



## GIVING THE PUBLIC A SAY

*How news ombudsmen ensure accountability, build trust and add value to media organisations*

By Karen Rothmyer

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**2013**



# Content

ABOUT THE AUTHOR.....	4
<i>Foreword</i> .....	5
<i>Preface</i> .....	7
<i>1. The role and history of news ombudsmen</i> .....	9
<i>2. When governments and media clash</i> .....	16
Case Study: Defending the right to know in America.....	18
Case Study: Diffusing government anger in Kenya.....	22
<i>3. Ombudsmen and the public</i> .....	26
Case Study: The ombudsmen as educator in Canada.....	29
Case Study: Getting it right in the UK.....	33
<i>4. Working from within</i> .....	37
Case Study: Encouraging self-reflection in South Africa.....	39
Case Study: Enforcing ethical standards in Argentina.....	43
<i>5. Conclusion</i> .....	46
ENDNOTES.....	48

## *About the Author*

Karen Rothmyer began her career as a journalist at the Associated Press, and later worked for US publications ranging from The Wall Street Journal to American political weekly The Nation, where she was managing editor. After subsequently moving to Kenya she served first as a consulting editor and then as public editor at the Star newspaper. She has also taught at the Graduate School of Journalism at Columbia University in New York City and at the School of Journalism and Mass Communication at the University of Nairobi. She was a member of the steering committee of the Tanzania Media Fund during its first two years, and was a Fellow of the Shorenstein Centre on the Press, Politics and Public Policy at Harvard University in 2010. She is currently a contributing editor to The Nation and a visiting fellow at Cambridge University.

# Foreword

- Who watches the watchdog? Should the media be regulated? If so, how can this be done without infringing on freedom of expression, a crucial human right?

A common approach has been to leave the print media by and large to regulate itself while statutory regulation of the broadcast media seemed justified to handle the scarcity of airwaves fairly and in a way that would ensure overall diversity of broadcasting content.

This approach, however, is contentious and the debate on media regulation received renewed global interest when the phone-hacking scandal in the United Kingdom broke afresh in 2011. The world over, media are criticised for inaccurate or unethical reporting or practices. Especially governments, public institutions and individual office bearers like to accuse journalists of being unprofessional, often when they become the target of public criticism and media scrutiny. Many officials and media professionals claim that voluntary regulatory mechanisms like self-regulatory media councils are toothless entities as decisions are not enforceable. Other media practitioners point out that, on the contrary, statutory bodies whose members are appointed by government lack the respect of the media fraternity, and that decisions made by peers are more respected and hence more effective than those made by outsiders.

Unprofessional and unethical reporting to varying degrees is a reality in most countries in Africa. However, the reluctance of the powers that be to accept legitimate criticism is equally a reality. The challenge is to find a mechanism of media regulation that addresses real problems in media ethics, while protecting freedom of expression and ensuring that the media can do their job without being harassed.

In this context, the study by Karen Rothmyer draws attention to an approach of voluntary media regulation which, so far, has not been much publicly debated. Looking at several case studies and the testimony of affected parties, Karen Rothmyer suggests that news ombudsmen (public editors) may well be a form of media self-regulation which addresses some of the issues

mentioned above. By being attached to a particular media house, the opinions and recommendations of news ombudsmen are likely to be respected and to trigger positive changes within the newsroom. At the same time, they operate sufficiently distinct from the newsroom to mediate effectively between media houses on the one hand and the public and government officials on the other. News Ombudsmen may also be commercially attractive to media houses by reducing costly legal suits and by enhancing the quality and reputation of the respective media as the dialogue of the news ombudsman with the public promotes the trust of media consumers in that particular media.

The African media programme of the Friedrich-Ebert-Stiftung (*fesmedia Africa*, FES) hopes that the findings of this study will encourage media houses throughout the continent to hire news ombudsmen since effective media self-regulation improves the quality of media coverage and promotes and protects the work of independent media. This research is thereby one of many activities, with which *fesmedia Africa* aims to promote freedom of expression as a prerequisite to people's participation in public life and in development processes, and as a cornerstone of any democratic society.

Mareike Le Pelley  
fesmedia Africa  
Friedrich-Ebert-Stiftung



# Preface

In early 2011, I signed a contract to serve as the first public editor (another name for news ombudsman) at the Star, a Nairobi-based daily. I'd previously been a consulting editor at the Star, following a journalistic career in the US that had been inspired by starting a school newspaper in Kenya years before. Given this background, I felt ready for the challenge of being the designated person to whom readers could turn with their questions and criticisms.

But nothing quite prepared me for the range of issues that got raised—by readers and also by Star journalists—over my time in the job: What was I going to do about the many spelling mistakes? About plagiarism? About instances of alleged hate speech by columnists? And what did I think about the use of Twitter and Facebook by reporters?

Nor had I properly appreciated just how sensitive my fellow journalists were to criticism, despite being exactly the same myself. There were days after one of my columns ran when I could feel the chilly atmosphere in the newsroom before I even opened the door.

Through it all, however, I was constantly impressed by the willingness of Star journalists and management to openly reflect on decisions they'd made and occasionally to ask my opinion on points of ethics. It was a learning experience all around, and I felt that the newsroom, not just the readers, benefitted. When the Managing Director and the Editor told me they intended to hire a successor when my contract was up—which they did—it was the proof I'd hoped for that the experiment was regarded as a success. (I'd said from the start that I wouldn't serve more than two years.)

Over my time in the public editor's role, I became convinced that media everywhere would benefit from having ombudsmen, both in terms of their relations with the public and the good of their newsrooms. That led to a visiting fellowship at Cambridge University to research the value of news ombudsmen and to begin to explore ways of increasing their number.

Hence this paper, with its focus on "case studies"—one of them, I hope not immodestly, involving my own experience at the Star. For these case studies

I interviewed not just the ombudsmen involved but also people inside or outside the profession in a position to comment on the usefulness of the ombudsmens' contributions. I hope that media officials, and anyone who believes in the importance of a free and responsible press, will come away persuaded by the evidence.

My thanks go to Wolfson College at Cambridge for giving me the visiting fellowship, to the Africa media program of Friedrich-Ebert-Stiftung (fesmedia Africa) for supporting my research and publishing the results, to the members of the Organisation of News Ombudsmen for generously sharing their experiences, to the African Media Leaders Forum for providing a venue for discussion of the news ombudsman concept, and, above all, to my colleagues at the Star.

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# 1. *The role and history of news ombudsmen*

## **Ombudsmen and democracy**

When Narasimhan Ram, then editor-in-chief of *The Hindu*, announced the appointment of the paper's first ombudsman in 2006, he said that among the objectives of the appointment were to institutionalise self-regulation, improve standards, and strengthen the bonds between the paper and its readers.<sup>1</sup> Similarly, when Trevor Ncube, chairman of Alpha Media Holdings, announced in early 2012 the appointment of the first ombudsman to serve the company's holdings in Zimbabwe, he said that this was another step toward "ensuring that all our publications and multimedia platforms serve readers and advertisers in a manner that is beyond reproach."<sup>2</sup>

One other issue that neither Ram nor Ncube mentioned, but which is a major concern in countries with relatively fragile or recent democratic traditions, is the relationship between government and the media. While media institutions see themselves, and are generally seen by the public, as important in strengthening democratic institutions, governments very often see them as a threat to order. Thus, it can be argued, the most important role ombudsmen play in the developing world—and a key reason why their ranks are growing here even as they are shrinking in the West—is as fair-minded judges who at the same time are defenders of press freedom.

"When the people delegate authority, they do not give politicians and other public servants, in other words servants who represent them, the right to decide what is good for the people to know and what is not good for them to know," Joe Latakomo, the ombudsman of South Africa's Avusa Media newspaper chain, wrote in a 2011 column criticizing a proposed "Protection of Information" bill. "Everything that the government does, it does in the name of the people," he added. "These are the people whose media interests I represent."<sup>3</sup>

The issue of the ombudsman's role in strengthening democracy has also been addressed by Brazil's first ombudsman, Caio Tulio Costa. Appointed in 1989, he later described his role at *Folha de Sao Paulo*, the country's leading newspaper, as having been "to introduce a citizen service in a country where citizenry is not a full-scale idea, it is a diffuse desire and a distant prospect." Latin America,

which for many years suffered from widespread military rule, is today a fast-growing area in terms of the number of news ombudsmen.

According to Jeffrey Dvorkin, the former executive director of the Organisation of News Ombudsman (ONO), a world-wide group headquartered in Canada, a desire to entrench democracy accounts for much of the recent growth in the number of ombudsmen. He said at the time of the ONO annual meeting in 2013 that membership was up by more than a third since 2008, to about 60, led by notable gains in areas outside of North America and Western Europe. "If democracies are going to have staying power they need an independent press," Dvorkin said.<sup>5</sup>

## **A brief history of news ombudsmen**

The first media institutions to have well-established complaints procedures, early in the 20th Century, were Asahi Shimbun, the largest newspaper in Japan, and the New York World, a US daily that no longer exists.<sup>8</sup> It took more than 50 years before the idea began to spread widely, initially in North America at a time when surveys showed that the public regarded newspapers as arrogant and out of touch with readers.

Today, a reasonable estimate is that there are between 125 and 150 news ombudsmen world-wide. About 30 operate in North America, another 30 in Latin America, and at least 50 in Europe and the Middle East, while Africa has about ten (most in South Africa) and Asia and the Pacific about half that number.<sup>7</sup> They are to be found at both newspapers and broadcast outlets, and at both privately-held companies and publicly-supported media entities. Most commonly known as ombudsmen, they also are known by titles including public editor, readers' advocate and readers' editor.

One measure of the popularity of ombudsmen is the number of people who turn to them to complain or offer suggestions. According to Dvorkin, who served between 2000 and 2006 as the first ombudsman at National Public Radio in the US, in his last year on the job he received more than 82,000 emails, plus thousands of letters and numerous phone calls.<sup>8</sup> Similarly, Chris Elliott, the ombudsman for the Guardian in the UK, says his office hears from an average of 26,000 readers a year.<sup>9</sup>

Ombudsmen operate in a variety of ways. Some have fixed contracts; others operate on an open-ended basis. For some it is an end-of-career assignment;

for others, notably in Latin America, a mid-career step. Many ombudsmen are full-time employees but others, most often academics or retired journalists, operate on a part-time basis.

The chief charge of ombudsmen everywhere is to respond to public complaints about the work of the journalists employed by their organisations. In addition to commenting on matters such as ethics and fairness, some ombudsmen also oversee factual corrections. (Editors in some organisations retain this role). Ombudsmen generally make their views known through columns or their broadcast equivalents, and an increasing number also engage directly with the public through social media. While many choose to be as separate as possible from the newsroom, others see their role as including giving advice when asked and mentoring younger journalists.

As these differences illustrate, the institution of ombudsmanship has evolved over the past half-century, reflecting cultural as well as individual preferences. In Japan, for example, the original complaints office at Asahi Shimbun no longer exists but in the early 2000s that paper and others formed committees made up of outside experts who routinely review coverage and offer recommendations, with a strong focus on protection of human rights.<sup>10</sup>

In Argentina, human rights is also the focus of the country's first "Defender of the Public" on matters involving broadcast media, Cynthia Ottaviano, who began work in late 2012. She describes her mission as helping to shift the country from an authoritarian system to one with an emphasis on human rights, including the right to communication. Her activities include holding public hearings to evaluate the performance of the media and educating the public about the media's role, as well as receiving complaints.<sup>11</sup>

While neither of these institutions conforms to what might be called a classic ombudsman model, each includes aspects of public involvement and self-inspection.

## Ombudsmen and Press Councils

News ombudsmen are not the only form of media scrutiny. National press councils, which set industry standards and also pass judgment on individual media performance, came into existence in the early 1900s. They are now common around the world; a 2009 study put the number of councils that belong to one of two major international organisations at about 40.<sup>12</sup>

Some press councils are generally well-regarded, as, for example, in South Africa. For the most part, however, such councils are either relatively toothless, because they are heavily influenced by media owners, or punitive, because they are controlled by government. The most well-known recent example of toothlessness is the United Kingdom, where tabloid invasions of privacy and law-breaking flourished for years, despite the presence of such a council (in this case known as the Press Complaints Commission), until a particularly egregious case caused a public outcry. In contrast, Sudan's National Press Council censored critical coverage of the government before the 2009 elections and the following year charged a prominent journalist and opposition party member with "waging war against the state."<sup>13</sup>

There are also other, more mundane problems with national councils, probably the biggest being the length of time it takes for complaints to be resolved. Typical is a complaint about a radio show that was lodged with the Media Council of Kenya in November, 2010; it took 18 months before a decision was announced.<sup>14</sup> In Bangladesh, where Professor Golam Rahman was appointed in 2011 to be the ombudsman at the first newspaper in the country to establish such a post, Rahman wrote that members of the public often "are reluctant to go to the Press Council, because of lengthy procedures involved in getting remedies."<sup>15</sup>

A related issue is the frequent disdain or hostility toward press councils shown by those in the media. In a doctoral dissertation on self-regulation in Tanzania presented in 2012, Ayub Rioba, a lecturer at the University of Dar es Salaam, wrote that while the Media Council of Tanzania has played a useful role in self-regulation, in some cases "the duration of cases was made unnecessarily longer mainly because of non-cooperation from editors or publishers."<sup>16</sup>

Dvorkin of ONO, who is now an academic at the University of Toronto, says it's been his observation that press councils "bureaucratise the process" of complaints. "I think frankly they are time-wasters," he says. "Media use them as a way of avoiding dealing with the public."<sup>17</sup>

To be fair, many in the media feel that press councils have little idea about how newsrooms actually work and are far too critical, thus leading them to avoid cooperating when possible. Prof J.D. Froneman of North-West University in South Africa observed in a study published in 2011 that ombudsmen at individual news organisations “are much closer to the hustle and bustle of journalism practice” than any national body can hope to be.<sup>18</sup>

One additional factor that may make ombudsmen preferable to news councils in developing countries has to do with the unsettled nature of the countries themselves, according to Yavuz Baydar, until mid-2013 an ombudsman in Turkey. “In emerging or transitional democracies, the media tend in general to be more divided, polarized and ideological than in full-fledged democracies, making it more difficult to build unity around issues concerning journalism,” he wrote in a Unesco study published in 2011. In such situations, he said, “it is easier for each and every news outlet to engage in an internal model of self-regulation.”<sup>19</sup>

For these reasons and more, news ombudsmen provide an attractive alternative to press councils, or, at any rate, an important addition to them. In the UK, the 2012 report of the Leveson inquiry, which was set up in response to the media scandals, recommended a much tougher national oversight body and also the required introduction of internal complaints mechanisms. It noted that “The Inquiry heard a great deal of evidence of good practice on this issue, in particular in relation to the use of readers’ editors [ombudsmen].”<sup>20</sup>

## **A less than perfect institution**

In recent years, the number of ombudsmen in many Western countries has been declining. The most frequently cited reason is tough financial times but many, even among the ombudsman ranks, see deeper problems. Margreet Vermeulen, a Dutch ombudsman, told the 2013 ONO conference that “Ombudsmen are not seen as part of the solution” to newspapers’ survival.

Some of the problems have to do with the complicated inside-outside position that ombudsmen occupy. In his 2003 book “News Ombudsman in North America,” Professor Neil Namath wrote that most ombudsmen he had studied did not engage in regular public criticism of their news organisations “because it’s too uncomfortable.” He observed that “Criticism beyond pointing out clear-cut factual errors involves evaluating more subjective news judgments and

ethical decisions” which, he said, can cause problems with colleagues or dash hopes of further advancement.<sup>21</sup>

Namath’s remarks were echoed by US media critic Jack Shafer, writing on the 2013 decision by The Washington Post to eliminate its ombudsman position after 43 years. On paper, Shafer wrote, the ombudsman’s powers “sounds like a job fit for a hanging judge.” In reality, however, he said, the tendency is “to sympathize with the hard job of newspapering and gently explain the newsroom’s mistakes to readers.”<sup>22</sup>

Much, of course, depends on the courage and talents of individual ombudsmen themselves. Commenting on the tenure of Daniel Okrent, the first public editor of The New York Times, press critic Jay Rosen said that Okrent knew that the job would be politically charged, but “Rather than regret this he plunged in, changing the way the public is represented within the newsroom.”<sup>23</sup> Others praised Okrent’s graceful writing and distinctive voice as having contributed to his success.

One other reason often cited for not retaining an ombudsman, or not hiring one in the first place, is the growing amount of internet media criticism. The Washington Post’s last ombudsman, Patrick Pexton, quoted Martin Baron, the paper’s executive editor, as having said, “There is ample criticism of our performance from outside sources, entirely independent of the newsroom, and we don’t pay their salaries.”<sup>24</sup>

Supporters of ombudsmen disagreed. Edward Wasserman, dean of the Journalism School at the University of California, Berkeley, wrote that while ombudsmen may be no better than outside critics, “they still represent a powerful recognition by news organisations that they owe it to the public to hold themselves accountable, that routinely answering for their actions isn’t just optional, but is integral to the practice of journalism.”<sup>25</sup>

Some researchers have also argued that ombudsmen play an important role that can’t be duplicated by outside critics. In a paper presented at a conference in 2007, Australian academics David Nolan and Tim Marjoriebanks cited an example in which the then-ombudsman of the UK Guardian first wrote a column about whether the paper had been correct in publishing a photograph showing the face of a naked Iraqi prisoner (he said on balance, yes) and then in a later column reviewed and discussed the large number of reader responses. “In some cases, and notably where they reflectively engage with processes of journalistic judgement in detail, making this reflective process rather than



the judgement itself the focus of their columns, ombudsmen may open newspapers up to a genuine public dialogue about their practice,"<sup>26</sup> Nolan and Marjoriebanks wrote. With the increasing use by ombudsmen of Twitter and other social media, such discussions can go beyond columns and become ongoing conversations.

Despite some ombudsmen's shortcomings, Stephen Pritchard, the chairman of ONO and ombudsman of Britain's Observer newspaper, sees the ombudsman's role as more essential than ever. "Traditional media are only going to survive if they are seen as credible," he told the 2013 annual meeting. And given that fact, he said, ombudsmen are "absolutely not a luxury".

In the following chapters, three broad areas of news ombudsmen's work are examined: relations between the media and government; relations between ombudsmen and the public; and relations between ombudsmen and the newsroom. Each begins with some general observations, followed by "case studies" that include opinions by non-ombudsmen about the value of the ombudsmen's work.

## 2. *When governments and media clash*

Even at the best of times, and in countries with long democratic traditions, relations between government and the press are generally strained. Thus, for example, US President Richard Nixon kept an “enemies list” that included publications and journalists perceived as hostile to the White House.

But while being on such a list, or its equivalent, in a society with established checks and balances may be unpleasant (Nixon used tax audits to go after individuals he didn’t like), government efforts to control or punish media in new or fragile democracies are likely to be far more serious. After thugs trashed equipment at one of the leading Kenya dailies in 2006 and burned stacks of that day’s papers, Minister of Internal Security John Michuki declared publicly, “If you rattle a snake you must be prepared to be bitten by it.”<sup>27</sup> In South Africa, the government pushed through legislation in 2013 that could impose long jail terms on journalists who publish information the government has classified as secret.<sup>28</sup>

In such an atmosphere, editors are continually balancing the public’s need to know against their publications’ need to survive—in the form of advertising, which can easily be withdrawn; access to public officials; and the personal safety of their employees. It’s easy to let caution rule the day or, conversely, to assume an overly-aggressive stance as a form of self-defence.

News ombudsmen play two important roles in such situations. The first is to stiffen the backbones of their institutions and of journalists generally. As one example, Joe Latakomo, ombudsman for the Avusa Media Group in South Africa, wrote a column in April, 2013 in which he defended the right of the media to raise questions about the South African army’s presence in the Central African Republic.

Noting that journalists were being accused (by an official of the ruling party) of “pissing on the graves” of dead soldiers by reporting on speculation that the soldiers were there to protect the business interests of well-placed officials, Latakomo wrote: “The truth is that the relationship between the armed forces and the media must at all times be supportive, but never one that is unquestioning.” He added, “We surely do not wish to go back to the apartheid

state” when a ban existed on any statement judged to be an attempt to embarrass the government or alarm the public.<sup>29</sup>

The second important role of ombudsmen is to be receptive to legitimate government complaints. Thabo Leshilo, Latakgomo’s predecessor, wrote in a 2010 column that the use of anonymous sources was “a major sore point” with officials keen on reining in the press. “That some politicians might be using that as a smokescreen to stop the publication of embarrassing stories, and to nail whistle-blowers, should not be an excuse to ignore the damaging effects the blasé use of faceless sources does to the media’s credibility,” Leshilo said.<sup>30</sup>

Ombudsmen, on their own, aren’t likely to sway a government determined to bring the media to heel. But they can help to foster an atmosphere of mutual respect and to keep the lines of communication open. In addition, they can help make the case to the public that the media are behaving in a responsible manner.

“To put it bluntly: if the media keeps a tighter rein on ethics, government will have less reason to suggest introducing restrictive laws,” Professor J.D. Froneman wrote in his brief study of South Africa ombudsman published in 2011. “This should never be the prime reason for internal discipline and high professional standards. But it is a compelling argument.”<sup>31</sup>

# CASE STUDY: Defending the right to know in America

## The issue

*The Administration of US President Barack Obama was notable from the start for its concern with secrecy, especially on matters it claimed involved national security. Leaks to journalists were relentlessly pursued and prosecuted, and news organisations frequently found themselves at odds with government officials. One such case involved a report on drone bases by The New York Times.*



The public editor's column (excerpts)

Print edition of February 10, 2013

## KEEPING SECRETS

*By Margaret Sullivan*

If you only own a hammer, observed the psychologist Abraham Maslow, you tend to see every problem as a nail.

Similarly, when the government's only chance of keeping an inconvenient truth out of the news media is to warn of a national security threat, it's amazing how these threats pop up.

This has turned out to be a powerfully effective tool. News organisations, after all, don't want to endanger the nation's safety, or be accused of doing so, so editors often listen to government officials when they make the case for not publishing. And, after listening, editors occasionally consent.

But a countervailing force—people's right to know what their government is doing and the news media's responsibility to find and tell them—ought to rule the day.

We saw this play out last week when The Times, in an important story from Yemen, broke its long silence on the location of a base used for American drone strikes in the region.

... High time, I'd say.

That's because the bigger and more troubling issue is whether the information should have been withheld to begin with. The reason offered — that naming the location would upset Saudi citizens to the point that the base might have to be closed, thus hampering America's counterterrorism efforts — doesn't cut it. Keeping the government's secrets is not the news media's role, unless there is a clear, direct and life-threatening reason to justify it.

...The *real* threat to national security is a government operating in secret and accountable to no one, with watchdogs that are too willing to muzzle themselves.

Top Times editors say that they are deeply committed to informing the public, but that they believe it's only responsible to listen when government officials make a request. And, they emphasize, they often say no.

Fair enough. But the bar should be set very high for agreeing to honour those requests. This one didn't clear that bar.

Full column available at <http://www.nytimes.com/2013/02/10/public-editor/national-security-and-the-news.html>

## The Story Behind the Story

Since becoming public editor of the New York Times in 2012, Margaret Sullivan has written repeatedly about government secrecy, starting with a tough critique of an address President Obama made to the UN in September of that year. While welcoming Obama's defence of free speech, Sullivan noted that Obama "has also authorized the federal government to engage in an unprecedented crackdown on journalists and whistle-blowers here in the United States, relentlessly pursuing and initiating new cases against journalists and their sources".

In numerous columns and blog postings that followed, Sullivan has returned to the issue, criticizing in tart language both the government's conduct and that of what she sees as overly-cautious Times editors. "I don't see it as angry," she says of her tone. "But I like to be clear. I don't want to be wishy-washy."<sup>32</sup>

Sullivan says she didn't come into the job with a particular interest in national security issues but simply responded to issues as they unfolded. Recalling her previous experience as editor-in-chief of a regional newspaper, she says that regardless of location, news organisations all find that getting reliable information out of government is a difficult but critical part of news gathering. "It speaks directly to how American democracy is supposed to function," she says.

Her columns and online comments on such matters (she blogs and tweets frequently, a significant advance on ombudsmen of the past) haven't produced a lot of responses from within the Times, she says. And she's never received objections from any government official. But reader response, both pro and con, has been high, and social media have sometimes magnified her remarks. As one example, she cites the time she tweeted that the Times had no advance story on the opening of the court-martial trial of Bradley Manning, the Army private accused of leaking secret documents to WikiLeaks, and provided her followers with a link to such a story in the Los Angeles Times. Within hours, she says, her criticism was being widely circulated on the Internet, thanks in particular to a piece about it on The Huffington Post.

"I actually love Twitter," she says. "It's nimble, and so interesting and interactive." And, she says, it helps prevent her from feeling isolated. Being an ombudsman "is a job where you have no colleagues, so it's nice to have a community, even if only a digital one," she says. However, she cautions, Twitter has a down side in

that one tends to follow people who share similar views. "It's a self-contained world if you gather around you people like you," she says. "It's something to be aware of."

The upside, though, is significant: With more than 16,000 Twitter followers,<sup>33</sup> Sullivan has a ready-made group who can be counted on to read, respond to and re-tweet her work. "It does lend some weight to what I might say that there's an army of people who follow it," she says.

Sullivan's work has won her numerous supporters in the field of privacy and civil rights. Glenn Greenwald, the civil liberties advocate who broke Edward Snowden's 2013 revelations about government spying and monitoring of phone records, was quoted as praising her work in a profile in *The Nation* magazine. "She has focused on exactly the questions which a smart public editor should pursue," Greenwald said. "How does a newspaper fulfil the prime function of acting as an adversarial check on those in power, and how does it go about informing its readers of facts without concern for who is offended?"<sup>34</sup>

Tim Weiner, a former *New York Times* reporter who has won a Pulitzer Prize and other honours for his journalism and books on national security issues, says he thinks Sullivan "is pretty good. She gets the issue." And, he says, she sees the nuances of a situation.

However, he says, he's not sure how much effect she has on the newsroom. When he was at the *Times*, he says, most journalists only paid attention to what the ombudsman said if they were on the receiving end of criticism. "In the end she's just another editor and God knows there are enough of them at the *Times*," he says, noting that a highly sensitive story such as one involving national security would pass through the hands of as many as half-a-dozen senior people.

Still, he says, he regards having an ombudsman as a necessity. "The paper has to have a degree of transparency," he says. "How can you argue for transparency in government if you yourself aren't transparent?"<sup>35</sup>

# CASE STUDY: Diffusing government anger in Kenya

## The issue

On June 10, 2012, a helicopter carrying George Saitoti, Kenya's Minister of Internal Affairs, crashed in a forest near Nairobi. The next day, the Star newspaper ran a front-page photo of a helicopter trailing smoke that was inaccurately identified as the one that had crashed.



The public editor's column (excerpts)

THE STAR Wednesday, June 13, 2012

## WHERE THERE IS SMOKE, THERE MAY NOT BE FIRE

*By Karen Rothmyer*

...So how did it happen? Let's go back to the beginning—or as far back as I have been able to track it. According to NTV journalist Ferdinand Omondi, he was alerted by another staffer to the presence of the photo, supposedly of the helicopter just before the crash, on a mutual friend's Facebook page. The friend is a journalist at another media house. Omondi told me that he tweeted the photo on Twitter but then, feeling "not so sure" about its authenticity, called the friend. The friend explained he had got it from a cousin.



While he was on the phone, Omondi says, he got a query asking him to verify the source. At that point, he says, he removed it and apologised... “I pulled it down within 10 minutes,” he says. But by then it had been retweeted numerous times and was taking on a new life in cyberspace.

It was by now about 4pm.

Around the same time Star Political Editor Paul Ilado got an email from someone he describes as “a friend though he is not that close to me”, who sent him the same photo and claimed he had taken it on his mobile phone. I haven’t been able to ascertain where the “friend” got the photo, but a reasonable guess is that it was from Twitter.

Ilado forwarded the picture to Editor Catherine Gicheru and Photo Editor Joseph Kariuki, urging them to consider it for page one. “I trusted the source and never thought about it before forwarding,” he said. Kariuki said he, too, never thought to question the photo’s accuracy when he received it at about 4.45 pm. Plus, he said, it was a “crazy day”.

...I think the Star editors are letting themselves off too easily.

First, the paper should have learned from an incident in January in which it ran, without checking, what turned out to be a false photo and story tweeted by military spokesman Maj Emmanuel Chirchir. Then, too, the arguments were lack of time and an assumption that the person supplying the news wouldn’t lie.

And second, on matters of breaking news, the Star should closely monitor social media, especially Twitter, which can serve both to offer up fresh leads and information (not all of which is correct) and also to correct wrong information.

...The important thing to remember, as I wrote at the time of the Chirchir incident, is that no matter how well-regarded the source of a story or a photo, the rule is: check it out. Indeed, at that time Ilado told me that going forward, “I think we should never trust anyone.”

*Full column available at [www.the-star.co.ke/news/article-14643/where-there-smoke-there-may-not-be-fire](http://www.the-star.co.ke/news/article-14643/where-there-smoke-there-may-not-be-fire)*

## The Story Behind the Story

Dr Bitange Ndemo, the Permanent Secretary in the Kenya Ministry of Information at the time of the helicopter crash, recalls that on the morning the “fake” photo appeared in the Star, his phone kept ringing with calls asking whether the photo was accurate and if not, what he planned to do about it. As it became clear that the photo was a hoax, he says, internal security officials insisted that his ministry, which is responsible for media regulation and policy, take some action. The entire security community “was on my case,” he says. Recalling the media crackdowns that were once the norm, he adds, “In the ’80s the paper would have been shut down and someone would have been in jail.”<sup>36</sup>

Ndemo’s course of action was much less drastic but highly public: before the day was out he personally delivered a complaint about the Star to the Media Council of Kenya, a statutory body that has the authority to investigate and take action against media houses deemed to have violated professional norms. The complaint charged that the use of the picture was misleading and tended to distort the cause of the crash.

As it happened, Kiprono Kittony, the chairman of Radio Africa Group, the parent company of the Star, and himself a member of the Council as a representative of the media owners, was attending a Council meeting that day. One of the other members, he says, reported to the group that the Office of the President was furious about the Star blunder.<sup>37</sup> This may have been out of an appreciation of Saitoti’s key role, or it may have been out of concern that the crash would feed into conspiracy theories involving sabotage.

Star Managing Director William Pike (who was not in the office when the decision to use the photo was made) says that once the editors were clear that the photo was a fraud, they prepared a correction for the next day’s paper.<sup>38</sup> Ndemo says, however, that the correction was “tiny” and in no way sufficient to satisfy the Star’s critics.

However, Ndemo says, the Star public editor’s column that ran on June 13 played that role. “The column removed so much anger,” he says. “It feels good when someone admits a mistake.” This change of attitude extended even to the security officials, he says. “Once the column ran they said ‘Let us forget about it,’” he recalls. The Media Council felt the same. “They said, ‘They have admitted it,’” he recalls.

Ndemo dropped his complaint, and even wrote a letter to Pike congratulating the paper “for showing exemplary leadership”.<sup>39</sup>

Inside the newsroom, feelings about the column were much less positive. One senior editor complained to the public editor that it was “demoralizing” and unfair.

Kittony doesn’t think that the presence of news ombudsmen is likely to ward off government criticism of news organisations. But he does believe that showing that the media can police themselves is important in preserving freedom of the press. Referring to a specific guarantee of such freedom in the Constitution Kenya adopted in 2010, he says, “If we don’t [engage in such self-policing], it gives government a huge opportunity to roll back the gains of Article 34.”

### *3. Ombudsmen and the public*

In 2006, two academics studying newspaper ombudsmen in The Netherlands recorded a remark that may be startling in its frankness but that accurately reflects traditional newsroom attitudes. According to Professors Arjen van Dalen and Mark Deuze, one ombudsmen told them, “Readers are our customers, [but] saying that in the newsroom is like cursing.”<sup>40</sup>

For decades, when huge circulations and outsized profits were the norm, “We stand by our story” was considered to be the appropriate response to any criticism from a member of the public, and “Never apologise, never explain” was a motto that most editors lived by.

It was only with the beginning of the long decline in newspaper readership in the West that media officials in the US and Europe began to show serious concern about the state of their relations with the people who bought their newspapers or watched or listened to their broadcasts. More recently, the rise of the Internet has forced journalists all over the world to take note of critics who can blog, tweet or post comments on media sites that challenge the facts and the fairness of what the journalists have produced.

This outpouring of opinions has made clear the public’s eagerness to be part of the news process, most often to criticize but also, in many cases, to offer thoughtful observations or suggestions. This in turn indicates that the ombudsman’s primary role of responding to readers’ or viewers’ concerns is becoming more important, rather than less. While to some degree this role can be viewed as “public relations”; it is also a recognition that the media must engage with the public if they are to be both journalistically and financially successful.

In 2012, the Observer newspaper in the UK did a survey of readers that asked, among other things, “Does the existence of the Observer readers’ editor make you feel that the paper is responsive to your views and opinions?” Some 82 percent said yes, up from 60 percent in 2004, when the position was still relatively new. The survey also found, in a related question, that 92 percent of respondents agreed, or strongly agreed, that the paper’s coverage is trustworthy.<sup>41</sup>

William Pike, Managing Director of the Star newspaper in Kenya, said in an interview in 2013 that having an ombudsman improves readers' perception of the paper. "When they see the paper is ready to correct mistakes it gives people confidence that what they read is correct, and the public editor is an extension of that," he said. Pike added that it also "says we accept criticism where criticism is due."<sup>42</sup>

One indication of the public's interest is the number of complaints ombudsmen receive. (This is more true in Western countries than in other parts of the world, where the idea of publicly voicing complaints is less established.) Reference was made earlier to the fact that Jeffrey Dvorkin, who served as the first ombudsman at National Public Radio in the US between 2000 and 2006, reported that in his last year he received more than 82,000 emails. This compared with 1,900 in his first six months on the job. "NPR's journalistic standards did not deteriorate in that period," Dvorkin wrote in an article about his experiences. "Far from it. It demonstrated that public interest in holding media accountable to quality standards of journalism continued to grow. And NPR was deeply committed to public accountability by being open to suggestions about how to make its journalism stronger and better."<sup>43</sup>

In an interview at the time of the 2013 ombudsmen's meeting, Dvorkin commented on the importance he continues to attach to routine interaction between ombudsmen and the public they serve. "You can get inside the echo chamber [of a news organization] and not realize people outside may feel differently," he said, adding that the attitude of many journalists toward the public is: "If they don't appreciate it, it's their fault."<sup>44</sup>

A second indicator of the positive value of having an ombudsman who interacts with the public is the impact it can make on angry customers. While there is no formal data to support the notion that such interaction reduces the chances of lawsuits, anecdotal evidence suggests that this is the case.

The first Guardian ombudsman was told by the company's in-house lawyer that in the years after his appointment in 1997, legal cases were at least a third lower than they had been previously.<sup>45</sup> Pike, the Star managing director, said that having an ombudsman can be useful in rebutting legal challenges because "Even if we're found to have been at fault, it demonstrates [through the ombudsman's investigation] that it wasn't a deliberate attempt to smear someone."<sup>46</sup> Kenya's Permanent Secretary of Information Bitange Ndemo said

in an interview in 2013 that if more publications had ombudsmen it “would reduce the cases that go to the Media Council.”<sup>47</sup>

While ombudsmen play a useful role in assuaging readers’ or viewers’ complaints, they also can enhance the public’s opinion of their news organisations by explaining how these institutions work. A 2007 study by doctoral candidate Cristina Elia found that “ombudsmen are important for educating readers on what is and isn’t journalistic quality”. Elia noted in an article based on her research at the European Journalism Observatory that “A knowledgeable patient, who might not always make a doctor’s life easier, still tends to live a healthier, more responsible life than a medical ignoramus. In the same way a ‘media savvy’ reader with a sound understanding of how journalism works, despite being more demanding, also plays a vital role in raising the general quality of journalism.”<sup>48</sup>

And ombudsmen can also, quite simply, show that their organisations care about getting things right. Almost universally, ombudsmen say that the single biggest category of complaints is factual errors and spelling and grammar mistakes.

In a column about a feature story containing numerous errors, Kenya Star ombudsman Kodi Barth wrote that a certain number of errors are understandable, but that “the right to be wrong is no excuse for sloppy journalism”. Perhaps the most interesting thing about the column was the responses it generated from readers. Wrote one: “The Star might have gotten it wrong on some facts of this story, but at least they can discuss it openly. Good luck with looking out for that in the other papers.”<sup>49</sup>

## CASE STUDY: The ombudsman as educator in Canada

### The issue

For several months in 2012, the Province of Quebec was rocked by student demonstrations over proposed tuition rises that quickly turned into more generalized protests against the provincial government. During that time, Radio-Canada, the French-language arm of the Canadian Broadcasting Corporation, received more than 400 complaints, primarily about balance and fairness. Nine of the complainants weren't satisfied with the responses of news officials and requested reviews by the ombudsman, whose mandate is to determine whether the national broadcaster's norms and standards have been violated.



The ombudsman's review of one complaint (excerpts, translated from French)

15 May, 2012, published on the Radio-Canada website

### ARE RADIO-CANADA AND THE INFORMATION SERVICE PROMOTING THE STRIKE?

By *Pierre Tourangeau*

I want to show that since the conflict began, the same interviews produced diametrically opposed reactions among listeners. As examples, here are excerpts from a few complaints that were sent to the office of the Ombudsman.

“...I believe that the aggressiveness of [Radio-Canada reporter] Ms. Dussault toward the Minister exceeded the limits not only of propriety but those of journalistic ethics.

“...Journalists from Radio-Canada identify completely with the strikers and forget the most basic objectivity. Non-strikers (the vast majority) are completely ignored.

“...Since the start of the student strike by OUR young people, it has been absurd to see how much our broadcast media are government puppets.

“...I am outraged to see how Ms. Dussault uses an increasingly authoritarian and disrespectful tone to the various members of student associations.”

...It is unrealistic to believe that every issue can, in each of its editions, present all points of view. First, because information programming, especially news items about ongoing issues, give priority to the latest developments. Then, depending on news developments, it becomes more urgent to report certain points of view. Broadcasting time is not infinite and the editorial teams must make choices...And it is precisely because all the views cannot be presented in each broadcast that interviewers must be the devil’s advocate with their guests, thus contributing to ensure a balance...Finally, all views are not always available, or may not be available at all, as in the case of students who are not on strike or who support the tuition increase, simply because they are not organised into associations and don’t have a spokesman.

...That said, because the conflict continues, and because we have not heard much from the majority of students who are not on strike, I believe that a special effort should be made to give them a voice. Allow me to recall that the four principles underlying our Journalistic Standards and Practices require that the information service accurately reflect the diversity and range of “experiences and points of view”. The JSP does not say that the task is easy.

*Full report available at <http://www.ombudsman.cbc.radio-canada.ca/fr/revision-des-plaintes/2012/radio-canada-et-le-rdi-font-ils-la-promotion-de-la-greve-etudiante/>*



## The Story Behind the Story

Pierre Tourangeau recalls the period of the 2012 student strike in Quebec as one of increasing political polarization and rising tensions. “It was a real social movement with daily demonstrations of tens of thousands of people, riots and so on,” he recalls. “What is interesting in this case is that I received hundreds of complaints from people who were sometimes complaining, for opposite reasons, about the same story or interview. It was obvious that everybody was looking at what was happening from their own very contrasting point of view.”<sup>50</sup>

Given the situation, Tourangeau says, “I felt that the public needed much more explanation” of how journalism works. In all but one of his reviews he found on behalf of the national broadcaster but he accompanied each with comments on the news process. “What I understood looking at the complaints was that most people don’t understand—or don’t want to understand—what the journalist’s role is,” he says.

Sometimes, he says, the misunderstandings are about things that might seem obvious to a journalist but not to the public. As one example, he cites a complaint about an anchor’s introductions to news reports and the captions used on the program. The complainant “didn’t realize that the intros and captions are written by someone else,” he says.

And often, he says, complaints about inaccuracies turn out, on close examination, to be the result of biases on the part of the listener or viewer, not the journalist.

“There is a huge role of teaching in the job” of ombudsman, he says, “to explain to reporters and editors why they did well or badly, and to explain to the public what a journalist is.”

Brian Myles, a journalist with the daily *Le Devoir* in Montreal as well as president of Quebec’s federation of journalists, concurs with Tourangeau that the student uprising was a critical moment in Quebec’s history. “It was near to a revolution,” he says, and the mainstream media, including Radio-Canada, were seen as part of the problem. The protestors and their supporters “wanted you to espouse their cause,” he says. “If you didn’t you were a puppet of the government. They could not accept that we were in the centre.”<sup>51</sup>

He describes the educational role played by ombudsmen as highly valuable. Ombudsmen's decisions don't usually get extensive coverage or have a major impact on the public, he says. "But for reporters there is real value," he says, because the decisions cause them to think about their performance on their own stories: "Did I go too far or not far enough?"

Myles notes that one exception to this lack of public attention was a 2012 case in which Pierre Duchesne, Radio-Canada's chief legislative correspondent, resigned and then shortly thereafter announced he was running for office on the ticket of the Parti Quebecois. The opposition party contended that he had been biased in his reports before his resignation. Tourangeau reviewed Duchesne's reports and concluded that the charge was unfounded, a decision that was widely reported. "After [the ombudsman's] ruling the opposition still went with the charge for a while but it died down," Myles recalls, and Duchesne went on to get elected.

"The ombudsman is a great institution," Myles says. "They operate with a small budget but they render timely decisions and they do a better job than the Quebec press council." Noting that he himself was a member of the council for four years, he says that while the council has to contend with many complaints, many on insignificant matters, "An ombudsman can pick his fights."

# CASE STUDY: Getting it right in the UK

## The issue

When the Guardian newspaper ran a critical commentary about Venezuelan President Hugo Chavez shortly before Chavez's death in 2013, many readers complained of inaccuracies in the economic data used by Ricardo Hausmann, the author of the piece. Hausmann had been Minister of Planning in an earlier Venezuelan administration.



The readers' editor's column (excerpts)

The Guardian 29 April 2013

## PUTTING THE RECORD STRAIGHT ON HUGO CHAVEZ'S LEGACY

*By Chris Elliott*

Almost any statement about Hugo Chávez, Venezuela's late president, is bound to generate controversy. When Ricardo Hausmann, a distinguished Harvard economics professor, wrote a critical article about the Chávez

legacy in the Guardian on 25 February just before the Venezuelan leader died, there was a particularly strong reaction to these two sentences: “Chávez’s sustained electoral success is remarkable because he managed to achieve it despite a dismal economic and social performance. Since 1999, the year he took over the presidency, Venezuela has had the lowest average GDP per capita growth rate and the highest inflation of any Latin American country except Haiti.” This provoked a vigorous complaint that Venezuela’s GDP was not the worst bar Haiti, and that Haiti’s inflation rate was not even the worst in Latin America.

...It is the kind of complaint that is very difficult to resolve. Readers’ editors are not, by and large, economics professors. As I talked to each side of the argument, consulted colleagues who had worked in the region and economists in the office, I found it very difficult to make sense of the conflicting sets of data.

...I submitted a request for help and information to the World Bank, to get the clearest data set that was explicable to a reader.

...It was clear that the article was wrong about GDP per capita growth rate at constant prices and that Venezuela has the highest inflation throughout the region using the consumer price index. I amended the copy and footnoted in the following way: “... According to the world development indicators of the World Bank it ranks 18 in a list of 28 countries in the region for GDP per capita growth between 1999 and 2011 and had the highest inflation rate of 32 countries in the region over the same period.”

Clarity is one of the key things that the readers’ editor tries to bring when investigating a complaint. On this occasion it has been difficult to achieve...And resolution of the complaint will barely put a dent in the ongoing argument over the legacy of Hugo Chávez.

*Full column available at <http://www.guardian.co.uk/commentisfree/2013/apr/28/record-straight-hugo-chavez-legacy?INTCMP=SRCH>*

## The Story Behind the Story

Chris Elliott, the third person to hold the post of readers' editor since it was established by the Guardian in 1997, says he got about 20 complaints about the accuracy of the Hausmann commentary. That is considerably above the half-dozen he has set as an informal bar above which he takes a closer look at a piece. "It was an allegation of significant error," he says. "Even comments have to be based on facts."<sup>52</sup>

But there were other reasons, too, that made him decide to act. One, he says, was that while Chavez was president, Venezuela ranked with Israel in terms of the topics that most agitated Guardian readers. "I decided there was so much fuss around Chavez that this would be a good issue to focus on," he says. And, he adds, "My own journalistic curiosity got the better of me."

But he little knew what he was getting into. "I can't tell you how many hours I spent in a room with a cold towel around my head trying to work things through," he jokes, recalling the reams of data offered by Hausmann and his critics. Eventually, he decided to turn for help to the World Bank, on the grounds that it is the source of statistical information most often used by Guardian journalists. But it took considerable effort to obtain sets of data that would allow him to make his own, independent comparisons. "People were really wary; they were concerned about being drawn into the argument rather than seen as statisticians," he says.

In the end, he obtained two tables from the World Bank that convinced him that some of Hausmann's figures were wrong. He added an amendment to that effect to the online version of the article, along with the tables.

Was it worth all the effort? "On the whole people seemed generally pleased," he says. But as he correctly noted in his column, resolution of the complaint didn't stop the ongoing arguments over Chavez, and indeed, most of the 164 comments posted about the piece were not about the column itself but rather a continuation of earlier debates.

What the comments did show, however, was that readers, spurred by Elliott's column, also continued to contribute interesting perspectives to those debates—for example, on the question of how one should interpret Venezuelan GDP growth when oil prices were rising rapidly, or the question of whether GDP is a good indicator of growth unless discussed in tandem with consumer price increases.

This kind of public reaction and inter-action is one of the main reasons why having a news ombudsman is so valuable, according to Emily Bell, a director of the Scott Trust, which owns the Guardian. "Having a high quality exchange with readers is important," among other things because it causes readers to feel they are part of a collaborative process, she says. "I strongly believe that by opening up that dialogue you produce better reporting over time."<sup>53</sup>

And, says Bell, a former business editor of the Observer who is now head of a digital journalism centre at Columbia University, an ombudsman also builds trust in the institution. "What is more valuable than trust?" she asks. "It's part of how people see your brand. It's not just about doing the right thing; it's a business decision."

Given these facts, she says, she sees the role of the readers' editor as having grown in importance over the years and as integral to the future of the liberal-minded paper. "It is such an embodiment of what the trust is about," she says. As for Elliott himself, she says, "I couldn't respect him more. He's somebody who works through a problem."

## 4. Working from within

News organisations tend to stress the ombudsman’s role as the representative of readers or listeners, but in fact many ombudsmen also engage in another important task: improving quality and raising journalistic standards within an organisation. Most often, this is done as part of the same process that results in published columns discussing particular issues or practices. But sometimes it involves mentoring or advising journalists in ways that the public never sees.

George Claassen of South Africa says that he is particularly aware of the need for this “inside” role as ombudsman for more than 90 community papers owned by Naspers, a major South African media company. “Many smaller papers are playing a vital role” in their communities, he says. “But quite often the journalists are less experienced.”<sup>54</sup>

Michael Getler, a former ombudsman at the Washington Post, and now the ombudsman for the US Public Broadcasting Service, believes in keeping his distance from the newsroom. But during his time at the Post, in addition to his regular published column he wrote a hotly-anticipated internal weekly memo that dished out both praise and criticism. Getler told the American Journalism Review that younger staffers had told him they really liked the memos. “They tell me they learn a lot about the paper and they get a lot of tips about what to avoid and what kind of traps not to fall into,” he said.<sup>55</sup>

In a 2002 study of three Portuguese daily newspapers that employed ombudsmen, Joaquim Fidalgo found that “journalists working in these newspapers have, generally, a very positive feeling about the ombudsman’s job, even if they don’t always agree with his judgements or if they are criticized by him.” Such feelings, Fidalgo wrote, derive from the fact that an ombudsman brings to internal debates both an awareness of professional ethics and readers’ opinions. This, he said, makes an ombudsman “a relevant agent of professional education—not at school but in the newspaper itself, and always with real cases as starting points.”

In Fidalgo’s study, 59 percent of the roughly 250 journalists queried cited the fact that “ombudsmen remember ethical values that often seem forgotten”

as a key value of such positions. This was the second most-cited value, just behind providing an “open door” for readers.<sup>56</sup>

Raising the possibility that ombudsmen’s internal role is not properly appreciated or studied, Australian academics David Nolan and Tim Marjoribanks wrote in a paper presented in 2007 that their survey of the literature about ombudsmen found a tendency to focus too much on public accountability. “In particular,” they wrote, “there is a tendency to severely downplay the possibility that ombudsmen might also have a significant role to play in promoting change within newspapers as a consequence of engaging journalists in a self-reflective public dialogue.” In cases where ombudsmen query senior officials of a media company about decisions and include their responses in their columns, ombudsmen serve the useful function of “speaking not only to the readership, but as seeking to communicate with the organization itself,” Nolan and Marjoribanks wrote.<sup>57</sup>

George Claassen says that in his first ombudsman’s role, at the Afrikaans daily Die Burger, he brought into the paper ideas that he’d developed as part of a media ethics course he’d been teaching at Stellenbosch University. The main one, he said, was that “You can’t criticize others if you’re not ethical yourself.”<sup>58</sup>



## CASE STUDY: Encouraging self-reflection in South Africa

### The issue

The Mail & Guardian published an investigative story on 28 March, 2013 revealing details about an aircraft order that was key to a battle over control of South African Airways. But the story left many questions unanswered. Both in a column he wrote and in discussions within the newsroom, ombudsman Franz Krüger raised awareness of journalistic practices in need of improvement.



The ombudsman's column (excerpts)

THE MAIL & GUARDIAN 28 March, 2013

### NO SMOKING GUN IN SAA STORY

*By Franz Krüger*

...Conflict over a huge order seemed to provide useful new background and I read the story with a few fairly simple questions in mind: How did the deal lead to this spectacular collapse at the airline? What was the

conflict about? And, a little later, what is the status of this procurement order now?

...Of course, in newspaper stories as in life, sometimes there are more questions than answers. But here the effect is simply vague and tantalising, leaving this reader, at least, frustrated. It reads a bit like a fishing expedition.

This story is not the only example of a kind of investigative approach, increasingly common, that presents a series of vague and complex connections that may suggest something improper – or they may not. The difficulty with this kind of story is that it is too easy for the writer's conviction that something is wrong to drive the supposition and inference in particular directions.

Also, such stories can be very hard to read, with a wealth of complex detail that is difficult to follow.

...The view behind the SAA story seems to be that there's no smoke without fire. I prefer a smoking gun any day.

*Full column available at <http://mg.co.za/article/2013-03-28-00-no-smoking-gun-in-saa-story>*

## The Story Behind the Story

The Mail & Guardian, a Johannesburg-based weekly, has always been known for its tough investigative reporting. But Franz Krüger, the ombud (as he is known) of the paper, says that he had been noticing for some time how many such stories seemed to lack a clear line of argument and well-marshalled supporting evidence. So when the paper ran a particularly confusing investigative piece about a South African Airways contract he decided it was time to weigh in. The story "just irritated me," he says. "I thought it was loose, lacking in detail."

Krüger, who is also a faculty member at Witswatersrand University, says he spoke with the lead writer of the story and the editor, both of whom agreed with his general points, before writing his column. But as is his usual practice, he didn't quote anyone. "You have to maintain the trust of the people you're criticizing," he says, adding that you also can't be an effective critic "if you're seen as someone endlessly carping".

A few days after the column ran, Krüger sat in on the M&G's informal post-mortem on that week's paper. "There was no hostility," he says, and in fact he learned that there had already been a meeting to discuss the issues he had raised. "I think there are several people at the paper who find the investigative stuff unreadable, dense," he says, but they had been reluctant to challenge the investigative team themselves. As an outsider, but one with some standing in the newsroom, he was able to speak up.

"What mattered to me in this saga was to make the point that this was not just a writing issue," he says, which he felt some people were focusing on as a way of evading his critique. "In a sense, that's the easy response." Rather, he says, his concerns were that the central points in an investigative piece have to be so thoroughly reported that they are convincing to readers, and that suppositions and loose connections cannot be substituted for facts.

Nic Dawes, the Mail & Guardian's editor-in-chief at the time, says that Krüger's column "crystallized or accelerated" a debate already going on in the newsroom. Initially, he says, the column was met with a fair amount of defensiveness, but no one disagreed with Krüger's main points.

"There is a culture and a set of practices in a newsroom that are very powerful," he says, and particularly under deadline pressure, people tend to fall back into them. In the Mail & Guardian's case, he says, people were already aware that these included not leaving enough time for editing of complicated stories and at times a tendency to punch up a lead beyond what the facts could support. "The paper has a tradition of making people wake up on Friday [when the weekly paper comes out] and saying 'Wow!'"

Dawes says that the respectful hearing accorded to Krüger's criticisms also stemmed from Krüger's reputation as "a very credible figure". As such, he exemplifies Dawes' view of what a good ombudsman should be: "someone who can get the balance right between being tough and independent" and at the same time be perceived as fair both by readers and by journalists.

Dawes says Mail & Guardian journalists were more prepared to accept criticism than they might otherwise have been as a result of his efforts "to inculcate a culture of openness" ever since his arrival in 2009. "I believe it makes journalism better and more credible," says Dawes, who perhaps not coincidentally has a background in online journalism and other web ventures. This openness, he says, includes paying attention to what critics say on social media and, at

times, engaging with them. "The way to die [as a paper] is to adopt the pulpit position," he says. "Openness invigorates our journalism."

Dawes maintains, however, that the presence of outside critics doesn't lessen the need for an ombudsman. Quite apart from the fact that not everyone uses social media, he says, an ombudsman is still important as someone who is able to mediate and to act as an internal resource. This latter role doesn't just involve journalists, he says, noting that he finds it useful at times to talk over general issues with Krüger. Being an editor, he says, "can be "a lonely job".

Krüger says he's always happy to talk with staff members but for the most part resists being too prescriptive, especially on deadline. "It's really hard when you're not in the situation," he says. "One is not a super editor."

But even if he's not involved on a day-to-day basis, he says, he knows his presence is felt, especially on ethical matters. "People have told me," he says, "that they've heard someone ask, 'What would Franz Krüger say?'"

## CASE STUDY: Enforcing ethical standards in Argentina

### The issue

*Perfil*, a newspaper in Buenos Aires, published a story in 2006 about Botnia, a company whose pulp mill on a river between Argentina and Uruguay was accused of pollution. The story failed to reveal that Botnia had paid for the reporter's trip to its headquarters in Finland. The paper's ombudsman wrote only a small item about the issue, but his discussions with *Perfil* editors, along with his public mention of the problem, brought significant responses.



The ombudsman's opinion (excerpts, translated from Spanish)

Sunday, 21 May 2006 PERFIL

### MY CRITICISM

*Nelson Castro*

In this edition of the newspaper is an article by Silvio Santamarina reflecting various aspects that have to do with the reality of paper factories and especially of Botnia from Finland...

...[I]n my capacity as ombudsman of *Perfil* readers, I should let you know a fact about which I want to state my position. Silvio travelled to Finland

along with a group of colleagues from different Argentine media who were invited by Botnia, which paid all the costs of the trip.

Even if this did not affect Silvio's work, it is incompatible with Perfil's code of ethics. For this reason, the publishing decision to accept this invitation of Botnia merits my criticism.

## The Story Behind the Story

Nelson Castro, Perfil's ombudsman in 2006, says the Botnia pollution story was a very big one at the time because, in addition to concerning pollution, it involved a disagreement between Argentina and Uruguay.

"One day I got the news that Botnia had paid for a trip for journalists and as soon as I learned that I made a critical comment on a television program," recalls Castro, who was already a well-known media personality when he took up the ombudsman's role. "Then someone inside Perfil told me, 'You should know that someone from Perfil went on that trip.'"<sup>61</sup>

Castro says that when he asked the journalist who'd written a front-page story for Perfil about the trip, the journalist told him, "You know that the fact that the company paid for the trip doesn't necessarily mean I wrote a positive story. I asked all the right questions." Castro says he told him, "Regardless, we cannot accept this."

He went to the top editors of the paper, who immediately agreed that it had been a mistake to allow the trip. He says he urged them to amend the code of conduct of the newspaper to make it clear that such a trip was against the code, which they did, adopting guidelines on when and under what conditions sponsored trips were acceptable. In the brief item he wrote about what had happened, he didn't quote anyone but simply gave his opinion that the decision to allow the trip had been wrong.

"It caused a debate in the profession," he recalls. "Of course some colleagues didn't agree with me," believing that the media could harm themselves by revealing their errors. "Some people said, 'That's why we shouldn't have an ombudsman.'"

Castro says that one reason why the incident prompted so much discussion may have been the fact that it was discussed publicly at all. "Before that issues had been raised theoretically but not in practical terms," he says. "It was a kind of milestone in the profession."

Readers, too, he says, were quite interested. During his tenure as ombudsman he made a practice of holding a public meeting every six months or so, and at the next one after the event there were between 300 and 400 people "and almost all of them wanted to talk about that issue," he recalls. This surprised him, he said, because he thought that "for the most part people are too busy with their lives" to think much about such matters.

Julio Petrarca, who was a senior editor of the paper at the time, says that as soon as Castro pointed out the ethical issues raised by the reporter's trip, he immediately understood the problem and proposed changes in the code. He says that "without doubt" the incident improved the credibility of the paper and its relations with readers.<sup>62</sup>

Petrarca is now the Perfil ombudsman himself and, after being queried in 2013 about the incident, wrote a column in which he recalled what had happened and said that it had caused him to revisit the issue. Noting several recent instances in which journalists had accepted free trips, he said that in the future, he intended to monitor such trips closely.<sup>63</sup>

Flavia Pauwels, an Argentine academic who has made a speciality of studying news ombudsmen, says that the original column was much discussed among journalists. "It was not a dramatic change, it was a small change," she says. "Small but important." She adds that ombudsmen's discussions of "deep ethical problems" are exceptions to the rule.<sup>64</sup>

In an article written in 2010, Pauwels recalled that in 1993, the Argentine magazine *La Maga*, the first in the country to have an ombudsman, caricatured the ombudsman as a kind of Superman. While such a portrait was overblown, she wrote, the work of ombudsmen "demands our attention, because they are blazing one of the possible paths, though not the only one, along which the Right to Information can advance."<sup>65</sup>

## 5. Conclusion

My own experience as a news ombudsman in Kenya shows how much consumers appreciate the simple fact that someone has taken time to listen to their complaints. After I replied with some friendly observations to a reader's hostile email about perceived bias in the paper, I got another email from the same reader saying, "I think every newspaper should, as a rule, have a responsive public editor!"

This kind of positive reaction can translate into increased public regard for the media, greater trust in its editorial content, fewer legal or regulatory problems and a healthier bottom line. As UK Scott Trust director Emily Bell is quoted in Chapter Two as saying, "It's not just about doing the right thing; it's a business decision."

Related to this is the contribution ombudsmen make to improving the quality of news products. Ombudsmen keep newsrooms alert to matters of accuracy and ethics on a day-in, day-out basis, whether it's through prompting discussion of professional standards among young journalists or encouraging more careful editing among experienced ones. And because they operate inside media houses, they are more likely to be listened to than are outside critics—as illustrated in Chapter Three by the swiftness with which Argentina's Perfil newspaper changed its ethical guidelines after the paper's ombudsman criticized the editors for allowing a journalist to take a free foreign trip.

Ombudsmen can also help news organisations to maintain a mutually respectful relationship with government officials. Media officials are in a stronger position to champion freedom of speech when they speak honestly about their own shortcomings. In discussing in Chapter One why an ombudsman's column had led government officials to drop a complaint against a daily newspaper, Kenya's Minister of Information said, "It feels good when someone admits a mistake."

Nonetheless, despite such benefits, the introduction of news ombudsman has been slow. In 2011 the African Media Leaders Forum adopted a set of Leadership and Guiding Principles that called for "Establishing internal mechanisms (e.g. public editor or ombudsman) as channels for dealing with



public complaints or offering right of reply.” A few months later, Tanzania’s Minister of Information applauded the initiative but cautioned, “There is a need, however, to walk the talk so that the principles do not remain mere exhortations.” With regard to ombudsmen, his words ring sadly true, as there are no more news ombudsmen on the continent of Africa now than there were at the time of his remarks.

And even when ombudsmen are appointed, their positions are not always secure: in one case in Asia, an ombudsman’s position was abruptly abolished after a short period when the occupant proved too outspoken for management’s liking; in another, in Turkey, an ombudsman was fired following his attempts to air issues including the ties between the government and media owners.

If the ranks of ombudsmen are to grow, it will require the sustained efforts of all institutions and individuals who believe in free and vibrant media. Outsiders could show their interest, for example, by sponsoring mentoring programs for new ombudsmen or regional gatherings of ombudsmen where participants should share their insights and experiences. In certain cases, interested supporters might even help to underwrite pilot ombudsman programs at media companies that have limited resources, thus allowing company officials to evaluate ombudsmen’s usefulness before committing to the concept long-term.

But the chief responsibility for increasing the ranks of ombudsmen, and for helping ombudsmen who are already on the job to better carry out their work, resides with top editors and publishers. Media companies claim that government owes them certain rights because of their role as guardians of democracy. They also routinely hold institutions and officials to account. In return, they need to demonstrate the same kind of openness and accountability they expect of others. A commitment to having an ombudsman is one way to do that.

## **1. The role and history of news ombudsmen**

- <sup>1</sup> The Hindu, January 14, 2006 (<http://www.thehindu.com/todays-paper/k-narayanan-the-hindus-first-readers-editor/article3239800.ece>).
- <sup>2</sup> NewsDay Zimbabwe, February 23, 2012 (<http://www.newsday.co.zw/2012/02/23/2012-02-23-amh-appoints-public-ombudsman>).
- <sup>3</sup> Joe Latakgomo, "Ostriches no more," (<http://www.timeslive.co.za/opinion/2011/06/05/ostriches-no-more?service=print#>).
- <sup>4</sup> Quoted by Prof Flavia Pauwels in "Ombudsmen in the Latin American press: A complex task that seeks to become permanent," English-language version published July 26, 2010 (<http://newsombudsmen.org/articles/ombudsmen-in-the-latin-american-press-a-complex-task-that-seeks-to-become-permanent>).
- <sup>5</sup> Interview with Dvorkin, May 19, 2013.
- <sup>6</sup> Jeffrey Dvorkin, "The Modern News Ombudsman: A User's Guide," published in 2011 by the Organization of News Ombudsmen, p. 15.
- <sup>7</sup> Estimates based on various studies of specific countries or regions as well as conversations with journalists, media scholars, ombudsmen and ONO officials.
- <sup>8</sup> Jeffrey Dvorkin, "News ombudsmen at your service," Common Ground Newsbulletin October 13-19 2009 (<http://www.humiliationstudies.org/news/?p=1827>).
- <sup>9</sup> Interview with Elliott, June 7, 2013.
- <sup>10</sup> Interview with Asahi Shimbun reporter Kazuo Teranishi, May 14, 2013.

- <sup>11</sup> Remarks made at 2013 ONO annual conference, held in Los Angeles, May 19-22.
- <sup>12</sup> Bill Ristow, "Sword and Shield: Self-Regulation and International Media", Centre for International Media Assistance, May 2009, p. 5 (<http://cima.ned.org/publications/research-reports/sword-and-shield-self-regulation-and-international-media>).
- <sup>13</sup> Committee to Protect Journalists, "Attacks on the Press" (<http://www.cpj.org/2009/02/attacks-on-the-press-in-2008-sudan.php>) and <http://www.cpj.org/2011/02/attacks-on-the-press-2010-sudan.php>).
- <sup>14</sup> Media Council of Kenya, The Aids Law Project -Versus-Radio Africa and Ciku Muiruri (<http://mediacouncil.or.ke/Complaints/resolved-complaints.html>).
- <sup>15</sup> Prof Golam Rahman, "Media professionalism in Bangladesh: Dynamics in a developing country", ONO, June 22, 2012 (<http://newsombudsmen.org/articles/media-professionalism-in-bangladesh-dynamics-in-a-developing-country>).
- <sup>16</sup> Ayub Rioba, "Media Accountability in Tanzania's Multiparty Democracy: Does Self-regulation work?" University of Tampere, Finland (<http://tampub.uta.fi/bitstream/handle/10024/66955/978-951-44-8936-5.pdf?sequence=1>).
- <sup>17</sup> Interview with Dvorkin, as previously cited.
- <sup>18</sup> J.D. Froneman, "How Internal News Ombudsmen Can Strengthen Media Ethics and Understanding" in "Communication and media ethics in South Africa" (Juta), editor N. Hyde-Clarke, 2011, text supplied by the author.
- <sup>19</sup> Yavuz Baydar , "The Turkish Experience: Ombudsmanship in a Hostile Environment" in "Professional Journalism and Self-Regulation", Unesco, 2011, p. 98 ([http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/media\\_standards/Professional+Journalism+and+Self-Regulation.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/media_standards/Professional+Journalism+and+Self-Regulation.pdf)).
- <sup>20</sup> As quoted in The Observer, December 30, 2012 (<http://www.guardian.co.uk/theobserver/2012/dec/30/the-readers-editor-on-how-best-handle-complaints>).

- <sup>21</sup> Neil Nemeth “News Ombudsmen in North America” (Praeger), 2003, p. 143.
- <sup>22</sup> Jack Shafer, “Does anyone care about newspaper ombudsmen?” March 4, 2013 (<http://blogs.reuters.com/jackshafer/tag/washington-post/>; second item).
- <sup>23</sup> Jay Rosen on his blog “pressthink” ([http://archive.pressthink.org/2005/05/13/okrt\\_prs.html](http://archive.pressthink.org/2005/05/13/okrt_prs.html)).
- <sup>24</sup> Patrick B. Pexton, “The Post’s last ombudsman?” February 15, 2013 ([http://articles.washingtonpost.com/2013-02-15/opinions/37117880\\_1\\_ombudsman-media-critics-reader](http://articles.washingtonpost.com/2013-02-15/opinions/37117880_1_ombudsman-media-critics-reader)).
- <sup>25</sup> Edward Wasserman, “Two cheers for the news ombudsman” in The Miami Herald, posted on April 7, 2013 (<http://www.miamiherald.com/2013/04/07/3325844/two-cheers-for-the-news-ombudsman.html>).
- <sup>26</sup> David Nolan and Tim Marjoribanks, “Regulating Standards: Ombudsmen in Newspaper Journalism” (<http://www.tasa.org.au/conferences/conferencepapers07/papers/377.pdf>).

## **2. When governments and media clash**

- <sup>27</sup> As reported in news stories including [http://www.standardmedia.co.ke/?articleID=1144001544&story\\_title=Cloud-of-fear-returns-to-haunt-Kenya](http://www.standardmedia.co.ke/?articleID=1144001544&story_title=Cloud-of-fear-returns-to-haunt-Kenya).
- <sup>28</sup> For details see <http://cpj.org/2013/05/cpj-urges-president-zuma-to-block-secrecy-bill.php>.
- <sup>29</sup> Joe Latakomo “Allow media to ask questions about CAR” (<http://www.dispatch.co.za/allow-media-to-ask-questions-about-car/>).
- <sup>30</sup> Thabo Leshilo “Press code: back to the source (<http://www.timeslive.co.za/opinion/article721170.ece/Press-code--back-to-the-source>).
- <sup>31</sup> Froneman, op.cit.

- 32 Interview with Sullivan, June 19, 2013.
- 33 As of July, 2013.
- 34 Greg Mitchell, "Margaret Sullivan, an Ombud Who Cares," *The Nation*, print edition of April 8, 2013 (<http://www.thenation.com/article/173448/margaret-sullivan-ombud-who-cares#axzz2ZmE2hUDg>).
- 35 Interview with Weiner, June 25, 2013.
- 36 Interview with Ndemo, February 19, 2013.
- 37 Interview with Kittony, March 1, 2013.
- 38 Interview with Pike, February 22, 2013.
- 39 Letter dated 14th June, 2012 from Ndemo to Pike.

### **3. Ombudsmen and the public**

- 40 Arjen van Dalen and Mark Deuze, "Readers' Advocates or Newspapers' Ambassadors? Newspaper Ombudsmen in the Netherlands," *European Journal of Communication* (<http://ejc.sagepub.com/content/21/4/457.abstract>).
- 41 Data supplied by Stephen Pritchard, readers' editor of the *Observer*.
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- 43 Dvorkin, *Common Ground Newsbulletin*, op. cit.
- 44 Interview with Dvorkin, as previously cited.
- 45 Information supplied by *Guardian* readers' editor Chris Elliott in an email of November 20, 2012.
- 46 Interview with Pike, as previously cited.
- 47 Interview with Ndemo, as previously cited.

- 48 Cristina Elia, "The Mediators", European Journalism Observatory, posted April 5, 2007 (<http://en.ejo.ch/490/ethics/the-mediators>).
- 49 Kodi Barth, "Fact-checking: the recipe for accuracy", May 20, 2013 (<http://www.the-star.co.ke/news/article-121041/fact-checking-recipe-accuracy>).
- 50 Interview with Tourangeau, May 21, 2013.
- 51 Interview with Myles, June 8, 2013.
- 52 Interview with Elliott, as previously cited.
- 53 Interview with Bell, June 19, 2013.

#### **4. Working from within**

- 54 Interview with Claassen, May 20, 2013.
- 55 David A. Markiewicz, "Mike'll Get Ya", American Journalism Review, November 2001 (<http://www.ajr.org/Article.asp?id=2378>).
- 56 Joaquim Fidalgo, "The ombudsman's role in the eyes of the newsroom" presented at the IAMCR Conference in Barcelona, Spain, July 21-26, 2002 (<http://repositorium.sdum.uminho.pt/bitstream/1822/7432/1/Fidalgo,%20J.%282002%29-Press%20ombudsman-IAMCR.pdf>).
- 57 Nolan and Marjoribanks, op. cit.
- 58 Interview with Claassen, as previously cited.
- 59 Interview with Krüger, April 19, 2013.
- 60 Interview with Dawes, May 14, 2013.
- 61 Interview with Castro, May 4, 2013.
- 62 Email interview with Petrarca, response of May 15, 2013.
- 63 Julio Petrarca, "Fe de erratas máximas", May 5, 2013 (<http://www.perfil.com/columnistas/Fe-de-erratas-maximas-20130505-0056.html>).

- <sup>64</sup> Interview with Pauwels, May 20, 2013.
- <sup>65</sup> Professor Flavia Pauwels, "Ombudsmen in the Latin American press: A complex task that seeks to become permanent", English version posted at the ONO website July 26, 2010 (<http://newsombudsmen.org/articles/ombudsmen-in-the-latin-american-press-a-complex-task-that-seeks-to-become-permanent>).

## **5. Conclusion**

- <sup>66</sup> "Leadership and Guiding Principles for African Media Owners and Managers" A project of the African Media Initiative and endorsed by the African Media Leaders Forum in Tunis on November 12, 2011 (<http://ami.dotsavvycloud.com/programmes/ami-leadership-and-guiding-principles/>).
- <sup>67</sup> African Media Initiative, Press release, May 3, 2012 ( <http://ami.dotsavvycloud.com/wp-content/uploads/2013/02/AMI-Press-Release-3rd-May-2012-Dar-es-Salaam-Tanzania.pdf>).





