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TOPIC: INTRODUCTION TO MEDIA LAW AND ETHICS

HENRY MULUH
DEPARTMENT OF JOURNALISM AND MASS COMMUNICATION
UNIVERSITY OF BUEA
henrymuluh@yahoo.co.uk

INTRODUCTION

Every institution, profession or society has rules that guide how it functions. In journalism or mass communication, someone is regarded as a professional not just because he/she has gone through a journalism training school and learnt about what is expected of a journalist but the fact that he/she knows and understands and can apply the ethics of the profession.

We will therefore be looking at media law and ethics as that which guides the journalism profession.

ETHICS

'The pen is mightier than the sword'.

If the statement is not correct, malicious or damaging, the impact is immediate and lasting.

That is why journalists must take their work seriously and recognize the impact they can have on their community. Many journalists have their own personal code of ethics.

Their sense of ethics helps them determine what is fair when they write about others and set standards for their own performance.

Most newsrooms have a formal set of rules of conduct for their journalists.

For example:

- *Some newspapers and broadcasters will not allow their reporters to accept gifts, meals or free services from people they meet through reporting. That policy makes it clear that reporters cannot be influenced by others as they do their stories.*
- *Other news outlets refuse to let their reporters quote any "off-the-record" or unnamed sources in their stories. They want to ensure that all quotes and information can be tracked back to a specific person and that gives the story credibility among the readers.*

- *Other newsrooms have specific guidelines for staff when it comes to covering issues that they have a personal interest in. For example, a person whose spouse sits on the school board would not be permitted to do stories related to the board's work.*

Ethics: A set of principles that guide the way journalist do their work.

Hypothetical Case Study

On Tuesday February 19th two heavily armed students walk into PCSS Buea and opened fire. More than a dozen students died. With no warning, local media found themselves having to cover what turned out to be the bloodiest rampage in the history of Cameroon. Some stations performed better than others. Many made mistakes, some of them spectacular. Consider the following:

- While the gunmen were still presumably roaming the halls, some stations aired live cell phone interviews with students. One news anchor went so far as to urge students to call the radio station instead of the police (this advice was quickly retracted though). One purported student cell phone call, which was aired live on one of the radio stations news service, turned out to be a hoax.
- One other local radio news producer took such a student call and handled it far differently. Realizing she wasn't trained as a crisis counselor or hostage negotiator, she didn't even consider putting the caller on the air. Instead, she urged the student to call the police and then disconnected the call.
- Stations aired emotional interviews with extremely distraught juveniles at their most vulnerable moments, interviews that wound up being replayed again and again on national news media.

There were clearly different ethical and decision-making processes at work among the various newsrooms and journalists. In the aftermath, the local and national news media endured intense criticism. There was also some praise for the self-restraint and balance some of the journalists showed.

If this were to happen in your newsroom, would you handle it well? Whether you have had training in ethical decision-making or not, the outcome is doubtful.

According to Bob Steele (Tuggle et al, 2004:217) “*our individual ethical principles compete with each other and may compete with other people’s principles. So we have to have the skills of ethical decision-making, the process and tools to work through conflicting principles and colliding values*”. Tuggle et al (2004) further citing Steele et al suggests that “*ethics is not something you have; its something you do. Ethics isn’t simply an injunction to “do right”*”. **It’s a process for achieving that goal.**

The Decision-Making Process

The decision-making processes in most newsrooms come in three flavours or at three levels:

Gut Reaction

Most journalists consider themselves ethical. That is to say they ‘go with their gut’ or ‘trust their instincts’. But ‘gut-level reactions, though important, are just the first step. Your gut is unique to you and shaped by an entire lifetime of personal experiences and past incidents, both pleasant and unpleasant. Your gut feelings can be emotional, prejudicial, unreasonable, strongly set, and even irrational. According to Steele (200) ‘you should listen to your gut but don’t completely trust it’.

Rule Obedience

A journalist has recognized there is an issue but does not know how to proceed. This is when you refer to the stations policy manual- or if the station does not have you discuss the issue in light of the stations known rules, regulations, and precedents; picking the rule that seems to fit

Reflection and Reasoning

The rules mentioned above are just guidelines. And at this third stage, the journalist will find the proper course of action in light of the given facts while taking into account the stations guidelines and policies.

How does one decide whether a given course of action is ethical?

The Society of Professional Journalists has adopted one of the best ethical codes which contain the following four basic points:

- Seek the truth and report it.
- Minimize harm.
- Act independently.
- Be accountable.

The Poynter Institute in Florida USA has guidelines which come in the form of questions that a journalist or journalists should ask when confronted with an ethical dilemma:

- What do we know? What more do we need to know?
- What is our journalistic purpose?
- What are our ethical concerns?
- Which organizational policies and professional guidelines must we consider?
- Which other voices, people with diverse perspectives and ideas, should we include in the decision-making process?
- Who are the stakeholders- those who will be affected by our decisions? What motivates them? How would we feel if we were in their shoes?
- What are the possible consequences of our actions?
- What are our alternatives?
- Will we be willing- and able- to publicly explain our actions?

Whether you have time or not it is important that you go through all these steps answering these questions if your news station thinks ethical decision-making is important.

Journalists have gotten into trouble especially in Africa, for telling the truth. Tricia Oben of CRTV Douala was suspended for reporting the truth in the case of the Bepanda Nine.

A journalist should rather get into trouble than not to tell the truth and why Eduardo Cue, journalism trainer on ethics and attached to the United States Embassy Public Affairs Section suggests that ethics is the obedience of the impossible and as such journalists should do the following:

- report truthfully
- act independently

- professional integrity is important for the journalist.
- Keep the promise of your source.
- Make sure no misrepresentation or distortion is made.
- Avoid money transaction in the acquisition of news for this makes the journalist to lose credibility.
- Pursuit of the news is not a licence for arrogance.
- Try to act independently and keep your source secret.

MEDIA LAW

As journalists, we should always be concerned that our stories avoid unfairly injuring someone with defamatory information. We therefore sometimes need other guidance in doing the right thing. Consequently legal standards have been established to protect society from unethical conduct. The following legal concerns are designed to address conduct that does not conform to accepted standards of right and wrong, specifically as they relate to the practice of journalism.

The Law: Libel

Libel is a published false statement (defamation) that is damaging to a person's reputation, to a business or a product. For material to qualify as libel the libeled subject must be able to be identified and the material must have been published by someone who knew it was false (spoken falsehood is **slander** and written defamation which is more permanent is **libel**)

The key to avoiding a libel suit is to be able to prove anything you broadcast or publish in a court of law.

TRUTH IS YOUR FIRST DEFENCE.

When reporting, you must remember not to use second-hand information. You can't get an accurate story from a friend of a friend of a guy who knows the guy who saw the accident they are reporting on. Get the facts from the source.

If you can't get an interview with a believable source, that's fine. You may have to go out and find a corroborating source to back up the previous person's comments. Even if he/she refuses to comment, the reporter can put it in the story. Make the refusal of a comment important.

Consent Is Your Second Defence

Basically, when you are doing an interview, the person you are talking to will know that their comments are "on the record". That means that everything that they say is a source of information. He/she will ask to be "off the record" if they do not want their name associated with the information given. "Off the record" is a way of getting the information from the source, without letting the readers or listeners know it was him/her. You simply tell the information without attributing the source.

If the information was about the recent cuts to jobs in the government and the source was a minister in the cabinet, they could say "a source said that....."

If the source says to the reporter "I don't care what you print, I didn't do it", the source just told you that anything you print is all right with them, so print the story. You should record the date, time and place he/she said it, or tape record it.

Get information or facts from both sides of the story. Balance your opinions. If you can, you should get a source that is an authority on the subject. That gives believability to your story.

Fair Comment Is Your Third Defence

Opinion is all right to use if it is not your opinion. You have to save personal opinion for an editorial or entertainment reviews. Another person's opinion on your topic is fine to use even if the comment is a bad one. That's called fair comment.

Example: If you interviewed a pastor protesting the Moderator's decision to cut 25% of all funding to the children of pastors, the protestor could call the Moderator a "liar." You could print/say it under fair comment as it is not your opinion. But you have to make sure you attribute the statement.

Privilege Is Your Fourth (And Last) Defence

If the information you are using is of public record, like a court case or a meeting of the government, all spoken words are off record and are written down, so you have a right to get information needed.

The Law: Copyright

Copyright is a law giving rightful ownership to an original piece of work. These works could be books, movies, songs, essays, articles, letters, or poems.

As a reporter you must give a reference to people whose work you put in a story. Creative people want to see that their work is identified as theirs and not someone else's.

When giving reference to someone's work, you must include the following:

- The name of the writer, composer, artist, or owner
- The title of the article, album, picture, or other work
- The publishing or production company, or record label
- The year it was created or published (if available)
- Copyright symbol (©) is optional.

The Law: Obscenity

This is mainly to do with print, the internet and television. It involves photographing capital punishment (executions), pornographic images and indecency.

The Law: Invasion of Privacy

This involves a story that is true, that identifies, and that harms. To defend against invasion of privacy, the journalist has to prove the newsworthiness of the story. A rape victim can not be identified unless she decides otherwise. Even if you were to interview a witness to the crime, that witness should not name the victim.

When you also publish a photograph of headless corpses of accident victims, you somehow are invading their privacy. Yes there is no law forbidding the publication of corpses in Cameroon and most African countries but it is forbidden to show corpses on television in the UK, USA and most Northern European countries.

The Law: Invasion of Physical Solitude

Should we use hidden microphones and cameras? It's generally agreed that unless the story is of significant magnitude and there is no other way to gather facts, the hidden camera and microphone should not be used. People have a right to expect their physical privacy to be respected. Additionally, going onto private property without permission could lead to legal problems.

Conclusion

Looking at ethics from a global or international perspective, Rushworth Kidder identifies three approaches to ethical decision making:

Utilitarianism to him is the approach whereby you explore the consequences of your actions and decisions. If I do this the following will happen; if I do that something else will happen. But which decision will result in the greatest good.

Kant's categorical imperative whereby whatever you decide, you can be confident that it is moral or ethical if you can state that the principle or rule upon which you based your decision should be a universal law. In other words you decide to act on reasons that would hold true for everybody else in the world in the same circumstances.

And lastly the Golden Rule or Reversibility is the principle that you should "do to others as you would have them do to you". It comes down to putting yourself in another's place, reversing one's role- a 'care-based' approach.

A good journalist has a moral compass. He or she strives to present a report that is true rather than false. The good journalist never operates from a sense of malice, never allows false information to discredit her report. The good journalist plays fair, doing unto others as he would have them do unto him or her. The good journalist is not likely to have to defend herself in a libel suit. A journalist can have fun doing a report but should never lose the sight of the power in his or her hands.

All said and done responsibility is the watch word.

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