



CENTRE FOR LAW AND DEMOCRACY

Background Document: Guidance for the Myanmar Press Council¹

Introduction

The independence of the media is crucial to building a healthy democracy. But although a free and unfettered press is of core importance to a democratic system, there is a legitimate need to promote professionalism in the media and to provide the public with an avenue to file complaints when minimum standards are not met. The pressure surrounding competition for stories and audience share, for example, can promote unprofessional behaviour. The need for a system of redress is of particular importance in emerging democracies or post-revolutionary contexts, where the media may be finding its footing after a prolonged period of repressive government. Moving from a system of near-total control to one which is largely free presents serious challenges. Media outlets may lack a proper editorial structure, or the institutional expertise, to responsibly guide their conduct.

In order to assist the Myanmar Press Council (MPC) in playing this vital oversight role, this document outlines some examples of how parallel bodies around the world deal with problems or complaints. The purpose of this guide is to inform the MPC's future decision-making, by giving an insight into how parallel systems have handled similar cases. The issues were selected based on their interpretive value to the main principles found within Myanmar's *Media Code of Conduct* and the *Guidelines for Media during Elections*.

1. Accuracy

A key standard for the media is to report in an accurate and balanced manner, specifically avoiding misleading, misrepresentative or defamatory statements. An important component of the obligation of accuracy is fact checking. It is also important to clearly distinguish between factual reporting and opinion or editorial pieces. Accuracy forms a fundamental tenet of Press/Media Council Codes of Conduct around the world.

The introductory section of Myanmar's *Media Code of Conduct* describes the responsibilities of media in a democracy as including "duties of accuracy and balance, fairness and respect for others" and promotion of public debate in which "all voices are properly and fairly represented."² Further, Standards 1.1 and 1.2 set out the obligations not to "disseminate material

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² Myanmar News Media Council, *Media Code of Conduct* at 1.

which is inaccurate, misleading or distorted,” to verify facts upon which a report is based, and to promptly correct any inaccuracies or misrepresentations “with due prominence” including, in appropriate circumstances, providing for a right of reply.³ Standards 1.4 and 4.1 establish the necessity of clearly distinguishing between fact, speculation and personal opinion or comment.⁴ The importance of these obligations is reinforced in the *Guidelines for Media During Elections* in which media outlets are advised to “provide a right of correction or reply as soon as possible for election-related content which is false, defamatory or breaches the Media Code of Conduct”.⁵

In addition to publishing corrections for inaccurate or misleading material, the *Code of Conduct* sets out further remedies that may be ordered by the MPC, including publishing a statement of the violation, an apology, offering a right of reply, and disseminating the Media Council’s findings with respect to a complaint.⁶

Nihon Shinbun Kyokai (NSK), the Japan Newspaper Publishers & Editors Association identifies in their *Canon of Journalism* the requirement for accuracy as derived from the fact that “newspapers are the first chroniclers of history, and the mission of reporters lies in the constant pursuit of truth.”⁷ While the language varies from place to place, this type of standard is found across many guiding documents for press councils. The *Code of Ethics for the Austrian Press*, a voluntarily applicable code for print media, recognises this obligation as paramount, stating “conscientiousness and accuracy in research and reproduction of news and commentary are a supreme obligation of journalists.”⁸

The Press Council of India, a statutory, quasi-judicial body which regulates newspapers,⁹ outlines the basic components of the obligation of accuracy in its *Norms/Guidelines on Principles and Ethics*:

1. Accuracy and Fairness

i) The Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. All sides of the core issue or subject should be reported. Unjustified rumours and surmises should not be set forth as facts.

...

2. Pre-Publication Verification

i) On receipt of a report or article of public interest and benefit containing imputations or comments against a citizen, the editor should check with due care and attention its factual accuracy ...¹⁰

Similarly, the Australian Press Council, a self-regulatory body overseeing newspapers, magazines and their online counterparts, sets out its own framework governing the standard of accuracy in its *Statements of Principles*:

³ *Ibid*, at 3.

⁴ *Ibid*, at 3–4.

⁵ Available at: www.mediasupport.org/wp-content/uploads/2015/06/Election-Guide-Book-Eng-version-Final1.pdf.

⁶ Myanmar Press Council, *Media Code of Conduct* at 2.

⁷ *The Canon of Journalism* (adopted 21 June 2000). Available at: <http://www.pressnet.or.jp/english/about/canon/index.html>.

⁸ Österreichischer Presserat, *Code of Ethics for the Austrian Press* at 2.1. Available at: http://www.presserat.at/show_content.php?hid=2 [note: translated to English via Google Translate].

⁹ Defined as “any printed periodical work containing public news or comments on public news”, *The Press and Registration of Books Act 1867* (22 March 1867), at part I section 1.

¹⁰ *Principles and Ethics*. Available at: http://www.presscouncil.nic.in/Content/62_1_PrinciplesEthics.aspx.

Accuracy and clarity

1. Ensure that factual material in news reports and elsewhere is accurate and not misleading, and is distinguishable from other material such as opinion.
2. Provide a correction or other adequate remedial action if published material is significantly inaccurate or misleading.

Fairness and balance

3. Ensure that factual material is presented with reasonable fairness and balance, and that writers' expressions of opinion are not based on significantly inaccurate factual material or omission of key facts.¹¹

Italy's Ordine Nazionale dei Giornalisti (Order of Journalists) *Charter*, which binds journalists through statute, states that journalists should "respect, cultivate and defend the right of information for all people; for these reasons he researches and diffuses every piece of information that he considers of public interest in observance of truth and accuracy."¹² Spain's professional organisation of journalists, la Federación de Asociaciones de la Prensa de España (FAPE) provides journalists with guidance on truthful reporting by recognising "respect for truth" in their *Code of Conduct* as the primary commitment of ethical journalism. The Code also guides journalists to only report facts from reliable sources, without falsifying documents or omitting essential information and not to publish false, misleading or distorted information. Journalists must also verify information that they disseminate, and provide "natural or legal persons" the opportunity to reply to inaccuracies.¹³

In each example, the emphasis is on truth, with a requirement for the press to substantiate or verify the information before it is published. Furthermore, information must be presented in its proper context, thereby avoiding mischaracterisations of the facts. Breaches of accuracy can also arise from omissions.¹⁴ While news reports should exclude reporters' personal convictions or bias,¹⁵ Quebec's Conseil du Presse clarifies that the media's duty is "synonymous with accuracy, precision, integrity and respect" but does not require the journalist to practice conformity in their reporting.¹⁶ Publications should clearly distinguish between editorial comment and fact-based reporting, so as to avoid confusion between the two. The NSK cautions, "editorial commentary should be an honest expression of the writer's belief, not an attempt to court popularity."¹⁷

When allegations are made about an individual or organisation, most press councils require that they be granted the opportunity to respond or comment, preferably prior to publication. For example, in Botswana, the Press Council's *Code of Ethics* states "all reasonable steps must be taken to ascertain and include the response from the individual or organisation" prior to publication.¹⁸ Similarly, the *Code of Ethics for the Austrian Press* requires media to try to obtain

¹¹ *Statements of Principles* (as amended 1 August 2014). Available at: <http://www.presscouncil.org.au/statements-of-principles/>.

¹² *Charter of duties of the journalist* (Document CNOG-FNSI of 8 July 1993). Available at: <http://www.mediawise.org.uk/italy/>.

¹³ *Code of Conduct* at 2 and 13(a) and (c). Available at: <http://fape.es/home/codigo-deontologico/> [note: translated to English via Google Translate].

¹⁴ *Statements of Principles* (as amended 1 August 2014). Available at: <http://www.presscouncil.org.au/statements-of-principles/>.

¹⁵ *The Canon of Journalism* (adopted 21 June 2000). Available at: <http://www.pressnet.or.jp/english/about/canon/index.html>.

¹⁶ *Code of Ethics*, Responsibilities of the Press. Available at: <https://www.fpiq.org/deontologie/guide-de-deontologie/> [note: translated to English via Google Translate].

¹⁷ *The Canon of Journalism* (adopted 21 June 2000). Available at: <http://www.pressnet.or.jp/english/about/canon/index.html>.

a statement from the subject prior to publishing, and where accusations have previously been raised publicly, to indicate as such.¹⁹

Correction notices regarding factual inaccuracies should also be offered “as soon as knowledge of errors of importance in the published information is received.”²⁰ Hong Kong’s Press Council encourages newspapers to “provide persons or organisations affected with the earliest opportunity to reply, and corrections should be made promptly.”²¹ The Press Council of India requires newspapers to “suo-motu publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious laps[e].”²² Belgium’s Council for Journalism recognises the importance of incorrect information being “put right without restriction and without prejudice to the legal provisions on the right to reply.”²³ Member journalists of the former Washington News Council, in recognising the importance of correcting inaccuracies, ascribed to a public ‘TAO of Journalism’ pledge which states:

“If we get any facts wrong, we will admit that promptly and publicly. We will post/publish/print/podcast/broadcast a correction or at least a clarification. We will fully explain what happened to cause the error or mistake. We will do a follow-up story if that is appropriate, putting the original material in better context. We will apologize and promise to be more careful next time.”²⁴

Botswana’s *Media Code of Ethics* explicitly prohibits publications from maliciously making “unfounded allegations about others that are intended to harm their reputation.”²⁵ South Africa’s Press Council ensures “news shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.”²⁶ The membership-based Russian Union of Journalists’ *Code of Professional Ethics* considers malicious or defamatory publications as “grave professional offences.”²⁷

As is clear from the above articulations of the accuracy standard, this obligation is of the utmost importance for the media. It is taken very seriously by media oversight bodies around the world, and forms the basis for many public complaints. Violations of the accuracy standard range from simple mistakes in the spelling of names, to serious defamations. Remedial orders for breaches of accuracy vary in accordance with the seriousness of the error.

¹⁹ Österreichischer Presserat, *Code of Ethics for the Austrian Press* at 2.3. Available at: http://www.presserat.at/show_content.php?hid=2 [note: translated to English via Google Translate].

²⁰ Sound Press Ethics’ at A7. Available at: <http://www.pressnaevnet.dk/press-ethical-rules/>

²¹ *Journalists’ Code of Professional Ethics* (adopted 22 August 2000). Available at: http://presscouncil.org.hk/en/web_ethics.php.

²² India Press Council, *Principles and Ethics*, section 13. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

²³ *Code of Journalistic Principles* (adopted 1982) at s 7. Available at: <http://www.rvdj.be/node/63> [note: translated to English via Google Translate].

²⁴ The TAO of Journalism Pledge. Available at <http://taoofjournalism.org/pledge/>. Note that the Washington Press Council was the last remaining press council in the USA, and closed in December 2014. It continues to operate as an advocacy organization called the TAO of Journalism Center.

²⁵ *Media Law in Botswana*, found in Fombad, Charles Manga. *Media Law In Botswana*. 1st ed. Alphen aan den Rijn, The Netherlands: Kluwer Law International, 2011.

²⁶ *South African Press Code* at 2.2. Available at <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>.

²⁷ *Code of Professional Ethics of Russian Journalists* (approved by the Congress of Journalists of Russia 23 June 1994). Available at: http://www.ru-j.ru/about/code_of_professional_ethics_of_the_russian_journalist.php [note: translated to English via Google Translate].

In April 2012 India's *Hindustan Times* reported on an explosion in the city of Varanasi, and stated the opinion of a police officer that the blast could be a coordinated effort of the Indian Mujahideen and "other terrorist outfits" such as the Popular Front of India (PFI). The PFI complained to the Press Council of India that the *Hindustan Times* falsely, intentionally and maliciously linked the PFI to the explosion, and labelled it a terrorist organisation without any evidence, resulting in damage to the PFI's reputation. The Press Council noted that "the news item is said to be based on the statement of police officials but such police officers had not been named" and said "newspapers should be more careful in the future and make due investigation before levelling such serious charges. We feel this direction is necessary to maintain communal harmony and bind this secular fabric of this country." The *Hindustan Times* was directed to publish a clarification, authored by the PFI.²⁸

In a decision which highlights the importance of a right of reply, a doctor complained to the Press Council of India that a misleading and defamatory article had been published by the *Royal Bulletin* which included allegations that he had been caught "in a compromising position" with a college student, and further had misappropriated hospital funds. The impugned doctor asserted that the student had come to meet his colleague who was not there at the time, and he had allowed her to wait in his waiting room. He also alleged that the *Royal Bulletin* had, by publishing the story under the guise of journalism, attempted to extort money from him. In response to the complaint, the Press Council of India noted the severity of the allegations against the doctor, and the fact that the *Royal Bulletin* did not respond to the doctor's complaint. The Press Council decided to "admonish and censure the respondent newspaper *Royal Bulletin* for [its] incorrect and defamatory report and denial [of the doctor's] right of reply" and forwarded a copy of its decision to the Information and Public Relations Department of the local government "for the action as they deem fit."²⁹

On 7 October 2014 the Press Council of Hong Kong found that an (unnamed) newspaper had published an article containing rumours surrounding allegations of money exchanging hands in the context of public "anti-home country" demonstrations, but that the title of the article had incorrectly stated these allegations as fact. The Press Council noted that editorial characterisation of the protests is properly a matter of opinion, but that the differences between the text and the title were misleading and therefore a violation of the *Code of Professional Ethics*. The Press Council directed the newspaper to pay closer attention in the future, in order to ensure that the titles of its future reports did not mislead readers.³⁰

The Australian Press Council considered the extent to which media must provide to the subject of a series of news articles a fair opportunity to respond to allegations of misconduct prior to the publication. In August 2014, *The Age* published a series of articles, both online and in print, in which clients of an investment company alleged that their advisors had cheated on a competency test and exposed them to financial loss. *The Age* noted that it had used "reliable sources," including the clients and the company's own mail-outs. Further, the publication had asked the company detailed questions prior to publishing the articles, and claimed they had not been

²⁸ F.No.14/147/12-13-PCI *Popular Front of India vs. Hindustan Times*, 15-16 July 2013, Press Council of India Compendium of Adjudications 2012-2013 at 87. Available at: <http://www.presscouncil.nic.in/OldWebsite/home.htm>.

²⁹ F.No.14/567/09-10-PCI *Johri vs. Royal Bulletin*, 15-16 July 2013, at 116.

³⁰ Available at: http://presscouncil.org.hk/zh/web_info.php?db=case&id=495 [note: translated to English via Google Translate].

provided with specific responses. The company complained however that it had been given only 24 hours to respond to a significant number of questions. In its decision, the Press Council noted that “standards of practice require reasonable steps to ensure factual material is accurate, not misleading, and reasonably fair and balanced,” but found that the company *had* been given a “fair opportunity to provide relevant information and comment” and could have requested extra time to respond, if required. The Council considered, however that one of the articles contained conjecture about serious and deliberate misconduct, and held that in these circumstances the company ought to have been given “specific notice and a fair opportunity” to respond, “even after taking account of [its] apparent reluctance to respond to specific questions.”³¹ With respect to remedy, the Council abided by its practice of requiring the media to publish the full adjudication, together with the Council’s logo “with due prominence” under the heading “Press Council Ruling”, within seven days of the decision.³²

With respect to broadcast media, the Danish Press Council, found that a television programme that follows and films the police making arrests had given the erroneous impression that an individual featured in a November 2008 programme was a drug dealer who sold to “young children”. In fact the individual, who was found in his home and fined only for drug possession, had never been arrested for, charged with or convicted of selling drugs. The broadcast failed to obtain the individual’s consent prior to filming him, and did not adequately blur his image, making him identifiable to viewers. Further, the individual’s stammer was highlighted in the broadcast, portraying him in “a demeaning manner” making him appear “pathetic and guilty.” The Danish Press Council “condemned” the television programme and ordered it to publish a statement summarising the Press Council’s ruling and providing a link to the full decision posted on the Press Council’s website.³³

The Washington Press Council (as it was at the time) took an interesting approach to complaints of inaccuracy and unfairness in a series of stories on voter fraud broadcast in fall 2008, shortly before an election. One story alleged that convicted felons, who are typically prohibited from voting during incarceration and sometimes even following their release,³⁴ were allowed to cast ballots and that fifteen deceased voters had cast “ghost” ballots. The stories contained “egregious factual errors”, including that the ‘felon’ was not a felon but had been convicted only of a less-serious misdemeanour, thereby maintaining her right to vote, and that the ‘dead’ voter was in fact the deceased man’s son who had the same name and was alive. Despite the fact that these inaccuracies were brought to the attention of the investigative report prior to airing, the television station aired the programme and refused to remove the stories from its website. While the complainant—a politician standing for re-election who had received numerous complaints from his constituents—informed the Council of these inaccuracies, he declined to proceed with a formal complaint. Instead, the Press Council decided to conduct a “Citizens’ Online News Council virtual hearing” and invited the public to vote on the television programme and provide

³¹ Adjudication No. 1642 *Macquarie/The Age*, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1642/>.

³² Factsheet on Publication of Adjudications. Available at: http://www.presscouncil.org.au/uploads/52321/ufiles/Fact_Sheet_re_Publication_of_Adjudications_07-11-14.pdf.

³³ Case No. 2009-6-0796 *C vs. TV 2*, 21 April 2009, Danish Press Council. Available at: <http://pressnaevnet.net.dynamicweb.dk/Information-in-English/Case-Example.aspx>

³⁴ ProCon.org, “State Felon Voting Laws”. Available at: <http://felonvoting.procon.org/view.resource.php?resourceID=000286>.

comments. Nearly all participants were critical of the programme and agreed with the complaint. The Press Council published the complaint and the results of the virtual hearing on its website.³⁵

Children

Media oversight bodies are often particularly concerned with protecting children and many codes of conduct contain specific statements to this effect. The Russian Press Council, established by an informal agreement between media organisations, admonished the newspaper *Moskovsky Komsomolets* and the author of a “Special Report” published in November 2004 over the journalist’s allegedly detailed chronicle of her stay at a charity ‘children’s village’ home in which the author described the children as talking in “thieves’ slang”, stealing money and food, breaking and tearing things, and accusing a guardian employed at the home of phoning the children late at night, while intoxicated. The Press Council found that the journalist had “distorted” the truth and created “fictional events” as she had only spent half a day in the home, had not “conduct[ed] confidential conversations” with any of the children, and had used photos of an “entirely different family” in the article. In their decision, the Press Council stated that a journalist’s freedom differs from that of a novelist, who enjoys creative freedoms in his or her work. “When it comes to the topics of serious public concern, this distinction is of special character. And it is very important ... when it comes to disadvantaged children.” The Press Council ordered the newspaper to publish the decision.³⁶

Public Figures

In general, public figures are expected to have a thicker skin in terms of media attention, since their decision to place themselves in the public eye will naturally lead to closer scrutiny of their lives. Nonetheless, duties of accuracy still apply, and media outlets have been sanctioned for stories about public figures. The German publication, *Celeb World* reprinted a 2013 blog post by tennis star Steffi Graf in which she asked how to slow life down. The publication mischaracterised the post as an “alarming cry for help.” Following a complaint, the *Presserat* noted in a decision on 13 September 2013 that subsequent “rampant speculation” about her alleged “life crisis” was attributable to the impugned publication. The Council held that the story was misleading and the publisher had disregarded its “due diligence” obligations.³⁷

Similarly, in a May 2015 decision, the Press Council of South Africa found that the *Sunday Times* had printed headlines, a poster and a Twitter feed portraying as fact that Graeme Smith, former captain of the national cricket team had informed his wife of his desire for a divorce through an SMS message. The article quoted unnamed “friends” of Smith’s wife who alleged that he had tricked her. Neither Smith nor his wife were approached for comment. The headline referred to his “divorce shame” and the text of the article called him “ruthless”. In its decision, the Press Council noted that the headlines and Twitter post stated the allegations as fact and were misleading about the contents of the article which was itself based on allegation. The Council

³⁵ *Reed vs. KIRO*, Washington Press Council. Available at: <http://wanewscouncil.org/category/complaints/reed-v-kiro/>.

³⁶ Decision No. 45, 11 July 2005, Russian Press Council. Available at: <http://www.presscouncil.ru/index.php/teoriya-i-praktika/resheniya-bolshogo-zhyuri-soyuza-zhurnalistov-rossii/1895-reshenie-45-bolshogo-zhyuri-soyuza-zhurnalistov-rossii> [note: translated to English via Google Translate].

³⁷ Available at: <http://www.presserat.de/presserat/news/pressemitteilungen/datum/2013/> [note: translated to English via Google Translate].

found that the publications “unnecessarily harmed Smith’s dignity and reputation.” As the South African *Press Code* distinguishes between minor breaches (Tier 1), serious breaches (Tier 2) and serious misconduct (Tier 3), the Press Council held that the *Sunday Times* had committed a serious breach and directed the newspaper to retract the statements in question, publish a short apology on its front page immediately below the masthead, publish a full apology and a link to the Press Council’s decision on page 2, and publish a full apology on its website.³⁸

2. Advertising

Myanmar’s *Media Code of Conduct* provides thorough guidance on advertising standards for media. In addition to requiring that advertisements must be clearly distinguishable from other media content (Standard 23.1), and prohibiting media from accepting payment in exchange for treatment or prominence in a publication (Standard 23.2), the *Media Code of Conduct* states that advertising material should be “legal, decent, honest and truthful”, observing criteria similar to editorial material (Standard 23.3).³⁹

Japan’s NSK provides a strong standard of policy and practice with respect to the regulation of advertising:

To defend freedom of speech and expression and to enhance the credibility of advertising, it is desirable for the newspaper industry to impose restraints on advertising on its own initiative through cooperation and agreement with those concerned with advertising, and not through legal restrictions or government intervention. The entire responsibility for the contents of advertisements lies, in the first place, with the advertiser. In publishing advertisements in their pages, however, newspapers must consider the social impact of newspaper advertising, eliminate improper advertising, defend the interests of readers and must establish principles to maintain and enhance the credibility of newspaper advertising.⁴⁰

The Press Council of India provides a relatively comprehensive set of rules governing content and procedure for publishing advertisements:

- ii) Newspapers shall not publish advertisements, which have a tendency to malign or hurt the religious sentiments of any community or section of society.
- ...
- v) Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to public decency, good taste or to journalistic ethics or propriety.
- vi) Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.
- vii) Publication of dummy or lifted advertisements that have neither been paid for, nor authorised by the advertisers, constitute a breach of journalistic ethics, especially when the paper raises a bill in respect of such advertisements.
- viii) Deliberate failure to publish an advertisement in all the copies of a newspaper offends against the standards of journalistic ethics and constitutes gross professional misconduct.

³⁸ *Graeme Smith vs. Sunday Times*, 8 May 2015, South Africa’s Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/graeame-smith-vs-sunday-times-2768>.

³⁹ Myanmar Press Council, *Media Code of Conduct*, at 8–9.

⁴⁰ *The Canon of Journalism* (adopted 21 June 2000). Available at: <http://www.pressnet.or.jp/english/about/canon/index.html>.

ix) There should be total co-ordination and communication between the advertisement department and the editorial department of a newspaper in the matter of considering the legality propriety or otherwise of an advertisement received for publication.

...

xii) An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.⁴¹

According to the *Charter of Duties of Journalists* adopted by the National Federation of the Italian Press and National Council Order of Journalists, journalists have a responsibility to ensure that the advertising message is distinguishable from journalistic content.⁴²

One final but equally important aspect of advertising is that journalists should not use their role as on-air personalities to disseminate commercial or advertising material which fails to clearly and unequivocally identify itself as such.⁴³

In a December 2014 decision, the Press Council of Ontario determined that the *Toronto Star* had published an advertisement containing an inaccurate map of Macedonia. The publication acknowledged that the map was inaccurate and explained that the advertising and editorial departments were separate and therefore advertising containing editorial content was not subject to the same review. The publication indicated that it was implementing a change in process so that advertisements containing editorial or news content would be sent to the editorial department for review before publishing. The Press Council advised the publication to alert its readers and advertisers to this new process.⁴⁴ This decision is similar to the Press Council of India's rule requiring "total co-ordination and communication between the advertisement department and the editorial department."⁴⁵

3. Privacy

Although the press has an important role in informing the public, news sources must also respect the right to privacy, as guaranteed by Article 17 of the *International Covenant on Civil and Political Rights* (ICCPR).⁴⁶ This requirement is reflected in Myanmar's *Media Code of Conduct*. Standard 5.1 forbids the use of private information without the consent of the impacted party unless there is a significant overriding public interest. Standard 5.2 of Myanmar's *Media Code of Conduct* requires that consent normally be given before an individual is photographed or recorded for media purposes in a private place. Standard 5.2 also protects information and actions in private places, defined as "a place where the individual has a reasonable expectation of privacy."⁴⁷ When photographs are taken in public places, media must not "associate an identifiable individual with a potentially damaging implication."⁴⁸

⁴¹ India Press Council, *Principles and Ethics*, section 36. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

⁴² *Charter of duties of the journalist* (Document CNOG-FNSI of 8 July 1993). Available at: <http://www.mediawise.org.uk/italy/>

⁴³ *Code of Professional Ethics of Russian Journalists* (approved by the Congress of Journalists of Russia 23 June 1994). Available at: http://www.ru-j.ru/about/code_of_professional_ethics_of_the_russian_journalist.php [note: translated to English via Google Translate].

⁴⁴ *Gouzelis vs. Toronto Star*, Ontario Press Council. Available at: <http://ontpress.com/recent-decisions/>.

⁴⁵ India Press Council, *Principles and Ethics*, section 36(ix). Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

⁴⁶ UN General Assembly Resolution 2200A(XXI) of 16 December 1966, in force 23 March 1976.

⁴⁷ Myanmar Press Council, *Media Code of Conduct* at 5.2.

⁴⁸ *Ibid.*

Private Information

What counts as private information can be difficult to define. The Press Council of India's *Principles and Ethics* defines it as including "a person's home, family, religion, health, sexuality, personal life, and private affairs."⁴⁹ The South African Press Council has held that private information specifically includes one's HIV status⁵⁰ and government ID numbers.⁵¹

Addressing a complaint regarding the publication of a story detailing a temple official's rude behaviour, the South African Press Council ruled that since the behaviour was part of a public interaction there was no reasonable expectation of privacy, and publication was in the public interest. Accordingly, the Council dismissed the complaint and found that the newspaper had the right to publish the temple official's full name.⁵²

Information which is publicly available is also generally not considered private information.⁵³ This can include anything freely available online.⁵⁴ Voluntary participation in public events can also place otherwise private information onto the public record. In this respect the Press Council of India ruled that a source's presence at a press conference announcing the arrests he had helped facilitate vitiated his right not to have identifying information published.⁵⁵

The extent to which a subject can be identified from published information is an important factor in determining whether privacy has been breached. Germany's *Presserat* found that a picture of a suspect's house labelled as "the crime scene" was not a violation of privacy because there was nothing to distinguish it from identical homes.⁵⁶ An Australian story about a murder suspect, however, was found to have violated the suspect's privacy by describing the crime and victim with sufficient detail to allow readers to identify the suspect.⁵⁷ In other words, if it would be an invasion of privacy to directly identify the subject of an article, the news source should also refrain from including information which would indirectly enable readers to identify them indirectly.

Public Interest

⁴⁹ India Press Council, *Principles and Ethics*, section 6. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

⁵⁰ *South African Press Code* at 4.9. Available at <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>.

⁵¹ *TC Mametja vs. Polokwane Observer*, 3 October 2014, South Africa's Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/tc-mametja-vs-polokwane-observer-2678>.

⁵² *Dr. Deon Naicker vs. Chartsworth Tabloit*, 24 April 2015, South Africa's Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/dr-deon-naicker-vs-chartsworth-tabloit-2760>.

⁵³ See, for example, India Press Council, *Principles and Ethics*, section 6. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

⁵⁴ 21 June 2013, Hong Kong Press Council. Available at: http://presscouncil.org.hk/zh/web_info.php?db=case&id=414 [note: translated to English via Google Translate].

⁵⁵ *Reddy versus Eenadu/Sakshi*, 27 March 2012, Press Council of India Compendium of Adjudications 2011-2012 at 176. Available at: http://presscouncil.nic.in/OldWebsite/COMPENDIUM_OF_ADJUDICATIONS_2011-2012.pdf.

⁵⁶ Available at: http://www.presserat.de/pressekodex/ein-fall-fuer-den-presserat/#panel-oeffentliche_ruege [note: translated to English via Google Translate].

⁵⁷ Adjudication No. 1610 *Complainant/Herald Sun*, 3 October 2014, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1610/>.

Decisions on whether to publish private information generally hinge on whether publication would, on balance, be in the public interest. The Australian Press Council has said that "a matter is in the public interest if it is of substantial and widespread significance, not merely something in which many people may be interested."⁵⁸

A broad range of themes can be covered within this definition, from public safety⁵⁹ to popular interest in sports leagues.⁶⁰ However, the public interest should not be equated with mere curiosity.⁶¹ For example, in criminal trial reporting, coverage of a victim's funeral has been found to be too invasive to be justified by the public interest in the trial.⁶²

It is generally accepted that those who choose to expose their lives in the public arena, including celebrities, politicians and other public figures, have a decreased expectation of privacy. As the South African Press Council explained in discussing a celebrity, "the media needed no invitation to write about his private life. As a ... public figure, the public interest factor weighed heavily."⁶³ Voters have a right to know about the motivations that underlie an elected official's policy choices.⁶⁴ However, this does not apply to the children of public figures.

Consent

One simple avenue to avoiding privacy concerns is to obtain consent from the subject. "A person can give informed consent to a report if they are reasonably aware of the circumstances to which it relates and the likely consequences for them of it being published."⁶⁵ Media should be cautious, however, about getting consent from victims of accidents or from their families when they are still in shock from the event, as they may lack the capacity at that moment to be informed or aware of what they are consenting to. Media should work from the default assumption that parties do not consent to publication of their personal information.

In the case of children, the consent of their parent or guardian should be sought.⁶⁶ Although Press Councils have suggested that circumstances could exist to justify publishing children's information without consent,⁶⁷ the public interest would have to be extremely high to override

⁵⁸ *Specific Standards on Coverage of Suicide*, Australian Press Council, July 2014. Available at: http://www.presscouncil.org.au/uploads/52321/ufiles/SPECIFIC_STANDARDS_SUICIDE_-_July_2014.pdf.

⁵⁹ *Ibid.*

⁶⁰ Adjudication No. 1628 *Complainant/Sunday Herald Sun*, 11 January 2015, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1628/>.

⁶¹ Adjudication No. 1612 *Michael Burns/The Sydney Morning Herald*, 13 August 2014, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1612/>.

⁶² *Ibid.*

⁶³ *Nkosinathi Mapumulo vs. Sunday World*, 31 October 2014, South Africa's Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/appeal-decision-nkosinathi-mapumulo-vs-sunday-world-2691>.

⁶⁴ See *Vincent Vena vs. Daily Sun*, 21 November 2014, South Africa's Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/vincent-vena-vs-daily-sun-2703>; *Singh versus Samaria Express*, 16 October 2006, Press Council of India Compendium of Adjudications 2006-2007 at 306, available at: <http://presscouncil.nic.in/OldWebsite/compendium-07.pdf>.

⁶⁵ *Specific Standards on Coverage of Suicide*, Australian Press Council, July 2014. Available at: http://www.presscouncil.org.au/uploads/52321/ufiles/SPECIFIC_STANDARDS_SUICIDE_-_July_2014.pdf.

⁶⁶ See, for example, *South African Press Code* at 4.8. Available at <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>.

⁶⁷ Adjudication No. 1560 *Complainants/Milton-Ulladulla Times*, 3 April 2013, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1560/>.

the privacy concerns here. The Australian Press Council has even found that the existence of a child's name in a public court record was not enough to justify publishing it.⁶⁸

Vulnerable Groups

The rules which protect the privacy of vulnerable groups, that is those suffering from grief, survivors of violent crime or children, are stronger than those protecting the average citizen, because intrusions into the privacy of these individuals can have particularly debilitating and lasting results. Standard 6.1 of Myanmar's *Code of Conduct* cautions that "approaches to people in extreme distress or personal grief or shock should be made with sensitivity and discretion."

As funerals are often deeply private events held on publicly accessible property, the extent to which they are covered under privacy protections varies. Reporters should exercise sensitivity and discretion towards those in mourning, but can attend any events open to the public unless the family has specifically objected, in which case reporters and photographers should stay away.⁶⁹

Victims of sexual assaults should generally not be identified in the media.⁷⁰ In cases where the incident is in doubt, media should not identify the person until it is resolved. For example, in India, a man was killed in a woman's home, and police had not determined if he was intending to assault the woman and/or if she was involved in the homicide.⁷¹ The Amar Ujala news service identified the woman concerning her role in the murder, and the Press Council of India held that the possibility of her status as a sexual assault victim should have prevented this identification.

Photographs of accident victims can be used once victims' families have been notified, if publishing the photographs is in the public interest,⁷² although they should be modified to make victims as unidentifiable as possible.⁷³ Media should not reveal the identity of suicides unless there is a clear public interest or close family has consented.⁷⁴

4. Hate speech

The media holds a powerful influence over society, for good or for evil. Widely disseminated material which inspires violence or hatred can be incredibly destructive. Although Article 19 of the ICCPR protects the right to freedom of expression, it is immediately followed by Article 20, which says that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." Among the most notorious examples of hate speech, and its potential to cause harm, come from Rwanda, where media

⁶⁸ Adjudication No. 1603 *Complainant/The Age*, 9 June 2014, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1603/>.

⁶⁹ *Olive Marie Olajide vs. The Province*, 24 May 1996, British Columbia Press Council.

⁷⁰ See, for example, *Principles and Ethics*, India Press Council. Available at: http://presscouncil.nic.in/Content/62_1_PrinciplesEthics.aspx; *South African Press Code* at 4.8. Available at <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>.

⁷¹ *Bareilly versus Amar Ujala*, 30 March 2007, Press Council of India Compendium of Adjudications 2006-2007 at 390.

⁷² *Jonathan Dean vs. Sunday Times*, 7 May 2015, South Africa's Press Council. Available at: <http://www.presscouncil.org.za/Ruling/View/jonathan-dean-vs-sunday-times-2767>.

⁷³ Adjudication No. 1637 *Complainant/The Weekend Australian*, 11 April 2015, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1637/>.

⁷⁴ See, for example, *Specific Standards on Coverage of Suicide*, Australian Press Council, July 2014. Available at: http://www.presscouncil.org.au/uploads/52321/ufiles/SPECIFIC_STANDARDS_SUICIDE_-_July_2014.pdf.

outlets' dissemination of racist propaganda was a key contributing factor in triggering the murder of hundreds of thousands of ethnic Tutsis. In the aftermath of the violence media figures were tried and sentenced by the International Criminal Tribunal for Rwanda for inciting genocide.

Myanmar's *Media Code of Conduct* addresses hate speech in Standard 10.3 which provides that media may "report and comment on all matters of public interest, but they should take care not to encourage or promote racial, ethnic or sectarian hatred or discord, including by one-sided reporting on ethnic tensions." This is in line with requirements found elsewhere. For example, Bulgaria's *Radio and Television Act*⁷⁵ cautions radio and television operators against creating or submitting for broadcast programmes that suggest national, political, ethnic, religious or racial intolerance.⁷⁶ The *Regulations to Canada's Broadcasting Act* prohibit broadcasters from airing:

[A]ny abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.⁷⁷

Hate speech can be broadly understood as an expression which incites hatred, discrimination or violence against a group based on based on some immutable or fundamental quality. According to the *Camden Principles on Freedom of Expression and Equality*, which were derived from a series of expert workshops on the subject, hatred in this context should be defined as "a state of mind characterized as intense and irrational emotions of opprobrium, enmity and detestation towards the target group".⁷⁸ The UN Special Rapporteur on Freedom of Expression has defined discrimination, in this context, as "any distinction, exclusion or restriction [based on a protected ground]... that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, on an equal footing, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of public life".⁷⁹

Although Article 20 of the ICCPR limits the scope of prohibited speech to "national, racial or religious hatred", many countries have extended this definition to other analogous grounds, usually based on its immutability or a parallel historical disadvantage, including ethnicity, gender, disability or sexual orientation.

The United Kingdom's Race Relations Act interprets 'racial grounds' as including "colour, race, nationality or ethnic or national origins" and "references to a person's racial group refer to any racial group into which he falls."⁸⁰ Likewise, 'religion' must be understood as covering an absence of such, or atheism. In *Adelaide co of Jehovah's Witnesses v. Commonwealth*, the High

⁷⁵ Law for the Radio and Television, 1998, Prom. SG 138/24, last amended Dec 2004. Available at: http://www.crc.bg/files/en/LAW_FOR_THE_RADIO_AND_TELEVISION.htm.

⁷⁶ *Ibid* at 17.

⁷⁷ Television Broadcasting Regulations, 1987, SOR/87-49, amended 1 September 2012 at 5(b). Available at: <http://laws-lois.justice.gc.ca/eng/regulations/SOR-87-49/FullText.html>.

⁷⁸ Article 19, *The Camden Principles on Freedom of Expression and Equality*, (London: Article 19, April 2009). Available at: <http://www.refworld.org/docid/4b5826fd2.html>.

⁷⁹ United Nations, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 7 September 2012, A/67/357. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/501/25/PDF/N1250125.pdf>.

⁸⁰ United Kingdom Race Relations Act 1976, 1976/74, 22 November 1976 at Article 3. Available at: <http://www.legislation.gov.uk/ukpga/1976/74>.

Court of Australia affirmed that “section 116 [of the Constitution, prohibiting discrimination on grounds of religion for public employment] proclaims not only the principle of toleration of all religions but also the principle of toleration of absence of religion.”⁸¹

Generally speaking, attacks based on political affiliation do not qualify as hate speech, partly because political affiliation is not an immutable quality the way one’s race is, but also due to the importance of facilitating robust political debate, and the need to avoid any potential to chill this vital area of the public discourse. In this regard, it is also important to note that hate speech must be an attack on a group, rather than on an idea. Attacks on ideas, regardless of how vitriolic, should be considered protected speech. This can be a particularly tricky distinction when dealing with religious matters, partly due to the heightened sensitivity that accompanies religious beliefs. Nonetheless, it is important to draw the line between attacks on a belief system and attacks on its adherents, and to enforce a legal framework where only the latter are prohibited as hate speech.

A good starting point to understand hate speech is the *Joint Statement on Racism and the Media* which was issued in 2001 by the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe Representative on Freedom of the Media and the Organization of American States Special Rapporteur on Freedom of Expression. The *Joint Statement on Racism and the Media* interprets international law as requiring hate speech laws to be clearly and narrowly defined, applied by an independent body in a manner which is neither arbitrary nor discriminatory and subject to safeguards against abuse. The Joint Statement further sets out that:

- no one should be penalized for statements which are true;
- no one should be penalized for the dissemination of “hate speech” unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;
- the right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;
- no one should be subject to prior censorship; and
- any imposition of sanctions by courts should be in strict conformity with the principle of proportionality.⁸²

A leading international case in understanding the difficult challenge that journalists face in covering hate speech-related issues is *Jersild v. Denmark*, which was heard by the European Court of Human Rights (ECtHR).⁸³ The case involved a journalist who was convicted by a Danish court of hate speech after broadcasting a documentary about a racist subculture in which the subjects made a series of derogatory statements about immigrants and ethnic groups. The ECtHR found that the conviction was unjustified since the journalist had made the documentary as a means of exposing the subculture’s existence and generating discussion about the racist attitudes rather than propagating them. This dovetails with the Joint Statement’s point that journalists should be allowed to decide how best to communicate ideas to the public, however it should not be interpreted as providing blanket immunity for anyone exercising a journalistic function. Coverage of true events can easily be skewed to whip up sentiment against a particular group. The key here is intent, and whether the journalist sought to deliberately push the

⁸¹ *Adelaide Company of Jehovah’s Witnesses vs. Commonwealth* (14 June 1943), 67 CLR 116, High Court of Australia. Available at: http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/high_ct/67clr116.html?stem=0&synonyms=0&query=Adelaide%20Company%20of%20Jehovah%27s%20Witnesses.

⁸² The Joint Statement is available at: <http://www.osce.org/fom/40120?download=true>.

⁸³ 22 August 1994, Application No. 15890/89.

discourse towards demonising a group or whether they merely sought to accurately cover the facts.

Determinations as to whether a particular expression should be considered hate speech must be made contextually. A statement made at a time of peace and tranquillity may fall on the acceptable side of the line, whereas an identical statement made at a time of heightened tensions between communities, such as during an outbreak of violence, may be considered hate speech.

In upholding a complaint against news source Telegrafi.com's online poll asking whether it was "right to damage the Serbian cemetery as 'revenge' for the removal of the monument in Preshevo?" (referring to a monument commemorating fallen Albanian guerrilla fighters from Kosovo's war), the Press Council of Kosovo determined that the accused had the right to ask the question, but had breached the *Press Code* by publishing responses containing hate speech. The impugned comments included the use of a derogatory Albanian term for Serbian people, and called for violence and the destruction of a monument commemorating a battle of particular importance to Serbian culture.⁸⁴ The Council reminded press to pay attention to this issue, and filter comments containing hate speech or other breaches of the *Press Code of Kosovo*.⁸⁵ In upholding a similar complaint regarding a reader's denigrating comments about Serbians in Kosovo, the Press Council of Kosovo urged online sites to refrain from disseminating hate speech, especially against minority and marginalised groups, and to take extra care when publishing the comments of readers which can contain content that does not comply with fundamental rights and freedoms."⁸⁶

As another example of problematic coverage, Bulgaria's Council for Electronic Media warned cable news channels over their coverage of Syrian refugees, which had described them as "cannibals" and "low-life primates."⁸⁷ In admonishing the journalists, the Council said that "it would take all necessary measures against the media that conveyed hate speech."⁸⁸

However, the South African Press Council Appeal Panel dismissed a complaint regarding a column which discussed the "infamous stereotype of Indians as unethical and dishonest", claiming that they "seek and exploit politically connected blacks to enrich themselves". Although the Appeal Panel found that the column "undoubtedly contains much offensive material", they dismissed the appeal because the material was clearly labelled as comment and because it "raised an issue of crucial and legitimate public interest; namely the tendency (comprehensively demonstrated in the complainant's submission) for South Africans

⁸⁴ *Opinion of Press Council of Kosovo on the complaint of Youth Initiative for Human Rights against news portal telegrafi.com*, Press Council of Kosovo, 5 February 2015. Available at: <http://www.presscouncil-ks.org/the-opinion-of-press-council-of-kosovo-on-the-complaint-of-youth-initiative-for-human-rights-against-news-portal-telegrafi-com/?lang=en>.

⁸⁵ Press Release, Press Council of Kosovo, 26 March 2013. Available at: <http://presscouncil-ks.org/kumtese-per-shityp-34/>.

⁸⁶ *Opinion of Press Council of Kosovo on the complaint of the Youth Initiative for Human Rights - Kosovo against the portal Indeksonline*, Press Council of Kosovo, 24 December 2013. Available at: <http://presscouncil-ks.org/opinion-i-keshillit-te-mediave-te-shkruara-te-kosoves-ndaj-ankeses-se-nismes-se-te-rinjve-per-te-drejtat-e-njeriut-kosove-kunder-portalit-indeksonline/>.

⁸⁷ Independent Balkan News Agency, *Bulgarian media slammed over xenophobia, hate speech in covering refugee issue*, The Sofia Globe, 7 November 2013. Available at: <http://sofiaglobe.com/2013/11/07/bulgarian-media-slammed-over-xenophobia-in-covering-refugee-issue/>.

⁸⁸ *Ibid.*

pejoratively to stereotype people of Indian descent.”⁸⁹ Context is also important here, as the Appeal Panel found that South Africa’s history of racial tensions made it more important to allow these questions to be aired. The newspaper was subsequently ordered to publish an abridged version of the Appeal Panel’s finding.

5. Discrimination

While discriminatory speech is generally not as serious as hate speech, it is nonetheless problematic, and is prohibited by Myanmar’s *Media Code of Conduct*. Standard 10.1 cautions media outlets to “avoid any discriminatory, derogatory or patronising reference to people’s race, colour, religion, sex, sexual orientation or preference, age, physical or mental disability or illness.” Standard 10.2 cautions against identifying these characteristics in media content, except where “directly relevant to the report” or significant to “readers, listeners’ or viewers’ understanding.” This provision also states that “references to vulnerable minorities” deserve particular care.

This guidance is similar to standards in place elsewhere in the world. The United Kingdom Press Complaints Commission includes in their *Editors’ Code of Practice*:

- i) The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability.
- ii) Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.⁹⁰

The German *Presserat* Guidelines include a firm prohibition against discriminatory speech:

There must be no discrimination against a person because of his/her sex, a disability or his membership of an ethnic, religious, social or national group.⁹¹

Likewise, the Hong Kong Press Council’s *Journalists’ Code of Professional Ethics* states:

Journalists in their reportage or commentary should not discriminate or encourage others to discriminate on grounds of age, race, colour, creed, religion, place or circumstance of birth, disability, marital status, gender or sexual orientation.⁹²

The provision contained in South Africa’s Press Code, while still containing a list of prohibited grounds, is more open-ended:

Except where it is strictly relevant to the matter reported and it is in the public interest to do so, the press shall avoid discriminatory or denigratory references to people’s race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or other status...⁹³

⁸⁹ *Ziyad Motala v. Sunday Times*, South Africa Press Council Appeal Hearing, 29 February 2012. Available at: <http://www.presscouncil.org.za/Ruling/View/press-council-appeal-hearing-ziyad-motala-vs-sunday-times-2226>.

⁹⁰ Independent Press Standards Organisation, *Editors’ Code of Practice* at clause 12. Available at: <https://www.ipso.co.uk/editors-code-of-practice/>.

⁹¹ Presserat, *The Press Code* as of 13 March 2013, at section 12. Available at: <http://www.presserat.de/pressekodex/pressekodex/> [note: translated to English via Google Translate].

⁹² *Journalists’ Code of Professional Ethics* (adopted 22 August 2000) at article 8. Available at: http://presscouncil.org.hk/en/web_ethics.php.

⁹³ *South African Press Code* at 4.5. Available at <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>.

The Australian Press Council's *Guidelines* expand upon reporting on the subject of race, and when it is relevant to include this information. After stating a general warning against gratuitous emphasis on the race, religion, nationality or colour, they provide further guidance:

An obvious case where reference to a person's physical characteristics or ethnic background is relevant, or in the public interest, is when they are part of police descriptions of wanted suspects... When a person's physical characteristics or ethnic background are tendered as relevant evidence in court, they are then matters of public record... Another danger is to accept too readily the race labels used by racist groups in hate campaigns; such labels should be examined carefully and critically... In the Council's view, in general, the press needs to show more sensitivity in reporting issues when minority groups are perceived in the community to be more "different" or when they are the subject of particular public debate.⁹⁴

The Press Council of India's *Norms of Journalistic Conduct* includes similar cautions around terminology:

Sexual minorities are sometimes derisively referred to by terms which reinforce stereotypes about the community. Instead, it would be more appropriate to use terms like sexual minorities, gay man or lesbian. It is not necessary to call them that either, as long as one does not stigmatise them.⁹⁵

In 2005, the Ontario Press Council found that a column which stereotyped Muslims as terrorists, denigrated the Third World as backward and unprogressive and spoke of gay marriage as "contemptible and degenerate went beyond the scope of acceptable discourse."⁹⁶ In their decision, they stated that "while it is appropriate for columnists to exercise wide latitude in expressing their opinion, no matter how controversial or unpopular," they should be careful to assess whether the speech goes beyond acceptable discourse in a given society to the point that it is unduly provocative. In 2014, the same Council heard a complaint from the Canadian Somali Congress alleging a story in the *Toronto Star* had made repeated reference to the Somali ethnicity of the criminal subjects of the story, "in violation of the *Star*'s own code of conduct." The Press Council noted that "the use of ethnicity in a story must be justified and defensible," but decided that the *Star*'s editor had provided adequate response to the complaint prior to their review, by admitting there was "no justification to continue to refer to the men as Somali... [apologising] in a column by the public editor" and publishing a link on their website connecting the story to the column.⁹⁷ The Press Council of British Columbia upheld a complaint that a column in the *Westender* was racist and discriminatory. The Council stated the column's references to the German language as "one bad-sounding language" and "icky" stereotyped and denigrated Germany and its people.⁹⁸ They further recognised that while "columnists should have the widest possible latitude to express strong opinions, ... [the accused] had perpetuated stereotypes which encouraged discrimination."⁹⁹

⁹⁴ Australian Press Council, *Guideline: Reporting of 'race'*, September 2001. Available at: <http://www.presscouncil.org.au/document-search/guideline-reporting-of-race/>.

⁹⁵ India Press Council, *Principles and Ethics*, section 56. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

⁹⁶ *Marie Jacobs v. Hamilton Spectator*, Ontario Press Council, 1 November 2005.

⁹⁷ *The Canadian Somali Congress v. Toronto Star*, Ontario Press Council, October 2014. Available at: <http://ontpress.com/recent-decisions/>.

⁹⁸ *Weichsler v Westender*, British Columbia Press Council, 2002.

⁹⁹ *Ibid.*

Like hate speech, standards for what constitutes discriminatory speech can be highly contextual. External conditions, such as an underlying and easily inflamed social prejudice, can lead to a need for particular care when addressing certain issues. The Press Council of India's *Norms of Journalistic Conduct* offers particularly detailed guidelines for journalists dealing with issues involving HIV and AIDS, due to the intense stigma that these conditions carry:

Journalists should avoid references to caste, gender or sexual orientation when reporting HIV and AIDS. Such references entrench existing prejudices against sexual minorities, certain communities or groups already targeted... While information about modes of transmission are important, instead of making value judgements the reports should try to focus on how the infection affects people, their work, their families and the gaps in policy and implementation of HIV programmes. Focusing needlessly on how a person was infected reinforces an attitude that seeks to blame those with HIV or AIDS for being infected.¹⁰⁰

6. Elections

Although the media always has an important duty to inform the public, the importance of this role is of paramount importance during election periods. Proper democratic accountability depends on an informed electorate, and the media must commit to being responsible, fair and transparent in their coverage, in order to ensure that all voices are heard.

Myanmar's *Media Code of Conduct* includes guidance on political reporting and elections. Standard 2.1 requires media outlets to "aim to reflect the diversity of political opinion in society and to enable free and open debate on matters of public concern." The same provision requires coverage of political parties to be reflective of their representation in society. "Content published by or on behalf of political parties should always be identified as such," according to Standard 2.2, and Standard 2.3 requires similarly clear identification for politicians who appear. Standard 2.3 also says that media outlets should not allow active politicians, or employees or office bearers of political parties, to appear as newscasters, interviewers or reporters.

Further guidance on election coverage is found in the *Guidelines for Media During Elections*, including that complaints surrounding coverage practices during the election period ought to be resolved in an expedited manner.¹⁰¹ This is similar to the practice of the South African Press Council, whose complaints procedure mandates that the Press Council "... will give top priority to finding speedy resolutions to complaints related to those elections when they are being held to secure free and fair elections."¹⁰²

The following sections should be read in conjunction with both the Press Council *Code of Conduct* and the *Guidelines for Media During Elections*.

Accuracy

¹⁰⁰ Press Council of India, *Norms of Journalistic Conduct*, 2010, section 56. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

¹⁰¹ *Guidelines for Media During Elections*, Draft for discussion purposes dated March 2015 at 7. Available at: <http://www.irrawaddy.com/wp-content/uploads/2015/06/Election-Reporting-Guidelines-English.pdf>.

¹⁰² South Africa Press Council, *Complaints Procedure*, at 1.5. Available at: <http://www.presscouncil.org.za/Complaints>.

While the media always has a general obligations to be accurate, this is doubly important during an election period due to the potentially enormous gravity of factual errors made on the eve of an election.

For example, the Press Council of India's *Norms of Journalistic Conduct* state that "publication of such news as... withdrawal of candidates should be avoided without proper verification and cross checking."¹⁰³ This provision was applied by the Council in 2007, when they severely reprimanded a newspaper for wrongly claiming, on election day, that the BJP was withdrawing from the election. In their ruling, the Press Council recognised the "significant possibility of damage" to the BJP's election prospects that had occurred as a result.¹⁰⁴

Right of Reply

Complaints regarding election coverage often involve allegations that reporting was biased or inaccurate with regard to a particular candidate or party. A commonly ordered remedy is the right of reply. While the typical rules surrounding prominence and promptness continue to operate, the *Guidelines* note:

Media outlets should, for election-related content, provide a correction or a reply for incorrect or defamatory content, or content which breaches the Media Code of Conduct, as soon as possible after this has been established, normally in their next edition or the next day for broadcasters.¹⁰⁵

This principle is similar to the approach found in the South African Development Community's voluntary *Guidelines and Principles for Broadcast Coverage of Elections*:

The opportunity to reply must be given within at least 24 hours in a programme of similar weight and audience. Broadcasters should in this regard take special care immediately prior to the election date in order to ensure timely correction of such distortions.

In instances of conflict about this right of reply, broadcasters shall ensure timeous independent arbitration.¹⁰⁶

The Australian Press Council, in their *Advisory Guideline on Reporting Elections* cautions newspapers against publishing material "critical of candidates, at a time when there would be no opportunity, before the election, for the candidate to supply a balancing response."¹⁰⁷ If there is no opportunity for a reply, the Council advises media not to publish the material or to publish it in an edited form.¹⁰⁸ In 2013, the Australian Press Council upheld a complaint that an article criticising a council-member's budgetary allocations was published in a manner precluding him

¹⁰³ Press Council of India, *Norms of Journalistic Conduct* (2010), section 8. Available at: <http://www.presscouncil.nic.in/OldWebsite/NORMS-2010.pdf>.

¹⁰⁴ *Shri PB Sathyan vs. Flash*, 29 March 2007, Press Council of India Compendium of Adjudications 2007–2008 at 202. Available at: http://www.presscouncil.nic.in/OldWebsite/AR_COMPENDIUM/Eng-Compendium-08.pdf.

¹⁰⁵ *Guidelines for Media During Elections*, Draft for discussion purposes dated March 2015 at 7. Available at: <http://www.irrawaddy.com/wp-content/uploads/2015/06/Election-Reporting-Guidelines-English.pdf>.

¹⁰⁶ *Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region*, article 7. Available at: http://www.mediaombudsmannamibia.org/downloads/Guidelines_and_Principles_for_Broadcast_Coverage_of_Elections_in_the_SADC_Region.pdf.

¹⁰⁷ *Guideline: Reporting Elections*, Australian Press Council, March 2009. Available at: <http://www.presscouncil.org.au/document-search/guideline-reporting-elections/>.

¹⁰⁸ *Cr Len Roberts/Myall Coast Nota*, Adjudication No. 1578, 21 November 2013, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1578/>.

from providing a timely response, recognising that the material should have been published in time to allow a response prior to the election.¹⁰⁹

Representativeness

Candidates will naturally seek to use the media as a platform to disseminate their message. Fair practice requires that journalists take a pluralistic approach, to ensure that voters receive access to a variety of different opinions before they head to the polls. Ofcom, the United Kingdom's communications regulator, states in its *Broadcasting Code* that:

5.11 Due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service... in each programme or in clearly linked and timely programmes.

...

6.2 Due weight must be given to the coverage of major parties during the election period. Broadcasters must also consider giving appropriate coverage to other parties and independent candidates with significant views and perspectives.¹¹⁰

The *Broadcasting Code* does not require each party to be covered equally, and compliance is to be assessed over the entirety of the election period. In a decision concerning a complaint that a radio broadcaster had endorsed a mayoral candidate on-air, Ofcom held that “a presenter endorsing a political candidate at the time of an election is a clear and unambiguous breach of the due impartiality requirements in the Code.”¹¹¹ However, Ofcom's rules apply only to broadcast media.

France's Conseil Supérieur de l'Audiovisuel (CSA), which regulates radio and television broadcasting, holds that with the exception of presidential elections, coverage must be distributed *equitably* among parties and candidates.¹¹² With respect to Presidential coverage, once the official election period begins each candidate must receive completely *equal* coverage, measured strictly in terms of time allocated to the candidate.¹¹³ This rule was enacted in order to help lesser-known candidates.¹¹⁴

Non-representative coverage during elections can present a significant challenge to regulatory systems since an outlet's behaviour over the course of an election can only be fully assessed following the closure of the polls, effectively precluding timely remedial action. As such, most countries take some form of pre-emptive measures to ensure representative coverage, usually through a specific mechanism for allocating space pluralistically.

¹⁰⁹ *Cr Ben Shields/The Daily Liberal*, Adjudication No. 1581, 28 November 2013, Australian Press Council. Available at: <http://www.presscouncil.org.au/document-search/adj-1581/>.

¹¹⁰ Ofcom, *The Ofcom Broadcasting Code*, March 2013 at 6.2. Available at: <http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>.

¹¹¹ *Sunday Night with Jason Donovan*, 27 April 2008, Ofcom Broadcast Bulletin 113, 7 July 2008 at 11. Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0023/46526/issue113.pdf.

¹¹² *Délibération n° 2011-1 du 4 janvier 2011 relative au principe de pluralisme politique dans les services de radio et de télévision en période électorale*, JORF n°0026 du février 2011 page texte n° 80 at article 2, ss. I-1(1). Available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023492991>.

¹¹³ *OSCE/ODIHR Needs Assessment Mission Report: France Presidential Election*, 15 March 2012. Available at: <http://www.osce.org/odihr/elections/89000?download=true>.

¹¹⁴ Henry Samuel, “France election 2012: how the presidential poll works”, *The Telegraph*, 20 April 2012. Available at: <http://www.telegraph.co.uk/news/worldnews/europe/france/9209449/France-election-2012-how-the-presidential-poll-works.html>.

Myanmar's *Guidelines* state that "media outlets should always offer access to advertising on a completely non-discriminatory basis to all parties and candidates, of course subject to any legal rules on this or regulations promulgated by the election commission." International rules can provide good guidance on how this should be understood. In the United Kingdom, which bans *paid* political advertisements,¹¹⁵ the majority of broadcast time is allocated to major parties, which are identified by looking at past polling results or percentage of seats held. A similar allocation formula was challenged by the Reform Party in Canada in 1992 on the grounds that its retrospective nature was biased against emergent political groups. As a result, Canada's *Elections Act* now says:

In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day, every broadcaster shall, subject to the regulations made under the *Broadcasting Act* and the conditions of its licence, make available, for purchase by all registered parties for the transmission of political announcements and other programming produced by or on behalf of the registered parties, six and one-half hours of broadcasting time during prime time on its facilities.¹¹⁶

The *Elections Act Regulations* specify allocation of time "on an equitable basis to all accredited political parties and rival candidates represented in the election..."¹¹⁷ and that no party may be allocated more than 50% of the total broadcasting time.¹¹⁸ The *Act* further mandates that broadcasters must charge the lowest standard rate for this space, presumably to provide equitable access to opposing parties and ensure that all relevant messages are disseminated. With respect to direct access programming, those broadcasters with a broad mandate who reach a majority of Canadians are required to offer for free "no less than the amount of free broadcasting time made available by it at the last general election."¹¹⁹

Similarly, the Republic of Kosovo requires that those broadcasters choosing to air paid political advertising also offer a minimum number of free broadcast minutes, to cover "participation in debates, discussion shows, interviews outside regularly scheduled news programmes, or as free political advertising spots."¹²⁰ Broadcasters who opt not to offer paid political advertising are under no obligation to offer free airtime.¹²¹ Print media is not under any obligation to provide free advertising space.

The CSA takes an interesting approach to allocating broadcasting time. When previous allocations of broadcasting time cannot be relied upon, discretion is meant to be exercised to determine a fair allocation by "[a]ssessing [parties] participation in debates, their initiative in making their candidate platforms available to the public, organising public meetings, and more

¹¹⁵ United Kingdom Communications Act 2003, c. 21 at section 319(2)(g). Available at: <http://www.legislation.gov.uk/ukpga/2003/21/section/319>.

¹¹⁶ Canada Elections Act, SC 2000, c. 9 at section 335(1) and 348. Available at: <http://laws-lois.justice.gc.ca/PDF/E-2.01.pdf>.

¹¹⁷ Television Broadcasting Regulations, 1987, SOR 87/49 at section 8; Specialty Services Regulations, 1990 SOR/90-106 at section 6. Available at <http://laws-lois.justice.gc.ca/PDF/SOR-87-49.pdf> and <http://laws-lois.justice.gc.ca/PDF/SOR-90-106.pdf>.

¹¹⁸ Canada Elections Act, SC 2000, c. 9 at section 338(3). Available at: <http://laws-lois.justice.gc.ca/PDF/E-2.01.pdf>.

¹¹⁹ *Ibid.* at section 345(2).

¹²⁰ Law No. 03/L-073 on General Elections in the Republic of Kosovo, 15 June 2008, at articles 49.2-49.3. Available at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L073_en.pdf.

¹²¹ *Ibid.*, at article 49.12.

generally, any initiative to make available to the public the elements of the candidate's program."¹²²

The calculations and determinations are made publicly available on the CSA's website, and the CSA can request that broadcasters provide information on "all elements relating to speaking time for candidates and their supporters."¹²³

In addition, it is important that coverage be accessible to all voters, especially minorities. In recognising this, the Canadian Radio-television and Telecommunications Commission reminds broadcasters that a "political broadcast in one language cannot be construed as balancing a political broadcast in another language."¹²⁴ In this respect Canada's public broadcaster operates television and radio channels in both official languages. A 30-second commercial for the Parti Québécois on a French language channel does not balance a 30-second commercial for the Liberal Party on an English language channel. Rather, the Liberal Party must be provided an opportunity to also air a 30-second commercial on the French language channel.

Accountability

Media outlets should be readily able to demonstrate that their coverage during the election period has been properly representative. Various approaches can be taken to evaluating this, including counting the number of times parties or candidates are mentioned, identifying how many stories, column inches, or paragraphs are published about the opposing sides, or adding up the number of broadcast sound bites or seconds of airtime they garner.¹²⁵ The *Law on Elections in the Republic of Kosovo* takes a preventative stance toward allegations of bias by requiring broadcasters to submit weekly logs to the Independent Media Council of airtime sold and provided for free to each political party, which "shall be open for public inspection upon receipt."¹²⁶

Dual Function Personalities

Generally, candidates who work as journalists or television personalities should not maintain their on-air presence during the election period. This is recognised in Standard 2.3 of Myanmar's *Code of Conduct*, which is similar to France's CSA *Guidelines*,¹²⁷ Ofcom's *Broadcasting Code*¹²⁸ and Germany's *Presserat*.¹²⁹ Some codes, such as that of the South African

¹²² *Délibération n° 2011-1 du 4 janvier 2011 relative au principe de pluralisme politique dans les services de radio et de télévision en période électorale*, JORF n°0026, February 2011, Text n° 80 at article 2, section IV-1. Available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023492991>.

¹²³ *Ibid.* at article 2, section III.

¹²⁴ Canadian Radio-television and Telecommunications Commission, *Broadcasting Information Bulletin CRTC 2015-139*, 10 April 2015, at iv. Available at: <http://www.crtc.gc.ca/eng/archive/2015/2015-139.pdf>.

¹²⁵ Harald Bauder, "Ethnic Media Election Coverage: A Content Analysis Methodology", *Ryerson Centre for Immigration & Settlement* at 4. Available at: http://www.ryerson.ca/content/dam/rcis/documents/RCIS_WP_Lindgren%202014_4.pdf.

¹²⁶ Law No. 03/L-073, at article 49.7.

¹²⁷ *Délibération n° 2011-1 du 4 janvier 2011 relative au principe de pluralisme politique dans les services de radio et de télévision en période électorale*, JORF n°0026, February 2011, Text n° 80 at article 2(II)(3°). Available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023492991>.

¹²⁸ Ofcom, *The Ofcom Broadcasting Code*, March 2013, article 6.6. Available at: <http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>.

Development Community (SADC), take the separation between journalistic and political function of candidates one step further by preventing them from making any editorial decision during the election period.¹³⁰ The purpose of this restriction is twofold: first to prevent information from being reported in a partial manner, and second to prevent giving the politician an unfair electoral advantage by conferring undue “authority and gravitas” upon them.¹³¹

When investigating complaints in which it is alleged that candidates exercised a journalistic function during the election period, Ofcom allows for consideration of mitigating factors in determining the appropriate sanction. In one 2006 decision it noted that the journalist, who was also a political candidate, had presented the news in an impartial manner, the station immediately ceased broadcasting by the politician upon receiving notice of a potential breach of the *Broadcasting Code* and the broadcasts were done in a minority language thereby limiting the audience and potential effects of the breach.¹³² In these circumstances Ofcom decided that sanctions did not need to be levied. In addition to mitigating factors however, the committee can also consider aggravating factors, such as when the breach is repeated and severe. For example, when two candidates for local elections were allowed to appear extensively in a series of broadcasts during a large portion of the 2006 electoral period, the Ofcom Content Sanctions Committee found that the station had showed a “reckless disregard for the important rules of the *Code*”, and determined there were sufficient grounds to impose a £30,000 fine on the broadcaster.¹³³

Opinion Polls

Because of the significant impact that polls can have on voter behaviour, the substance and timing of reporting of polling information is often carefully regulated to ensure that polls do not unfairly influence the election.

The Press Council of India’s *Guidelines on Pre-poll and Exit poll Surveys* advises newspapers to “take care to preface [opinion polls] conspicuously.”¹³⁴ The Ethiopian *Code of Conduct for the Mass Media and Journalists on the Manner of Reporting About Elections* provides that information should include “(a) who commissioned and carried out the poll and when, (b) how many people were interviewed, where and how were they interviewed and what is the margin of error; and (c) what was the exact wording of the questions.”¹³⁵

¹²⁹ Presserat, *The Press Code*, 13 March 2013, at section 6.1. Available at:

<http://www.presserat.de/pressekodex/pressekodex/> [note: translated to English via Google Translate].

¹³⁰ *Guidelines and Principles for Broadcast Coverage of Elections in the SADC Region* at article 6. Available at:

http://www.mediaombudsmannamibia.org/downloads/Guidelines_and_Principles_for_Broadcast_Coverage_of_Elections_in_the_SADC_Region.pdf.

¹³¹ *London Greek Radio*, Ofcom Broadcast Bulletin 65, 24 July 2006, at 6. Available at:

http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/pcb30/Issue_65.pdf.

¹³² *Ibid.*

¹³³ *Islam Channel Limited*, 31 July 2007, Ofcom Content Sanctions Committee. Available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0018/57105/talksport.pdf?lang=cy.

¹³⁴ Press Council of India, *Press Council of India’s Guidelines on Election Reporting-1996*, at section ii. Available at: http://mea.gov.in/Uploads/PublicationDocs/19163_Guidelines_on_Election_Reporting_1996_22-03-2009.pdf.

¹³⁵ National Electoral Board of Ethiopia, *Code of Conduct for the Mass Media and Journalists on the Manner of Reporting About Elections*, Regulation Number 6/2010, 15 April 2010, at article 6, section 11. Available at:

<http://www.electionethiopia.org/en/images/stories/directives/Regulation%20No%20%2006%20Code%20of%20Conduct%20for%20the%20Media%20and%20Journalists%20Final%20Gov%20Com%20A5.pdf>.

In the UK, the Independent Press Standards Organisation (the independent regulator of newspaper and magazine publications) ordered the *Daily Express* newspaper to publish a copy of their decision finding that the paper had seriously breached the *Editors' Code of Practice*. The paper had provided insufficient context to a public opinion poll, purporting that “the UKIP party enjoyed more support than the Labour Party.” The figures were drawn from a misrepresentative sample population and, in reality, the Labour Party held a much higher percentage of the overall vote.¹³⁶ This decision is demonstrative of the problems that can arise when public opinion polls are not presented with sufficient context.

The timing of polls is also significant. The *Guidelines* recognise the “unduly distorting effect” that publishing polls immediately prior to a vote can have. France’s CSA prohibits publishing public opinion polls on election day and the day preceding it.¹³⁷ Ofcom’s *Broadcasting Code* prohibits publishing polls on election day itself,¹³⁸ while Peru bans publishing opinion polls for a full fifteen days prior to an election.¹³⁹

Exit-Polls

Issues can also arise with the reporting of exit-poll results when the election dates are staggered. In such cases, broadcasting codes such as *Ofcom’s Broadcasting Code* and *Press Council of India’s Guidelines* prohibit the publication of both partial and definitive exit-poll results until the closure of the last polling station.¹⁴⁰ Myanmar’s *Guidelines* contains no absolute prohibition, though media outlets are cautioned to act responsibly.

¹³⁶ *Bray vs. Daily Express*, 01923-14, 4 February 2015, Independent Press Standards Organization Complaints Committee. Available at: <https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01923-14>.

¹³⁷ *Loi n° 77-808 du 19 juillet 1977 relative à la publication et à la diffusion de certains sondages d’opinion, France*, at section IV, Art 11. Available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000522846>.

¹³⁸ Ofcom, *The Ofcom Broadcasting Code*, March 2013 at section 6.5. Available at:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>.

¹³⁹ Ley Organica de Elecciones (Electoral Law) N° 26859, 1997, at article 191. Available at:

<http://portal.jne.gob.pe/procesoselectorales/Informacion%20Electoral/Materiales%20para%20evaluaci%C3%B3n%20JEE/Ley%20Org%C3%A1nica%20de%20Elecciones.pdf>.

¹⁴⁰ Ofcom, *The Ofcom Broadcasting Code*, March 2013 at section 6.5. Available at:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>; Press Council of India, *Press Council of India’s Guidelines on Election Reporting-1996*, at section ii(3). Available at: http://mea.gov.in/Uploads/PublicationDocs/19163_Guidelines_on_Election_Reporting_1996_22-03-2009.pdf.