubt, leads to the success of the primary goal of the Council and other self-regulatory activities. In other words, complaints hearing, investigating the proper implementation of ethical standards and weighting the balance of media reports would be critical to execute its arbitration role and redress complaints lodged against media institutions.

Furthermore, its arbitration and complaint redressing role, its responsibility to publicize arbitration decisions in a timely manner, analyzing media reports and ensuring feedback in line with code of conduct and its responsibility to revise the code and ensure the proper implementation of nation's press freedom laws are also important tasks to the Panel.

However, the success of the EMC and its Panel would hinge on some critical factors that would have deterministic role to such self-regulatory institutions. The most important is awareness raising; the Council should actively educate the audience about the existence of alternative dispute resolution platform regarding any media related complaints and the importance of exhausting this arbitration option before resorting to the formal court system. The arbitration platform should be promoted for its advantage to get quick and effective redress since the Council is uniquely positioned to deal with media professionals and institutions on the basis of the code of conduct and other journalistic ethical standards. The public should also be informed that EMC's arbitration services would not require any payment and has greater chance of being accessible to low income members of the community.

Yet again, since the concept of self-regulation and institutions like the EMC are new to Ethiopia, there is a need for constant engagement with the public as to what its roles and responsibilities entail. In this, member media institutions and the Council itself, with the help of its internal publications, would have greater roles to play.

On the other hand, the other challenge that the EMC is facing has to do with its organizational capacity. For instance, while the Council has already take steps to set up its base of operations, its human resources capacity is still long way from meeting the requirement to manage its vast responsibilities. Other office supplies are also in short supply to say the least. This is mainly connected to the lack of commitment to pay annual membership contributions. Hence, member media houses and associations have to be diligent in meeting financial obligations their membership entails; and while at the same time, the Council, in line with its bylaws, should think long and about diversifying its source of funding, in order to operate at full capacity and execute its responsibilities.

Going forward, the Council should focus on preparing its five-year strategic plan, internal directives and manuals to guide the newly elected Arbitration Panel, and promoting the roles and responsibilities of the Council, its bylaws and code of conduct to both media practitioners and the audience.

Complaints are plentiful but the workers are few: reflections on media self-regulation in Ethiopia

By Getachew Dinku, former Director of Ethiopian Broadcast Authority

The legitimacy of most media regulatory regimes rest on the claim that the interest of the public is better served. Often times, regulatory regimes favor public interest over economic interests. That said, there is no single agreed model on regulatory purpose, design and function. Different states adopt different forms of media regulation ranging from self-regulation and incentivized regulation to co-regulation and statutory regulation.[1] In Ethiopia, media content is regulated with the view of protecting the culture of communities and ensuring peaceful co-existence between citizens belonging to various social groups. The model of regulation lately adopted by our country is co-regulation. In this model, "a statute establishes an independent regulator and gives it powers to set up professional standards for all media and impose sanctions for violating them."[2]

Even countries employing the co-regulatory model do not have uniform provisions and level of detail in their bills. There is always some sort of public-private mix. However, "the design of the system, the balance of responsibility between private actors and the state, will vary in different co-regulatory systems."[3] The new media law of Ethiopia clearly recognizes self-regulatory mechanisms and the roles they can play in solving most of the ethical breaches in journalism, if not all. Supporting the self-regulation regime to become stronger is among the responsibilities of the Ethiopian Media Authority (EMA). The bill also states that the Authority's board assesses the status and performance of self-regulatory instruments every three years and can decide if EMA should leave the task of dealing with media complaints to the industry-developed mechanisms. It appears to me that the intention is to leave enough space for the self-regulatory initiatives whilst ensuring that they effectively solve ethical problems the media industry in Ethiopia has been witnessing over the last few decades.

1 Kimumwe, P. 2014.*Media Regulation and Practice in Uganda: A Journalists Handbook*. Kampala, Uganda:ClearMark Publications.

2   Ibid

3 Prossser, T. 2008. Self-regulation, Co-regulation and the Audio-Visual Media Services Directive. Journal of Consumer Policy31: 99–113.

Currently, there is a debate among media actors on whether the government should leave the role of dealing with public complaints to self-regulatory instruments right away. The debates tend to be more theoretical/normative in nature. Rather than looking into actual challenges, practices, and potentials of the media accountability instruments in our country, arguments are commonly based on the abstract concept of upholding absolute press freedom and keeping the government at arm's length. In what follows, I would argue (given our context) that the public regulator should support self-regulatory options to take root and serve as a backup option of regulation for some time before completely leaving media complaints handing to the Ethiopian Media Council (EMC) and other industry self-regulatory instruments.

Our context and the status of media regulators

Ethiopia is going through a period of political transformation. We are coming out of a situation where politics had a considerable amount of control over the media's mode of operation. As an integral part of the change, one cannot deny the media's contributions in the fight for a better political space for the public to exercise constitutionally guaranteed freedom of expression. Following the change of administration, the current government has shown commitment to open up the political space and embarked on revisiting legal frameworks to ease government control of the media, among others.

Amidst the encouraging positive development and promises of more to come, we have witnessed several conflicts lately, some of which are mediatized. Not every media outlet and journalist used their freedom responsibly in this context. The lack of professionalism, among our journalists and media, is vivid. Our public consumes largely biased, politicized, and ethicized media content.[4]

Systems of media accountability have not developed yet. Especially the self-regulatory option is yet to be implemented and prove its worth. We are not sure how ready and willing our media practitioners are to be sanctioned by their peers. Studies show that journalists in many European countries with several decades of self-regulatory practices still question the effectiveness of media self-regulation.[5]

EMA is legally mandated to carry out the regulatory task with the conditional possibility of sharing its responsibilities with self-regulatory bodies. The newly endorsed media bill reconstitutes EMA as a public institution to exercise rational bureaucracy working in the public's interest. As an institution that has been trying in the last two years to figure out how to regulate the media industry without stifling their freedom, EMA is better positioned today to collaborate with the industry to build free and responsible media in the country. It has learned from past mistakes and will continue to capitalize on the trust it is building. Apart from the legal mandate and the sanctions at its disposal, EMA is also relatively better in terms of media monitoring capacity compared to EMC.

It appears to me that there is a mismatch between the discourses of self-regulation in Ethiopia and the practices, or even the readiness among journalists' associations and the EMC to carry out the task of media regulation. In reality, the self-regulatory option has its own advantages and challenges. Paive Korpisaari, a professor of communication law, posits:

The problem of self-regulation may be a risk of mixing the specific interests of the industry in question and the interests of society in general, as well as setting standards according to the "weak players" in the communicative nexus. It is also possible that self-regulation continues to serve the interests of powerful actors.[6]

Although there have been attempts in different countries to develop various media accountability instruments to endure journalistic quality, the success rate varies. There are many reasons for us to be cautious before putting complete

4   Skerjal, T. and Alemayehu, M. 2021. The ethnification of the Ethiopian media.

5   Fengler, S.,Eberwein, T.,Alsius, S.,Baisnée, O.,Bichler, K. et.al. 2015.How effective is media self-regulation? Results from comparative survey of European journalists. European Journal of Communication30(3). https://doi.org/10.1177/0267323114561009

6   Korpisaari, P. 2014. The Finish Model of Media Self-regulation and freedom of speech from the legal point of view. University of Helsinki.

trust in our young EMC. My understanding is that EMC is currently fighting for legitimacy. As far as I know, a good number of the media houses, including EBC and other large public broadcasters, are not members of EMC. I remember sitting in a meeting and listening to media practitioners, including leaders, asking what "benefits" they would get if they join EMC. They wanted to know what they would get from EMC (training, other support, etc.) rather than the indirect benefits, such as serving the cause of public good and professional prestige.

Four out of the five members of the EMC leadership are media proprietors.[1] Thinking about the EMC's leadership and governance structures puts a wrinkle on my face as I see a potentialconflict of interest. Whether these leaders prioritize their economic interests or commit themselves to journalistic quality and public interest is a big dilemma. Press councils are dependent on media organizations and media workers for most of their operating income.This may put pressure on their ability to make logical and consistent judgment against their funders.

Contrary to their promises, many self-regulatory systems are reportedly inefficient and unable to decide cases quickly. Our own EMC is yet to prove itself in that regard, but the practice thus far shows that it has not dealt with even one complaint. In my view, this suggests that we should have EMA, along with EMC, as a backup go-to place for people with complaints about the time being.

Conclusion

Not every media house and journalist is on the same page when it comes to understanding and embracing some sort of self-regulatory mechanism within a company and collectively as an industry. To be effective, media self-regulation must include some sanctions. The industry actors' moral sanctions may or may not get offenders to comply with the industry codes of conduct. I am of the view that the co-regulatory model allows the state regulator to set standards for all licensed media houses to follow. There is nothing wrong for EMA to use some sanctions as a backstop with the bid to make the industry self-regulation effective. For example, it would be very helpful if EMA includes as a term of condition of the broadcasting license that broadcasters should comply with EMA and industry-developed codes of conduct. The threat of withdrawing broadcasting license is believed to get broadcasters to address complaints better. The U.S. government's media regulator, the FCC, provides a good comparative best practice here .[2]Since licensing is not a requirement for newspapers and magazines, it is possible to urge advertisers to make sure a media outlet belongs to industry self-regulatory systems before putting their ads on a particular outlet. In India, for instance, the government takes the lead and demands "no Indian Government Department should advertise in a newspaper or magazine that does not subscribe to the industry self-regulation code." [3]

I contend that there are enough challenges to deal with for every media accountability instrument since breaches of journalistic ethics are common in our country. Thus, a network approach where every party does its share with synergy between the various efforts might be a better road to take at the moment. We need a period of transition before operationalizing the self-regulatory regime in full swing. Meanwhile, EMC and other self-regulation instruments should work hard to establish themselves as a credible option for the public in dealing with media that breach journalistic ethics.

EMA should continue supporting and promoting EMC and journalist/media associations. It has to regularly assess the performance of self-regulatory instruments regularly, both at the organizational and professional levels, and find ways to recognize their contributions to professionalism.

1   Mersa Media Institute. 2019. Developing Independent Media Associations in Ethiopia: Challenges and Opportunities for New Reform.Addis Ababa, Ethiopia.

2   Hwa Ang, P. 2013.Media self-regulation can work if it is done right.Media Asia Insights40(4): 315–317.

3   Ibid

Media self-regulation: misplaced priorities, missed opportunities

By Tamrat G. Giorgis, managing editor of Addis Fortune

Sixteen years since its inception, four years after founding, and over a year from its legal registration, the Ethiopian Media Council (EMC) remains nothing but a distant dream. The much hoped and hyped Council appears to be dead on arrival when the time for it to be functional could not have been more pressing.

The media industry finds itself in a bizarre state of affairs.

Demand for local, original and authentic sources of information has never been higher than at this time of popular confusion, uncertainty, disorientation and fear.

The COVID-19 spread is the biggest global issue in over a century; but it is also a local concern. Scarred and isolated, millions are hungry for news beyond the information that makes its rounds on social media platforms. Knowledge and understanding of the nature and spread of the virus would have been an indispensable armour for members of the public to safeguard themselves from the global pandemic. People are dying of the virus and families continue to grieve their losses. More are contracting it by the day.

Parallel, there is the unravelling on the political front. The military conflict in Tigray in recent months takes the most attention. Members of the public are at the mercy of social media tidbits to make sense of the unfolding, where highly partisan individuals and groups drive their respective narratives. Unchallenged. Beyond beating the war drum, Ethiopia's mainstream media falls short of its mission of giving timely and accurate information without fear or favour.

Violence was unleashed in many parts of the country in the recent past, compelling Prime Minister Abiy Ahmed to admit before parliament that no less than 130 deadly conflicts have occurred since he came into office in 2018. However, those monitoring conflicts, such as the Armed Conflict Location & Event Data Project (ACLED), report the number of deadly incidents to be more than 250 only last year.

Functioning in a society as highly polarized as Ethiopia, the mainstream media is struggling to remain relevant to the needs of its communities, whether through the airwaves, print or digital platforms.

Paradoxically, the mainstream media faces dual challenges of crisis in its business model and a deficit in trust. It is a mirror image of society, evolving into fragmentations along fault lines of many shades. Among these, lingo-cultural cleavages are prime in dividing society. Terje Skjerdal and Mulatu Alemayehu, two media scholars who recently conducted a study on the "Ethnification of the Ethiopian media," described the media situation in the country as "deeply disconcerting." Indeed, there is a marked shift in the media's trend from what was once mainly defined by either acting as an instrument of power or its adversarial relationship to the state. It is now weaponized by the various social and political forces that are nationalist in their contentions for political power. The media is increasingly a tool for "annihilation" and "othering," as Terje and Mulatu noted.

Professional integrity, independence and responsibility have given way to political partisanship. Many senior media leaders have given in to the manufactured consent of those in positions of power, echoing their worldview unfettered and unexamined but determined to annihilate the "others." The *"others"* are contesting this worldview by only pushing their respective narratives to resist or overwhelm.

In such contention for political power, the only casualty is the truth.

The mainstream media is supposed to play by the rulebook of age-old journalism. In doing so, media practitioners are expected to examine, verify, analyze and challenge claims and assertions made on issues they care to cover. They are meant to walk through a delicate minefield full of legal and ethical explosive buried underneath. They are subjected to accountability before courts of law when they land on legal landmines. No less accountability do they assume before the court of public opinion when they stumble upon an ethical landmine.

The arbiter to help members of the public and media practitioners navigate through the ethical terrain was the Ethiopian Media Council, which had a long journey before its celebrated formation in January 2016 in the conference hall of the UNECA. I was one of the 19 representatives of media organizations in attendance, putting our signatures on the bylaws and codes of conduct adopted by the Council.

Many of us thought this landmark event brought to the point of no return what was a long and frustrating process of forming a self-regulatory institution. In hindsight, I must admit we were a little naive. Perhaps focusing our energy on the Council's architecture, simply taking for granted the commitment and integrity of the founding leadership to the ideals we thought we shared, was banal. We might have underestimated the zeal with which individuals assumed a public office and directed its mandate at their whim. It was a mistake to think that the arduous road travelled for over a decade before the realization of the Council would have conveyed lessons that nothing short of fulfilling its mandate as codified in the bylaws would be worth an oath to serve.

Ironically, the idea of setting up a self-regulatory mechanism did not come from the media. We woke up to its notion when it was first introduced as a chapter in the bill for media regulation tabled for public discussion in 2004. The animated televised debates between officials of the federal government and media practitioners held inside Ghion Hotel captured the public imagination. It was a triumphant moment when government officials conceded to the media to take charge of establishing a self-regulatory mechanism, away from what they had in mind as a statutory institution.

Driven by a rare concession from a government having a record for stubbornness, a few media leaders began to meet regularly to pave the way for the formation of Ethiopia's first media council. What was initially thought to take a couple of months stretched to a decade and a half, owing the frustratingly long process to the political dynamics before and after the 2005 historic national elections.

Media, whether legacy or new, cannot operate in a vacuum. It is a direct reflection of society's polarity and fragmentation in the social forces. Ethiopia's case is no different.

Establishing a media council credible in the eyes of almost all its operators was thought to be an inescapable way to ensure its legitimacy before the public as an independent arbiter. Thus, bringing onboard every media organization regardless of ownership or area of coverage was critial. No one was to be left behind. No media company with legal registration was to be excluded.

It was a painstaking process of negotiating several provisions in the bylaws and codes of conduct, including but by no means limited to, types of membership and sources of finance in the first, and the right to reply in the latter.

The idea was to enroll media organizations as primary and regular members because they have contractual relationships with journalists working for them and can enforce the codes of conduct they signed. The majority of these organizations are "going interest" with balance sheets, hence they can afford to contribute membership fees to ensure the Council operates only on its members' goodwill. No other contributions would be accepted, even from the state or well-meaning donors, without first being agreed to by the general assembly mandated to review and approve special projects. Here comes in mind campaigns in media literacy as a good illustration.

Solely depending on the contribution of its members would have empowered the Council's members to hold the leadership accountable. A public office whose very existence primarily depends on membership contributions would find it very difficult to shift accountability elsewhere.

So it was thought. How unworldly some of us had been!

Media organizations who signed up for the Council were expected to contribute a certain percentage from their annual net profits. The contribution was believed to be proportional and fair not only to the size of each member, but also to the resources each had under their disposal. A lack of consensus to incorporate such a crucial commitment in the bylaws gave way to a tactful agreement to work out the formula for membership fees after obtaining legal registration. To date, the Council has no guidelines for its members on how they can fulfill their most fundamental duty to the Council.

A year after, the task-force formed to explore modalities for membership fees and provide recommendations remained mute. Neither has the general assembly been called for the year as ascribed in the bylaws of the Council. Except for a few media companies that chipped in funds of their own will, members are not paying their dues to contribute to the recurrent budget of the Council.

Not surprisingly, the leadership of the Council chose to shop for finance from the usual market - donors. It is an all too familiar story. Association leaders run around donors with straight jacket project proposals while keeping their members in the dark. Once money starts to flow, accountability shifts from their broader members to those with deep pockets. The slippery slope begins here.

The first general assembly of the Council after registration was held in the Addis Continental Hotel in the fall of 2019. In the meeting, the Council's leadership presented a mediocre draft budget for the approval of the general assembly.

The draft sought to cover close to 70% of the budget from donors who would be willing to pay for a series of trainings in relations to the national elections that did not happen as scheduled in 2020. Alas, it is in the tradition of those scavenging for donor funding to go along with the wave.

Much misunderstood by its own members, let alone the broader public, the Ethiopian Media Council was hoped to take a different course. It is not a training platform. It is not a lobby group advancing the interests of its members. Neither is it a professional association, nor an organization for advocacy of rights. There are many other organizations active in the media industry doing a bit of this and that, although with limited impact.

The Council was meant to have a defined mission. It was a clearinghouse for the public to place their grievances against media practitioners who may have violated ethical commitments they have signed up for. It was designed to be an alternative dispute resolution mechanism for aggrieved parties to make their case heard before an industry body whose members abide by their collective conscious. It was supposed to be a place where the industry singles out the bad apples through a shared process of naming and shaming those violating the standards everyone in the Council agreed to uphold.

If put to its proper function, the Council is immensely valuable to the leaders and practitioners in the media industry. It would furnish a way to avoid painful ordeals with the police during interrogations and stressful legal battles before the courts. The media would submit itself to its own codes of conduct, try members in its own court, and accept the verdict from the panel of ethics with no qualms, if it want to avoid peer admonitions.

The Council was all about balancing the media's freedom to inform with its responsibilities to respect the dignity of citizens.

The two most important bodies in the Council - the Ombudsman and the Panel of Ethics - have yet to be operational despite a lackluster effort to form the first. The leadership's misplaced priorities in going after only what pleases donors, against the dictum of its bylaws, led it to squander opportunities to lay the institutional foundations for the Council to operate as effectively as was desperately required.

In a country engulfed by political turmoil and repeatedly finds itself at the height of violent conflicts, the media's role in informing accurately, impartially, ethically and responsibly is an obvious concern for many citizens. The dissatisfaction could not have gone deeper. The Council could have been a destination for many in the public to place their demands for the media to behave consistently with its commitments and live up to its self-proclaimed values.

I believe the Ethiopian Media Council falls short of its declared mission largely due to a crisis of values at the core of its leadership. In its determination to serve other interests on the sideline contrary to what is ascribed in its constitution, the leadership has shifted its priorities and accountabilities to the desires of financiers other than its members. It suffered a miscarriage and became what its funders wanted it to be; and in the process, failed to become what its members wished to see it become. Sadly, the two are not on the same path.

The leadership has no doubt knocked the Council off the rails. The destination will be far different from what some of us had in mind when we got onboard during its take-off.

It is regrettable to see not much enthusiasm from the Council's constituent members to bring the leadership back on track. There is no meaningful pressure from the wider membership to force the leadership to put its time and energy

into what matters most. The Council's operationalization through the functions of the two bodies that receive complaints from aggrieved parties in the public and the rulings to be made thereon was what we signed up for.

There should be little surprise on why there is indifferences among the membership. So long as many do not vote on their hard-earned bucks, there is hardly any incentive to hold the leadership accountable to the Council's core mission. Rather, the scramble appears to be to get the share of the rent collected from donors. Same old. Same old.

Sad. Regrettable. And an effort in vain.

Media Self-Regulation in Ethiopia: Bottom up approach

By Fasika Tadesse and Asrat Seyoum, Editors Guild of Ethiopia

Self-regulation of the media is built upon the idea that professionals in the sector should be governed by common ethical and professional standards that preclude interference from government and other public bodies. In Ethiopia, media regulation was largely under the mandate of the government, and establishing a media self-regulatory body remained an elusive concept until the establishment of the Ethiopian Media Council (EMC) in 2016. The Council was hoped to solve the age-long problems of lack of professionalism and rampant mediocrity in the media sector in the country—a daunting task in an environment characterized by distrust and polarity of views among practitioners.

Four years after its establishment, the Council still struggles to ascertain its authority and act quickly on matters under its jurisdiction. Recently, it failed to participate in the drafting of the code of conduct on election reporting. Instead, the National Electoral Board of Ethiopia (NEBE) took the lead and dictated the codes. If the Council is to make an impact, it needs to strengthen its capacity and step up as a strong player in the media regulation arena.

The establishment of the self-regulatory body in itself is a big stride in the right direction. But, it is bound to struggle further if the underlying problems of lack of industry consensus, understanding of what self-regulation is, and clarity on the roles of a self-regulatory body are not addressed appropriately and immediately.

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Prelude

Under threat of an impending statutory media self-regulatory entity, one Saturday in 2016, some 19 media houses and journalist associations in Ethiopia finally agreed on the establishment of the Ethiopian Media Council (EMC), the first independent media self-regulatory body in Ethiopia. The signing of the organizational by-laws and journalistic code of conduct, which was approved at ceremony held at the UNECA, was the culmination of a decade-long engagement among media practitioners in Ethiopia. While the better part of the decade was spent on building consensus towards the formation of a common media self-regulatory body, the day of establishment of the EMC was still animated by a fierce debate on the draft by-laws. The discussion on funding and membership rules, the two stickiest issues in the by-laws, was indeed revealing as to how the interests among media practitioners was polarized.

Be that as it may, that day, the Ethiopian media sector as whole (including those choosing to stay out of the Council) took a very important step, a step in the right direction in terms of abandoning its long-held victim attitude vis-à-vis the government of Ethiopia and taking back some of the regulatory powers from its detractors in the state. It was a victory in many senses, but also a humbling experience in the realization that it was the lack of media solidarity, not the government, which stood in the way of a self-regulating media sector for over a decade.

The government was not exactly innocent either. In fact, it was the authorities that effectively froze the legalization of the EMC for another two years, taunting this important body from the start. Rather comically, the then Civil Societies and Charities Agency suddenly found itself dumbfounded by the lack of relevant provisions to register the EMC and played purposefully ignorant of the precedence of other registered sector associations like the Ethiopian Bankers Association. The EMC remained in legal limbo for another two years.

However, even after gaining full legal status the Council stayed inert for another couple of years, postponing the hopes and dreams of the Ethiopia media sector to see a functional professional, independent and credible self-regulatory entity.

It has finally dawned on media practitioners in Ethiopia that placing a massive responsibility like establishing a system of self-regulation is not something that should be left for one organization; and may be, whose understanding of the media self-regulation architecture as whole might just be misguided at a foundational level.

Conceptualizing self-regulation

For far too long, we in the Ethiopia media industry has rightly sensed that there is something inherently wrong with leaving the job of regulating the media sector entirely to government, which we were expected to hold to account. The severe imbalance of power and uneven relationship was quite palpable in the media business. The potential, as well as actual conflicting interests in this system of regulation have left the media high and dry for decades on end. While the sector in general has done a respectable job in shading international light on Ethiopian authorities and their negative perception towards the media, it has failed to build consensus on establishing a media self-regulatory institution.

However, the way the media in Ethiopia understood self-regulation and what it actually meant in the local context was the biggest problem. Self-regulation as a concept is not only about finding alternative dispute handling mechanisms—although this is an important element—but also minimizing breach of ethical and professional standards that lead to disputes. It is not only about providing

fair adjudicating ground for media members, in case of dispute, but preventing complaints on media reports from coming out.

The most important question to ask when thinking of self-regulation is from where the bulk of such breaches of professional standards originate. Undoubtedly, the origin is where primary news production activities take place—media houses. The news media is, therefore, the base and the foundation of a media self-regulation system. In a way, the editorial and sub-editorial processes are where the decisive battles are fought, and the gatekeepers, editors and sub-editors are the frontline soldiers in this fight.

Journalism is a very unique profession. Each member of the news production value chain is guided by widely known and understood sets of ethical standards, as much as they are shielded by legally protected professional autonomy. This makes interaction of media practitioners, for instance, that of reporters and editors and editors and media managers, quite structured and standardized. While reporters are accountable to the content they produce, editors at all levels are responsible for quality control, and media mangers to the sustainability of the news production process.

Accordingly, everyone in this value chain has its own level of autonomy and accountability. This is where the set of ethical and professional standards come in. As editors check the work of their reporters, they have a range of objective ethical professional standards to consult, as do media managers while evaluating the performance of their news editors. Such layers of control and regulation are the best way to curb abuse of autonomy and the legal protections afforded to the media sector, and ensure quality public interest journalism.

Media houses also possess another layer of checks and balances at the institutional level in the form of the editorial conference. Although the format of editorial meetings/conferences vary across media organization, the central aim, which is to ensure collective checks and balances and accountability in the new production process, largely remains the same. This is where reports and news productions are planned, evaluated and developed. Basically, the role of an editorial conference is to oversee quality control across the media organization.

Underscoring the importance of quality control at the institutional level, another layer of regulation, an in-house news ombudsperson, is setup in media houses to provide the public with a platform for lodging complaints and grievances relating to the news production process. This body or person is expected to be as independent as possible in going through facts and evidence while adjudicating complaints against the reporting done by the media organization he/she works for.

Practical experiences show that having an in-house ombudsperson has a positive result. People with complaints have confidence in the adjudication process, while reporters and editors are always alert during the content production process knowing their work will be scrutinized. When this process is in place, those in the content production process always think of the consequences of making mistakes and breaching ethical guidelines. However, this might be a bit difficult for most of the media companies that are already grappling with financial problems since the initiative requires resources to add an independent expert into the institutions' payroll system.

If media self-regulation at the institutional level is about quality control and accountability, at sectoral level, it inherently becomes a peer review process where media professionals pass judgment based on a set of ethical and professional standards hitherto agreed on. This is particularly true for media professional associations of different kinds.

Associations, while essentially a trade union organizations for their journalist constituency, can also play an important role in promoting professionalism and ethics in the industry. The platform can also be harnessed to develop sector-wide code of conduct and journalistic standards. Such widely accepted set of rules could be the basis for associations to either defend or shun members with regard to disputed reports and news and, if need be, exert their influence to ensure corrective measures are taken. This can go as far as expelling members if constantly found in breach of journalistic rules endorsed by the association.

At a tertiary level, we do have self-regulatory institutions whose sole responsibility can be summed up in one word—ethics. This is where media regulation transcends the professionals by involving the wider civil society and all media stakeholders including the government. Banking on stakeholder buy-in, self-regulatory bodies at the sectoral level can easily evolve into credible, independent and inclusive entities to reign on all things related to media ethics and professional standards. This entails setting up journalistic code of conduct as it applies to the various media platforms, areas of reporting and interactions in the news production process. It is also responsible for the promotion and dissemination of these codes and standards, including but not limited to, playing an active role in elevating the level of media literacy among the public. This places self-regulatory bodies at a very opportune position to offer a credible alternative dispute resolution mechanism for anything related to the media through their trusted ethics adjudicating panel. The panel can better serve its objectives if it is composed of a cross-sectional team of experts and important individuals who command the respect of the public.

Getting the foundations right

A successful media self-regulatory body is, inevitably, the logical outcome of the success of all the upstream self-regulation systems. It is difficult to actualize a sector-wide media self-regulatory institution without a strong system of checks and balances at media house level and a functioning peer review and professional standard setting mechanisms through journalist associations.

Currently, gaps in self-regulation systems at media and association levels in Ethiopia are highly apparent and some of the weaknesses at the foundational level are consistent with the challenges faced at sectoral stage.

To begin with, the development of media-centric code of ethics and editorial policy as a guide to professional standard in news organizations is largely absent or not well-known among media practitioners. This is a recipe for failure as far as quality control is concerned since the lack of objective standards would lead to constant friction and disagreement in newsrooms. It is also critical to consider how many fresh reporters and journalists are actually well-acquainted with the various codes and policies of the media houses they are working for. How many media organizations in Ethiopia have a written code of practice and editorial policy? In how many of the media houses do we see codes and standards guiding the day-to-day news production process? How many media houses conduct proper editorial conferences? How many media houses use editorial conferences as platform for planning and evaluation of the content they produce, and not just to deal with logistical issues or routine task assignments? How many media houses actually have independent news ombudsperson on their payroll? How many media owners/managers refrain from acting as news ombudspersons in their media organizations? The answers to the above questions reveal a striking blow to the system of control and self-regulation at the media level.

The lack of editorial autonomy at media level is another staggering fact in Ethiopia. Media owners and managers, with their specific political and commercial interests

at heart, frequently infringe upon the editorial independence of reporters and editors. With the power to decide on the livelihood of reporters and editors, media owners and managers in Ethiopian media routinely project commercial interest of the media or their own parallel business interests on the editorial team. Being a very small industry by all measures, the Ethiopian media sector doesn't offer adequate employment opportunities to professionals who try to defend their autonomy at the expense of their job. This leads to complacency of the editorial staff to the whims of media owners and managers, ultimately undermining proper quality control and content regulation.

The self-regulatory system at the level of media associations is also not that different. In fact, the institutional capacity of Ethiopian journalist associations is much worse than media organizations. On top of that, associations in this sector seriously lack legitimacy and acceptance by the journalist community. This might be behind the reason for these groups not to take steps to deal with ethics and professionalism. There are hardly any journalist associations weighing in on journalistic code of conduct in a consistent manner and work towards developing a common standard across their sector. As it is their main line of work, investing on ethical and professional standards of their industry is essential for lobbying and advocacy. As defenders of journalists and journalism, promoting ethics and professionalism would help them advance their objectives much further. On the other hand, journalist associations have an important role to play as integral members of sector-wide self-regulatory bodies like the EMC.

At the end of the day, institutions like EMC don't stand a chance if there is no foundational cultural and behavioral shift. We can also draw parallels among the deficits of the self-regulation system downstream where the Council is and those found upstream such as media houses and professional associations.

In this regard, one of the main fails of the Council so far has been its weak involvement in the development and promotion of various journalistic codes of conduct. For instance, it was criticized for taking a back bench in the discussion regarding code of conduct on election reporting. To some professionals in the sector, the dormancy of EMC is one factor that encouraged the National Electoral Board of Ethiopia (NEBE) to finally come out with its own code for journalists. To make matters worse, a recent move by Ethiopian Broadcasting Authority (EBA) to introduce its journalistic code of conduct for the industry was viewed as a conscious surrender of the Council's powers and responsibilities to the state regulator, defeating the whole purpose of EMC's existence.

Apart from that, EMC also lives with a structural problem related to leadership and representation, similar to many media organizations. As far as media organizations are concerned, they are represented in the Council by their owners/managers and not their high-ranking editors. Since media houses are by far the largest groups constituting the EMC, both the organization and its leadership are dominated by media owners/managers, a group less concerned with ethic and professionalism from a strategic interest point of view. This was a bone of contention even from the beginning, as media owners/managers insisted on representing their media institutions.

Having a striking similarity to media houses in Ethiopia, the EMC has so far failed to institute any ethics adjudicating panel or an ombudsperson/body, just as media houses across the sector have failed to do so, effectively forfeiting its most important role as a self-regulatory institution.

Way forward

Recently, the Media Council announced that it has elected a panel of judges who will be presiding over complaints against content produced by media institutions. The formation of the panel of judges was realized after the Council secured a grant from donors. It is never too late to get started on the right path. What should come next is operationalizing this body as fast as possible and ensuring its sustainability.

Establishing trust is also another commitment the Council and media institutions should fulfill. The Council can serve as a bridge between the practitioners and professionalism. The Council and professional associations should also be on top of any activity that will ensure professionalism in the industry, mainly by crafting code of conducts and providing continuous training to help the practitioners adhere to journalism ethics and standards.

Media regulation Ethiopia: lessons from elsewhere

By Haron Mwangi, former executive director of the Media Council of Kenya

The logic of media regulation has long been mired in controversy. This is largely because of the question of whether and how to regulate the media, and by whom, if at all desirable or necessary. Concomitantly, there is the notion that the first casualty of war is truth. This has been the situation in Ethiopia in the recent past, mainly because of the ongoing conflict in parts of the country. The notion of truth comes to mind because one of the major roles of the media is to tell the truth; to speak truth to power and hold the government and its leadership to account for their decisions, actions and inactions and overall performance in relation to many values including democracy, the rule of law, respect for human rights and freedom of expression and the media.

Yet, when we look at Ethiopia and many other countries in Africa, they are suffering the consequences of ethnic and power struggles. What is happening in Ethiopia is interesting not only to the media and citizens, but also to the international community seeking to know and understand various phenomena and issues in the country. There is also the growing acknowledgement that the fragmented and polarized situation in Ethiopia is as a consequence of unprofessional, irresponsible and unethical media practices whose obligation

is often not to the general populace but various ethnic interests. While some of these claims may not be supported by empirical evidence, conversations with discerning media watchers, scholars and analysts indicate that ethnicity is one of the major considerations informing the kind of reporting (especially the choice of issues and events to cover and how they are framed) practiced by various national and regional media in Ethiopia. And given the role of ethnicity in conflicts in Africa, such media practices and considerations are likely to have deleterious consequences on stability and peace in Ethiopia. It is within this framework or context that serious questions have to be asked about the place and role of the media, as well as its regulation.

Is regulation necessary? If yes, how should it look and feel like? Should Ethiopia develop self-regulation or state-regulation, or a hybrid? What are the pros and cons of each model, especially in a fragile and divided country like Ethiopia? What is the role of the media and journalists, and government in any kind of regulatory framework?

This article is thus concerned with trying to respond to these questions. In this attempt, it would borrow from the Kenyan example, particularly the formation, operation and workings of the Media Council of Kenya (MCK).

The Ethiopian experience

Media regulation is sometimes controversial, especially in autocratic or pseudo-democratic states. This is mainly because the media is often seen as an agent of the state or what the Marxist philosopher Louis Althusser (1918– 1990) considered as part of the ideological state apparatuses (ISA).[1] This is in contrast to the repressive state apparatus (RSA). In this context, the media is a major player in advancing certain, often state-sponsored ideologies, and use information to achieve what the state seeks as opposed to physical violence employed by RSA. But in the context of the conflict in parts of Tigray, Oromia and other regions, the Ethiopian state seems to employ both RSA and ISA as part of seeking to control the information available to the masses, and the violence to subdue what it refers to as criminal elements bent on subjugating the will of the larger Ethiopian population. The situation is of course more complex, and beyond the remit of this article. Nonetheless, it is noteworthy to say that when the current Prime Minister Abiy Ahmed Ali took office on April 2, 2018, there was optimism that the country would undergo political metamorphosis. The optimism was based on the fact that immediately after ascending to power, Prime Minister Abiy released journalists, bloggers, opposition politicians and other 'political' prisoners. He unbanned websites and allowed for greater freedoms, including that of the media. The return of exiled politicians and journalists to the country, and appointment of one-time government and ruling party opponents to important positions in government evidenced the changes. However, recent developments, and especially the conflict in the Tigray region in late 2020, marked a serious decline in press freedom where media censorship was done in an ad hoc and autocratic manner.

Before Prime Minister Abiy took over, Article 19 concluded in its 2017/2018 report that "Ethiopia became an emblematic case of this form of repression, facing a serious deterioration of freedom of expression in 2017, with terror legislation providing a tool for the repression of dissent and discussion, both on and offline."[2] Moreover, Jon Harald Sande Lie and Berouk Mesfin point out in their report *Ethiopia: A Political Economy Analysis* that the Ethiopian media has always been beset by serious challenges. "Most newspapers opposed to the government," they write, "were closed, either because their

1 Althusser, Louis (1970) Ideology and Ideological State Apparatuses. Lenin and Philosophy and Other Essays, Monthly Review Press. Available online at https://www.marxists.org/reference/archive/althusser/1970/ideology.htm
2 Article 19 (2018) The Expression Agenda Report 2017/2018: The State of Freedom of Expression around the World. London: Article 19, p.52. Available online at https://www.article19.org/wp-content/uploads/2018/12/XPA-Report_A19.pdf

editors and journalists had been arrested or fled the country, or because the presses refused to print their pages. Several prominent journalists have been imprisoned on terrorism charges, but actually for reasons directly associated with their work. Ethiopia has amongst the highest number of exiled journalists in the world … it is also among Africa's leading jailors of journalists and has little independent media." [1]

What's more, Lie and Mesfin argue that private media, which is "largely confined to the capital and other major cities, and openly critical to the EPRDF [Ethiopian People's Revolutionary Democratic Front][2] led government … [and] supplies alternative sources of information to the public and disseminates the views of the oppositional political parties … is regularly subjected to intense intimidation, persecution, targeted detention and deliberate disruption by the government".[3] Lie and Mesfin's article came before the reform, which some thought marked a watershed moment for media freedom and freedom of expression. However, there is new thinking that state repression is returning and the conflict in the Tigray region and the way the government dealt with the media is a telling indictment of government intolerance of free press which is seen as unconstitutional. This may also influence media regulation.

It is important to note that the Ethiopian Constitution promotes a free mass media and prohibits any form of censorship. And the Mass Media and Access to Information Proclamation No. 590/2008 states categorically that "a free, independent and diverse mass media with high ethical standards and professional competence plays an indispensable role in the national endeavour to build democratic order in Ethiopia".

Article 29 of the Constitution provides:

the right to hold opinions without interference;

- the right to freedom of expression without any interference [including] freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any media;

- freedom of the press and other mass media, and freedom of artistic creativity are guaranteed. Specifically include[ing] the following elements:

  a) prohibition of any form of censorship.

  b) access to information of public interest.

- ideas and opinions that are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions;

- all media financed by or under the control of the State shall be operated in a manner ensuring their capacity to entertain diversity in the expression of opinion.[4]

However, the Mass Media and Access to Information Proclamation says that there may be "restrictions on freedom of expression and of the mass media … based on laws which secure and preserve the wellbeing of the youth, honour and reputation of persons, national security, public order and other overriding

1 Lie, Jon Harald Sande and Mesfin, Berouk (2018) *Ethiopia: A Political Economy Analysis*. Oslo: Norwegian Institute of International Affairs, p.18.

2 Before its dissolution in November 2019, the Ethiopian People's Revolutionary Democratic Front (EPRDF) dominated Ethiopian politics since 1991. It was considered an ethnic federalist political coalition in Ethiopia. It brought together four political parties—Tigray People's Liberation Front, Amhara Democratic Party, Oromo Democratic Party and Southern Ethiopian People's Democratic Movement. The dissolution of the party led by Prime Minister Abiy, who was also the EPDRF chairman, led to the merging of most of the constituent parties to form the Prosperity Party. The Tigray People's Liberation Front was not part of the new arrangement.

3 Lie, Jon Harald Sande and Mesfin, Berouk (2018) *Ethiopia: A Political Economy Analysis*. Oslo: Norwegian Institute of International Affairs, p.18.

4 Constitution of Federal Democratic Republic of Ethiopia, Proclamation 1/1995, pp. 9–10.

rights". Such provisions mean the State has the right to restrict media freedom and freedom of expression as it has done over the years. This conflict begs numerous questions. Zenebe Beyene argues that "people constantly struggle to balance their love for and devotion to free expression with all those other legitimate and cherished values".[5] In short, while the constitution guarantees press freedom, there are restrictions that affect the right of the media to report freely. The conflict in Tigray region illustrates the struggle between media freedom and censorship and shows how the state invariably regulates or censors the media via numerous legislative or constitutional provisions.

However, recent changes, even if not wide enough, look promising. In 2019, the country repealed the formerly repressive Charities and Societies Proclamation No. 621/2009 of Ethiopia commonly referred to as the Civil Society Law or CSO law. The law enacted in 2009 (it came into effect on January 6, 2010) specifically stated that Ethiopian charities/societies are NGOs formed under Ethiopian law that consist exclusively of Ethiopians and receive no more than 10 percent of their income from foreign sources. The law affected the media's capacity by limiting the amount of money it could receive from foreign sources. With limited resources within the country, the CSO law put serious limitations on media funding, including money that could have been used to enhance the capacity and professionalism of the media. The repeal of the CSO Proclamation lifted restrictions on foreign funding and opened the gates for support. Given the fact that media organizations in many African countries receive foreign funding, this was a welcome development although there are no indications that this has so far benefited media organizations in the country.

Media regulation: the outside view

Media regulation is not something new. The history of media regulation goes back hundreds of years. Scholars point out that regulation almost started with the development of the printing press that democratized information production and distribution, and authors could be severely punished for publishing work considered heretical or treasonable.

Two examples of media regulation from the developed world illustrate some of the arguments for statutory and self-regulation in 'mature' democracies. In the United States, the government has regulated broadcast media since the early 1900s. These were initially done by three federal government bodies:

- The Federal Trade Commission: FTC was created in 1914 to protect American consumers. Specifically, according to its website, its objective was to protect consumers from unfair and deceptive practices in the marketplace and maintain competition to promote a marketplace free from anticompetitive mergers, business practices, or public policy outcomes)[6]

- The Federal Radio Commission: FRC was established by the Radio Act of 1927 as a regulatory body for radio communications. It was meant to "bring order to the chaotic situation that developed as a result of the breakdown of earlier wireless acts passed during the formative years of wireless radio communication").

- The Federal Communications Commission: the FRC was replaced by the Federal Communications Commission (FCC) with the enactment

5   Beyene, Zenebe (2011) Media Use and Abuse in Ethiopia. In Fortner, Robert S. and P. Mark Fackler (eds.) The Handbook of Global Communication and Media Ethics. London: Blackwell (pp.700–734), p.714.

6   See https://www.ftc.gov

of the Communications Act of 1934. The FCC was established to be an independent regulatory agency to regulate American (nationwide) communications system including broadcast media (radio, television, wire, satellite, and cable) and telecommunications.[1] Specifically, the FCC says it is responsible for promoting competition, innovation and investment in broadband services and facilities; supporting the nation's economy by ensuring an appropriate competitive framework for the unfolding of the communications revolution; encouraging the highest and best use of spectrum domestically and internationally; revising media regulations so that new technologies flourish alongside diversity and localism; and providing leadership in strengthening the defense of the nation's communications infrastructure.[2] But while it is clear that broadcast media is regulated by the FCC, the print media, while enjoying significant freedoms under the First Amendment[3], does not enjoy absolute freedom particularly when reporting classified information, or falsehoods or damaging information about private individuals. This is because of the seemingly litigious nature in the U.S. and the use of defamation to settle disputes.

In the United Kingdom, the Office of Communications (Ofcom) provides statutory regulation of broadcast media (TV and radio), and fixed and mobile telephony. It regulates programming and content, including journalistic content. It can fine media organizations for breaching regulations. It can also close down illegal 'pirate' broadcasters and commercial broadcasters where necessary.[4] Print journalism is only subject to self-regulation. After the 2012 Lord Leveson Report[5] recommending the replacement of the Press Complaints Commission (PCC) set up by newspapers in early 1991 to regulate print media, there emerged two bodies—the Independent Press Standards Organisation (IPSO) and the Independent Monitor for the Press (IMPRESS). IPSO regulates most national newspapers and other media outlets while IMPRESS regulates only a number of media outlets. The Leveson Inquiry found the PCC insufficient despite its philosophy of seeking to "set high standards for the practice of press journalism, to disseminate and promote those standards, including through the training of journalists, to receive complaints against press organs and adjudicate on them, and generally to ensure that the highest standards of journalism are upheld by the British press".[6]

In Kenya, the media is regulated by two statutory bodies—the Media Council of Kenya (MCK) and the Communication Authority (CA of Kenya). The MCK was established by the Media Council Act of 2013, and the CA by the Kenya Information and Communication (Amendment) Act of 2013. The MCK is responsible for the protection and promotion of the freedom of the media and prescribe standards for journalism practice. On the other hand, the CA is supposed to facilitate the development of the information and communication

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1   See https://www.fcc.gov

2   See the 'What We Do' section of the FCC website at https://www.fcc.gov/about-fcc/what-we-do

3   The First Amendment protects freedom of speech, and of the press. It reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." This gives the media greater freedom to report.

4   See the Ofcom website, at https://www.ofcom.org.uk

5   The Leveson inquiry was a public inquiry set up in 2011 to look into the culture, practices and ethics of the British press following the News International phone hacking scandal involving its News of the World practice of hacking of various people, including members of the British royal family, celebrities, politicians and others in pursuit of stories. The paper's staff were accused of not only phone hacking, but also police bribery and exercising improper influence. The Leveson Report was published on 29 November 2012. It concluded, inter alia, that the Press Complaints Commission was not sufficient and recommended the establishment of a new independent body to regulate the press. See the four volumes of the Leveson Report at https://www.gov.uk/government/publications/leveson-inquiry-report-into-the-culture-practices-and-ethics-of-the-press

6   Article 19 (n.d). Media Regulation in the United Kingdom. Article 19 [online]. Available at https://www.article19.org/data/files/pdfs/publications/uk-media-regulation.pdf

sector, including broadcasting, multimedia, telecommunications, postal services and electronic commerce. However, the two bodies had been in existence long before the current legislations. For example, the Media Council was established by media stakeholders as a self- regulatory body in 2004. It became a statutory body in 2007 via the Media Act of 2007.[7] As a self-regulatory body, the MCK was seen as a toothless bulldog which did not command much respect outside the media industry. It was resource-starved and was unable to finance many of its programs. Once it became a statutory body, however, its budget was drawn from the government. Its growth is largely attributed to the fact that it was anchored in law and state funding that has allowed it to conceptualize and implement various projects, including attempts to enforce the Code of Ethics for the Practice of Journalism in Kenya, as well as funding the Complaints Commission. The Code and the Complaints Commission are two important elements of the MCK given the fact that it seeks to, inter alia, promote and protect the freedom and independence of the media, ensure the protection of the rights and privileges of journalists in the performance of their duties, and develop and regulate ethical and disciplinary standards for journalists, media practitioners and media enterprises.[8]

Lessons from elsewhere, coupled with the Ethiopian experience, point to a hybrid system as the most desirable model of regulation. This is based on the fact that in most parts of the world, broadcast media is often subject to statutory regulation while print media regulation is best regulated by stakeholders through self-regulation or co-regualtion (self-regulation that is state supported). That said, if we take the Kenyan example, it is clear that statutory regulation/co-regualtion is appropriate in resource-scarce countries, and where the media landscape is both fragmented and polarized as is the case is Ethiopia at the moment. Thus, if completely independent, a statutory regulator would serve the interests of the public and media practitioners (including owners) while allowing the state to oversee and fund its operations. Besides, by repealing the CSO law, the regulator would be allowed, just like MCK, to fundraise for its programs as part of enhancing its capacity to improve the quality and integrity of media and journalism while protecting press freedom and freedom of expression. This would also enhance constitutionalism given the legislative provisions that guarantee press freedom as a means of ensuring the development and consolidation of "a free, independent and diverse mass media with high ethical standards and professional competence [that] plays an indispensable role in the national endeavour to build democratic order in Ethiopia".

Media regulation, in whatever form and model, is acceptable or appropriate, and whoever does it, must endeavour to do this within the local, legal, development, political, economic and media industry and landscape contexts.

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7   See Article 19 Article 19 (2014) The Impact of Kenya's Legal and Institutional Frameworks on Media Freedom. Nairobi: Article 19 Eastern Africa.

8   See the About Media Council of Kenya section of the MCK website at https://www.mediacouncil.or.ke/en/mck/index.php/about-us/who-we-are

Media self-regulation in Ethiopia: Opportunities and challenges

Introduction

The contribution of media organizations and individuals to promote media self-regulation and the development of an independent, professional, vibrant responsible and public interest responsive media sector in countries with media freedom cannot be overstated.

Media self-regulation is a fairly recent phenomenon in Ethiopia. Efforts by stakeholders in the media sector and international actors to establish a self-regulatory mechanism led to the formation of Ethiopian Media Council (EMC) in 2016. Despite the establishment of EMC, however, the media self-regulatory mechanism is non-operational, a situation that is partially constrained by the country's legal and regulatory framework.

Currently, the media sector is seeking to launch the self-regulatory mechanism which has been enabled by the ongoing comprehensive policy, legal and administrative reform in Ethiopia.

Nonetheless, as the media industry attempts to introduce self-regulatory system, confusion reigns among stakeholders on how the system will be implemented in the current media landscape. While draft media proclamations are awaiting approval from Parliament, media law makers and stakeholders continue to debate on the operationalization of self-regulation and factors that could potentially affect the new system of media regulation in the country.

The self-regulatory landscape of Ethiopian media

Ethiopia enjoyed an uncensored press for the first time during the transition period between 1991 and 1994 under the leadership of the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), after many decades of total government control.[1] The initial optimism for a more open political dispensation paved the way for a greater exercise of freedom of expression and the media in the few years that followed the political transition. In fact, the 1992 Press Law, which allowed private ownership of the press, led to an unprecedented proliferation and multiplicity of privately owned and run newspapers and magazines.[2] As a result, more than 200 newspapers and 87 magazines covering political, social, and economic issues were registered by the then Ministry of Information between 1992 and 1997.[3]

However, the initial openness began to change when drastic legal and policy measures were introduced. Regulatory, administrative, and political measures seriously affected the capacity of the media to function independently. This significantly restricted the fundamental right of freedom of expression and of the media.

Although the constitution provides for a robust system for the protection of human rights and other basic freedoms, the EPRDF[4] authoritarian political system with its ideology of revolutionary democracy and democratic centralism significantly undermined the protection of fundamental freedoms and human rights, including the freedom of the media.[5] The introduction of legislative, administrative and political measures further weakened the media in the country, making it difficult and impossible for it to perform its roles Accordingly. Thus, a genuinely independent media in Ethiopia has been rare; it's either stifled by the government or driven by political agendas.

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1 Andreas Eshete, "Implementing Human Rights and a Democratic Constitution in Ethiopia," A Journal of Opinion vol 21 (1993), p. 10.

2 Shimelis Bonsa, "The State of the Private Press in Ethiopia," in Bahru Zewde and Siegfried Pausewang (eds.) Ethiopia: The Challenge of Democracy from Below, (2002), pp. 184-165.

3 Berhane G. Mariam, "The Ethiopian Freedom of Mass Media Has Been Disregarded and Still Remains in an Uncertain Future," *Nord-Sud aktuell* vol 4 (2002), p. 642.

To complicate matters further, journalists and media professionals lacked the required understanding of ethical and legal limits of media freedom. From the very beginning, the private media were polluted by unprofessional, irresponsible, and unethical media practices.[6] The Government and independent observers repeatedly highlighted lack of ethical, professional, and responsible practice on the side of the private media. Moreover, most of the private press were hostile towards the government. Although this hostility was caused by various factors, the major cause was that most media practitioners that set up private media were under the employment of the *Derg* and were fired when EPRDF assumed power.[7] This was largely the cause of tensions between the government and the media. This tension has persisted to this day and is now one of the major hinderances in creating media coalitions and collaborations ideal for ownership and support of the proposed media self-regulatory system in Ethiopia.

For some time after the establishment of private media, the government tolerated numerous critical and sometimes misinformed or abusive articles and cartoons published in the private press.[8] But soon, authorities started cracking down on the private press.[9] The government sought to control the press by intimidating and arresting journalists and using the state media for propaganda.[10] As a result of arrests and intimidations of journalists, the number of independent private newspapers, magazines declined from 287 in 1993 to 65 in 1998.[11] By the end of 2003, there were fewer than several dozen publications partly

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4 The EPRDF was disbanded in 2019 after the new Prime Minister Abiy Ahmed took over power and founded a new governing party, the Prosperity Party.

5 See in this regard Jean-Nicolas Bach JN, Abyotawi Democracy: Neither Revolutionary nor Democratic, a Critical Review of EPRDF's Conception of Revolutionary Democracy in Post-1991 Ethiopia (2011) *5 Journal of Eastern African Studies* 642.

6 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies*, vol 5, no. 4, (2011), p. 716.

7 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies* vol. 5, no. 4, (2011), p. 724.

8 Berhane G. Mariam, "The Ethiopian Freedom of Mass Media Has Been Disregarded and Still Remains in an Uncertain Future," *Nord-Sud aktuell* vol 4 (2002), p. 642.

9 Berhane G. Mariam, "The Ethiopian Freedom of Mass Media Has Been Disregarded and Still Remains in an Uncertain Future," *Nord-Sud aktuell* vol 4 (2002), p. 642.

10 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies*, vol. 5 no. 4 (2011), p. 716.

11 Berhane G. Mariam, "The Ethiopian Freedom of Mass Media Has Been Disregarded and Still Remains in an Uncertain Future," *Nord-Sud aktuell* vol 4 (2002), p. 642.

because of government crackdown.[12] Sarah Vaughan and Kjetil Tronvoll write, "inexperience, political passion, and a culture of political exclusion led to exaggeration and misinformation, and gave the government reason to crack down with fines, imprisonment of editors, and closure of newspapers, on the all too recognizable charges of 'dissemination of false information', 'inciting racial hatred' or 'damaging the national interest'".[13]

The period between the end of the Ethiopian-Eritrea war (1998–2000) and the 2005 election was considered a good time for the development of private media. The 2005 national election seemed to have signaled a new beginning. Indeed, during the May 2005 elections, both government media and the private press enjoyed extensive free reporting on the campaign period and voting day. However, the situation dramatically changed after the 2005 general election.

After the 2005 disputed election, the number of newspapers greatly diminished.[14] Most of the newspapers that were opposed to the government were closed either because their editors and journalists had been arrested or fled the country, or because government presses refused to print their papers.[15] This period left a legacy that still affects the media today.[16] Journalists seeking to revive publications have often been denied permits, leaving the press significantly weaker than it was prior to the 2005 elections.[17]

The coming to power of Prime Minister Abiy Ahmed in 2018 heralded a new chapter for media freedom in Ethiopia as the government opened up the political space and made significant reforms including the release of political prisoners, return of exiled political groups and journalists to the country, allowing greater freedom for the media and, most importantly, reforming existing laws that were considered bottlenecks for democratic transition.[18] Over the past two years, there have been some significant legal and political developments that paved the way for the media law reform in Ethiopia. The most significant media law reform in Ethiopia included amending the previous Freedom of Expression and Access to Information Proclamation and the Broadcasting Service Proclamation. The ongoing reform of policy and legislation governing the media and other organizations is aimed at institutionalizing and sustaining these positive changes. As a result of these initiatives, Ethiopia is witnessing a surge in the number of private print and electronic media outlets, some of them established by recently freed journalists and bloggers while other have been set up by the returnees from the diaspora.

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12 Sarah Vaughan and Kjetil Tronvoll, *The Culture of Power in Contemporary Ethiopian Political Life*, (2003), p. 72.

13 Sarah Vaughan and Kjetil Tronvoll, *The Culture of Power in Contemporary Ethiopian Political Life*, (2003), p. 72.

14 Terje S. Skjerdal and Charles Muiru Ngugi, "Institutional and Governmental Challenges for Journalism Education in East Africa," *African Journalism Studies* vol. 28, nos. 1-2 (2007), p. 177.

15 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies*, vol. 5 no. 4 (2011), p. 717.

16 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies*, vol. 5 no. 4 (2011), p. 717.

17 Nicole Stremlau, "The Press and the Political Restructuring of Ethiopia," *Journal of Eastern African Studies*, vol. 5 no. 4 (2011), p. 717.

18 United States Institute of Peace, A Year of change in Ethiopia (2019), available at https://www.usip.org/publications/2019/04/ year-change-ethiopia (accessed 20 July 2020).

Political, legal and media reform regime

Despite the absence of explicit legal recognition, the establishment of a self-regulatory body by the sector's stakeholders came to fruition after 10 years of deliberation in 2016. By the time the current proclamation was ratified, the move towards a self-regulatory body was already underway. Even if the clearly manifested weaknesses of the actors of the sector is mainly the reason for its delay, the lack of clarity in the laws had played a part in the later stages with the newly organized media council struggling to have a legal personality.

"The gap in the legal framework was the main cause that delayed our operation," says Tamrat Hailu.[19] EMC could not be registered based on the repealed Proclamation to Provide for the Registration and Regulation on Charities and Societies. Four years after the official establishment of the EMC, the organization was legally registered in 2019 when the civil society law was revised.[20]

The legal reform program and the media law working group

Soon after assuming office, Prime Minister Abiy's government promised to review repressive media laws including the anti-terrorism, media and the civil society laws that were considered to have restrained constitutionally guaranteed rights and freedoms. Consequently, in June 2018, the Government established the Legal and Justice Affairs Advisory Council (LJAAC) under the federal Attorney General's (AG) office. The mandate of the council is to support the office of the AG in reforming the current justice and legal systems and provide policy recommendations to the government on reform of the justice system and amendment of contentious laws. The LJAAC is composed of 13 legal professionals and chaired by Professor Tilahun Teshome, a prominent scholar and legal expert in Ethiopia. The Council was established to undertake the legal reform process for three years with a possible extension period. It started its work by establishing technical working groups composed of legal professionals, academics, lawyers, and researchers. It also established a secretariat with technical staff that support the drafting process and provide technical inputs to the working groups and the Council.[21]

The Media Law Working Group (MLWG) was one of the first working groups established by the Council in August 2018. It was tasked with analyzing the shortcomings associated with laws governing the media and make research-based recommendations for reform, as well as drafting a new media law. The working group is composed of professionals with special expertise in areas related to media law. It includes academic, researchers on media law, journalists, practicing lawyers, members of the civil society and a gender specialist.

While it is true that many different legislations directly or/and indirectly deal with the right to freedom of expression and media in Ethiopia, the working group prioritized the Mass Media and Access to Information Proclamation No. 590/2008, the Broadcasting Service Proclamation No. 533/2007, and

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19 Tamrat Hailu, Kumneger Magazine and member of the Executive Committee of the EMC (August 11, 2020).
20 Interview with Amare Aregawi, the council's president, and publisher of The Reporter (the most influential biweekly newspaper in Ethiopia).
21 It should be noted that the LJAAC had a functional independence and the reform process was not any way influenced by interest groups. But the coordination and support were provided by the Attorney General's Office.

Computer Crime Proclamation No. 958/2016. Priority was given to these legislations as they had direct impact on freedom of expression and the media.

The MLWG started its work by conducting a diagnostic study. The study evaluated the contents and implementation challenges related to laws regulating the media and identified major gaps under these legislations. It was developed through a detailed analysis of national and international legal frameworks, interviews with media practitioners and review of published works and reports. The study helped to identify key problems associated with the media law and specific problematic provisions that need to be revised under the new media law proclamation.

After the study was finalized by incorporating inputs from the various consultations, the working group commenced the process of drafting the new media law. In the process of preparing the draft, amendments and changes were made by considering studies on current laws and findings of the diagnostic report. Important inputs were also taken from international and regional human rights instruments and best practices in some selected countries.

The previous media law included restrictions which are incompatible with a democratic society when it comes to media regulation. The draft media law offers solutions to remedy such problems. Key areas of legal reform envisaged under the new media proclamation include decriminalization of defamation, improving registration and licensing requirements, flexibility in media ownership rule, improving regulatory oversight and self-regulation, protection of journalistic sources, administrative and legal measures, and appeal rights and judicial reviews. However, as Fasika Tadesse argues, "the reform process has provided a good opportunity but we have yet to see the effects of media law reforms".[22]

Government and its media regulatory body, the Ethiopian Broadcast Authority (EBA)

Self-regulation preserves independence of the media and protects it from partisan government interference.[23] That is why in countries where governments are keen on censoring the media for political reasons, media self-regulatory bodies such as press councils do not exist.[24] This was also the case in Ethiopia. In the absence of effective media self-regulatory mechanism in the country, the government exclusively regulated the media sector through government enacted laws and established organs. In fact, Muluken believes that there was no interest from the government to support self-regulation.[25]

Gizaw Tesfaye, the Director of Legal and Advertisement Affairs at EBA and advisor to the Executive Director, points out that the government's position contributed to the delay in the establishment of the

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22 Fasika Tadesse, Editor-In-Chief of Fortune and board member of Ethiopian Editors Guild (May 2020).

23 Sylvie Coudray, *UNESCO: freedom of expression, information and the media*, at https://www.cambridge.org/core/books/united-nations-and-freedom-of-expression-and-information/unesco-freedom-of-expression-information-and-the-media/0580DBB3DE266A1298C77B564590C337/core-reader (accessed 16 August 2020).

24 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), The Media Self-Regulation Handbook, (2008), p. 50.

25 Muluken Yewondwossen, Deputy Editor-In-Chief, *Capital* newspaper (11 August 2020).

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media self-regulatory mechanism in the country.[26] This is a position that Befeqadu[27] and Tolera agree with.

Others hold the view that the government deliberately prevented initiatives to establish self-regulation.

"The government has never been supportive of the process of building strong media which enforces self-regulation. Rather, its measures weakened and divided the media and its actors," said Elias.[28]

Nevertheless, all interviewees maintain that the absence of self-regulation have exposed the sector to undue control and arbitrary government sanctions. It is within this context of the expansion of the political space and legal reform that the development of self-regulation can happen. This is clearly stated in the recently approved media policy and the draft media proclamation. While admitting the governments and media had hostile relationships in the past, Tibebu Belete is of the opinion that things are now different. "In the last two years, a notable improvement has been witnessed in that the issue of professionalism is now given due attention," he says.

This view is shared by others who see the new environment as conducive for the development of self-regulation. "It is my impression that the government wants the establishment of media self-regulation from what I gathered from my discussions with different officials. The media should take this advantage and start peer-reviewing based on professional standards," Bruh Yihunbelay, a founding board member of Editors Guild of Ethiopia, says. Nonetheless, there are concerns that the new developments have not achieved much. Tesfalem, for example, points out that the expansion of the political space has not yield much thus far. "There may be willingness to help the EMC from the side of the

government. However, I haven't seen the same level of commitment that is given to other sectors also given to the media sector. The government hasn't even discussed with the EMC to understand its major bottlenecks to start operation," says Tesfalem.

While there is consensus that self-regulation is vital to media development, the basic operating principles of self-regulation also benefit the government. It is absolutely necessary for the media in countries in transition such as Ethiopia to engage with government to development acceptable media regulatory mechanisms.[29] "Self-regulation would definitely reduce the government's headache in regulating media. However, I doubt if the government can build trust on the media and loosen its tight grip," says Elisabeth.

The relationship between the government and the self-regulatory body is not a matter of choice. It should be noted that the existence of media self-regulation does not mean the government would stop making decisions that could affect the media sector and enforce media-related laws. In such cases, members of a self-regulatory regime decide to adhere to another set of rules that complement existing state regulation, provided that their actions do not violate the provisions of the law.[30]

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26 Gizaw Tesfaye, Director of Legal and Advertisement Affairs at EBA and Advisor of the Executive Director (May 22, 2020)
27 Befeqadu Hailu, journalist and co-founder of the Zone 9 bloggers group (11 August 2020).
28 Elias Meseret, President, Ethiopian Media Professionals Association (11 August 2020).
29 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 65.
30 Lorant Csink and Annamaria Mayer, "How to Regulate: The Role of Self-Regulation and Co-Regulation," *Hungarian Y.B. Int'l L. & Eur. L.*, (2014), p. 407.

In the absence of self-regulation, the existing media laws may deal with issues of media ethics and professional standards. Moreover, the media laws deal with issues that directly affect the operations of the self-regulatory body such as media ownership rules, the content standards of media communications, including programming, and more specifically, the rules and procedures on issuing licenses to the media.

In this regard, the draft Mass Media Proclamation includes many provisions on content obligations. Provisions which state in general terms that programs or news should be balanced and impartial in reflecting diverse viewpoints to serve the public at large; and the obligations of broadcasters to make reasonable effort to ensure the content and source of their program or news is accurate; and their obligation to disseminate programs and reports which respects the law and do not violate the rights of others, are included in the draft. Other provisions which state these obligations in detail are also included. For instance, there are provisions on contents affecting minors, and on religious programs.

Most importantly, in addition to incorporating these regulatory aspects, the draft media proclamation explicitly recognizes media self-regulation. In fact, one of the objectives of the Media Authority under the draft media proclamation is providing appropriate support to strengthen media self-regulation. While the Authority is mandated to issue a detailed programming code that sets program standards, and time and manner of broadcasts, it is also obliged to ensure that proponents of self-regulation structures of the media are given an opportunity to provide comments on detailed programming code and participate in its implementation or that of similar self-regulatory codes.

Often, government-related regulatory agencies have more power than other regulators in terms of setting the basic rules by which media must operate. Other regulatory bodies can engage in the enforcement of regulations already passed by the government and the development of regulations by the agency itself. These regulations are normally developed in accordance with the agency´s jurisdiction as defined by executive (president or prime minister), judicial (courts) or statutory (legislature) branch of government.[31] In this process, the state may decide to withdraw from a given area to cede space for self-regulation. In such cases, regulation by the subjects is specifically mentioned by the state regulatory regime and legal relevance attributed thereto.[32]

In line with this spirit, the draft provides, as an alternative to the provisions of the Proclamation, the Authority may allow the self-regulation structures of the media to enforce their code of conduct before appealing to the Board on certain issues after conducting an evaluation every three years to check the effectiveness and strength of the operations of the media self-regulation bodies and their implementation of code of conduct. As mentioned earlier, the basic foundation of the self-regulatory body lies in the code of ethics which mainly regulates the conduct of journalists. In other countries with well-functioning media self-regulation mechanisms, the media has its own code of conduct. While this may be feasible in the long run, the current media landscape does not seem to have such self-regulatory capacity.

In order to ensure that the media operates with a sense of responsibility, the draft media law provides that the Authority should issue detailed code of conduct that directs programs to be disseminated through broadcasting service. However, while the Authority prepares the code of conduct, it shall ensure that the

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31 Robert McKenzie, "Comparing Media Regulation Between France, the USA, Mexico and Ghana," http://historico.juridicas. unam.mx/publica/rev/comlawj/cont/6/arc/arc5.htm (accessed 11 August 2020).
32 Lorant Csink and Annamaria Mayer, "How to Regulate: The Role of Self-Regulation and Co-Regulation," *Hungarian Y.B. Int'l L. & Eur. L.*, (2014), p. 407.

self-regulation structure of the media is given an opportunity to provide comments on detailed code of conduct and participate in its implementation. The draft also provides that the Authority may allow the self-regulation structures of the media to enforce their code of conduct before appealing to the Board on certain issues after conducting an evaluation to check the effectiveness and strength of the operations of the media self-regulation bodies and their implementation of code of conduct.

According to the comments of some experts, the law should set out the key areas that the code should cover and, the law should set out the main procedures for dealing with complaints. Moreover, the law should indicate what sanctions are available for breach of the code, which should normally be light, such as a warning or requirement to print or broadcast a recognition of the breach.

The Ethiopian Broadcast Authority (EBA) is a key institution for self-regulation. Hence, one of the major changes that were identified in the course of drafting the new media law proclamation is the re-establishment of the EBA and ensuring its independence and impartiality. Comparative experiences and international standards clearly show that a body which undertakes media regulation should be independent of the executive organ of government.

A series of consultations with multiple stakeholders indicated a number of problems regarding the independence of the EBA. Various stakeholders reflected that the Broadcasting Service Proclamation and different regulations have not sufficiently provided for the independence and impartiality of the Authority as there are gaps in the appointment process of its leadership including the Board. In particular, the independence of the Authority was questioned as a result of the lack of open and transparent appointment process of board members. The process does not ensure the participation of relevant stakeholders in a sufficient manner and does not protect board members from improper interference and pressure on their work.

The revised Mass Media Proclamation made changes to the name, appointment process, and powers and functions of the regulatory body. In line with the new powers and functions in regulating print, broadcast, and online media, the Broadcasting Authority is renamed as the Media Authority. This is also in conformity with the names of regulatory bodies in other jurisdictions. One way of ensuring its independence is to ensure that members are not selected by the executive organ and its accountability is detached from the executive organ. After the dissolution of the Ministry of Information, the Broadcasting Authority is accountable to the Prime Minister. In the draft, the re-established Ethiopian Media Authority (EMA) is accountable to the House of Peoples' Representatives.

In the draft Mass Media Proclamation, the EMA board is composed of nine individuals. Board members are selected based on their expertise and experience in the media sector, are not a member or employees of a political party and are of high moral character. The broad members are appointed by the House of Peoples' Representatives upon recommendation by the Prime Minister. The draft Media Proclamation also provides that recruitment of candidates and appointment of members of the Board will be conducted in an open and transparent manner. Among the board members, two of them shall be drawn from civil society organizations, two from the media sector and two from other institutions that have relevance to the media sector. The other three shall be drawn from relevant government organs to ensure a balanced membership and a decision-making body that stands for public interest.

The draft also provides prohibitions on individuals with strong political connections from being appointed. To protect board members and the leadership of the Authority from political interference, a person nominated to be selected as a board member, as well as Director General or Deputy Director of the Authority will be free from any political party membership. The Director General of the Authority is recruited by the Board. Conditions are also placed on members to ensure their independence from commercial influence. The Board and the Directors must also be free of any potential personal conflict of interest with the media sector they are regulating.

Under the Broadcasting Service Proclamation, the tenure of board members is not well addressed. The revised Mass Media Proclamation sets the term of office of board members to four years. Only five of the members of the Board can be re-appointed for additional term. Board members will be appointed on staggered terms to ensure there is continuity among the membership and to keep institutional memory by maintaining experienced members to work with new members. The draft also clearly provides factors which may lead to termination of term of office of board members and protection by ensuring that they will not be relieved of their responsibility without sufficient and convincing reasons as stated in the law.

The Broadcasting Service Proclamation No. 533/2007 was highly criticized for stipulating very broad powers and functions to the Authority which opens space for abuse of power by the authorities. Moreover, the objectives of the Authority under Proclamation 533/2007 were inclined towards controlling the media. In the draft proclamation, the objectives are changed to creating enabling environments and building the capacity of the media in addition to the clearly and narrowly expressed regulatory functions. In particular, it will provide proper support to strengthen media self-regulation.

At this stage, EMC is closely working with EBA. Moving forward, if approved, the law will institutionalize this relationship based on clearly identified mandates of the two organs.

Gizaw thinks the functions of EBA and EMC are similar, but their approach is different. For example, the Authority conducts monitoring to ensure public interest and implement media development and capacity building programs. The self-regulatory body conducts monitoring to ensure compliance to the code of conduct. Both prepare guidelines on content standards including code of conduct. The content standards of EMC guide its members, while the ones prepared by the Authority shall be respected by all. However, the EMC would be the main body in relation to the code of conduct of journalists. Even the government will appeal to EMC on ethical violations. The Authority will focus on policy, strategy and law-making, and serious violations of laws such as national security, incitement to violence, blasphemy, and hate speech.

Anwar says, in order to build this complementarity of roles, "the EMC first needs to build consensus on professional standards and draw a line on professional rule of the game in the Ethiopian context. This would bring the government onboard to work with the EMC concerning professional issues." In order to earn trust and respect from the government, the EMC has to demonstrate its strength, Tibebu Bekele argues that "at the moment the government trusts that the sector can regulate itself. It is time to accept that the media wants to do their job ethically and implement sector-based accountability mechanisms".

When self-regulation is viewed as too slow or narrow and politicians consider that their ordinary bargaining tools have lost their power, they sometimes resort to regulative initiatives perceived as threats to legislations from the media industry. The relationship between the voluntary system and the state has been described as communicating vessels or thermostatic ethics; when legislative steam is building, the media lets out pressure by making amendments in the self-regulation system.[33] When it comes to correcting factual errors or violations of personal rights by the press, satisfaction over the judgments of self-regulatory bodies lessens pressure on the judiciary system to sanction journalists.[34] Often, disputes between government regulatory bodies and industry regulatory bodies are resolved through a binding court system.[35].

Before it was approved by the country's parliament, the initial Draft of Proclamation 590/2008 provided for the establishment of a 29-member Press Council "comprised of representatives from the government, the press, and civil society" whose powers and procedures would be determined by the government.[36] But, the media practitioners complained that the Press Council should not be statutory. Rather, they recommended consent-based Press Council establishment. It was only through fierce opposition from the media that the industry avoided a statutory regulatory body.

One senses that EMC is at a critical turning point and that it is indeed being forced along a new path. Considering the Ethiopian media's constant friction with the government regulatory organ since 1992, their move to avoid any form of statutory media council in Ethiopia is understandable. The members of the media have valid reasons to be fearful of such an entity. However, ineffective operation by the EMC could lead both the public and the state to quickly lose faith in the self-regulatory mechanism. On World Press Day celebrated at Ghion Hotel on May 3, 2014, Redwan Hussien, Head of Government Communications Affairs Office (GCAO) with a rank of minister, said that the government would be forced to come up with a statutory media council if media stakeholders failed to do so.

For now, the industry appears certain to avoid a statutory media council. However, the nature of self-regulatory bodies, as witnessed in Kenya, is that they tend to be less effective as they rely on voluntary membership. Without a sense of ownership and commitment, the council's activities could be rendered irrelevant.

Analysis of legal frameworks and challenges

When the new constitutional order, the Federal Democratic Republic of Ethiopia (FDRE), was established in 1995, one of the foremost reform areas that the constitution envisaged was the protection of freedom of expression and the media. Article 29, which is the most extensively articulated provisions in the constitution, provides for a wide range of protection for the freedom of expression and of the media.[37] It emphasizes the special position of the media in ensuring the vitality of the democratic process and

33 Torbjörn von Krogh, "Self-Regulate, or We Will Regulate Your Content" Are State Threats of Regulation Threats to Freedom of Speech?", in Maria Edström, Andrew T. Kenyon & Eva-Maria Svensson (eds.), *Blurring the Lines: Market-Driven and Democracy-Driven Freedom of Expression,* (2016), pp. 165–166.

34 Miklos Haraszti, "The Merits of Media Self-regulation: Balancing Rights and Responsibilities", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 11.

35 Robert McKenzie, "Comparing Media Regulation Between France, the USA, Mexico and Ghana," http://historico.juridicas. unam.mx/publica/rev/comlawj/cont/6/arc/arc5.htm (accessed 11 August 2020).

36 Tracy J. Ross, "A Test of Democracy: Ethiopia's Mass Media and Freedom of Information Proclamation", *Penn State Law Review,* vol. 114, (2010), pp. 1055–1056.

37 The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, *Federal Negarit Gazeta* No. 1 (21 August 1995) Art 29.

reiterates that special measure should be taken to ensure its operational independence and ability to entertain diverse opinions.[38] The constitution also provides that state media should have the obligation to accommodate diverse views in order to ensure that it is not used as a means of political propaganda for the ruling party.[39] Although the constitution provides for limitations on the exercise of the right to freedom of expression, it narrows down the limitations to a set of strictly defined grounds subject to the requirements of necessity and proportionality in a democratic society.[40]

Despite these strong constitutional protections for the media, subordinate laws including the Mass Media and Access to Information Proclamation, the Broadcasting Service Proclamation, as well other laws which have relevance to the media such as the criminal code and the Anti-Terrorism Proclamation, had significant legal constraints that crippled the development of independent media and strangled freedom of expression in the country. These legislations provided a wide range of criminal restriction on incitement, dissemination of false information, defamation and hate speech, enforced by levying heavy fines and a host of other penalties that restrict freedom of expression and the media. These broad and vague restrictions were used to prosecute journalists and politicians.

In this regard, the legal and regulatory frameworks have substantially impacted the growth and performance of the media. In particular, the post-2005 legislations had a devastating effect on media independence as many media organizations started operating in a state of fear and self-censorship. Moreover, media associations were severely weakened due to financial and regulatory limitations under the civil society law. In this context, the existing legal and regulatory framework did not play an enabling role for the emergence of a media self-regulatory mechanism.

Institutional challenges of the Ethiopian Media Council

The main mandates of a self-regulatory body include accepting complaints; serving as a mediator between the complainant and the media; taking decisions on complaints based on the code of ethics, rules and regulations with fairness; singling out media that breaches ethics guidelines; analyzing and commenting on media trends and providing guidance on the code's requirements; setting journalistic professional standards; and defending press freedom.[41] In a nutshell, self-regulatory bodies establish minimum principles of professional ethics and standards by setting out the appropriate codes of behavior for the media and establishing mechanisms to ensure that media institutions and journalists are held accountable.[42]

The Ethiopian Media Council (EMC) is the main institution in charge of the operationalization of media self-regulation in the country. It was established in January 2016 after a decade-long joint endeavor by

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38 See Article 29 of the FDRE Constitution.

39 Ibid.

40 Ibid.

41 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 46.

42 A. Puddephatt, *The Importance of Self-Regulation of the Media in Upholding Freedom of Expression*, vol. 9 (Brasilia: UNESCO Office Brasilia, 2011), available at www.unesco.org/new/en/communication-and-information/resources/publications-and-communication-materials/publications/full-list/the-importance-of-self-regulation-of-the-media-in-upholding-freedom-of-expression (accessed 16 August 2020).

media professionals, associations, and international partners.[43] However, the EMC was unable to become operational for a number of reasons including registration problems, and internal conflicts with journalists and media owners on how to balance power and financial contributions of members. As is the case with other self-regulatory bodies, the EMC set out to provide industry-wide accountability and ethical practice through voluntary self-regulation. At this stage, there are different perspectives on the priority areas of its intervention as enumerated below.

Ethical and professional standards

In a country where ethical and professional media is an exception, it is hoped that EMC would pave way for promoting excellence in journalistic practice. However, many are still concerned that, considering the depth of the problem, raising the ethical and professional standards of the Ethiopian media and its practitioners within a short period of time is a daunting task for the EMC and its members.

Among other things, the media landscape in Ethiopia is characterized by lack of professionalism. As a result, the industry remains underdeveloped with unprofessional and unethical media practice frustrating the larger public. This is reflected in the argument by Befeqadu Hailu, a journalist and co-founder of the Zone 9 bloggers group, who says that: "There were irresponsible media which incited war, published fake news and disseminated pornographic contents."

In addition, effective operation of self-regulation requires the existence of professional media. "Until recently, we didn't have many professional media. Only a few of them were professionally organized. Under these circumstances, we cannot have an effective self-regulatory mechanism which is one measurement of professional media," says Asmeret Haileselassie, Deputy Director of Ethiopian Broadcasting Corporation (EBC).[44]

There is also lack of shared journalistic values in the country. Former director of the Oromo Media Network Tolera Fikru points out that, "we are yet to set a professional standard that all of us agree with."

Simply put, self-regulatory bodies try to achieve minimum standards of ethics and professional practice by adopting and enforcing a code of conduct. In the same token, the EMC has developed and adopted the code of conduct after its members deliberated on it. Its members pledge to abide by a publicly transparent accountability mechanism that includes a code of conduct and a complaints commission headed by ombudspersons.[45]

These codes tend to focus on certain accepted principles, including respect for truth and the right of the public to truth, the right to fair comment and criticism, factual and objective reporting, the use of fair methods to obtain information, the willingness to correct mistakes, and respecting the confidentiality of sources.[46]

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43 Un.org January 12, 2016. *The United Nations hosts historic Ethiopian media council establishment conference.*

44 Asmeret Haileselassie, Deputy Director, Ethiopian Broadcasting Corporation (2020).

45 Ethiopian Media Council bylaws, Article 11 and 27

46 A. Puddephatt, *The Importance of Self-Regulation of the Media in Upholding Freedom of Expression*, vol. 9 (Brasilia: UNESCO Office Brasilia, 2011), available at www.unesco.org/new/en/communication-and-information/resources/publications-and-communication-materials/publications/full-list/the-importance-of-self-regulation-of-the-media-in-upholding-freedom-of-expression (accessed 16 August 2020).

Codes of practice should include rules for avoiding conflicts of interests, stating that journalists should not be influenced by commercial considerations, including the interests of advertisers. Media outlets should establish rules about accepting gifts from companies or payment of costs for the preparation of material.[47]

By most measures, the code of the EMC is in line with international standards. However, many are uncertain on how many of its members and media professionals are familiar with the issues covered in detail. In response to this concern, the head of EMC, Amare Aregawi points out that they are preparing to conduct a series of trainings on the code of conduct.

Developing a code of conduct is only the first step towards effective media self-regulation. It is crucial to establish a body to supervise it and provide sanctions against those who break its rules.[48] The code of conduct is not an official legal document and the council does not make juridical decisions. Unlike court decisions that combine justice with sanctions, the decisions of self-regulatory bodies are corrective, upholding journalistic standards and defending the rights of the public to receive objective information. However, these decisions do not prevent a possible court case on behalf of the aggrieved.[49]

Until recently, there was no complaint mechanism in place which is capable of processing complaints from citizens, organizations, or public authorities. However, the EMC established a mechanism for members of the public to lodge complaints against the media in cases where they feel they have been treated unfairly or a story was inaccurate. In the structure of the EMC, the Ethics Panel is the organ responsible for adjudicating complaints made against media institutions, the primary responsibility of the media council.

It is anticipated that the case-based discussions and adjudications on complaints in line with the code of ethics, rules and regulations adopted by members of the EMC would be instrumental in promoting professionalism. Many are of the view that professional issues need to be settled by the EMC. Hence, they assert that the EMC needs to start by adjudicating ethical and professional breaches. This requires the active participation of the public in the complaints handling processes. It is suggested that the EMC should work to encourage the public to submit complaints. In other countries, submitting complaints to self-regulatory bodies about bias, inaccuracy, unfair treatment, invasion of privacy and so on is very common. According to the Editor-In-Chief of Ethiopian Insider, Tesfalem Woldeyes, "the public is accustomed to bringing its complaints about electronic media content to government regulatory bodies. However, bringing complaints to a self-regulatory body is a different experience".

Beyond promoting professionalism, the process could be used as an alternative dispute resolution mechanism by the media as it could do away with a regime of severe penalties granted by courts that lack the independence to render true justice. Respect for a visible code of ethics significantly reduces the risk

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47 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 65.
48 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 33.
49 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 60.

of statutory intervention and expensive legal action.[50] Similarly, by taking responsibility, investigating complaints, and ruling on corrective measures on contested media reports, the EMC can help the media avoid lengthy trials and hefty fines.

The EMC's Ethics Panel is a15-member group which includes all three organs of the government, namely the executive, judiciary and legislative. The private and state media, journalist associations, civic society organizations, chamber of commerce, religious institutions, higher learning institutions and famous personalities will also have representation on the Ethics Panel. But it is the government representation that did not bode well with some. Public officials may be represented, but their participation should be limited and defined in agreement with all other stakeholders.[51]

The media industry in Ethiopia is divided on government representation in the Ethics Panel. While some argue that the panel should be composed of experts from the media, the legal profession, civil society and government, others oppose the inclusion of the latter. It is argued that as the main body that lodges grievances against the media, the government should not be included in the adjudicating panel. Moreover, many feel that the representation of the government, along with representation of the state media, would be too much. Others argue that the government, as media owner and audience, is one stakeholder that should not be left out. They argue an all-inclusive panel is advantageous to the effectiveness of the media council. And for purely practical and self-interest reasons, the inclusion of the government in the panel is appropriate. It is also highlighted that, if excluded, the government would see the council as a threat and set up its own regulatory mechanism and render the activities of the council irrelevant. Government representation could also cast doubt on the independence of the media council. However, as explained in the Articles of Association, the government does not have budgetary or administrative control over the council.

The general consensus appears to be in favor of government representation on the panel with the exclusion of the judiciary. However, as a voluntary self-regulatory body, government representation in the panel depends upon its willingness to accept the invitation.

Ensuring compliance with the decisions of the self-regulatory mechanism of the EMC could be a big challenge. Indeed, Asmeret doubts whether "members of the EMC will comply with the ethical and professional standards. In other countries, if the media refused to comply with the code of conduct of self-regulatory bodies, different associations and the public will put pressure on that particular media. This is not well-developed in Ethiopia. Even naming and shaming would not be easy".

Admittedly, the adequacy of the sanction against those who do not meet the standards of the self-regulatory bodies is debatable. Sanctions of self-regulation are generally seen as weaker as opposed to statutory regulation or the legal process. The major sanction is the "critical adjudication" which the

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50 Yavuz Baydar, "Setting up a Journalistic Code of Ethics: The Core of Media Self-regulation", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 29.
51 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 57.

offending media outlet is obliged to publish. This forces editors to admit to staff, peers, and readers that they have made poor judgement and have failed to uphold standards they agreed to follow.[52]

In practice, codes of conduct are seldom adhered to by Ethiopian journalists. "Professional standards and principles work for all media. Editorial policies and codes of conduct are important to manage the profession better," says Dr. Teshager Shiferaw, author and media ethics expert at Addis Ababa University's School of Journalism and Communication.[53]

Media self-regulation could be conducted individually and collectively and the rulings on media outlets and practitioners through the complaints system would enhance professionalism. This would be more effectively achieved by helping each media house devise internal mechanisms to practice self-regulation. Teaching ethical and professional standards internally enhances the commitment of media professionals.[54] One such mechanism could be appointing an independent news ombudsman to scrutinize the content produced. Some media organizations do this both in response to readers' complaints and as an independent initiative. The ombudsman's assessments, based on the code of ethics, are published or broadcast. This keeps awareness of the code alive and creates an institutional culture in which journalists see ethical behavior as the norm.[55]

The ombudsman promotes dialogue between those who read, listen, and watch a news outlet and those who work for it. The idea is to offer a contact for the users and, by encouraging self-criticism, to enhance the credibility of the news outlet. The ombudsman ensures respect for the rules and customs established by the media outlet, also providing some sort of internal quality control.[56] Most reputable newspapers have strict rules on taste and decency.

Professional guidelines could be adopted by media organizations as a matter of editorial policy. There are detailed guidelines that cover issues such as accuracy, fairness, impartiality, privacy, the avoidance of harm, the responsibilities of the media during elections, conflicts of interest and the coverage of sensitive issues such as conflict, young people, religion, crime, and sexuality.[57]

Most of the media houses in Ethiopia do not have a professional code of conduct or an editorial policy. When they do, they rarely uphold them. This internal exercise is pivotal for sector-wide commitment to professionalism. As a result, it is suggested that the EMC should place emphasis on helping its member

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52 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 36.

53 Dr. Teshager Shiferaw, author and media ethics expert at Addis Ababa University, School of Journalism & Communication (2020).

54 Yavuz Baydar, "Setting up a Journalistic Code of Ethics: The Core of Media Self-regulation", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 29.

55 Yavuz Baydar, "Setting up a Journalistic Code of Ethics: The Core of Media Self-regulation", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 29.

56 Veronique Zlatev, "The Ombudsman: Media Self-regulation within a News Outlet", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 71.

57 A. Puddephatt, *The Importance of Self-Regulation of the Media in Upholding Freedom of Expression*, vol. 9 (Brasilia: UNESCO Office Brasilia, 2011), available at www.unesco.org/new/en/communication-and-information/resources/publications-and-communication-materials/publications/full-list/the-importance-of-self-regulation-of-the-media-in-upholding-freedom-of-expression (accessed 16 August 2020).

media houses set up internal structures of quality control and adopt model manuals which could serve as minimum reference points. Tibebu Bekele, the ombudsman and internal trainer at Fortune newspaper, says that "internally, the media institutions are too weak in terms of capacity to adopt a standard editorial policy, complaint handling mechanism and a system that ensures the accountability of journalists. Most of them struggle to establish internal control systems and train their journalists on ethical conducts."

Another way the EMC should acknowledge and promote quality journalism is by rewarding (through an award system) individuals that achieve excellence and strictly adhere to professional standards. This is something Tibebu Belete, the Director of Ahadu Radio, agrees with. "The ones doing better by respecting their professional responsibilities need to be recognized," he says. In the absence of incentives, professional practice would remain sidelined. As Befeqadu puts it, "the few independent and non-partisan media outlets will be considered irrelevant."

In addition to rewarding individual practitioners, the EMC could also incentivize media houses for better professional performance as organizations. This could be done using various mechanisms, including media rating. Apart from informing the reward system, ratings can also be used to fairly allocate advertisement revenues based on merit.

A starting point could be to organize regular forums for discussions and debates to analyze and evaluate media trends and compliance issue in upholding ethical and professional standards. "The EMC could organize regular conferences and regular media review sessions to evaluate our weaknesses and strong points, and learn from each other," says Tibebu Belete. He says that the media has its own weaknesses in terms of clearly understanding its mandates and developing a culture of working together. "I hope EMC would help resolve such problems," he says.

Befeqadu expresses that fact-checking, ethical standards, professional independence, and excellence should be promoted by EMC.

However, it would be unrealistic to assume that the EMC alone would bring fundamental change in professional practices in the country. And yet, many are hopeful that the establishment of the EMC is instrumental to the improvement of professional journalistic standards. Anwar Abrar, the program director at Awash FM radio, views the EMC as a timely intervention to existing challenges in the media sector. "The foundation of the Ethiopian media is very flawed. I believe that self-regulation is a cure to such problems and will serve as dynamic shift to build responsible, professional and strong media in the country."[58]

Institutional challenges

Ownership, commitment, and cooperation

In the Ethiopian context, the primary institutional challenge of the self-regulatory mechanism is lack of ownership, commitment, and cooperation amongst relevant media stakeholders. Numerous writings on this issue indicate that self-regulation mainly relies on industry-wide collective commitment and cooperation to be effective.

One of the major reasons why a self-regulatory mechanism was not established earlier is because of the weak relationship between the Ethiopian media. "There is animosity and antagonistic relations especially among media owners," says Elias Meseret, the President of Ethiopian Media Professionals Association. Tolera agrees with this view. He says that there is no culture of cooperation, democratic dialogue, and unity among actors in the media sector. Tibebu Belete also supports the claim that "the relationship between media institutions is so weak. There is suspicion and labeling between us. We don't work together on common areas of concern".[59] Despite the challenges, however, there is hope that enhancing the organizational capacity of the EMC and its commitment to professional standards would improve cooperation among the media stakeholders in Ethiopia with the aim of improving professionalism, credibility and integrity.

The vital element in a self-regulatory system is the voluntary participation of those who are regulated by the system. Where that support is not present, the credibility of the whole system can be undermined and its viability threatened.[60]

Inclusivity in membership

As a matter of principle, self-regulation is most successful where it properly engages and includes representatives of all stakeholders within the media, including publishers, media owners, editors, journalists, professional associations, and members of the broader public.[61] The composition of membership should also take into account the context and history of the country.

Even though many of the issues which were stumbling blocks for the establishment of a media council in Ethiopia were generally agreed upon by 2016, there are still unresolved issues amongst stakeholders of the EMC. One of them is the composition of the Council. There are concerns about inclusivity and transparency of the process that led to the final agreement of the EMC. The current leadership of the Council contends that the establishment process was conducted transparently and in an all-inclusive manner.

A consortium of 19 out of 24 media houses and journalist unions agreed to honor the code of conduct and abide by EMC's bylaws in 2016. Since then, 29 legally registered state and private media organizations and professional associations, including many newly established media houses, have joined the EMC. According to its current president, Amare Aregawi, EMC has 52 registered members.[62] As a result, the membership of the EMC is mainly made up of media practitioners including independent associations of media owners, publishers, and journalists.

However, according to Tamrat G. Giorgis, a member of the organizing committee and Managing Editor of the English weekly *Fortune* newspaper, some media institutions, particularly those based in Oromia

58 Anwar Abarar, program director at Awash FM radio (July 2020).

59 Tibebu Belete, Director of Ahadu Radio (July 15, 2020)

60 Bereket Shimelis, (2017), Sustainability and Roles of the Ethiopian Media Council, Munich, GRIN Verlag, available at https://www.grin.com/document/372372 (accessed 16 August 2020).

61 Sylvie Coudray, *UNESCO: freedom of expression, information and the media*, at https://www.cambridge.org/core/books/united-nations-and-freedom-of-expression-and-information/unesco-freedom-of-expression-information-and-the-media/0580DBB3DE266A1298C77B564590C337/core-reader (accessed 16 August 2020).

62 Personal Interview with Amare Aregawi, Chair of Ethiopian Media Council (EMC), 10 June 2020.

and Tigray regions, are still not members of the EMC for different reasons. Furthermore, there is lack of clarity on the membership status of online media. According to the EMC's Articles of Association, traditional media (print and broadcast media houses) are entitled to be part of the EMC, but online media are left out.[63] Accordingly, Amare says that any legally-registered media organization has the right to sign up for membership "as long as they honor the code of conduct and our bylaws".

More recently, self-regulatory bodies have appropriately been used to oversee all types of media.[64] However, most self-regulatory bodies around the world were established mainly to self-regulate print media, as broadcasting is often statutory-regulated by acts, directives, and other legislation.[65] Broadcast media may require more specific regulations because they are licensed in a way that print media is not. Indeed, the licensing process requires particular oversight.[66]

Internet regulation can be particularly difficult because the online world is truly global. Because websites can be hosted in countries far away from their target audience, problems arise over the reach of whichever regulatory organization has been given the task of administering supervisory codes.[67]

However, self-regulatory bodies that in the past have supervised the print media may now also regulate websites operated by newspapers and magazines, even if the online versions differ from the "hard" editions. Such sites may contain audiovisual material that the self-regulatory body might not traditionally have dealt with, and it must decide whether to take complaints about such material just as it would about an article or still picture published in a newspaper or magazine.[68]

To this end, the inclusion of online media in the scope of the regulation is one of the major changes introduced in the draft Mass Media Proclamation. In the draft, "online media" is defined in reference to an editorial process. The key idea here is that a central editor is responsible for the selection and arrangement of content. In other words, the content is not simply produced and disseminated by one individual; it is done through a process controlled by the media service provider. This would clearly exclude "ordinary" social media activities such as tweeting and posting messages on Facebook. It would also exclude activities which look a bit more like media activities such as blogging, even of a regular nature, since it is not subject to editorial control.

The EMC's Articles of Association stipulates that membership is purely on a voluntary basis. Publishers, broadcasters, professional journalist associations, as well as private and public journalism schools are regular members of the council. Nonetheless, the membership of the EMC is dominated by media owners.

63 Bereket Shimelis, (2017), Sustainability and Roles of the Ethiopian Media Council, Munich, GRIN Verlag, https://www.grin.com/document/372372 (accessed 16 August 2020).
64 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 41.
65 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 51.
66 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 41.
67 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 41.
68 William Gore, "Self-regulatory Bodies: Ensuring Respect for a Code of Ethics", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 41.

Many reporters and editors say the EMC has practical representation issues to address. Generally speaking, journalists feel sidetracked by media house owners. A case in point is the fact that four out of five current executive committee members are media owners.

Nevertheless, contrary to the widely held perception, Ethiopia is not the exception in designing the membership structure of the self-regulatory organ to the advantage of organizations at the expense of individual practitioners. Unlike individual journalists, institutions are generally financially stronger and thus capable of making contributions.

Another issue of contest in representation is the extent of diversity in EMC's membership base to include regions and local administrations. This is especially because the EMC seem to favor those based in the capital Addis Ababa. "The EMC should reflect the country's diverse image. It should involve the media houses working outside Addis Ababa," said Asegid Hamza, the President of Ethiopian Community Broadcasting Association in an interview with MERSA Media Institute in July 2020.

Lack of understanding on the functions of self-regulatory bodies

Lack of experience handling or dealing with self-regulation is one of the main challenges facing the creation of media self-regulatory bodies in new democracies.[69] This is also one of the factors seriously affecting the operationalization of the EMC. By all measures, there is no adequate understanding of media self-regulation in Ethiopia. All those interviewed for this report agree Ethiopia needs a media self-regulatory mechanism. However, for the most part, most of them seem to lack a deeper understanding of what this means and fail to provide meaningful insights on how self-regulatory bodies should operate in the Ethiopian context. "There is misunderstanding even from the government as self-regulation is seen as a mechanism to avoid government regulation by journalists and media houses so that they can operate without any legal control," says Elisabeth Samuel.[70] "I've also seen this misperception from the current leadership of the EMC. Their focus is on avoiding court trials by media houses rather than promoting professionalism. So, the EMC considers itself as a trade union."

On his part, Tesfalem argues that there is lack of awareness on how media self-regulation operates by respecting professional standards "There is a problem of mixing the mandates of the EMC with that of a media association. As a result, some complained that the EMC didn't issue a statement when journalists are imprisoned," says Tesfalem. "I don't think that many media institutions and journalists are aware of its [EMC's] mandate and neither do they have clear understanding on the functions of a media council. This is partly related to the fact that there are many journalists who use the profession for other purposes, including for political struggles."

So far, as the foregoing discussions reveal, the media community has not reached at consensus on the roles of the EMC because they do not clear understanding of the council's roles or functions.

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69 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 64.
70 Elisabeth Samuel, media consultant and researcher, (June 18, 2020).

Trust and credibility of the EMC

A media self-regulatory body is essentially good for building trust and credibility in the sector.[71] A well-functioning council earns the trust of the public. The media will gain more credibility if it is committed to the advancement of public interest and professional standards. This, in turn, determines the extent to which the broader public cherishes self-regulation.

The credibility of the EMC has been questioned by different actors. Some think member media institutions prioritize to their interests at the expense of those of the media sector or the public. For example, Elisabeth says that in building trust and credibility, composition and diversity of the EMC leadership matters in addition to their performance. Befeqadu supports this and reckons that the current leaders of the EMC are like-minded personalities who have failed to earn public trust. Moreover, the membership is dominated by owners.

Tesfalem thinks that the main problem in establishing credibility could be that the EMC was established under the previous regime. "There are some issues on its establishment process. Some media houses were not willing, and others were hesitant to be signatories. There were some doubts about personalities on the forefront of the establishment process. This tarnished its image," says Tesfalem.

One way the EMC could earn trust and credibility is by delivering on its promise. Many say EMC could have used the ongoing political reforms to initiate self-regulation. There are also questions on its achievements since its establishment or since its registration was resolved. However, its current leadership argues that despite facing tremendous challenges EMC is progressing well. "We have received the representatives to the Ombudsman from the parliament, Peace Ministry, Chamber of Commerce, Addis Ababa University, famous personalities and legal professionals. We are also organizing the Ethics Panel, the complaint hearing and adjudicatory body. Had it not been for the COVID-19 epidemic, the operationalization of EMC would have been realized sooner," says Amare.[72]

Achieving independence from economic and political actors, particularly from the government's political and private media's economic interests, is another key area around which the EMC should build work on as part of building its credibility. says Asmeret. "EMC should establish itself as an independent professional body soon. Otherwise, it will be labeled as falling into one of the competing camps. This will affect its sustainability".

Source of finance

Funding remains a major obstacle to the effective functioning of the EMC. Currently, its costs are covered mainly by two media outlets—The Reporter newspaper and Sheger radio. Tamrat Hailu, the Editor-In-Chief of Kumneger Magazine and member of the Executive Committee of the EMC, says that the financial problem is still the main constraint on the operations of the EMC. "Of course, this is related to the capacity of the media. Many of them are not paying their regular contributions and as a result, we couldn't start operation sooner," he says. Tamrat Hailu adds that organizing the office and hiring

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71 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 46.

72 Personal Interview with Amare Aregawi, Chair of Ethiopian Media Council (EMC), June 10, 2020.
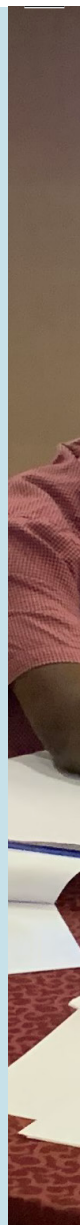
competent staff requires a lot of money. To reduce their financial burden, they have requested the government housing agency to give them office space.

Many say that any kind of self-regulation model must be run and funded by the media itself. The funding model can be based on membership fees. Alternatively, the body should be financed by media outlets, based on circulation and business sizes.[73] Finances can be secured from annual contributions of all media that subscribe to the idea of self-regulation and those that have agreed to abide by the code of ethics.[74]

The Articles of Association of the EMC states that membership contribution, donations from domestic sources, fundraising and the Democracy Fund, a fund that is set aside by House of Peoples' Representatives (HPR) to promote democratic values, will be the major sources of income for the EMC. Granted, this subject was one of the most contentious issues in the establishment of the EMC.

Most importantly, the question of external financing was on the top of the agenda. It should be noted that there are significant differences between members of the EMC on foreign funding. Some of the influential members of the Ethiopian media were adamant that the council should solely rely on membership contribution. "The industry has a turnover of over 100 million Birr. If we commit just one percent of that to the council, it would be enough," says Tamrat Gebregiorgis, member of the organizing committee of the EMC and Managing Editor of the weekly English newspaper Fortune. "Only then, can we avoid government and donors influence [associated with funds] and create a self-reliant council."[75] He also sees this mechanism as a test of "media commitment to the council" and
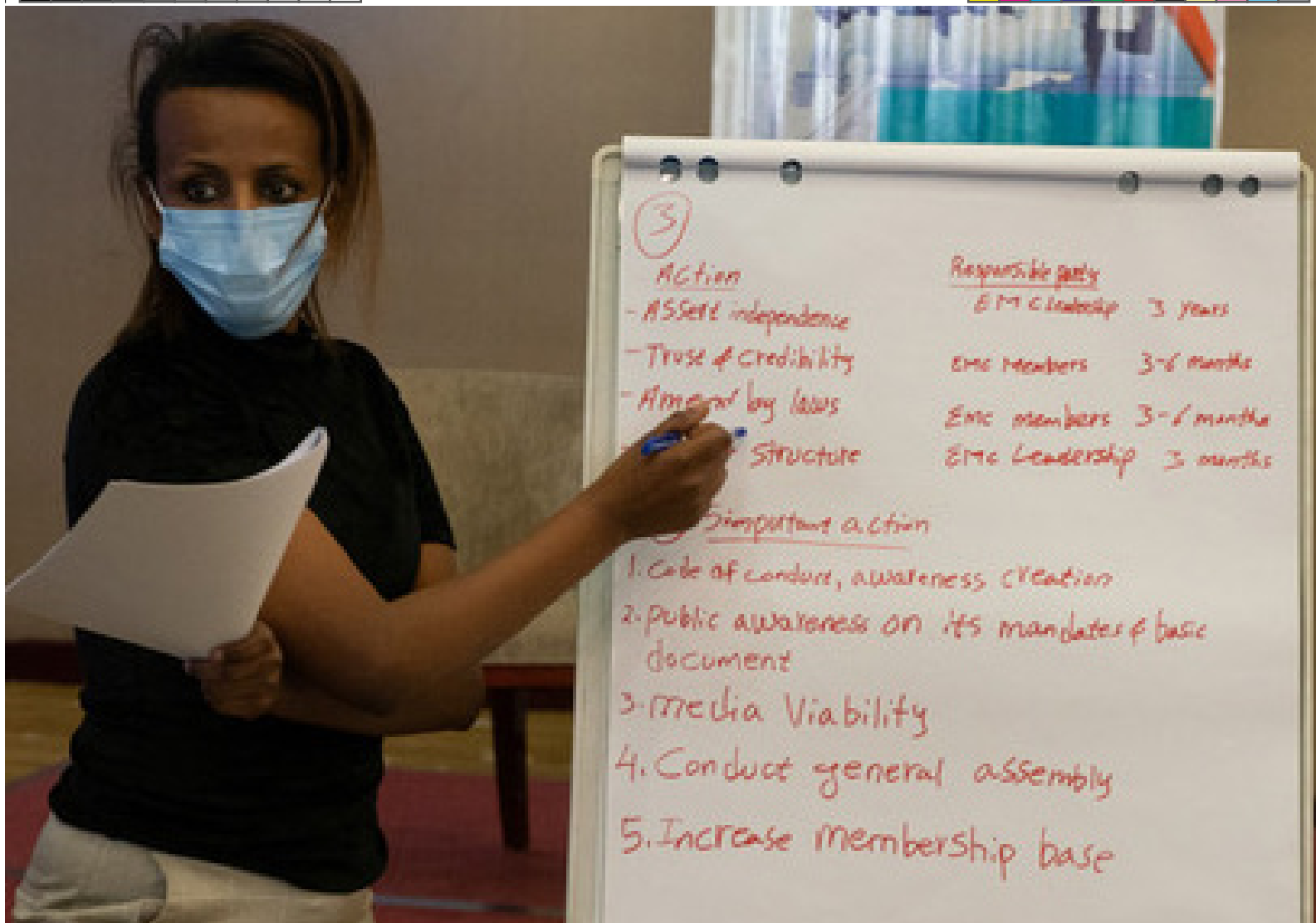
a better way to ensure accountability. In his view, this approach would make the council vigilant and would encourage it to hold its members accountable in case of abuse and misuse of its hard-earned money.

However, considering the financial capabilities of individual media houses, some fear that contributions might have a deterring effect on voluntary membership. According to the draft Articles of Association, failure to contribute leads to expulsion from the council.

Other members are of the view that it is wise to be open to other sources of financing as they fear financial challenges would affect commitment to the council. As a result, they have reservations about solely relying on members' contributions. The tradition of making regular contributions under the conditions of voluntary membership is rare in Ethiopia. Many express their doubts about the viability of a sustained membership contribution to the media council. As a result, they are open to tapping into external sources of funding. However, stakeholders do not seem keen on relying too much on external sources. They instead prefer to limit it to project-based expenses as opposed to administrative costs, with the approval of the general assembly.

73 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), pp. 61–62.
74 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 62.
75 Interview with Tamrat G. Giorgis, member of the organizing committee and Managing Editor of the English weekly *Fortune* newspaper.

Amare says different organizations have offered to fund EMC. He says that "as per our internal rules, we cannot directly receive money from external sources. We can only receive it to implement projects and that has to be approved by the general assembly of the EMC."

For Tibebu Belete, financial viability is a key factor to the success of EMC. "It needs to be supported by relevant local and international stakeholders. EMC is not collecting contributions from all members. In the past, lack of financial resources was a major reason to stop operations of many such organizations. We should not see the same problem affecting EMC," he said.

Tolera is of a similar view and says that "many media associations failed to be self-reliant and financially sustainable in the past. The EMC should learn from this bad experience and provide a workable solution on its source of funding".

Financial security can also be enhanced by encouraging the media self-regulatory body to engage in such activities such as annual publications, the development of projects and data bases and the organization of fundraising campaigns for specific causes.[76]

Clear reports on funding must be kept. A register showing sources of money and donations must be kept. This should be accessible to all media houses involved in the self-regulatory body for transparency and accountability. Annual reports of the press council should contain a financial statement showing the financial contributions of each media outlet.[77]

Political polarization

In many cases, the state of local politics determines the success of media self-regulation. Political cleavages that divide journalism communities and the resulting lack of dialogue and solidarity among the various factions prevent journalists from jointly defending their common interests.[78] In particular, lack of capacity of media institutions and insufficient income of media professionals may force them to become allies with political forces to defeat the cause of self-regulation.[79]

Anwar says that the structure and make-up of the Ethiopian media is very difficult for self-regulation. Ethiopia has a vulnerable media industry. It faces serious political and economic pressures.[80] Although government pressure has now reduced, the media is still considered as instrument of government or other political interests. The media is polarized or, at the very least, lacks unity. As a result, many media practitioners and institutions are partisan. Until recently, private, and public media demonstrated existing political divides. The print media in Ethiopia are partly government-run and partly private. Studies have pointed to the great divide in opinion between the private and the government press. The private press is

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76 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 62.

77 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), pp. 61–62.

78 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), *The Media Self-Regulation Handbook*, (2008), p. 64.

79 Ibid.

80 T. S. Skjerdal, "Between journalism 'Universals' and cultural particulars: challenges facing the development of a journalism programme in an East African context," *Journal of African Media Studies*, vol. 1, no. 1, (2009), p. 24.

opposition-friendly, while the government press supports the ruling party in its reporting and commentaries.[81]

Abdissa Zerai and Fitih Alemu, the former a close observer of the Ethiopian media from the perspective of political economy, has this to say: "The private media accuses the government-controlled media of pandering to the regime in power, and the government media criticizes the private press for behaving as political opposition to the current system and the private broadcast media (i.e. radio) for its focus on trivia. Such trading of accusations between the two groups has contributed to the bifurcation of the journalistic field in the country, damaging the credibility of the journalistic profession in the eyes of the general public."[82]

According to Ethiopian laws, political parties are not allowed to own media outlets. However, political party affiliated media are flourishing. The instrumentalist agenda of using the media as a tool for political propaganda and mobilizing popular support is on the rise. Added to the mix is the return of dissident satellite TV and radio stations from exile. These stations are affiliated to different political groups who often have contradictory visions for the country.

"There was media polarization and some media outlets were abroad. Now they are operating in Ethiopia and this makes the Ethiopian media landscape more complex when compared with the situation two years ago. It now has new characters in terms of practice and structure. The public media used to operate with similar and centralized thinking and ideology and was categorized under one camp. Now, at the regional level alone, the media houses operate with different positions and ideology. The situation of commercial media is more or less similar. Some of them rely on the market and operate through advertisement revenue and have relatively better tendency to respect professional standards. Others have attachment to different political parties. This makes the efforts of establishing a self-regulatory mechanism solely based on professional standards and speaking the same language is extremely difficult," says Dr. Teshager Shiferaw of AAU.

Dr. Teshager also argues that the Ethiopian media landscape has structural problems. "The structural differences between various categories of media pose new challenges but they still can agree on common minimum standards and build on it through time. The audiences also reflect the same differences. I think when the country's political transition leads to a stable democracy, the Ethiopian media will tend to be professional," he says.

The challenges above contribute to the serious ethical and professional gaps in the operations of the Ethiopian media according to Tibebu Belete. Some of them, including government media, are not independent and the issue of professional code of conduct is not their concern. This is exacerbated by the political system in Ethiopia which Asegid considers to be part of the problem. He says that this problem was exported to the media sector and "regarded as if it was originally created by the media".

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81 Ibid, pp. 24–25.
82 Abdissa Zerai and Fitih Alemu, "The Journalistic Field in Ethiopia: Where Partisanship and Credibility Cohabit," in Hayes Mawindi Mabweazara (ed.) *Newsmaking Cultures in Africa: Normative Trends in the Dynamics of Socio Political & Economic Struggles*, (2018), pp. 293–294.

Muluken Yewondwossen, the Deputy Editor-In-Chief of Capital newspaper, links the disagreement between the media houses to their different understanding on the role of the sector. "The division and mistrust are still major problems. Even after the political opening, their differences seem to be irreconcilable. The differences along ethnic lines are worsening. The political opening exposed the weaknesses of the media sector. In the absence of media responsibility, I have concerns that the new media policy and legislation which provides more freedom and autonomy to the industry may be abused and used to endanger the safety of the public," says Muluken.[83]

As part of continuing reforms, media houses, including state-funded broadcasting stations, are trying to address historical lack of public participation by including diverse and sensitive political coverage in their programming. Befeqadu says that "the last few years have created a better enabling environment for the media. However, division and polarization still persist. As a result, I am of the view that the emergence of a genuine, independent, and strong self-regulatory body will require at least a decade. By then, I think journalists and owners will be victims of the problem and will develop an interest for self-regulation."

Key institutions

Diverse actors could be involved in the regulation of media content or media operations.[84] The media industry is highly influenced by the political, market, public and professional interests. Within this regulatory framework, forms of media, media ownership, media systems and management, history and context, the institutional roles of the media and their freedom to carry out those roles, funding and financing, production and media products, content and representation of reality, and audience access and reception may influence media content or media operations.[85] The same factors determine the success of media self-regulatory bodies.

In Ethiopia, media actors have faced several barriers. The opportunities for them to partake in such activities that improve media regulation have been severely limited because it was difficult for media outlets to be independent of government, and journalists faced severe repression and intimidation. However, the broad constituency that helps media to thrive and the key actors that contribute to the development of the self-regulatory bodies in other countries are either missing or not active and effective in Ethiopia. In this regard, Gizaw thinks that "relevant stakeholders of the sector such as journalists, associations of journalists, journalism schools, and media owners lack commitment to unite and create consensus on the minimum standards of the profession."

Media and journalist associations

Journalist and media associations are key partners to enhance their members' professionalism and protect the rights and interests of journalists. Multiple journalist associations exist in Ethiopia including

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83 Muluken Yewondwossen, Deputy Editor-In-Chief, Capital newspaper (August 11, 2020).
84 Robert McKenzie, "Comparing Media Regulation Between France, the USA, Mexico and Ghana," http://historico.juridicas.unam.mx/publica/rev/comlawj/cont/6/arc/arc5.htm (accessed 16 August 2020).
85 Sibongile Sindane, "Press Regulation in South Africa and Its Implications for Press Freedom," *Communitas*, vol. 23, (2018), p.157

Ethiopian Free Press Journalists Association (EFJA), Ethiopian Journalists Association (EJA), Ethiopian Media Women Association (EMWA), and Ethiopian Environment Journalists Association (EEJA). There are also a few independent associations of editors and publishers. However, existing journalist and media associations are not very active and thus unable to protect the interests of journalists. The organizations have reportedly failed almost entirely in representing the interests of their members partly because most of them are closely aligned with and influenced by the government. Reflecting on this, Mikias says most of the organizations are subservient to the interest of the government and advance their own interests rather than lobbying and advocating to advance the interests of their members.[86]

Despite the weaknesses, and inability to effectively protect press freedom in the country, they have not been exempted from government interference. As is the case with other democratic and political institutions that are designed to challenge political narratives and expose misdeeds, the government is accused of harassing and interfering in the activities of journalists and associations keen on addressing the concerns of media houses and practitioners. For instance, when the EFJA criticized the position of the government on the draft media law in 2003, the government officially shut down the organization. It also banned the EFJA executive committee members from communicating with other media outlets.[87]

Tesfalem points out that there is mistrust among the organizations which does not augur well for solidarity among media practitioners. "The associations don't want to work together. Rather, they engage in a series of fights among themselves. Their contribution to the promotion of ethical media practice in the country is non-existent and they haven't been able to fulfil one of their main functions, setting professional and ethical standards," he says.

The expansion of the political space following the assumption of power by Abiy Ahmed allowed the establishment of many media institutions including the Editors Guild of Ethiopia (EGE), Community Radio Broadcasters Association (CRBA), and Ethiopian Media Professionals Association (EMPA). The amendment of the CSO law allowed the establishment the associations. Many hope that these new associations will learn from the previous ones and operate differently. "How much these associations will serve their purpose of establishment is yet to be seen," says Fasika Tadesse, the Editor-In-Chief of Fortune and board member of EGE.

Journalism schools and media professionals training institutes

Journalism schools are a recent phenomenon in Ethiopia. A degree program in journalism was only started in 2002 and the Master's program at Addis Ababa University was only opened on 15 March 2004.[88]

Ideally, the teaching of journalism and training to media professionals should meet presumed needs of the emerging Ethiopian media environment. This includes equipping journalism students with ethical and

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86 Mikias Sebsibe, DW Academy, (July 3, 2020).
87 Tracy J. Ross, "A Test of Democracy: Ethiopia's Mass Media and Freedom of Information Proclamation", *Penn State Law Review*, vol. 114, (2010), pp. 1056–1058.
88 T. S. Skjerdal, "Between Journalism 'Universals' and Cultural Particulars: Challenges Facing the Development of a Journalism Programme in an East African Context," *Journal of African Media Studies* vol. 1, no. 1 (2009), p. 23.

professional standards and designing their curriculum to meet the needs of students or trainees. For instance, it is argued that there is no corpus to elucidate on such matters as the scope, content, and limitations of freedom of expression in Ethiopia.[89]

There is serious lack of capacity among journalism graduates and working journalists. There is lack of issues-based reporting and specialization and a continued focus on development journalism. In the past, the government openly prescribed the development journalism model for media under its control and indirectly exerted pressure on the private media to embrace it.[90]

The lack of investigative journalism or an understanding of the root causes of conflicts means media coverage is usually based on personal experiences or opinions. Media reports and programs are too partisan and serve only narrow political interests. Many suggest this is evidence for the need for conflict-sensitive journalism training.

Media civil society organizations and think-tanks

In the past, civil society organizations (CSOs) did not have the opportunity to shape the policy, legal and regulatory framework for the media. The government did not consult widely with other stakeholders when it came to media policy development. Now, to a certain extent, civil society organizations monitor the media systematically. A few of them even provide direct advocacy on issues of freedom of expression and media self-regulation.

The government has also started consulting with CSOs. For example, when proposing to adopt a new legislation on the media, the government conducted consultations with CSOs. In addition, the engagement of CSOs in activities affecting the media, such as in the appointment process for media regulators, is being considered under the draft media proclamation.

The work of media civil society organizations and think-tanks is invaluable to address the lack of capacity in the media sector in Ethiopia. Various reports show that the media landscape in Ethiopia is characterized by weak institutions, shortage of resources and limited capacity of media houses in terms of infrastructure, administration, and staff personnel.

Cooperation and international support

International support and cooperation are important in the development of an effective self-regulation mechanism. In countries in transition or in the early stages of developing self-regulation, a major role should be played by international donors.[91]

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89 Gedion Timothewos, "Freedom of Expression in Ethiopia: The Jurisprudential Dearth," *Mizan Law Review* vol. 4, no. 2 (2010), p. 201.
90 Abdissa Zerai and Fitih Alemu, "The Journalistic Field in Ethiopia: Where Partisanship and Credibility Cohabit," in

Hayes Mawindi Mabweazara (ed.) *Newsmaking Cultures in Africa: Normative Trends in the Dynamics of Socio Political & Economic Struggles*, (2018), p. 293.

91 Ognian Zlatev, "The Press Council: The Archetype of a Self-regulatory Body", in Adeline Hulin and Jon Smith (eds.), The *Media Self-Regulation Handbook*, (2008), p. 61.

According to Elias, the capacity building efforts of NGOs and international organizations in this regard has been minimal. "In the last three years, unprecedented kinds of cooperation initiatives, in particular by EBA, have been observed," says Elias.

However, it is also clear that, according to Tolera Fikru, the former director of OMN television, "self-regulation requires the commitment of every media house to internally evaluate itself first and then democratically engage with others."

Conclusion and recommendations

Conclusion

It is imperative to build a media system in Ethiopia where diversity of views, identities and interests are respected and engrained in public discourse facilitated by a professional and responsible media. To achieve this entails raising awareness of key media stakeholders and helping them build consensus on the operationalization of self-regulation. The development of a self-regulatory system can be based on what has been achieved elsewhere in other countries that have successfully come up with such systems.

Recommendations

The recommendations below focus on what various bodies should do to improve the media situation in Ethiopia.

EMC leadership

It is recommended that EMC leaders should:

- Assist in the creation of independent journalist associations that represent the interest of journalists in the council.
- Ensure the independence and viability of the body.
- Resist external pressure to influence the roles or functions of the body.
- Build consensus on key issues including but not limited to its structure, mandate, and operation among media actors to be considered as an independent and trustworthy adjudicative body.
- Create better understanding, clarity, and awareness on media self-regulation, about the process of establishment, its activities, and its mandates, primarily to people within the media sector and then to the public at large.
- Conduct institutional restructuring (office, recruiting competent staff, building capacity).
- Help media outlets have their own editorial policy and code of ethics.
- Consider best practices in media self-regulation from other countries and adopt what works in the Ethiopian context.
- Build a strong and inclusive membership base.
- Design well-written action plans and programs.
- Organize regular professional conferences to evaluate the performance of the sector.
- Award good performance.

- Adopt a model code of conduct that enables media houses to handle public complaints such as on how to entertain corrections.

- Adopt a realistic code of conduct based on the experiences of other countries.

- Ensure accessibility to the sector and the public.

- Ensure equal and transparent participation.

- Conduct stakeholder mapping to clearly identify its relationship with the government, primary stakeholders in the media sector, other actors in the media sector and third parties, including international organizations.

- Draft a strategic plan that will work for at least four years.

- Create awareness on its mandates through the active engagement of its members and by drawing a website where vital information can be found.

- Operationalize the Ombudsman idea as soon as possible to start the naming and shaming function.

- Ensure transparent engagement including the participation of the media houses as primary stakeholders in the operations of the EMC.

- Staff its secretariat with competent professionals able to ensure it functions properly.

- Issue guidelines on conflict-sensitive reporting, election reporting, fact-checking and hate speech.

- Conduct media monitoring with well-researched recommendations and trend analysis.

- Conduct a series of trainings by senior professionals and experts. This should include facilitating regular training opportunities for media professionals. Priority should be given to trainings on ethical and legal limits of media freedom.

- Carry out a media landscape study to determine the needs of the media and the challenges they face.

EMC members

Members of the EMC are encouraged to:

- Provide full support to the EMC.

- Contribute generally to raising awareness and promoting the concept of self-regulation.

- Should earn the public trust by avoiding excessive partisanship and professionalize their practice.

Media associations

Media associations should:

- Be strengthened to have meaningful contribution to professionalism.

- Be strengthened to become good stewards of professional standards and self-governance.

Journalism schools and media professionals training institutes

It is recommended that journalism schools and media professional training institutes:

- Must develop new programs to enhance the capacity of media workers.
- Determine training needs and knowledge gaps in the media sector.
- Strengthen media associations and create enabling environments for close cooperation between them.

Donors

It is recommended that donors:

- Assist or support the development of a self-regulating mechanism.
- Assist the Ethiopian Media Council to function independently as a sector wide self-regulatory body as a critical step towards the development of professionalism.
- Provide funding for project specific capacity building efforts of the council.
- Support and facilitate awareness raising campaigns and media stakeholder consultation forums to build consensus and public confidence in the Ethiopian Media Council and journalist associations.
- Help Ethiopia's transition to ensure long-term institutional success.
- Help build the capacity of media institutions through technical, material, and financial assistance.
- Partner with the Ethiopian Media Council and credible journalist associations to facilitate training for journalists and media managers, and help build the internal capacity of these institutions to manage projects.
- Forge partnerships with media think-tanks and research and academic institutions that can provide critical support for the development of media institutions.
- Provide assistance to design curriculums for hands-on professional development training of journalists, in-house media training facilities, as well as journalism schools.

Government

It is recommended that the government should:

- Allow the media the space to thrive.
- Focus on professionalizing public media.
- Ensure that state-funded and party affiliated media operate professionally.
- Draw a policy and regulatory framework to enable and incentivize professional media.
- Enact the media policy and law that was widely discussed and believed by practitioners to create an enabling environment to the media.

ABOUT MERSA MEDIA INSTITUTE

MERSA Media Institute is a nonprofit media policy think tank. We work to help create vibrant, responsible and independent media, professional unions and education centers through research, capacity building and institutional support in Africa. We believe free and independent media are lifelines to the development of peaceful, prosperous, and democratic societies.

OUR EXPERTS

Our organization is established and run by experienced media practitioners, educators, researchers, and knowledge management experts who are passionate about the role of independent media in the development of informed citizens that are self-governing.

MISSION

Our media research and training partnerships are designed to create stable, peaceful and prosperous nations where diversity of views, identities and interests are respected and engrained in robust public discourse.

THEORY OF CHANGE

MERSA Media Institute works to support objective journalism and strengthen media institutions to be self-governing, sustainable and committed to inform the public on issues that affect their lives. We value and work towards the development of professionals and institutions that have strong ethics and public interest, and are devoted to create accountable governance.

HOW WE DO THAT

We provide data-driven research to equip policy makers with information to help them make sound policy decisions in setting media regulatory frameworks and legal reforms. We build the capacity of journalists through training; conduct business sustainability studies for media houses; and help create and develop press councils, unions and codes of ethics.