

MEDIA COUNCIL OF TANZANIA

THE IMPORTANCE OF MEDIA COUNCILS: TANZANIA CASE STUDY

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Introduction

Many MEDIA watchers in Africa and beyond are fascinated and somewhat surprised how the Media Council of Tanzania (MCT) has been able to function smoothly as a self-regulatory body. Most countries in Africa have statutory media councils which are formed, controlled and influenced by governments. There are a handful countries like Kenya which have just formed non-statutory media councils. Other countries have faced many difficulties independent, voluntary and non statutory media councils. The difficulty in establishing them can be attributed to lack of fertile ground for press freedom because of obstacles imposed by their respective governments.

Many governments in Africa still consider self-regulatory media councils to be undesirable because the same governments like to keep their grip on the media and remain custodians of the “truth”. Through draconian statutes they define and evaluate information, impose themselves as judges of what constitute news, truth and falsehood.

That explains why the establishment and growth of self-regulatory media councils in Africa has been stunted. Countries like Egypt, Uganda and Nigeria have statutory media councils which have proved to be incapable of enhancing either press freedom or ethical professional standards. In this paper, we shall see how self-

regulation by a media council can promote press freedom and help the media to create a context for social and political action. We shall see, by relating the experiences of the MCT, how this process can assist a media council ensure press freedom and high professional standards in the media.

MEDIA COUNCIL'S MANDATES

Media councils are typically non-governmental, non-statutory bodies created by representatives of the news industry to pre-empt direct state regulation of the news media. They receive and process complaints about media performance. Some councils serve mostly a mediation function with a goal to attain satisfaction of the complainant. Other councils place a higher priority on adjudication - on issuing rulings about whether the media behaviour in question served the public interest.

In many countries around the world, media councils have been established not only to improve the quality of journalism by raising its ethical standards, but also to put in place some form of mechanism to bring about self-regulation of the media as opposed to statutory control. The freedom from government regulation flows from theories of representative government which hold that the news media in systems with political competition can play their public-service roles successfully only if they have a certain independence from government.

But this is not without dilemma. Because the news media are clothed with both private and public interest, they present difficult problems in the area of regulation. On the one hand, direct state

oversight of the quality of the news would violate the media's independence from government, which is widely acknowledged to be central to news organisations' fulfillment of their public-service mission. On the other hand, state indifference to news contents seems equally unwise, given the dependence of the state and citizens on the media to provide news of a quality that enhances representative government.

Importance of Self – Regulatory Media Councils

It is precisely why many western societies have attempted to regulate the news media by encouraging them to regulate themselves by establishing self-regulatory media councils or similar bodies. In developing countries, governments and the news media are increasingly opening up to this approach. In Bangladesh, for instance, the government has abolished a statutory media council and supported an independent council under Mr. Justice Mozammel Hoque. The abolished media council had Mr. Justice Habibur Rahman Khan as its Chairman.

In June 2001, Zambian journalists decided to abolish the two media councils (one for the private media and the other for the government media) to form a single, independent and non-statutory council. In November 2001, Ugandan journalists convinced the government to abolish a statutory council and let them form an independent media council. The Ugandan government agreed in principle but challenged the journalists to start the process by getting consensus from media stakeholders and agreeing on the constitution. To date, the journalists have failed to start the process despite

encouraging overtures from the World Association of Press Councils (WAPC) and the Media Council of Tanzania. Kenyan journalists only recently formed a self-regulatory media council. So are their counterparts in most parts of Africa, Latin America, Asia and elsewhere. The Media Council of Tanzania (MCT) was privileged last year to help in the process of establishing independent media councils in Zambia and Kenya. Plans are underway to help establish a media council in Ethiopia.

Not surprisingly, the media prefer self-regulation to regulation by the state. In Tanzania, for example, the media have experimented with a variety of self-regulatory mechanisms, including public self-criticism, such as that provided by the code of ethics adopted by the media industry itself, and the media council itself which was established by the same industry to “ensure the highest professional standards and compliance with the code of ethics,” among other critical mandates.

Media councils, as MCT stakeholders have come to appreciate, are an especially interesting mechanism of media self-regulation because they depend on citizen participation. In the case of MCT, citizens have been encouraged to bring complaints about the quality of the news they consume, although most complaints have been more on defamation than on bad taste material. That is why most media councils, including MCT, have public representation.

So the MCT has not only encouraged citizens to bring complaints but also educated them on how to proceed. Citizens are enlightened about procedures needed before complaints are filed, including having face-to-face dialogue with relevant media officials

with a view to getting amicable solutions to problems. MCT experience has shown that complaints are easily solved when complainants address them directly to editors, leaving MCT to facilitate in more complex stages of the negotiations and bargaining process.

However, this does not suggest that all editors have been ready to swallow their pride by extending olive branches to genuine complainants or extended co-operation to the MCT when they are queried over certain violations in the code of ethics. Also, not all of them comply with MCT decisions after adjudication of complaints is completed. Although an external evaluation report on MCT indicated that non-compliance of its decisions is only 2%, MCT concern is that the elite culprits belong to one of the most influential and powerful media houses (Mwangi, 2000).

MCT takes solace, however, to the fact that since compliance with its decisions has been 98%, recourse to statutory mechanisms is uncalled for. MCT has a long term strategy of working toward attitude change of the defiant 2% (Moshiro, 2001).

Viable Complaints Process

At the MCT the approach has been to sort out cases that have no merit and dispose them efficiently without hearings. This not only reduces costs but also reduces the number of cases and allows Council members to concentrate and spend energy on real problems that can generate thoughtful decisions with long-term, generalizable effects. The process also enables the media to survive by answering

complaints in the Council other than the courts of law which impose very heavy fines which have rendered some of them to bankruptcy.

In eliminating cases that either have no merit or where complainants have a drive for money, the Council has laid out the following guidelines for those intending to file complaints in the Council.

- (i) Since one of the Council major objectives is to reconcile and mediate between journalists of media institutions on the one hand, and members of the general public, the government and other institutions on the other, complainants must, before complaining to the Council, first ensure that all avenues and possibilities of reconciliation have been explored to no avail.
- (ii) All possibilities of reconciliation will not have failed if complaints will not have been allowed to pass through relevant institutional channels. For examples, a complaint has first go to the editor, then chief editor, managing editor, managing director, publisher or chairman(whichever is applicable at a given media institution). Some complainants having failed to agree with authors of the stories(reporters)being disputed, they decide to file complaints directly to the Council, ignoring higher authorities which are in fact better placed to settle such disputes.
- (iii) Ensure that at the time of filing the complaints, the story being disputed was published or broadcast not

more than 12 weeks from the date of publication or broadcast as per the Council Rules of Procedure (Section 10.1). Because mediation is one of the basic pillars of the Council, the same Council cannot help complainants whose express purpose (of complaining to the Council) is to get money. Money awarded to complainants in terms of fines from respondents is only a result of mediation, not the basis of filing complaints in the Council. Therefore, the Council advises any would-be complainant whose purpose of coming to the Council is to get money to take their cases to the courts of law.

- (iv) Complaints filed in the Council must be in writing and must be accompanied by evidence annexed to prove particular allegations of facts.
- (v) Complaints to the Council must also state what remedy the complainants want from the Council. For example, a complainant might demand an apology to be printed on the front-page of a newspaper, or broadcast on prime time of a radio or television programme, or money to defray costs incurred (by the complainant) in the process of filing the complaints e.t.c.
- (vi) If the complainant is not satisfied with the Council settlement, he/she can resort to court action. However, evidence adduced during the settlement shall not be reproduced in court, in which case, the Council can be called as “*amicus Curiae*”

From an average of six complaints every month during the first six months of the Council, the number of complaints came down to three every month starting December in 2003. The decline was attributed to the awareness campaign conducted by the Council through the media as well as putting in place an efficient complaints mechanism which sorted out cases that had merit and those that had no substance. As already pointed out above, a six point statement of procedure was published in order to help the public realise how to file complaints, time frame, where and how to file them, as well as steps to be taken before filing complaints in the Council. The public was reminded that the major role of the Council is to reconcile and mediate contending parties, not to offer financial remedies to complainants.

MCT Experiences

The above outline does not mean that the MCT has found the process of adjudication to be an easy one. We have had nasty experiences, problems and dilemmas. For example, we have found out that the judgmental tone of adjudication makes editors defensive and sometimes resistant to the process of evaluating whether better decisions could have been made in particular situations. We have learnt that some editors do not appreciate being quizzed by non-journalists on the MCT Ethics Committee and others who are not or have never been involved in deadline pressures under which newsroom decisions are made. We have found out that editors regard the action of defending one-time decisions which have no

precedential value as an exercise in frustration. In some instances, some editors have resisted being asked to financially support a system that places them in a position of vulnerability to complaints by citizens who may be having vendettas and axes to grind. And to others, the educational component of a media council has been overpowered by the accusatory nature of the adjudication process.

On the other hand, a wider section of the general public thinks adjudication is the most visible and seductive role of the media council because that is the aspect the public is invited to participate in and the one the media object to. Our findings have revealed that most members of the public who have brought complaints to the Council have done so because they feel passionately about some specific media conduct.

The existence of the Council gives them permission to complain and provides them with a forum for vindication of a given position. Therefore, complainants see the Council as a small way to balance power between unapproachable media and aggrieved citizens who have few outlets for criticism about media behaviour. Many complainants have reported feeling impotent in the face of an all-powerful media, saying they would have had no place to turn to if the Council had not been in place.

Our experiences at the Council have shown us that individuals wronged by the media frequently want more than an apology, a chance to be heard or vindicated, even where the wrong was serious enough to give them standing in the courts of law. We have learnt that what individuals feel strongly about is how the media treat them,

but often they do not have the opportunity or ability to express frustration in a forum with a wide-spread audience.

The public has seen the Council as a forum supportive of the citizens' right to speak about institutions and events in society. Rather than starting his/her own newspaper, television or radio station, the citizen can express opinions before the Council. We have found it difficult at the Council to understand why media practitioners who would not object to opinions in other publications launched by an average citizen object strongly to the same speech when presented before the Council.

The lessons we have learnt over the past seven years are that the decision-making process must separate issues, analyse complexities, offer solutions, and provide realistic guidelines.

The Council has learnt that ethics are based on the treatment of others, and that the rules change with time and culture. The Council has also learnt as well that ethics require a weighing of principles based on the interaction between individuals or institutions and a careful process for deciding what justification is required when faced with the necessity of violating one of the basic principles.

As already pointed out, the Council has learnt that it must be proactive as well as reactive. The Council has struggled to maintain certain visibility and address potential conflicts and social concerns before they became a problem. For example, by regular monitoring and scrutiny of media news products, contents and presentations, the Council advised newsroom practitioners and editors on different ethical and professional problems inherent in their respective media outlets. Elections coverage, for example, was given guidelines. So

was coverage of AIDS and HIV, victims of rape and gender, among others. The Council has organized many training workshops on many issues.

Change of Strategy

Given the experiences, lessons, problems and dilemmas the Council has gone through in the past years, and given the feedback from stakeholders during the same period, the Council has done some refocusing and changed its strategy. The purpose is to streamline activities and transform a punitive adjudication function into an educational decision-making process more palatable to the media and more useful to society. Council stakeholders have been arguing – and this has been repeated now and again at different occasions such as workshops – that enhancing the education function as administered through the decision-making process of media councils can provide greater credibility to the Council, promote better independent decision-making in newsrooms, foster appreciation for news gathering complexities among members of the public, and create long-term positive effects on media performance.

Recommendations that have been made at workshops by journalists in the field want the Council to re-orient its role so that it can be proactive and educative with a view to creating a vision for the media industry. For this reason, the Council has employed a media critic to edit its monthly journal – *Media Watch*, and *Barazani*, specifically monitor the media on a daily basis. The Council's goals have to serve as examples of process in addition to suggesting policy so that journalists can learn to police themselves when confronted

with difficult decisions rather than face censure after the damage has been done. It is in publicly demonstrating a process of ethical decision-making, using individuals who understand the complexities of this type of analysis that the Council can excel. This is because we have found out that the real value in our Council is not in the impossible task of forcing accountability on media. The real value is the opportunity to provide good journalists with concrete examples of efficient, quality decision-making when faced with tough decisions related to media ethics.

Achieving Stakeholder Concensus

Since the process of enforcing the Code of Ethics is a difficult one, and in order to achieve compliance by the media, the enforcement mechanism has to be transparent and based on consensus by stakeholders who have to appreciate the fact that the survival and success of a media council is a dividend to the media industry, and abiding by the council's rulings is to its benefit.

On the other hand, enforcement of media ethics is possible if those elected to manage the process of enforcement are highly credible and respected citizens. In most countries, media councils are headed by retired appeal court judges or individuals whose names are institutions by themselves. The MCT is headed by highly respected people who are known for excellence, honesty, integrity, decency and detail. They are people with distinguished careers and character that rest on solid personal achievement.

So having this type of leadership in a media council makes it completely unnecessary (for the council) to desire a statutory status. To have this kind of leadership curtails the power of government and its coercive instruments over the media and society. This type of situation leads to a voluntary compliance (by the media) of the MCT decisions. It is a movement towards the ideal type of society where minimum government intervention is required. This is a situation where press freedom becomes viable.

CONCLUSION

The above account has tried to put into context the success story of MCT as a self - regulatory body with regard to its role in promoting press freedom and ensuring high ethical and professional standards. One can safely assert, without fear of contradiction, that the media in Tanzania are freer and more secure today than they were before the establishment of MCT some seven years ago.

MCT has worked hard to win government and public confidence. In the 2000 General Elections, the Council was appointed by the Basket of Donors to manage the Elections 2000 Media Monitoring Project. In this year's elections scheduled for October, the Council, in collaboration with the BBC World Service Trust have been contracted by the Basket of Donors (through UNDP) to train Tanzanian journalists on ***Elections Reporting***. In 2003, the Council won the International Press Institute (IPI) Free Media Pioneer Award. The Council was in October last year the host of an International Conference of the World Association of Press/Media Councils (WAPC). The Council continues to be seen as a role model

by media institutions across the African Continent and beyond. Tanzania's Vice President, Dr. Ali Mohammed Shain in 2003 told delegates in Bagamoyo at a national symposium organized by MCT: "I would urge media practitioners and other concerned parties to make full use of the media Council of Tanzania". He added: The Council has proved to be competent in dealing with disputes and other issues of the media industry rather more effectively than other alternative arbitration organs. I would like to assure you that the government is committed to a vibrant, free and responsible media and it will continue to create necessary conditions for them to grow and prosper".

These are words from the horse's mouth. MCT's tasks are still gargantuan of course. But with such assurances from the government, and with strengthened partnership from the public, MCT's vision may soon become a reality.

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