

Sword and Shield: Self-Regulation and International Media

A Report to the Center for International Media Assistance

By Bill Ristow

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The Center for International Media Assistance (CIMA), a project of the National Endowment for Democracy, aims to strengthen the support, raise the visibility, and improve the effectiveness of media assistance programs by providing information, building networks, conducting research, and highlighting the indispensable role independent media play in the creation and development of sustainable democracies around the world. An important aspect of CIMA's work is to research ways to attract additional U.S. private sector interest in and support for international media development.

CIMA convenes working groups, discussions, and panels on a variety of topics in the field of media development and assistance. The center also issues reports and recommendations based on working group discussions and other investigations. These reports aim to provide policymakers, as well as donors and practitioners, with ideas for bolstering the effectiveness of media assistance.

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Table of Contents

Preface	3
I. Introduction	4
II. History, Structure and Roles	8
III. Case Studies in Media Self-Regulation	11
IV. Barriers to Effective Self-Regulation	18
V. Summary and Recommendations	24
Endnotes	28

Preface

The Center for International Media Assistance (CIMA) at the National Endowment for Democracy (NED) commissioned this study on self-regulation of the media through press councils and ombudsmen. The purpose of this report is to examine whether these institutions are effective in raising journalistic standards or whether they are tools for governments to manipulate the news media in countries where democracies are fragile.

CIMA is grateful to Bill Ristow, a veteran journalist and international journalism trainer, for his research and insights on this topic. CIMA would also like to thank Theresa Morrow, for her valuable assistance with Ristow's research.

We hope that this report will become an important reference for international media assistance efforts.



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I. Introduction

“The newspaper press is a great power, but just as an unchained torrent of water submerges the whole countryside and devastates crops, even so an uncontrolled pen serves but to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within.”

- Mahatma Gandhi

- In Tanzania, a woman complained that a newspaper had inaccurately said she had been practicing witchcraft in a local hotel. In finding against the newspaper, the chairman of the ethics committee of the Media Council of Tanzania broadly scolded the press for what he called a growing trend of reckless reporting.¹
- In Turkey, a series of deadly bombings in 2003 created an atmosphere of media sensationalism and government crackdowns on the news. The Turkish press council convened a media-industry summit that developed self-imposed coverage reforms. The council also sharply criticized the crackdown and incendiary anti-press statements by the government, which responded in a conciliatory fashion, with the prime minister thanking the council for its efforts.²
- In India, the ombudsman for *The Hindu* newspaper reacted to readers’ complaints about the paper’s coverage of Tibet by reviewing Tibet coverage in *The New York Times* and *The Guardian* of London. He criticized *The Hindu* for reliance on a Chinese source and truncation of the Dalai Lama’s version of events (including the editing out of a comment about “cultural genocide”).³
- In Peru, after the country’s press council issued a report criticizing poor compliance by government agencies with a law requiring greater transparency in government, which the council had championed, the prime minister instructed cabinet members to improve the situation.⁴

Institutionalized efforts by print and broadcast media to regulate their own work have been around at least since 1916,⁵ and today there are forms of self-regulation that fall under the broad title of “media accountability systems” in most regions of the world. But while nearly all officially espouse the same generalized high goal—raising the standards of media coverage, in part by giving the public a chance to criticize and question that coverage—there are significant differences among them in approach, scope, effectiveness, and, most significantly, independence.

Self-regulation typically follows one of two broad models:

- **Press councils**, which can cover both print and broadcast media, generally include a mix of members, such as journalists and outside community representatives, and they apply themselves to most or all the media in a broad geographical area—mostly entire countries, although a small number of U.S. states have councils. Press councils may be established by statute, by media companies or professional bodies, or by independent groups. They often issue findings or recommendations, but compliance, if it exists at all, is usually voluntary. The total number of such councils is hard to determine, especially because it is not always clear whether something called a press council is legitimately independent. At the moment, roughly 40 councils are members of one or both of the two international umbrella organizations, the Alliance of Independent Press Councils of Europe (AIPCE) and the World Association of Press Councils (WAPC).⁶
- **Ombudsmen**, also called reader representatives or public editors, are usually individuals who work directly for a single media outlet, either on staff or through an independent contract. They generally confine themselves to reviewing the work of a single media organization, and their findings are typically published or broadcast by the outlet that hires them. The international Organization of News Ombudsmen

(ONO) lists 48 ombudsmen as regular members, including 18 in the United States. (There are an additional 22 associate members from universities, researchers, etc.) Estimates of the worldwide total range as high as 100.⁷

Rarely are either ombudsmen or press councils universally loved. Journalists and media organizations chafe at findings they believe restrict their absolute independence or second-guess their professional work. Governments send out warning signals against what they see as *too much* independence, and sometimes set up their own councils masquerading as independent bodies. Complainants from the public protest and even go to court when findings against the media do not lead to punitive enforcement.

Perhaps nowhere is the work of self-regulation more important, with greater promise for a society (but also with greater risk of abuse, or governmental interference), than in countries where there is no established tradition of a free press. Nurturing the development of a free press, journalists and outside funders alike have found, requires nearly as much attention to lapses by journalists themselves—lapses in ethics as well as professional skills such as accuracy—as to interference by autocratic governments.

“Self-regulation can help the media community rid itself of old habits,” said Miklos Haraszti, the representative on freedom of the media of the Organization for Security and Co-operation in Europe (OSCE). “A core number of media outlets opting for objectivity can make a real difference in overall media quality.”

But at the same time, he added pointedly, increased media accountability “must be accompanied by the disengagement of government in regulating media.”⁸

That is a critical issue for countries in political transition, where a government’s intervention can be anything from an annoyance to a dangerous threat to the development of a free press. Nor is this solely an issue for developing countries. Even a democracy as established as the United Kingdom seriously considered imposing a governmental body to regulate the media, with legal sanctions, as recently as 20 years ago.⁹

Some international media watchdog observers take a dim view of the council approach. “We institutionally are skeptical of press councils,” said Joel Simon, executive director of Committee to Protect Journalists, “because they have the potential to be co-opted either by the government or by interests that are not necessarily friendly to press freedom.”

In countries where the institutions of democracy are still emerging, it is common to find so-called “media councils” that are actually directly or indirectly controlled by the government. In such states, press councils or ombudsmen trying to carry out independent media self-regulation are truly on the front lines, facing a torrent of challenges—from funding to cultural

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— Endy Bayuni, chief editor of *the Jakarta Post*

barriers to apathy or downright hostility from journalists. Their work can be dangerous; it can be messy; it can be contentious. They can be pulled like a tug-of-war rope between those who favor freedom and those who practice repression or corrupt journalism. That is why, in countries where press councils are still incubating, their early sustenance

often comes from those who most actively care about fostering democracy: Western governments, multilateral organizations such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), or international non-governmental organizations such as the Open Society Institute.

It may also be why many of those directly involved with self-regulation are so passionate about its potential in encouraging new democracies. “Any developing nation can only develop properly if it has a free and unfettered press,” said Stephen Pritchard, president of ONO. “Those people need access to free and unbiased information.” It follows, he said, “that nations that don’t have a developed media can’t develop themselves.” An ombudsman, he said, can play a major role in encouraging a free press. “It is a vital function of what we do.”¹⁰

Endy Bayuni, chief editor of *The Jakarta Post*, adds the perspective of a person who spent roughly the first half of his 25-year career as a journalist working under an authoritarian regime. “The presence of a free press is essential to the working of a

democracy,” he said. “An independent press council helps to make sure that this freedom is respected and at the same time it is not abused by the media institutions.”

But Bayuni is one of those who stress the critical role of accountability. “It’s very easy to go overboard with the freedom and neglect the other responsibility of the council, which is to defend the public interests against abuses by the press,” he said.¹¹ This report touches on established democracies, but it focuses on countries where media development is underway. It reviews the history and work of ombudsmen and press councils around the world, assessing their effectiveness in contributing to media development, and highlighting instructive case studies. It points to the barriers to effective media self-regulation. Finally, the report offers various recommendations to draw on the best elements of media self-regulation, and avoid the dangerous pitfalls.

Summary of Recommendations:

1. The media development community should work within individual media houses to create in-house, publicly reported complaint systems rather than relying solely on outside press councils to do the job.
2. Funding groups should encourage media criticism, in forms such as local journalism reviews.
3. Press councils and ombudsmen should be adequately funded from a variety of sources (NGOs, media organizations, international donors) while safe-guarding their independence.
4. In the establishment of a press council, there must be an effective mechanism to avoid, or greatly reduce, the possibility that complainants will take advantage of defamation laws and take their issues to court rather than to the council.
5. To be effective, press councils and ombudsmen should focus on journalistic standards: ethical behavior (such as not accepting payment for stories), fairness, balance, and using appropriate and varied sources for information.

II. History, Structure and Roles

Press councils

The world's first press council, *Pressens Opinionsnämnd*, or PON, was established in Sweden in 1916, and is still active today. The Swedish council (and an associated press ombudsman who is usually the first to consider complaints) receives 350-400 complaints annually; 10-15 percent of them result in the council formally criticizing the newspaper involved, according to the council's Web site.¹²

Indeed, the overwhelming business of councils in Western democracies is complaints against the press. The very name of the organization in the United Kingdom makes that clear: It is not called a “press council” at all, but the Press Complaints Commission (PCC). A prominent note on the PCC's home page in early 2009 made its orientation evident: *Click here for information about what to do if you are being harassed by a journalist.*

It is a different story altogether in developing countries. Complaints against the media remain a vital part of the mission of press councils. But councils in these countries take on many more roles, including those filled in the West by universities, training institutes, and watchdog groups: crafting trainings for journalists, publishing guides to

public records, helping to write and publish codes of ethics, providing an institutional voice against government intervention, and otherwise advocating for a free and responsible press.

Many councils, in fact, have their eyes fixed almost as firmly on their governments as on their media. In India, where the press council recorded 755 total complaints in its most recent annual report, more than one in four were not against journalists, but *from* journalists—complaining against the government for alleged violations of press freedom.¹³

In this way, supporters of independent press councils say, the bodies can play a critical role not only in improving the media, but improving the prospects of democracy. “There's nothing magic about press councils,” said Chris Conybeare, secretary-general of the

World Association of Press Councils (and chairman of the Honolulu Community Media Council). “They're just another element of civil society—one more arrow in the quiver of those people who are fighting for freedom of expression.” But, he added, “they're an important element of civil society in countries that need this to move toward democracy.”

And even if they do not cause direct societal change, Conybeare points out, there

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is a highly important role for journalists in countries where the media are still developing. There, he said, councils “give people a sense of some optimism, some pride in being a journalist.” They are “another way of bringing people together in a supportive community ... That identity and sense of mission helps people deal with these atrocious conditions.”¹⁴

Membership on press councils follows different models, although many have a mix, divided between current or former journalists, respected outsiders such as university professors or current or retired jurists, and sometimes representatives of the public. Many are funded through industry fees, often supplemented by outside grants from nongovernmental organizations (NGOs) or multilateral organizations. A few, even some councils widely acknowledged to be independent in action, receive funding from their national governments, but with provisions that there are no official strings attached. This can be achieved by keeping the government out of the business of appointing or approving the members of the council.

Ombudsmen

The job of ombudsman was first institutionalized in Sweden in 1809, describing a person who would receive and address complaints about the government. Arthur C. Nauman, ombudsman for *The Sacramento Bee*, described its original meaning this way:

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An American college student discovered that old definition a few years ago while researching her master’s degree thesis.

She remarked, “It is delightful the Swedes chose to christen their citizens’ representative with the down-to-earth word. And it is also appropriate. The ombudsman’s job is indeed to sweep—to sweep away barriers between readers and the press.”¹⁵

The first newspaper ombudsman worked in Tokyo in the 1920s; the first American one in Kentucky in 1967; and the field was active enough by 1980 that ONO was formed.

While press councils have a broad portfolio, covering large areas and numerous media organizations, ombudsmen are attached to a single publication, broadcast station, or Web site. Typical qualifications include newsroom experience, community knowledge, objectivity—and a thick skin. Typically, they will investigate complaints about news coverage from readers, and prod the news organization to correct mistakes or improve general practices. Another common role is to explain the newsgathering process to

the public, particularly in defending the organization against a complaint that is found to be unwarranted.

Occasionally, an ombudsman will address material in a different publication. Yavuz Baydar, reader representative at the daily newspaper *Sabah* in Istanbul, Turkey, weighed in when the editor of another paper said he would not hire a head-scarved writer. “I do not think that the employment of head-scarved ladies in media has drawbacks,” Baydar said in an article published in *Sunday’s Zaman*. “Employment of people from all walks of life brings a positive perspective to the newspaper in terms of tolerance, diversity, and acceptance of social differences.”¹⁶

Some ombudsmen are staff members; some are outsiders working on a special contract. In Brazil, for example, the ombudsman at *Folha de São Paulo* has a one-year contract renewable for a maximum of two more years; he cannot be fired, and works mostly from a home office, coming to the newspaper for short visits twice a week. At *The Guardian* in London, which is owned

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Ombudsmen and ombudsman at
The Observer

by a charitable trust, the ombudsman works directly for the trust—not for the newspaper. Whatever the arrangement, said Stephen Pritchard, director of ONO and ombudsman at *The Observer* in London (where he is a member of the staff), “as long as that person, however they are employed, is allowed to be independent and shown to be independent, we view them as legitimate.” Clarity of independence, along with a *publicly visible* process—not just writing internal memos and reports for their employer news organization, as some ombudsmen do—are the key requirements for ONO recognition, he said.

When those conditions are met, Pritchard said the results are beneficial—and not just to readers and viewers. “In general terms, any media organization that appoints an ombudsman automatically raises its credibility,” he said. “Show your readers that you care about accuracy, about fairness, about getting the story right and you gain their trust.” Citing a survey of *Observer* readers in 2008, he said that 77 percent trusted the newspaper more because it had a reader representative, he argued that there is as strong a business case for hiring an ombudsman as any principled case.¹⁷

III. Case Studies in Media Self-Regulation

With all the examples of press councils and ombudsmen around the world, virtually no two are alike. A closer look at a few particularly active ones draws a picture of the variety of media’s self-regulatory efforts.

Bosnia-Herzegovina: Building from nothing. What should be the role of a press council in a country where propaganda was the only form of information for half a century, followed by a period of bloody warfare and ethnic division that tore the country apart? Where journalists from one part of the country not only do not know, but may actively hate, those from another part? And where organized criminals and government officials may be one and the same?

That was the challenge that faced the Press Council of Bosnia-Herzegovina when Ljiljana Zurovac joined the organization in 2005. The press council had existed, in a manner of speaking, since 2000, created with the support of Western countries and the United Kingdom’s Press Complaints Commission. But it failed to win the backing of the country’s media owners and was “literally in ruins” by the time she came to work there in 2005, said Zurovac, now the council’s executive director.¹⁸ It would have closed down altogether, she said, but for the support of journalists’ associations; they did not want to see it disappear, and pressed the media owners to cooperate in reviving it.

Even then, Zurovac said, it took her nearly a year and a half of traveling around the country and conducting lengthy negotiations with media owners before the council could be re-launched in December 2006.

The approach she settled on for the new council had a strong focus on fundamentals. The council brings publishers together to talk about common business issues, such as strategies to pull advertisers to print rather than television, which dominates the advertising market. Zurovac showed journalism schools in four different areas of Bosnia-Herzegovina that they could cooperate as well, with the council sponsoring a “summer school” bringing 40 students from around the country to Sarajevo in 2008 to train them in craft skills, ethics, and other issues. “These are people who never cross regions,” she said. “The students were so happy for the opportunity to meet others; I opened some kind of closed door for those young people.”

She acknowledged that this sort of work—meetings of publishers, conferences of student journalists—“is not the mission of a self-regulatory body. But we must address the place-time circumstances.”

The council also needed to start more or less from the beginning, she said, in educating a public whose only understanding of information flow had been formed under a totalitarian regime. “People were not aware of the role of citizens in a democratic system,” and the council held sessions all around the country, talking to citizens and politicians alike about their roles in public information. It has also helped create a press code and a procedure for citizens to complain about the media.

Allowing public complaints was a hard sell for journalists at the start, Zurovac said. After all, just three years before, most of

them had never even heard of the concept of a code of conduct. Today, she said, they are beginning to see that “the press code and professional standards are a tool for their protection.” Three years ago, no newspaper published corrections or letters to the editor, or otherwise gave readers a voice, Zurovac said. “Now every single newspaper does that, on a regular basis or occasionally.

That’s very important.

They saw that if they publish[ed] reaction from readers, it would cut the number of court actions against them from those citizens. And readers have thanked them. They just wanted their view heard.”

At the same time, the council has been educating judges, bringing in Western experts for workshops on issues of media law. That has already had positive results in court rulings, Zurovac said, and her next goal is that judges hearing media cases will call in someone from the press council as a consultant before issuing their rulings.

The council issued findings on 63 complaints in 2008, from the public as well as government officials, along with some from members of the media complaining about government restrictions. But it will take time for the council to establish itself as the best recourse for complaints, said Drew Sullivan, director of the Center for Investigative Reporting in Sarajevo. “Most

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Indeed, while Zurovac is proud of much of the work the council has done to lay a foundation in the past three years, she also acknowledges there are things about the media in her country that still make her sad. One is that media owners still can be too bitter against each other and use their pages to make vitriolic attacks against competitors. More serious, she said, starting in 2008, Bosnia-Herzegovina has suffered an increase in organized threats and physical

assaults on journalists, both from organized crime and politicians—“and they are connected, of course.” Officials of the government are among the “bullies,” she said, posing a serious problem for the media and the press council. This is a problem for countries throughout the region, she added, and it was a major topic at a conference Zurovac’s council convened in Sarajevo in January 2009 on self-regulation and freedom of the media in the western Balkans and Southeast Europe.

Journalists can protest the threats and incidents of violence, and try to convince the public that “without a free media, there is no democracy, no freedom for citizens,” Zurovac said. But she wishes she could do more.

“All of us are in danger, actually. We can use only our journalistic media—we cannot go and fight them physically.”

Peru: An aggressive media advocate.

Even outsiders who describe themselves as generally skeptical about press councils point to the *Consejo de la Prensa Peruana*, or Peruvian Press Council (CPP), as a successful body. Created in December 1996 by media industry representatives, it was formed, said Kela León, the council’s executive director, “as a result of a decrease in the media’s credibility among citizens—partly due to the Fujimori government’s media discredit campaign—and a preoccupying increase of legislative proposals to regulate the media.”¹⁹ Its members include 26 print organizations, a radio chain, and an all-news cable TV channel.

The CPP structure includes an ethics tribunal that considers citizen complaints. This tribunal, as León puts it, acts as a “collective ombudsman” for media members, who must agree to comply with its resolutions. Each year, the council distributes a bulletin telling citizens how they can complain, and summarizing the tribunal’s work from the past year.

Relative to some other press councils, the volume of this tribunal’s work is not enormous, ranging from 38 to 87 complaints annually in recent years. The number has declined in the last two

years—a sign, León believes, “that media editors are now more likely to publish rectification or rebuttal letters without the intervention” of the tribunal.

Still, she said that the nature of complaints several years ago, along with evidence from public polling, indicated enough serious issues of press ethics that in 2005, the council launched a “Media, Ethics, and Democracy” program in four main cities, “with the purpose of promoting and enhancing ethical values among the Peruvian press.” The project included workshops and meetings with journalists and publishers and led to a report on the state of ethics in three of the country’s provinces.

The council gets its most positive reviews for its work lobbying for greater transparency in the government and public access to information, even when these efforts placed it in direct confrontation with the government. A campaign titled “You Have the Right to Know” was launched in 2001, when, León said, government repression was at its peak. In two years, the campaign featured more than 600 advertisements in 16 dailies and magazines promoting the principles of freedom of access to information. The council also successfully fought for a 2002 law improving transparency and access and has monitored the government’s compliance with that law ever since. It even operates a hotline citizens can call if they have not been successful in getting public information from the government. The council’s work on freedom of information in Peru has been “superb,” said Ricardo Trotti, press freedom director at the Inter American Press Association (IAPA).²⁰

The battle for greater press freedom has by no means been won in Peru, where León said the CPP “continues to register numerous cases of judicial and physical threats against journalists, particularly in provincial areas.” But she is also frank in attributing significant responsibility for the media’s problems to the press itself. The apparent increase in ethical issues that became evident in 2004 and led to the CPP’s renewed focus on media values, she said, raised a serious question: “If, in fact, the press could contribute to eroding the incipient democracy it helped construct.” To avoid that, she said, it is indispensable that “the media work towards promoting self-regulatory mechanisms to enhance ethics and good journalism practices” along with promoting freedom of the press and access to information.

Brazil: The sharp-tongued ombudsman.

When Carlos Eduardo Lins da Silva sees something that he does not like in his newspaper, *Folha de São Paulo*, he does not mince words. “*Folha*’s work was lazy as ever,” he said in a column in early 2009, commenting on the paper’s coverage of Brazilian politics. “It does not need to be that way. A minimum of editorial effort could make coverage of the world of Brasilia much more relevant for the country.”²¹ He went on for seven more paragraphs, dissecting what he saw as weaknesses in the coverage and suggesting ways the newspaper could be more thorough.

His column went on to wonder about the “inexplicably weak coverage of two violent incidents” in a local slum, calling it “journalistically and socially irresponsible.”

The columns follow a standard format: a longer first section raising critiques, shorter

blurbs on things Lins da Silva believes the newspaper “did right” or “did badly”—and even a section “To read,” providing recommendations of books about journalism, and “To see,” recommending movies with a journalism theme. (The column quoted above recommended “Heartburn,” the 1986 movie starring Jack Nicholson and Meryl Streep: “romantic comedy about a pair of journalists in Washington [the male role was inspired by Carl Bernstein] shows the lives of journalists at the center of power.”)

In a year-end column, he outlined 12 areas the newspaper should improve, “based on the judgment that readers made about *Folha*’s performance in 2008,” including, for example, focus less on celebrities and more on “preventive” journalism about governmental policies and actions, decrease the grammatical mistakes “that still infest the newspaper and irritate readers,” and stop drowning readers in numbers without explanation or context. At the top of the list: Devote the letters to the editor section solely to letters from “everyday readers, not people in the news, personalities, or those who demand the right to respond.”²²

Folha was the first Brazilian newspaper to hire an ombudsman, in 1989, and Lins da Silva has had the job since April 2008. Before that, he anchored a talk show on a local public television station; earlier, he was an editor at a business daily and senior Washington correspondent and then deputy editor of *Folha*. While he acknowledges the difficulty of measuring his impact, he says he has had some impact on the paper’s performance. *Folha* is doing better at giving the readers “some forms of comparisons for them to figure out the meaning of big figures such as billions or trillions of dollars,” for example, and a new section for

letters to the editor from readers is in the works. But the most important impact he has had, Lins da Silva believes, “is that my thoughts have stirred up a process of internal debate, sometimes in the form of seminars, which I think is a good way to improve the standards overall.”²³

South Africa: Focus on complaints.

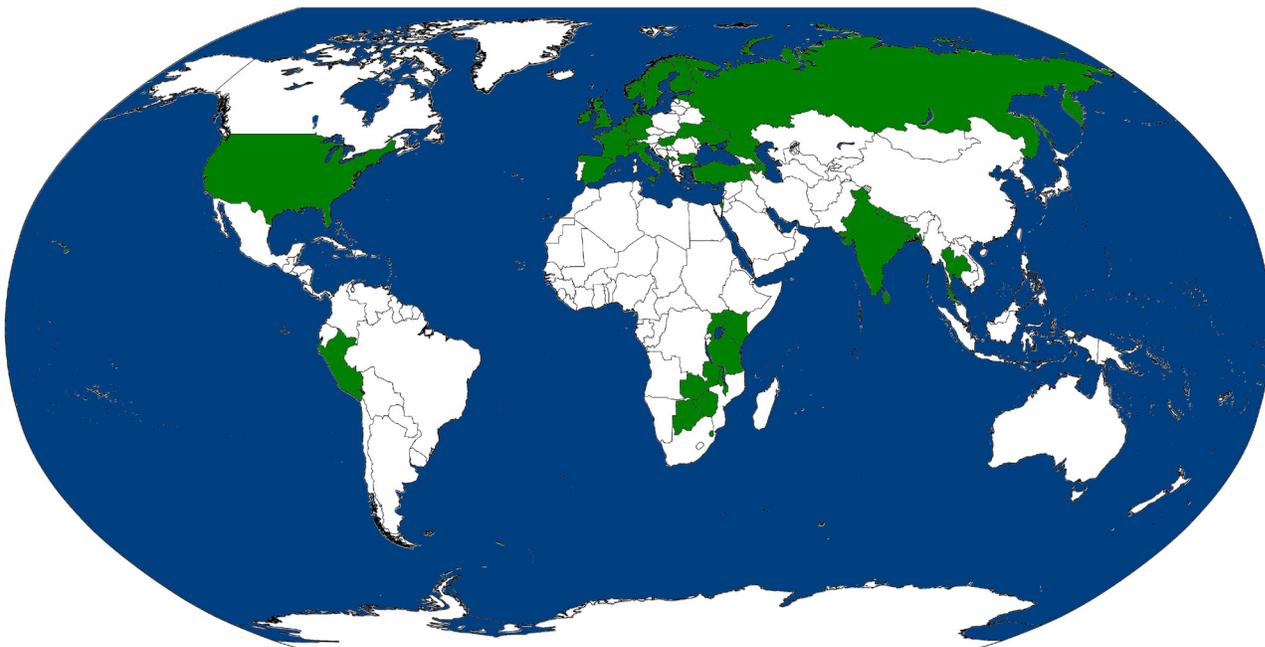
In mid-2007 the Press Council of South Africa had been in existence for a number of years, but it was re-launched with considerable fanfare in a new form—notably, adding a strong representation of public members to its appeals panel for the first time. This council does take advocacy positions on press-freedom issues, but its primary public face, by far, is considering complaints, and it takes a highly structured approach to the job.

Anyone wishing to challenge something published in a South African newspaper first goes to the council’s Office of the Press Ombudsman. Complainants must rely on the South African Press Code, and the council makes clear, they must make assurances “that you will not later take other legal steps against the publication—we don’t want people who pretend to use your self-regulation system only to extract the defence of the publication and then try and use the information against them in the courts.”²⁴ The ombudsman has a specified period to mediate a resolution; if either the complainant or newspaper is not satisfied, they can take the matter to the Press Appeals Panel, chaired by a retired

judge of the Supreme Court of Appeal. As of August 2008, the council had considered approximately 120 complaints in the year since it was reconstituted.

In July 2008, for instance, the ombudsman ordered *The Sunday Sun* newspaper to apologize for a column that, he found, “did denigrate gay and lesbian people.” The newspaper did not appeal. In a May 2008 ruling, however, the Press Appeals Panel overturned the ombudsman, who had ruled in favor of the governing African National Congress (ANC) against *The City Press* newspaper over an article that included anonymous sourcing. The ombudsman concluded the article violated the press code; the panel, however, unanimously rejected his conclusion, ruling that the article provided sufficient corroboration for its reporting, and sufficient basis for its headline.²⁵

That ruling reflects an ongoing tension in South Africa. The changes in the press council’s structure in 2007 came at a time that the ANC, among others, was critical of the council for being too tightly controlled by the press organizations themselves. That criticism continued despite the greatly broadened role for members of the public on the appeals panel, and in January 2008 the government suggested creation of a statutory Media Appeals Tribunal separate from the press council. By March of 2009, the government backed away from that idea after intense criticism from the press. In the end, the ANC said it would be satisfied if the ombudsman’s office added staff.²⁶



■ = Presence of a press council that is a member of AIPCE or WAPC

Where in the World Are They?

The total number of press councils and ombudsmen worldwide is nearly impossible to state with precision. Definitions are inconsistent, councils or ombudsmen positions appear and then disappear, and the umbrella bodies that do exist are informal, poorly funded organizations hard-pressed to keep perfectly up to date.

Press councils: There are two coordinating organizations for press councils around the world. The larger, the Alliance of Independent Press Councils of Europe, lists 31 members or associated (non-European) councils on its Web site, from Armenia to Zambia.²⁷ The other broad organization, the World Association of Press Councils, lists 14 members²⁸ (there is some duplication in the two organizations' membership).

The United States had its own independent National News Council (NNC), created in 1973 based on the recommendations of a task force commissioned by the 20th Century Fund.²⁹ But the NNC only lasted until 1983—"Mainly," Mike Wallace would say a dozen years later, "because some leading journalists—Abe Rosenthal of the New York Times, Walter Cronkite and others—claimed it was superfluous at best, and worse, that it would somehow shackle a free press." But Wallace, speaking at Harvard University as he received a Goldsmith Award in 1995, said he thought a good case could be made for reviving such a council. "All of us journalists are perfectly willing to call attention to profligate politicians, priests, and potentates, but we show little enthusiasm when similar attention is focused on us," he said.³⁰

No such national body has re-emerged in America, although there are several state or regional bodies with varying levels of press-review activity, including organizations in Minnesota, Washington, and, the oldest of the group, Hawaii.³¹

An Internet search reveals several “press councils” that are not members of either of the above worldwide organizations, thus an exact number of these groups is difficult, if not impossible, to come by. With the strong caveat that some of this information is dated and some of these councils may have either ceased operating or are no longer independent of their governments, these are countries that have press councils listed as members or associated members of either AIPCE or WAPC:

Armenia, Azerbaijan, Bangladesh, Belgium, Bosnia, Botswana, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Hungary, India, Ireland, Israel, Italy, Kenya, Kosovo, Luxembourg, Malawi, Malta, Nepal, Netherlands, Norway, Peru, Russia, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Tanzania, Thailand, Turkey, Uganda, United Kingdom, Ukraine, Zambia, Zimbabwe.

Ombudsmen: The international Organization of Newspaper Ombudsmen currently shows 48 “regular” members—practicing, independent ombudsmen whose work is in some way publicly visible.³² Stephen Pritchard, ONO’s head and the ombudsman at The Observer in London, thinks 100 would be a reasonable worldwide estimate. While the numbers appear to be declining in the West, mostly due to the widespread economic problems of the media, he said he sees at least strong intentions to add ombudsmen in developing countries, where journalists “are trying hard to take the best practice from the West and apply it to their own press.”³³

Jan van Groesen, president of the Netherlands Media-Ombudsman Foundation, has recently helped carry out research into the role of news ombudsmen worldwide. He observed that while the hiring of ombudsmen gained ground internationally, it “never reached the point of a broad global presence.” And, he said, “because of the introduction of Web sites and blogs in the last decades, and the present financial difficulties the daily newspapers are facing, the position of the news ombudsmen has come under pressure. Last year alone, in the United States the news ombudsmen disappeared from the ranks of The Minneapolis Star Tribune, The Baltimore Sun, The Boston Globe, The Orlando Sentinel, The Louisville Courier-Journal, The Hartford Courant, USA Today, The Sacramento Bee, The Chicago Tribune, and The Palm Beach Post.”³⁴

These are countries with media ombudsmen listed on the ONO Web site as regular members:

Australia (2 ombudsmen), Brazil (5), Canada (3), Colombia (2), Denmark (3), Estonia, France, Great Britain (2), India, The Netherlands (3), South Africa (2), Spain, Sweden (2), Turkey (2), and the United States (18 including Puerto Rico).

IV. Barriers to Effective Self-Regulation

Media accountability work rarely wins one many friends, nor is the work easy. Ombudsmen and press councils face a variety of challenges, both internal and external. This explains, in part, why the roster of both is constantly shifting, especially in the turbulent context of the developing world. Here are some of the key barriers faced by those in the field:

a) Government control

By far the most ominous of barriers, governments can essentially rule out ombudsmen altogether in developing countries where the government owns the media, as it often does. But the role of governments is primarily an issue for press councils, and it raises the most concerns for international media monitoring groups. Government interference can take several forms, including direct intervention by a government into the affairs of an independent council. But there is a more subtle threat as well: creating a government-controlled body that masquerades as an independent supporter of press standards.

In 2004, the International Press Institute (IPI), concerned about what it saw as a growing trend of government movement into press regulation, issued a statement criticizing “the desire of governments around the world to create statutory press councils that will have a detrimental impact on journalists and the media environment.”³⁵

This trend is particularly evident in Africa. While there are a few notable exceptions, “as a general rule of thumb, the majority of press councils we’re dealing with in Africa

have a large part of their role controlled by the government,” said Tom Rhodes, Africa coordinator for the Committee to Protect Journalists (CPJ). “I can’t think of one example in which a press council is independent in Francophone Africa,” he added.³⁶ Chris Conybeare, secretary-general of WAPC, agreed, saying the free press situation in Africa appears to be “going from bad to worse.” He said his organization hopes to convene a major conference in Africa by 2010 to address this problem.³⁷

African exceptions include the Media Council of Tanzania and the Press Council of South Africa. But the troubling examples are more numerous:

- In Sudan, a 2004 law established a National Press Council, “a body with sweeping regulatory powers and only nominal independence from the National Congress Party,” according to a report by the CPJ. “Sudanese security forces and the Press Council repeatedly censored critical coverage by private newspapers in 2008,” in advance of national elections in 2009.³⁸
- In Kenya, partly in reaction to media coverage of post-election violence, the government pushed through the Kenya Communications Act 2008, which provides more power to the Communications Commission of Kenya, a state agency—usurping the independent Media Council of Kenya, opponents charge.³⁹
- In Botswana, the government won

passage in December of 2008 of the Media Practitioner’s Act, which includes creation of a statutory Media Council in a country that already had the independent Press Council of Botswana. Opponents have charged that this is the first step in a government move to take greater control of the media.⁴⁰

Similar problems exist throughout Latin America, where the media landscape has been marked by “a struggle between journalists and governments,” said the IAPA’s Trotti.⁴¹ Most “press councils” purporting to regulate media standards in the region have actually been controlled by the government, he said, “and we have been fighting any ways in which governments would try to control the press.”

There are other cautionary examples from around the world. Egypt’s Supreme Council on the Press—once a member of the World Association of Press Councils, and the host of WAPC’s 2000 conference—is now widely denounced for actions such as revoking the licenses of two newspapers in September of 2008.⁴² (The Supreme Council is no longer listed as a WAPC member; Conybeare said it was excluded from WAPC for its lack of independence.⁴³) And in Indonesia, home of a vigorous independent council, legislation has been proposed to create a new set of media regulations, tightening governmental control.⁴⁴

In the 1990s, the Independent Journalism Foundation (IJF) argued against the creation of a press council in Slovakia. “It has long

been our position that press councils were dangerous, ceding control to the government with unpredictable consequences,” said Nancy Ward, IJF vice president and managing director.

David Dadge, director of the IPI, put it this way: “The trouble is, are press councils swords or shields?” Statutory councils, controlled by the government, are “the government’s sword” against the media. Truly independent councils, on the other hand, at least have the potential to be a “shield”—“taking away the heat that sometimes exists in media environments.”⁴⁵

“The trouble is, are press councils swords or shields?”

— David Dadge, director of the International Press Institute

Dadge and others stress that it is a pernicious matter for governments to create bodies that have the veneer of independent self-regulation, and that it deserves sharp attention from funding groups, watchdog organizations, and others. The umbrella organizations working

with press councils worldwide must pay special attention to their member councils if their goal is to include only the truly independent. WAPC gained a reputation, a decade ago, of not screening its membership adequately. As a result, the UK’s Press Complaint Commission withdrew from WAPC in 2000, saying that state-run press councils “are inimical to press freedom, and the PCC did not feel comfortable in a body dominated by them.”⁴⁶ Conybeare, the WAPC secretary-general, asserts that his group has significantly tightened its standards, and William Gore, a spokesman for the PCC, acknowledged that some of the worst offenders, such as Egypt, are no longer a part of WAPC. “We would not necessarily

still characterise WAPC” in the same way as in 2000, he said—although, he added, “nor has it been demonstrated that all the member councils are both self-regulatory and independent.”⁴⁷

It is also worth noting that governmental interference in regulation of the press—or the threat of interference—is not limited to the so-called developing world. In both the UK (in 1991)⁴⁸ and Ireland (in 2007),⁴⁹ truly independent, self-regulatory councils were established only after the explicit threat of the governments to take action of their own. (In the UK, a government committee in 1990 gave the media an 18-month deadline to set up an independent self-regulatory body and demonstrate that they could be effective. “This is a steep test for the press,” the committee said. “If it fails, we recommend that a statutory system for handling complaints should be introduced.”)

In Fiji, meanwhile, rumblings from the government have convinced some journalists to look to an ombudsman as a possible way to maintain their independence. Faced with government plans that could include creation of a statutory media tribunal, the Pacific Islands News Association “believes that the establishment of an Independent Media Ombudsman might be the answer to the current impasse between the Fiji Media and the interim Government,” a Fijian business publication reported early in 2009.⁵⁰ And ONO’s Pritchard said he was approached by radio journalists from the Pacific Islands when he spoke at a conference of the Global Forum for Media Development in Athens in December 2008. They believed an ombudsman “would be a good person and ward off accusations of bias coming from the government,” he said.⁵¹

b) Funding

Funding affects both types of media self-regulation; anyone who follows the state of the newspaper business in the United States will recognize that funding is a huge barrier for ombudsmen. A reader representative can easily be seen as a dispensable expense in tough times. Jan van Groesen, president of the Netherlands Media-Ombudsman Foundation, who has been researching news ombudsmen worldwide, cited the termination of at least 10 in the United States in 2008 alone.⁵²

Press councils, meanwhile, can be expensive ventures, especially those that want to range broadly with educational and outreach efforts as well as receive complaints. Conybeare, of WAPC, said funding is one of the top barriers for press councils. “It’s just hard to sustain something based on voluntary contributions,” he observed.⁵³

Funding for press councils can come from a variety of sources. Some (for example, the Turkish Press Council) rely on annual fees from member media institutions, with no public funding. Some receive support from multilateral organizations such as UNESCO. Others receive grants from Western governments or international NGOs—such as the Danish Agency for Development Assistance or Open Society Institute. And the councils may also receive targeted funding for specific projects. The Press Council of Bosnia-Herzegovina, for instance, organized a conference in January 2009 drawing together roughly 40 representatives of press councils from the region and elsewhere in Europe, with the purpose of developing a joint strategy on media self-regulation. That conference was supported by the German Embassy in Sarajevo and by the Konrad Adenauer Foundation.

The U.S. government, through the U.S. Agency for International Development (USAID) also has supported the Bosnia-Herzegovina press council—for example, providing legal experts through the agency’s media program in support of a joint project with the OSCE “to draft a widely acclaimed freedom of information law that the [Bosnia-Herzegovina] parliament has now adopted.”⁵⁴ And later, according to a report prepared for USAID, the agency played a significant role in reviving the founding press council: “With USAID support, all the country’s major print media owners held their first-ever joint meeting in late 2005 and agreed to support the Press Council financially.”⁵⁵

USAID has also funded press councils in Peru⁵⁶ and Montenegro,⁵⁷ but these are very targeted, specific funding efforts. Overall, said Troy Etulain, senior advisor for media development at USAID, “we do not have any global programs or official policies which place a priority on self-regulation.”⁵⁸ And Meg Gaydosik, a USAID senior media development advisor specializing in Europe and Eurasia, noted that while the agency “does not have a prohibition on funding press councils, it’s just usually more of a European approach to press self-regulation.”⁵⁹

Nobody, including successful councils, says funding is easy. León, of the Peruvian Press Council, worries that the fact that her council receives basic funding from industry membership fees might make outside funders bypass the CPP in favor of other projects. “International support

is fundamental to the development of initiatives at a national level,” she said.⁶⁰ And for new councils, financial challenges can be severe. Haruna Kanaabi, executive director of the Independent Media Council of Uganda, which is still in its early stages of development, cites funding as one of the most important challenges. His media council, he said, has received limited outside support for establishing itself, but not for day-to-day operations, and he expressed frustration that “the media has also not come forward to support the council in terms of paying membership fees.”⁶¹

Meanwhile, for some well-established and respected organizations, independence from the government does not necessarily mean independence from the public treasury. This is the case for the India Press Council,

which supplements industry fees with government funds, as described on the Web site of India’s Ministry of Information & Broadcasting: “Notwithstanding the fact that a substantial part of [the council’s] funds is augmented from the Government, it has full functional autonomy and is independent of Government control in the discharge of its statutory responsibilities.”⁶²

c) Internal Barriers

Beyond the barriers of government interference and funding, it is worth stressing that there can be serious internal problems for media self-regulation as well.

Peter Mwesige is an expert on African journalism—a former editor in Uganda,

“Many media houses... are more likely to act defensively instead of addressing legitimate criticism.”

— Peter Mwesige, training editor for the Nation Media Group

former head of the journalism school at Makerere University in Kampala, and now the training editor for the Nation Media Group, with newspapers in Kenya, Tanzania, and Uganda. He adds this to the list of barriers for creating an effective press council: tradition.

“Sub-Saharan Africa does not have a tradition of peer regulation,” Mwesige said. “In fact, many media houses can’t even stand internal criticism. They are more likely to act defensively instead of addressing legitimate criticism. It is difficult, but not impossible, for such media houses to subject themselves to self-regulation.

“Having said this, I still think a well-funded and credible press council could make a difference over time. For now, many journalists and media houses have little respect for press councils,” Mwesige said.⁶³

That lack of respect can translate into a potentially fatal barrier: indifference by journalists. Without their willingness to participate in a press council’s activities—to defend their positions, publish corrections, or other responses to council findings—indifference can make self-regulation impossible. León, of the Peruvian Press Council, cited this as an initial barrier, which she said is slowly being overcome as the media watch, and come to trust, the council’s review process. Part of the concern among journalists, León and others note, is that councils could be manipulated by those subjected to in-depth reporting. Some journalists fear, she said, “that this mechanism could in fact become a space where individuals [singled out] by the media for irregularities or corruption, would be able to topple serious investigations or coverage on the basis of technicalities.” But she believes this concern has receded

with time and experience, and evolved to “a positive situation where, increasingly, journalists who work in member media outlets are challenged to defend their reports in the framework of ethical standards.”⁶⁴

Drew Sullivan, of the Center for Investigative Reporting, sees some journalists themselves as an issue in Sarajevo. Too many editors there, he asserted, work on behalf of political causes rather than journalistic principles. “That’s the main reason a press council in a country like Bosnia is likely to face a stiff uphill battle,” he said. “If they don’t live by professional standards, then a press council is irrelevant to them, and they’re not likely to abide by its rulings or even see value in the process.”⁶⁵

Similar problems can apply to ombudsmen. Writing in *The Comparative Media Law Journal*, published by the National Autonomous University of Mexico, Adriana Amado Suarez reviewed the role of the ombudsman in the Argentine press. She concluded, in part, that cultural issues have been a barrier against adopting ombudsmen throughout Latin America, where she pointed to “the close ties that the region’s communications media maintain with pressure groups, both political and economic, and the slow consolidation of civil rights.... [I]n our societies, the exercising of citizenship rights does not appear so clearly related to the right to access information.”⁶⁶

d) The alternative of litigation.

Gaydosik, of USAID, adds a cautionary note about press councils. While she agreed with Conybeare’s assessment that councils can be “one more arrow in the quiver” for those seeking free expression, she sees serious barriers, especially in countries with harsh laws governing defamation. “Where

they can function is in countries where the press council has established that they will try to resolve things, and both sides have agreed they will abide by it,” she said. But that is not often the case in her experience, she said. “In a really oppressive environment, a press council just is not acknowledged. People go to courts right away,” she observed. “Too many people are sitting in jail in too many countries for defamation. That’s what press councils need to address.”⁶⁷

In some cases councils have done just that—at least to some extent. In Indonesia,

for example, the press law passed in 1999 that created an independent press council required that press disputes be settled through the council. That law left some ambiguity, however, said Endy Bayuni, of *The Jakarta Post*, and some with complaints against the media still go to the courts charging defamation. But, he noted, the press council “has been active in its campaign for people to use its mediation services for defamation cases. It has been quite successful in convincing many businessmen to use the press law rather than the penal code in seeking recourse over defamation.”⁶⁸

V. Summary and Recommendations

Given the range of challenges facing press councils and in-house ombudsmen, are they worth serious attention from Western countries, multilateral organizations, and NGOs as an effective tool to promote the values of free press and democracy?

A 2002 World Bank book, *The Right to Tell: The Role of Mass Media in Economic Development*, outlined five factors that can “determine the success” of press councils:

1. Creation of the council must “originate with the press itself, and be desired by members of the press.” Governments or NGOs can encourage it (even, the authors suggest, with the government bargaining by offering lighter regulation), but the impetus must come from the media.
2. Councils must have enough industry cooperation and support “that media firms feel obliged to comply with their decisions.”
3. There must be “leadership and a genuine desire among the media profession to improve on their work.”
4. There must be a press code, or something like it. “Designing ethical guidelines that balance media freedom and responsibility is critical.”
5. Standards must be applied consistently.

Andrea Cairolea worked with UNESCO for five years and dealt with press councils in the Central African Republic, Nepal,

and Afghanistan, among other countries. “It is very complicated,” he said. “Usually there are various constraints” on freedom of information in the countries involved. Funding groups such as UNESCO face a dilemma: “We are by definition in the middle, between the government and our goal, which is sincerely to promote freedom of information. Often the window of opportunity is very small.”⁷⁰

CPJ’s Simon, while skeptical of press councils, honors what he sees as the rare success, such as the Peruvian Press Council. There, “having a press council as an institutional voice of the established media was extremely effective.” In general, though, Simon said, there is a built-in problem: “Press councils can function well in societies where there are other independent institutions. But these are precisely the countries that need them the least.”⁷¹

Sullivan, who speaks from a perspective informed by his experiences with the local media, politicians, and organized crime in Bosnia, said that press councils “are more effective in working civil societies where the rule of law is enforced and the media generally demonstrates high standards.” Still, although he observes that many media organizations in Bosnia neither recognize the country’s press council nor abide by its rulings, “it’s better to have some tool to pressure for change. And the work that they do negotiating settlements is useful. It’s better to have them than not have them. But expectations are pretty low.”⁷²

No one, even the staunchest supporters of self-regulation, denies the challenges.

But even the skeptics acknowledge there are undeniable successes, even in very challenging situations. What follows are observations from experienced observers and veterans of media self-regulatory efforts about what is needed to make this work as effective as possible. They are not all in agreement about specific ideas, but there is a common thread: if one hopes to achieve a democratic society with the help of a free press, the press must hold to high standards of ethical and thorough coverage. When that happens, these advocates believe, it will provide a tool for maintaining independence from the government, an essential step toward societal change.

- Work first in the newsroom.** David Dadge, of the IPI, says this of multilateral organizations and other organizations that put their funding support into press councils: “They’re slightly missing the point in supporting the [councils]. You can’t deny working with the individual media houses as well.” For Dadge, the most important first step would take place *within* media houses in developing countries. “You *have* to focus on the newsroom itself,” he said, through something like an ombudsman. “If you raise the standards in the individual organizations, you are in effect protecting the media and press freedom.” An in-house complaint system could be the first step in a process that could then move on to a press council, if necessary. Dadge said he suspects that if an individual media house were to hire an ombudsman, then advertise to the public what it is doing to raise standards, it would strengthen that organization not

only in a business sense, but against incursions by the government.⁷³

- Let the sun shine in.** CPJ’s Simon does not advocate against organizations such as press councils, he just doubts their effectiveness in societies where problems such as corruption are widespread—affecting the media as well as other institutions. He suggests an alternative. “The simplest and cleanest way to police the media is to report on it,” he said. “A fairly inexpensive way [for funding groups] to support free press would be to support this sort of thing— independent reporting on the media. And it would give fodder for a press council, because the issues would already be aired publicly.” This could be as simple as a blogger reporting on the media, he said: even if the public did not necessarily see it, journalists would, and that would make a difference. “Sunlight—it’s the remedy that does the least harm and is least likely to be co-opted,” he said.⁷⁴
- Don’t shortchange the funding.** It is critical to recognize that a creative, aggressive and standards-driven press council will require a regular source of funding, and it cannot rely on any discretionary governmental support (although in some cases funding is written in to a council’s founding statute in a way that protects its independence). Some of the most valuable work councils are doing is supported in whole or in part by outside groups. The Media Council of Tanzania, one of the few success stories in Africa, has developed and begun implementing

a four-year program strategy with the support of funds from Switzerland, Sweden, Norway, and Denmark. The Peruvian Press Council developed its “Transparent Municipalities” project to promote governmental accountability and the public’s access to information with the support of the National Endowment for Democracy, the British Council, the Finnish embassy, and the United Nations Development Program.

The Press Council of Bosnia-Herzegovina receives international funding for a number of its initiatives. “We couldn’t survive without international donors,” said executive director Ljiljana Zurovac. But she also recognizes a reality: she must work hard and fast to make the council more independently sustainable, because other parts of the world are flaring up and attracting the attention (and money) of funding groups. “This day will come,” she said. “This region is not interesting to donors any more.”⁷⁵

- **Provide protection against litigation.** As Gaydosik, Bayuni, and others have observed, a voluntary self-regulatory body such as a press council can be largely irrelevant in countries where it is easy to take journalists to court for defamation, regardless of what a council might do. The statutory provisions that set up the Indonesian press council (and the council’s work in aggressively advocating for using its mechanism to resolve complaints) points to one way to minimize this problem. Such legal security is also the goal of

Zurovac’s efforts to provide education on media law for judges in Bosnia and Herzegovina, and consultation on media cases that come to the courts.

- **Above all, focus on journalistic standards.** Again and again, people who have worked either as journalists or with journalists in countries undergoing media development stress the same point. While a press council certainly has an essential role to play in advocating for free press rights against government encroachment, it is critical that journalists—and councils—also take their full share of responsibility for raising their own standards, ideally by writing, and then living by, a formal code of ethics and standards.

This is not a matter of idle principle. Unethical, unprofessional, and irresponsible behavior by the media will simply erode credibility, these observers say—and virtually invite the government to intervene. In 2004 in Peru, charges of ethical lapses, along with a series of unsubstantiated investigations published in the Peruvian media, badly eroded the public opinion of journalists, León said.⁷⁶ That remains an issue in countries such as Uganda and Kenya, where “brown-envelope journalism”—writing stories, or not writing them, based on who will pay you—still exists, despite written ethics policies; where newspapers rarely correct mistakes; and where reporters frequently file stories relying only on a single governmental or otherwise self-interested source.⁷⁷ Throughout Africa, Dudge said, too

many journalists are going to jail not because of repression, but because they simply got the story wrong.⁷⁸

Endy Bayuni, of *The Jakarta Post*, has practiced journalism both under a repressive regime and in an atmosphere of relative freedom, and he feels strongly about the work ahead.

“The battle for press freedom is not over yet in Indonesia,” he said. “Let’s hope that the press council can do its job, both to ensure freedom but at the same time also ensure [an] ethical press.

“Somehow, the two are related.”⁷⁹

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- ¹⁶ Yavuz Baydar (readers’ representative, *Sabah Daily*, Istanbul, Turkey), quoted at length in “Media and debate over public sphere, headscarved journalists,” *Sunday’s Zaman*, November 18, 2007, <http://www.sundayszaman.com/sunday/detaylar>.

[do?load=detay&link=2465.](#)

¹⁷ Pritchard, interview, February 18, 2009. For more on Pritchard's view about the business value of having an ombudsman at a newspaper, and on his newspaper's survey of readers, see <http://www.newsombudsmen.org/prez.htm>.

¹⁸ Material about the Press Council of Bosnia-Herzegovina from Ljiljana Zurovac (executive director, Press Council of Bosnia-Herzegovina), in telephone interview with the author, March 30, 2009.

¹⁹ Unless otherwise cited, material about the Peruvian Press Council from Kela León, (executive director, Peruvian Press Council), in e-mails to the author, February 12 and March 6, 2009.

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