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AND HELENA SOUSA

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# The Handbook of Political Economy of Communications

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# Introduction: The Political Economy of Communications *Core Concerns and Issues*

Janet Wasko, Graham Murdock,  
and Helena Sousa

## What is Critical Political Economy?

Running through the revolution in European thought that came to be known as the Enlightenment were three central ambitions. The first was to develop new accounts of the natural and social worlds that were empirically grounded and expressed in rationally informed theoretical systems. The second was to replace the arbitrary power of kings and despots with a system of government in which every adult participated in political debates and decision as a free and equal citizen. And the third was to provide a nonreligious basis for moral action that would balance the pursuit of personal interests against the demands of the common good.

Political economy was, from the outset, caught up in all three projects. For its early practitioners, like Adam Smith, theoretical and empirical questions about how to organize economic life and balance markets against state intervention were inextricably bound up with questions about the constitution of the good society. Marx, who presented his magnum opus, *Capital*, as a critique of political economy, shared this ethical concern, but argued forcefully that it could only be pursued by abolishing capitalism. Other socialists opted for a more gradualist approach in which the negative impacts of capitalist dynamics would be disciplined by strong public regulation and countered by substantial investment in public services.

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Both positions, however, produced strong conceptual critiques of capitalism's claims about itself and sustained empirical investigations of how its everyday operations perpetuated exploitation and injustice, manufactured inequalities, and undermined mutuality and solidarity. This critical tradition has had a major impact on the political economy of culture and communications precisely because the communications industries play a central double role in modern societies, as industries in their own right and as the major site of the representations and arenas of debate through which the overall system is imagined and argued over.

The approach to these questions developed by critical political economists differs from the analyses of culture and communications produced by most economists in four important respects. Firstly, it is holistic. Rather than treating "the economy" as a specialist and bounded domain, it focuses on the relations between economic practices and social and political organization. Secondly, it is historical. Rather than concentrating solely or primarily on immediate events, it insists that a full understanding of contemporary shifts must be grounded in an analysis of transformations, shifts, and contradictions that unfold over long loops of time. Thirdly, in contrast to economics that severed its historic links with moral philosophy in an effort to present itself as an objective science, critical political economy continues to be centrally concerned with the relations between the organization of culture and communications and the constitution of the good society grounded in social justice and democratic practice. Fourthly, critical analysis places its practitioners under an obligation to follow the logic of their analysis through into practical action for change. Many of the contributors to this volume think of themselves as public intellectuals as well as academics, informed citizens engaged in public political argument.

### **Why Political Economy? Why Now?**

It is clear that the logic of capitalism has massively extended itself, with marketization emerging as the defining force of the last several decades. Capitalism is more global than ever, not only in North America and Europe, but expanding to other parts of the world, including China and other key locations. Indeed, capitalism has become a generalized phenomenon with the globalization of markets now a central theme. Along with these developments, the tension between private interest and public good has been significantly exacerbated. While public policy efforts are strained, privatization moves forward, and the abuse of private power is blatant and commonplace (as discussed by Graham Murdock at the beginning of the first chapter in this volume).

Critical political economy is more important than ever for understanding these developments, as well as for understanding contemporary media and communications. There is a universal belief that the cultural or "creative" industries are no longer peripheral, but occupy a central role in the economy. However, the analysis

of this phenomenon is often problematic and inadequate. A few contemporary approaches deserve mention (and critique) here.

## Political Economy and Other Approaches

### Media economics

Just as critical political economy can be distinguished from neoclassical economics, as we noted above, the critical study of the political economy of media is also different from media economics.

More specific attention to economics has been evident in the field of communication and media studies since the late 1980s, with scholars identifying media economics as a distinct focus of research activity. Early examples included Compaine's *Who Owns the Media?* (1979) and textbooks by Robert Picard (1989), Allison Alexander et al. (1993), Alan Albarron (1996), and more recently, Gillian Doyle (2002). *The Journal of Media Economics* was introduced in 1988, with a goal, as stated in its Contributor Information section, "to broaden understanding and discussion of the impact of economic and financial activities on media operations and managerial decisions." Generally, these media economics texts and the journal echo the concerns of mainstream (neoclassical) economics.

For the most part, the emphasis of media economics is on microeconomic issues rather than macroanalysis, and focuses primarily on producers and consumers in media markets. Typically, the concern is how media industries and companies can succeed, prosper, or move forward. While competition may be assessed, little emphasis is placed on questions of ownership or the implications of concentrated ownership and control. These approaches avoid the kind of moral grounding adopted by political economists, as most studies emphasize description rather than critique. A common approach is the industrial organization model, as described here by Douglas Gomery:

The industrial organization model of structure, conduct, and performance provides a powerful and useful analytical framework for economic analysis. Using it, the analyst seeks to define the size and scope of the structure of an industry and then go on to examine its economic behavior. Both of these steps require analyzing the status and operations of the industry, not as the analyst wishes it were. Evaluation of its performance is the final step, a careful weighing of "what is" versus "what ought to be." (Gomery 1989, 58)

Generally, then, media economics represents the application of neoclassical economics to media. And while there may be some issues and forms of analysis that are shared by political economy and media economics, for the most part the fundamental assumptions and motivations are quite different. In most cases, media



economics avoids political and historical analysis, both fundamental components of the critical study of political economy. Importantly, media economics mostly accepts the status quo, whereas political economy represents a critical orientation to the study of the media, challenging unjust and inequitable systems of power.

### **Creative industries**

Living in the United States during World War II as an exile from Nazi Germany, the cultural analyst Theodor Adorno, observing the world's largest and most successful commercial media system, concluded that the industrialization of culture was narrowing the range of expressive activity and popular choice by pouring creativity into the preset molds of the dominant commercial genres. He saw the combination of standardized expression and rationalized distribution through the new mass media creating a new "Culture Industry" that severely limited imaginative horizons (see Adorno 1991). This resonant phrase enjoyed considerable currency and focused critical attention on the ways diversity of expression was compromised by the commercial pursuit of maximum sales and audiences.

This critical perspective has now been almost entirely overtaken by the incorporation of commercial media into the newly designated complex of "creative industries." Governments in the advanced capitalist economies now see the media and information industries as central to the "knowledge economy" that will replace the old reliance on heavy industry. Academic advocates add that with the rise of the Internet, creative production in the service of profit is no longer the exclusive preserve of the major media companies; it has been democratized and flows through the new digital circuits of peer-to-peer exchange, shifting the locus of innovation and control from company boardrooms to teenage bedrooms (Hartley 2009). In this formulation, commerce no longer constrains creativity, but enables and promotes it. As a number of the contributors to this volume point out, this argument ignores the fact that the spread of the Internet has coincided with the rise of marketization, the consequent consolidation of corporate power, and the expansion of strategies for incorporating popular creativity into revenue generation.

### **New media**

Overvaluations of the Internet's impact follow logically from a foreshortened time perspective coupled with an underdeveloped analysis of the resilience of structural inequalities and the persistence of embedded structures of power. The ubiquitous term "new media" is symptomatic. It inevitably draws analysis toward one version or another of technological determinism where change is initiated by the arrival

of a new array of communicative machineries. Rather than starting with the technology and asking what is its likely impact, critical analysis starts from the prevailing distribution of power and inequality and asks whose interests will be best served by these new potentialities. From this perspective, digital media appear not as a primary lever of change but as a new field of struggle dominated by long-standing battles and combatants. The sites and terms of engagement may shift, but the stakes remain the same.

## Organization of the Handbook

The chapters in this volume include a sample of debates and legacies, as well as representative discussions of issues and themes that have been addressed within the political economy approach to studying communications/media.

### Part I – Legacies and Debates

The contributors to this collection address issues and themes common to the critical study of political economy of communications and media. Although their approaches may differ, we find that discussion of these differences is necessary and constructive for the evolution of the approach. The chapters in Part I represent the diversity that has characterized the political economy tradition in the study of media and communications.

**Graham Murdock**, in "Political Economies as Moral Economies: Commodities, Gifts, and Public Goods," explores the competing moral economies supported by three systems of production and exchange – commodities, gifts, and public goods – and examines how the relations between them are being played out on the contemporary Internet.

In the next chapter, **Nicholas Garnham** revisits the political economy of communication by arguing that the tradition has focused on the same questions for far too long, not taking into account changes in the field and in the world. He sees problems with the political economy critiques of mass culture that emphasize public service models as an idealized alternative, as well as the market–antimarket debates that have dominated much of political economy research. Garnham argues for a political economy of culture as well as an emphasis on the intertwined relations between information services and culture as an important focus for future study.

**Eileen Meehan and Paul Torre** explore markets, as a fundamental component of capitalism, as they were idealized and theorized by Adam Smith, as well as liberal market theory. The authors focus on the creation of media markets, and in particular television markets. More specifically, the chapter discusses ratings and formats, as well as the legal and regulatory influences on these markets.

Bernard Miège presents the legacy of cultural industries theory as an idea and approach to research within the political economy of communications. Miège traces the lineage of cultural industries analysis, from the Frankfurt School through the North American political economy tradition, and how it has evolved since the 1990s.

To conclude Part I, **Martín Becerra** and **Guillermo Mastrini** explore a Latin American approach to political economy of media by examining the analysis of Heriberto Muraro from the late 1980s. Muraro emphasized research that went beyond property relationships, including new technology's role in economic activities, mass media's role in decision making in relation to economic policies, and creating a wider model for transmission of information and communication. Incorporating these issues with theories of international communication and globalization, the authors explore the recent developments in the study of the political economy of Latin American (specifically, Iberoamerican) communications, concluding that these culture industries have been shaped by media policies and technological developments, as well as economic development and its impact on culture.

## Part II – Modalities of Power: Ownership, Advertising, Government

In Part II, contributors examine mechanisms of power that relate to media and communications. Political economy has traditionally focused on these areas as crucial to understanding the role of media and communications in society. For instance, **Giuseppe Richeri** begins with an exploration of the relationships between media enterprises, the public, and the state, and points to important areas for future research. **John Downing** considers the fundamental question of ownership and control, tracing the lineage of the debate over the significance of this issue. In **Nathan Vaughan's** chapter, the concept of synergy is thoroughly explored as he considers the various factors contributing to economic as well as cultural synergies and how this development has been studied by political economists of the media.

Chapters by **Roque Farone** and **John Sinclair** discuss the highly important role of advertising, including its ideological significance and the evolution of branding. Farone draws attention to the typical defense of advertising as natural and productive, as well as critiquing numerous examples of this specific ideology. Sinclair provides a historical look at brands, examining the concept within political economy, but arguing for a cultural economy approach.

The remaining chapters in Part II address issues relating to the state. **Andrew Calabrese** and **Colleen Mihal** focus directly on media relations with government, exploring current debates about public policy and private power. The state also is at the heart of **Dan Schiller's** discussion of the historical evolution and current developments in the militarization of communications in the US. His overview of the political economic roots of militarized communications reveals that it is

deep-seated and multifaceted, and in need of further attention. Finally, **Helena Sousa and Joaquim Fidalgo** consider state power in relation to professional journalists, focusing especially on Portugal as a case study.

### **Part III – Conditions of Creativity: Industries, Production, Labor**

The study of the political economy of media requires a thorough understanding of media companies and industries, as well as attention to issues related to labor. Chapters in Part III exemplify this type of research with discussions of recent developments in the US film industry (or Hollywood) and the historical and current status of the recorded music industry. **Janet Wasko** discusses recent arguments that Hollywood is dead, noting that such claims lack historical perspective. In the next chapter, **André Sirois and Janet Wasko** reinforce the importance of history in understanding the recorded music industry, arguing that recorded music has been more about technology and less about art/music from its inception, and that technology has made music into a commodity.

Labor is the focus of the other two chapters in this section. **Vincent Mosco** argues that labor remains a blind spot of western communication studies, including the political economy tradition. Trying to address this gap, Mosco maps the most relevant research on the media labor processes that include diverse theoretical and geographical perspectives. Finally, **David Hesmondhalgh and Sarah Baker** critique the political economy approach as “largely marginal in major critical studies of the Internet and new media,” pointing to the entrance of new theoretical competitors in the media sphere. They argue that “political economy ... has had very little to say about the rise of creative industries policies in many parts of the world ... or about the fundamental importance of copyright to media and cultural production and consumption.” Echoing Mosco, they also find less attention has been given to issues relating to labor and media, and propose more research on “creative labor” through an analysis that combines understanding of power, institutions, and subjectivity.

### **Part IV – Dynamics of Consumption: Choice, Mobilization, Control**

Despite claims to the contrary, political economy of the media has directed special attention to issues relating to consumption. Part IV features several chapters that focus on this issue, albeit in different ways.

**Giovanni Cesareo** addresses key questions of how consumers are defined and considers the work of consumption. He also introduces the idea of new types of producer-consumers (dubbed “prosumers”) who arise with new media platforms, such as blogs that involve citizen journalists.

**Daniel Biltereyst and Philippe Meers** observe that political economy perspectives play an important role in understanding various key issues relating to media audiences. They argue that a political economy of audiences helps clarify core questions on media, power, and society. Biltereyst and Meers deconstruct the complex concept of audience, incorporating political economy approaches that are perceived as extremely important for investigating questions on media power, particularly in exploring the conditions and the limits of cultural production, control, and governmentality. They claim that "In its engagement with questions of 'justice, equity and the public good,' critical political economy, as Golding and Murdock ... have forcefully argued, is much more than the study of structures and economic dynamics behind (the range of) cultural production and texts, but it also incorporates questions on cultural consumption, access, and cultural competence."

Further discussion of consumption is offered by **Oscar Gandy**, who explores the political economy of personal information. Gandy is concerned with a particular kind of commodity: information about individuals or personal information with its role in the identification, classification, and evaluation of individuals. While personal information is a commodity, it is nevertheless a difficult product that is tricky to value.

And, finally, **Sophia Kaitatzi-Whitlock** focuses attention on the political economy of political ignorance, which is, in her view, increasing even though we ostensibly live in "knowledge societies" and an age of momentous scientific advances. Kaitatzi-Whitlock conceptualizes the notions of knowledge and ignorance and discusses instances of political ignorance and its growth in Europe over the last decades. She claims that the production of political ignorance is inherent in the prevailing political economy, notably that of symbolic goods, and argues that this is a media-induced affliction.

## Part V – Emerging Issues and Directions

As noted in Parts I–IV, the study of political economy of media is (or at least, should be) flexible and dynamic, responding to social changes within a historical context. Some of the emerging issues and directions of the approach are considered in the final part of the volume.

In one of the last articles he wrote before his death in 2007, **Jan Ekecrantz** calls for more emphasis on international research that is cross-disciplinary and focuses on global inequalities and social transformation, as well as involving dialogue with nonwestern theories. While the author does not explicitly discuss political economy in this article, his work most often embraced a political economic approach. This is evident in his call for a macrosociology of media to address global and national class systems and collaboration with other disciplines, as well as comparative historical analysis.

In the following chapter, **Armand Mattelart** also addresses international issues, as he outlines the global debates pertaining to culture, information, and communication. The chapter details discussions among various international organizations that have set the agenda for principles such as cultural diversity, audiovisual flows, information society, and intellectual property. Mattelart observes that industry trade associations and lobbies are increasingly exerting pressure to break down public regulations in the name of freedom of trade and self-regulation, although other new forces such as professional coalitions and collectives of citizens have also become involved in this international debate.

Another new theoretical development in the political economy of communication is discussed by **Wayne Hope**, who addresses the concept of temporality and its relationship to global capitalism. He notes that information-communication technologies drive the temporal accelerations of global capitalism and discusses significant examples of this phenomenon, including satellite television and global news.

**Michael Curtin** offers a spatial analysis focusing on cities as creative and operational centers of the international media economy. Curtin points to the diversity and significance of peripheral media centers that have grown substantially since the 1980s, encouraged in part by the growing transnational flow of media products via satellite, cable, Internet, and home video. The chapter explains key principles that have been driving the commercial development of screen media for more than a century, as well as discussing policy implications of media capital in an era of globalization.

China is the focus of the final chapter in this volume by **Yuezhi Zhao**. Zhao's chapter contributes to a "transcultural" political economy of communication that aims to transcend the Euro-American biases of the field. She presents the Chinese case as a way to explore some of political economy's basic conceptual categories in relation to communication: the nature of the state; the relationships between class, nation, and empire; the problem of history and culture; and finally, agencies and alternatives.

This volume represents the type of work that has been presented in the Political Economy Section of the International Association for Media and Communication Research (IAMCR) since its founding in the late 1970s. The following is a description of the section, prepared by former section head, Vincent Mosco.

### **IAMCR/Political Economy Section**

The Political Economy Section examines the role of power in the production, distribution, and exchange of mediated communication. Drawing from the rich history of political economic theory, section members study social relations in

their totality, consider how they have developed historically, evaluate them according to standards of social justice, and intervene to bring about a more just and democratic world.

The research interests of section members include developing a richer theoretical foundation in communication research by incorporating an understanding of how structures of power operate, particularly in the process of transforming messages into commodities. Specifically, this means research on the global political economy which is centrally dependent on communication for its growth and on transnational media companies, which are increasingly in control of communication systems. It also includes research on how this global political economy is constituted out of various national corporate and government institutions as well as class formations that mediate global and local power.

Research interests also include the conflicts that arise over who benefits from control over communication resources. This research documents the interventions of workers, particularly over the consequences of an increasingly sophisticated international division of communication labor, and of women and racial minorities who seek to redress fundamental imbalances in global communication power. Recently, this research has expanded to include social movements in the communication arena, the state of the public sphere in an increasingly privatized audiovisual space, and the status of citizenship in a world that addresses people primarily as consumers.

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# Journalism Regulation

## *State Power and Professional Autonomy*

**Helena Sousa and Joaquim Fidalgo**

It is widely accepted that journalism plays a relevant role in forming the concepts, images, and belief systems used to interpret the world. There is a robust dispute, however, as to the best approach to ensure the positive functions of this performative role and to reduce the negative social consequences of journalists' actions and omissions. Though in different ways, media regulation is expected to raise journalistic standards and therefore to contribute to the expansion of public and private media social responsibilities.<sup>1</sup>

Quite frequently, the opposition between journalistic duties and obligations, on the one hand, and media freedom, on the other hand, has been dichotomized as if both dimensions were not constitutive of democratic societies. Commercial media companies tend to argue for more autonomy in order to pursue their business objectives, suggesting that the market is the most adequate regulatory mechanism. Other social actors have been defending a progressive sophistication of regulation, particularly state-centered, as a last resort to ensure fundamental values in an increasingly commercially driven environment. Though the balance of power between state-centered regulatory bodies and professionally based mechanisms differ quite considerably from country to country, the overall regulatory construct is designed to bring about change in the name of the "public interest" and it is the ongoing result of different (often conflicting) views regarding the role of the state in society.

Because we believe that the national level of analysis is central to any in-depth examination of the relationship between media systems and democratic processes, this chapter focuses on the intricate regulatory mechanisms of the journalistic profession in a specific Western European country – Portugal. It presents the main traits of the legal apparatus relevant to journalistic activity, the state media

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regulatory body (*ERC- Entidade Reguladora para a Comunicação Social*), and the diverse journalistic self-regulatory instruments, namely newsroom councils, internal codes, newsroom stylebooks, the journalistic ethical code, the ethical council, ombudsmen, and media criticism. We shall provide detailed empirical evidence of the "hard" and "soft" power structures that are supposed to promote the quality of the media discourses and therefore the overall quality of democratic institutions.

Analyzing the journalistic regulatory apparatus and its historical development within a national framework (despite noteworthy international links and influences), this chapter argues that general interest values cannot be guaranteed by a single regulatory body, legal setting, or individual action. Indeed, the Portuguese case shows that, despite the prominence of state media regulation, the efficiency of the system depends on the systemic functioning of the entire regulatory construct. Professional self-regulation and citizens' participation are perceived as indispensable constituents in the development of a responsible and accountable media culture. The basic assumptions of this chapter are in line with the central characteristics of political economy as examined by Golding and Murdock (1991) and Mosco (1996): social change and history, social totality, moral philosophy, and practice.

### Regulation for What?

Media regulation is often perceived as uniquely (or mostly) a state-centered activity, developed according to the "command-and-control" model (Black 2002), and primarily focused on the economic welfare of consumers in an open market society. This view has been increasingly challenged over recent years. Regulation should be regarded not only in a "negative" way (to prevent any area of activity, institution, or company, from causing harm to the basic rights and needs of people in a community), but also in a "positive" mode (to enhance and actively stimulate an area of activity, institution, or company, to fulfill those basic needs and expectations, under the supposition that in a community there is such a thing as the "public interest" which deserves to be protected).

Regulation should also be perceived as a much wider set of rules, prescriptions, directions, and mechanisms than those put in practice by the state, in a top-down, unilateral approach. Actually, as Black (2002) puts it, power and control are nowadays exercised throughout society in a variety of ways, and so the regulatory systems existing within social spheres can be seen "as equally, if not more, important to social ordering as the formal ordering of the state" (Black 2002, 3-4). Regulation "occurs in many locations, in many *fora*" (Black 2004, 4), and so a "decentered" perspective is more suitable if we want to understand its complexity in contemporary societies.

Furthermore, regulation should not be restricted to the correction of market failures or abuses, that is to say, to the goal of welfare economics. If it was traditionally regarded (and dealt with) as such, regulatory concerns have recently expanded to other areas of social life. This means that instead of treating people basically as "consumers" (or even as "customers"), we must perceive them as "citizens." And this opposition of terms – "citizens" versus "consumers" – runs in parallel with other oppositions that usually structure regulatory discourse: "needs versus wants, society versus individual, language of rights versus language of choice, and regulation for the public interest versus regulation *against* consumer detriment" (Livingstone et al. 2007, 65, emphasis added). This broader perspective is particularly relevant in what concerns media regulation, even if we assume that "the citizen interest is, by contrast to the consumer interest, difficult to define clearly and unambiguously" (Livingstone et al. 2007, 73). The fact is that regulation of the free "marketplace of ideas" can't be regarded (like the marketplace of goods) just in terms of economic theory – and of its accordance to the supply-and-demand rules – but also in terms of political, democratic theory, taking into consideration its importance for the creation of well-informed, self-governing citizens (Napoli 1999).

Lastly, regulation should not be treated as a technical activity, but also as a kind of moral activity (Silverstone 2004). The right question to be asked by regulatory discourses must be "regulation for what, and for whom?" as Silverstone puts it (2004, 446). This means that, in the sensitive domain of mass media, regulation must be concerned not only with their production and content, but with their real contribution to a "critical literacy" of mediated communication, as well as to the development of a "civic sense" that stresses the responsibilities each one of us should feel for the other. And this concern with "media civics" is, again in Silverstone's words (2004, 448), something "crucial to citizenship in the 21st century."

Since there was a wide consensus that the media in general, and journalism in particular, play a significant role in society, regulatory mechanisms have been put in place in almost all advanced democracies. Significantly, as Reinard and Ortiz (2005, 603) point out, "scholars with an interest in international development have found the study of mass communication regulation a valuable index of national development." Briefly, we shall put forward some reasons for this correlation.

First of all, the particular nature of the service (provision of discursive products) provided by the media to society should be considered. The relevance of both entertainment and informative content to community life makes it impossible to think about these narratives as mere commodities, freely traded in the marketplace and subject to no law other than supply and demand. Notwithstanding different views regarding such a thing as "common good," it can be generally agreed that the media "make a necessary contribution to the working of a modern social system," including here "many basic and sensitive social and political processes" (McQuail 2005, 238).<sup>2</sup> And "necessity, if nothing else, brings with it an obligation" (2005, 238); particularly in an area where important consequences, both for individuals and the society as a whole, can arise from its concrete way of doing things. So it is the

simple idea of a pluralistic, democratic functioning of a society (where a free flow of information runs together with the supply of all the information and opinion necessary for citizens to actively participate in the common life) that seems to require media responsibility and some kind of accountability, either to prevent any harm to basic rights, or to foster their positive contributions to the community.<sup>3</sup>

The correct articulation of the two (sometimes conflicting) ideals of freedom and responsibility implied in media activity has been discussed for decades, especially in the context of the "social responsibility theory." This theory was first systematized in 1956 by Siebert, Peterson, and Schramm in *Four Theories of the Press* (1963), but its roots can be found either in the work of the Hutchins Commission (1947) in the USA – with its well-known final report, *A Free and Responsible Press* – or in a variety of measures taken in European countries during the first half of the twentieth century, for example, those that led to the establishment of a public broadcasting service.<sup>4</sup> Common to these reflections and efforts was, after all, the "need in democratic societies to develop a workable philosophy of and policies for the press" (Christians and Nordenstreng 2004, 4), under the supposition that media have a duty to serve society, and that the liberal/libertarian model, with its emphasis only on the individual freedom as a "natural" and "non-negotiable" right, cannot apparently fulfill that duty in proper terms.

The Hutchins Report clearly stressed the idea that the *right of the press* to be free is inseparable from the *right of the people* to have a free press and, going a step further, the supplementary right of the people to have "an adequate press" (Nerone 1995, 97). So the shift somehow turns from the rights of the press to the rights of the people. Even the individual right to free expression (which is not exactly the same thing as the right to a free press) should be regarded, in this context, not as a *natural* right, but as a *moral* right. And a moral right, as it was put by Siebert et al. (1963, 96), evoking the Hutchins Report's background, is "a value which I am not free to relinquish, as I am free to relinquish a personal interest." Besides, this moral right to free speech is inseparable from a complementary duty, a duty toward one's consciousness and toward others; that is why, according to social responsibility theory, one's right to free expression "must be balanced against the private rights of others and against vital social interests" (Nerone et al. 1995, 97).

The importance granted to the people's *right to free expression* as the cornerstone and "founding myth" of journalism (Giroux 1991, 129) should be balanced, in this context, with another similarly fundamental societal bedrock: the people's *right to information* – complete, comprehensive, pluralistic, true and fair information, and essential to civic participation in a democratic society. And free competition in a free market place does not mechanically guarantee this basic right.

The rationale for "a free and responsible press," in the terms in which it has been developed over the last decades, stresses the importance of a "negative" freedom (or "freedom from") as well as of a "positive" freedom (or "freedom for"). Removing obstacles to the free functioning of the press (as the liberal tradition insists) is only part of the story. The other half derives from the obligation for the press to actively

fulfill its duties toward citizens and society as a whole, giving a positive / constructive content to a free environment. Freedom cannot be dissociated from the conditions of its effective exercise.

In their critical review of the work *Four Theories of the Press*, Nerone and his coauthors (1995, 84) argued that this "positive freedom" is "the conceptual axis around which social responsibility [theory] revolves." In this sense, freedom (of expression, of the press) is not an "unconditional" right, but instead something that "involves the necessity of assuming and performing duties beyond self-interest," because, in this perspective, "the self, community, and universal humanness are interdependent and consubstantial" (Nerone 1995, 86-87). Thus for someone to be free means "to have the use of one's powers of action (i) without restraint or control from outside, and (ii) with whatever means or equipment the action requires" (Nerone 1995, 94). Likewise, for the press to be free means being "free from" any restraints or pressures to its functioning, but also being "free for" the search and attainment of the purposes defined by its unavoidable ethical sense and by the basic social needs it is supposed to serve. What the press does wrong is something that must be criticized (and regulated); similarly, what the press does not do at all, but should do, is similarly a matter for concern (and for regulation) on behalf of the public interest.

If the basis of most arguments regarding the need for media and journalistic regulation is the "public interest," how could it possibly be defined? Despite some conceptual confusion, this vague notion is central to democratic societies. It is so because it represents "the values of any particular society" (Morrison and Svennevig 2007, 45). Therefore, every society should work on its understanding of "public interest" in order to foster its pursuit and to prevent abuses under its name. It is well known that "it is difficult at times to separate what the public is interested in from that which is in the public interest" (Morrison and Svennevig 2007, 50), even when some issues covered by the media are justified by the professional use of traditional "news values." Recently, Morrison and Svennevig suggested that the alternative concept of "social importance" would be preferable to the one of "public interest." And they explain it in the context of their research about acceptable or unacceptable intrusions, by the media, into someone's privacy: "For intrusion to be justified it had to expose something that had importance for a collective - it could not be justified on grounds of personal interest, or even the interests of many if the knowledge provided did not impact in some collective manner" (Morrison and Svennevig 2007, 59).

The alternative term of "social importance" could, in their opinion, not only "get rid of the troublesome referent, *the public*, and the cognitively bothersome word, *interest*" (Morrison and Svennevig 2007, 61, original emphasis), but also introduce a notion of proportion that could be useful for practical decisions:

The term "the public interest" has a gravitas attached that makes it too severe a test for intrusion of privacy - it has little sensitivity. Social importance can be scaled from

very high social importance to very low social importance. Once the level of social importance is understood, it then follows that the degree of intrusion considered to be appropriate is dependent upon that importance; it is almost arithmetic. (Morrison and Svennevig 2007, 61)

This concept of "social importance" (linked to an idea of social solidarity, of some social cohesion based on commonly shared values) could then, according to these authors, be used as some kind of test of the public interest in any particular situation, helping to give it a more concrete meaning. Besides, this perspective of the "public interest" would help to place it in the field of political and social issues, which seems to be specially relevant in a time when an "economic-led approach, operationalised in terms of market research, is emerging as dominant" (Lunt and Livingstone 2007, 5) to define the "public interest."

### Moving Regulation Forward

Regulation takes place because the media have responsibilities toward society.<sup>7</sup> The general consensus regarding media responsibilities has led societies to develop some sort of media regulation. What is highly disputed, however, is "the degree and kind of obligation that might be involved" in those responsibilities, and "how [they] should be promoted" (McQuail 2005, 249). Reducing media responsibility to a word or to a couple of good intentions, without any practical follow-up, would not serve society. That is why, after defining proper conduct – which is the task of responsibility – one must move toward the real obligation to execute it – which is the task of accountability. As Hodges (1990) puts it, someone is responsible "for" something (for an obligation, for a need), and the next step implies that someone is also accountable "to" (in the case of the media, to the people, to the citizens, to society). Accountability, to use McQuail's words (1997, 515), "refers to the processes by which media are called to account for meeting their obligations." Responsibility without accountability would risk being an empty concept; likewise, accountability must be put in practice through different instruments and mechanisms that allow the several actors of the communication process to actually ask for media's accounts and to get some answers from them.<sup>6</sup> And this leads us to regulation in its multiple forms.

To understand regulation in a "positive" sense requires that we go beyond the state-media/market-media relationship. In addition to these fundamental dimensions, another component must be added: citizens themselves: "Discussions of democracy and the media, however the relationship may be formulated, miss the point if they concentrate on the sterile debate between state and the media" (Colin Sparks, quoted in Josephi 2005, 579). Reducing regulatory concerns to the market-media relationship – under the supposition that it is the best way of preserving

both media freedom and consumers' freedom to choose – leads us to forget that “there is no such thing as a naturally and neutrally regulating media marketplace” (Wahl-Jorgensen and Galperin 2000, 31). Instead, to leave things dependent only on the unrestrained functioning of the marketplace means to be taken by “the subtle and not-so-subtle ways in which it imposes its own regulatory logic” (Wahl-Jorgensen and Galperin 2000, 31). Furthermore, to reduce freedom to the possibility of buying one or another newspaper, or of switching this or that TV channel, hoping that (according to the old libertarian traditions) some kind of “self-righting process” will select the best and eliminate the worst, seems to be little to expect for a participatory citizenship in a democratic society. Once again, it's the consumer-centered perspective taking over the citizen-centered perspective: “When access to the public forum is structured around the possession of money and power, of stock and professional position rather than the level to which the individual is affected, a significant step on the road toward the complete deterioration of rational public debate, or communicative action, has been taken” (Wahl-Jorgensen and Galperin 2000, 33–4). Moving citizens from the sidelines of the communication process (or just from the “audience,” as they are commonly regarded) to the public arena where they really belong (Nordenstreng 1997) means a new understanding of freedom of expression and of the right to communicate. This right, actually, is a right “for all citizens rather than [for] the media and its professionals” (Nordenstreng 1997, 14). And, if it is so, citizens must also play a part in media regulation – together with the state, the market, and the media themselves.

A citizen-centered perspective of these issues, instead of a media-centered one, tries to change a situation where, in general terms, “the people have become the *target* of influence” of the mass media, while, according to the general theory of democracy (the sovereignty of the people), “they should have been the *source* of influence” (Nordenstreng 1997, 16–17, emphasis added). And if people are to be a central partner in media regulation processes, it is because the media must be accountable in the first place to the people they work for – and in whose name they claim to work.

Meeting these same concerns, Bardoel and d'Haenens suggest that “the ‘switch’ to a citizen-based perspective [of the media] will have to be made more often,” particularly in the present (and evolving) conditions induced by new media:

Where formerly the government and the market fought for priority, today we are more likely to hear the slogan: “Citizens first, then the market, and the government last.” Along with this, we see in this sector that with the variety of what is on offer and the arrival of new media, power has in fact shifted from the sender to the receiver. (Bardoel and d'Haenens 2004, 172)

This reinforces the idea that, as far as media regulation is concerned, “the traditional legal and market-oriented accountability mechanisms alone are no longer sufficient,” and so it seems advisable “to bring back the citizen in the media and

media policy debate" (Bardoel and d'Haenens 2004, 172). In fact, if citizens are to play an effective role in the regulatory processes, one assumption must be definitely challenged: that freedom (freedom of expression, freedom of the press) is necessarily inconsistent with accountability. As McQuail puts it:

Normative media theory has allowed the debate to be narrowed down to a choice between freedom of the media market on the one hand and control or censorship by the state in one form or another on the other, as if greater accountability can only be achieved by sacrificing more freedom. This ignores the complexities of what freedom means in media publication, the inevitability of constraint in public communication and the diversity of means by which the interests of "society," as variously manifested, can be identified, expressed and achieved, without violating the essence of freedom of expression. It also ignores the many responsibilities that are actually and properly entailed in the exercise of freedom by public media. (McQuail 2005, 237)

So the core of this challenge is not the simple refusal of any regulatory mechanisms or instruments, but the need to find "effective means of accountability that would be consistent with the notion of responsibility ... and also with essential principles of free expression" (McQuail 2005, 242, original emphasis). Moreover, the whole task of media regulation would be best achieved – either in terms of efficiency or in terms of, so-to-speak, civic and democratic pedagogy – if responsibilities are dispersed among various actors: the state, the market, media companies, media professionals, and the public. In an attempt to systematize the different levels in which the regulatory effort may take place, we can follow the outline designed by McQuail (1997, 2005):

- the *frame of law and formal regulation* – the level of political accountability, comprising regulatory documents concerning what media may and may not do. The main issues here relate mostly to prevention of alleged harm to individuals;
- the *market frame* – the level of accountability linked to the processes of demand and supply in a free and competitive marketplace, which should, at least in theory, encourage "good" and discourage "bad" performance;
- the *frame of public responsibility* – the level of public accountability referring to the assumption that media organizations are economic companies, but are also social institutions that fulfill certain important tasks, subsumed under the definition of the "public interest";
- the *frame of professional responsibility* – the level of professional accountability, the one that "arises out of the self-respect and ethical development of professionals working in the media ... who set their own standards of good performance" (McQuail 2005, 247).

If the first frame relates typically to the "assigned" responsibilities of the media – and calls, therefore, for some formal, "centered" regulation – the last two frames relate

more to the "contracted" and the "self-imposed" responsibilities (see note 5), thus asking for self-regulatory (or co-regulatory) instruments and mechanisms. Nevertheless, the entire regulatory structure for the media should pay attention to all these layers at a time, because that seems the only way to search for an adequate balance of power between the state, the market, and society. This attempt means, after all, an ongoing struggle for a balanced relationship between *individual* and *collective*, between *people-as-consumers* and *people-as-citizens*, between *freedom* and *responsibility*.

### Journalism Regulation and the Pervasive State

Though it has been argued that regulation should not be seen as a process tied exclusively or even predominantly to the state, the Portuguese state plays an all-encompassing role in the regulation of journalistic activity. First of all, there is a wide legal framework which is developed by state institutions, predominantly by the government and approved by Parliament. The Constitution is by far the most critical legal construct and it has a number of prerogatives that directly concern the journalistic profession. It deals with fundamental rights and duties (articles 16, 17, 18, 19, 25, 26), with freedom of expression and freedom of information (article 37), with freedom of the media (article 38), with the media regulatory body (article 39), and with right to reply and political broadcasts (article 40).

The core of the constitutional protection of the journalistic activity *per se* is in article 38. This article clearly demonstrates the relevance given by the constitutional legislator to journalism as a pillar of the democratic regime. Fundamental journalistic rights are inscribed here, namely freedom of expression and freedom of creation, the right to participate in the editorial position of the medium, the right to access to news sources, the right to independence and to professional secrecy (including the protection of news sources). But article 38 goes beyond the protection of journalistic activity in the strict sense. It contemplates a number of media companies' principles which are perceived as indispensable for an adequate journalistic performance. These are the principles of transparency of financing and property, the principle of nonconcentration, the principle of nondiscrimination, and the principle of independence from economic and political power.

In addition to the Constitution, there is a vast range of laws and legal documents that outline the regulatory construct in which Portuguese journalists operate (see, e.g., Carvalho et al. 2005). The sectoral laws (Press Law, Television Law, and Radio Law) are pivotal in this context. The Press Law (*Lei de Imprensa*) is a detailed document discussing journalists and citizens' rights and duties in terms of public information. The public interest of the press is underlined and the conditions for access to the market are set out. This law also considers the specific responsibilities of journalistic companies, publishers, editors, and journalists. Both



the Television Law (*Lei da Televisão*) and the Radio Law (*Lei da Rádio*) aim to regulate access to television/radio activity and its use within the national territory. These are meticulous documents covering a wide array of issues from fundamental freedoms and rights up to technical aspects and programming strategies and content (pluralism, diversity, prohibited material, etc.). The specific nature of public television and radio is also covered. Furthermore, other general laws such as the Penal Code (*Código Penal*), Penal Process Code (*Código do Processo Penal*), and the Civil Code (*Código Civil*) also have a number of articles directly linked with journalistic performance.

As a legislator, the state goes far beyond the production of legal tools specifically related to the journalistic profession. Media companies are part of a wider economic apparatus which is under the scope of national laws and is supervised by economic regulatory bodies such as the Competition Authority (*Autoridade da Concorrência*). It is also up to the state to define the main rules for the development of technological infrastructures (access to the infrastructure and services markets, spectrum allocation, etc.). It is up to the Communications Authority (ICP-ANACOM – *Autoridade Nacional das Comunicações*) to ensure the regular functioning of the “technical” aspect (despite the economic interests involved) of media and communications.

As an external regulator of the journalistic activity, the state is not merely a legislator. The state plays a fundamental role also as *owner* and as a *subsidizing body* of media companies. Like most European countries, the Portuguese state owns a public television and radio company. The state-owned company, *Rádio e Televisão de Portugal* (RTP), runs the following eight television channels: RTP 1 (generalist), RTP 2 (generalist), RTP Açores (regional), RTP Madeira (regional), RTP Internacional (international), RTP África (international), RTP N (news) and RTP Memória (classic entertainment programs), and seven radio channels: Antena 1 (generalist/talk radio), Antena 2 (classical music), Antena 3 (adult contemporary/urban), RDP África (international), RDP Madeira (Ant 1) (regional), RDP Madeira (Ant. 3) (regional) and RDP Açores (regional). Furthermore, the state has a strong position in the national news agency, LUSA.

The overt rationale for the state's intervention as proprietor of media companies relates to the exceptional value of public service radio and television, and of the national news agency. Being the owner (either totally or partially, as in the case of LUSA) of such socially relevant tools, the state aims to guarantee that citizens are served at the highest possible level (both in terms of programming and information) and, at the same time, the public service media are expected to act as a system regulator, stimulating the quality of the entire media system. Whether this has ever materialized or not is not the main focus of this chapter (for more on the relationship between public service media and political power in Portugal, see Sousa and Santos 2003, Sousa 1996). What seems nevertheless quite evident is that owning the media and defining the basic rules of their action, namely through concession contracts, the state outlines its vision regarding what public service

media should be and how they should behave. The constitutional guarantee of public service media independence from the political and economic power is ensured (or attempted) by the existence of a media regulatory body, *Entidade Reguladora da Comunicação Social* (ERC).

Indeed, as an external regulator, the state also has a say in the system as a media financing entity. Once again the underlying principle of the state's financial support of the media system relates to the exceptional value of media in a democratic society. Helping the media companies financially, the state hopes to regulate the market and to ensure diversity and pluralism. Public service broadcasting and the regional press are the main beneficiaries of the state's financial support. RTP is financed annually, while the regional press has to apply for subsidies and is strongly supported on delivery costs. The end result of the state's support of the regional press is not yet fully understood, but authors such as Ferreira (2005) argue that consequences of this support are disastrous. Poor quality regional press is said to be maintained merely due to subsidies and the editorial independence of newspapers and radio stations is undermined.

As we have seen, the legal framework defines the basis of the state's understanding about societal expectations regarding media performance in general and journalistic activity in particular. But if a legal system is to be more than a dead letter, it needs implementation mechanisms. The ERC is the newly created body designed to implement the law and to ensure that journalists behave according to certain standards. The Portuguese Constitution has one article (no. 39) dedicated to this media regulatory institution. The Constitution states that, in addition to the courts, the media should be regulated by an external independent body. It is up to the ERC to ensure:

- the right to information and to press freedom
- nonconcentration of the media
- independence of the media from political and economic power
- respect for personal rights, freedoms, and guarantees
- respect for the professional rules of the media professions
- the possibility of expression and discussion of divergent opinions
- the exercise of political broadcasts and the right to reply.

According to the basic law, the board of the media regulatory body is to be designated by Parliament. Both the Constitution and Law no. 53 of November 8, 2005, which established the ERC (it started operating in 2006), reflect the legislator's preoccupation with the independence of the regulator. Despite the infancy of the ERC, Portugal has a 30-year tradition of media regulation, although up to 1989 the regulator merely covered the public sector media. The ERC is the successor of the High Council for the Media (*Alta Autoridade para a Comunicação Social*), the first regulatory body to have the responsibility for both private and public media. From the High Council, the ERC inherits a legacy of public distrust in its efficiency and

independence. In this context, the ERC's Law attempts to reinforce its human, technical, and financial resources, as well as its independence from the political power of the day and from media companies.

The "pure" state-regulatory model, in which no social actors are represented (apart from an advisory council with no effective powers), was strongly criticized by the national journalist's union (*Sindicato dos Jornalistas*) and by the Confederation of the Media Companies (*Confederação de Meios da Comunicação Social*). The minister responsible for the media, Augusto Santos Silva (2007), has strongly defended the model, arguing that it is necessary to avoid the "capture of the regulator" by private/corporatist interests. The minister argues that the ERC is one pillar of the regulatory construct and this one, in particular, is exclusively concerned with the defense of the public interest (in the press). It is nevertheless one of the ERC's functions to promote other forms of co-regulation, but this is still in its infancy.

The absence of interest representation and the notorious reinforcement of the ERC's powers (ranging from recommendation to the withdrawal of operating licenses) has been cause for much concern in the journalistic profession. Indeed, the ERC has to ensure that the journalistic codes of conduct are followed, but – despite the constitutional guarantees of independence from the political and economic power – there is deep suspicion regarding the ERC's capability and fairness. The ERC's ability to defend citizens from the media's negative consequences and to positively influence programming and journalistic output has yet to be proven.

### The Blurred Domain of Self-Regulation

Through legal and administrative mechanisms, the Portuguese state has the capability to define the main traits of the conditions under which the journalistic profession is practiced. The state's ability to legislate penetrates what is frequently perceived as self-regulatory mechanisms (e.g., journalists' professional legislation, public service broadcasting ombudsman). But if the state regulates self-regulation, can we talk about self-regulation? If that is the case, what sets self-regulation apart from the state regulation? In Moreira's perspective (1997), three main aspects characterize self-regulation. First, it is a *particular form* of regulation, not absence of regulation. Secondly, it is *collective* regulation, as there is no individual self-regulation; self-discipline or self-restraint are not forms of self-regulation. Self-regulation implies a collective organization which establishes and imposes rules and a specific discipline to its members. Lastly, it is a *nonstate* regulation, independent from its private or public legal nature (Moreira 1997, 52–3).

Contrary to state regulation, self-regulation is a private domain process, even if its consequences are felt in the public realm (Aznar 2005). Hoping to qualify its professional performance and to strengthen its social contract with the public, Portuguese journalists have set up (or have contributed to) a number of

self-regulatory mechanisms, though often as an integral part of the legal sphere. Despite the intertwined nature of self-regulation, we shall briefly cover some institutions which are perceived as mechanisms of journalists' autonomous regulation.

The Journalist's Statute (*Estatuto do Jornalista*) is law (no. 1/99 of January 13, 1999). In addition to the detailed clarification of what it is to be a journalist, the Journalist's Statute defines the professionals' rights and duties. It pays a great deal of attention to access to official sources and to public places, professional secrecy, participation rights, and specific duties regarding rigor, impartiality, nondiscrimination, privacy, and other aspects of accuracy and the preservation of human dignity. This document reflects what society expects from journalists and it makes clear the particular rights they can benefit from in their professional activities. The Journalist's Statute can also be seen as a basic definer of journalists' identity as it states both what it is to be a journalist and how journalists are supposed to behave. Still, if the Journalist's Statute is approved by a parliamentary majority, even if against the views of the journalists' representatives, can it be seen as a self-regulatory tool? As it stands, it does not necessarily represent the journalists' perception of their own nature, rights, and social responsibilities.

As opposed to the Journalist's Statute, the Ethical Code (*Código Deontológico dos Jornalistas Portugueses*) is the product of professionals' ethical concerns, as they were discussed and approved by the professional group itself. The present-day code was approved in 1993, following a consultation process.<sup>7</sup>

The code sets the standards for journalists' professional behavior. It mentions, among many other aspects, rigor, honest interpretation of the facts, the attention that should be given to different sides in a given conflict, plagiarism, sensationalism, identification of news sources, the use of adequate means to obtain information, the safeguard of citizens' rights and human dignity, independence and professional integrity.

It is up to the Ethical Council of the Journalists' Union (*Conselho Deontológico do Sindicato dos Jornalistas*) to guarantee that the code is respected. Therefore, it might be argued that both the Ethical Code and the union's council are typically self-regulatory institutions, as journalists themselves set the rules and developed a monitoring system and an implementation mechanism to enforce those rules among the union's members. Scrutinizing, issuing statements and recommendations, the council expects to ensure that ethical values are preserved and that therefore the dignity of journalists is enhanced.

There is, however, an unsolved difficulty with the present-day model. The ethical code was approved within the journalists' union framework and the ethical council is a structure of the very same union. Nevertheless, to become a journalist it is not necessary to belong to the journalists' union (or to any union for that matter). One could therefore argue that neither the ethical code or the council express the standards set by the entire class, but simply reflect the understanding of the professionals in the journalists' union.

Clearly, professional self-regulation goes beyond the rules of the corporation and has its own mechanisms within particular newsrooms. In Portugal, newsroom councils (*Conselhos de Redacção*) are probably the best known of these institutions. Newsroom councils are committees elected by all journalists working in newsrooms with more than five professionals. In smaller news companies all journalists are part of the *Conselho de Redacção*. The institution of newsroom councils draws from the constitutional prerogative of journalists' participation in the editorial position of the news media they work in (article 38). The establishment and the functioning of these particular councils are inscribed in both the Journalist's Statute (*Estatuto do Jornalista*, see article 13) and in sectoral laws. The Press Law, for example, details (article 23) the role of the newsroom council. Indeed, it covers considerable ground: it has a say in the nomination of the newsroom management and in the editorial regulations of the medium, and plays a role in judging ethical and disciplinary issues. The newsroom council represents the views of the professional body of journalists regarding fundamental labor and ethical questions. It implies that the management of a newspaper, radio, or TV station cannot decide by itself in crucial issues such as editorial stance or disciplinary matters.

The Constitution and the media laws were intended to guarantee power distribution in the newsrooms. This preoccupation dates back to the mid-1970s revolutionary period when the first Press Law established the institution of press councils in all newsrooms with much wider powers than today. At the time, newsroom councils had binding powers in matters such as the appointment of directors or editorial options. Today, the relevance of newsroom councils varies considerably among newsrooms, as most of its functions are merely advisory. However, in general terms, Portuguese journalists strongly value this institution (see Fidalgo 2002).

Another institution imposed by law within the framework of the particular setting of each medium is the Editorial Statute (*Estatuto Editorial*). The Press Law asserts (article 17) that all news media should adopt an editorial statute stating clearly its position, objectives, and respect for professional ethics and the public's good faith. The Editorial Statute is signed by the medium's director after consultation with the newsroom council and ratified by the medium's owner. The statute should be public and sent to the media regulatory body. The Editorial Statute is a social contract between the news media and their employees and with the public.

The Editorial Statute is linked to the newsroom stylebooks. Though not all Portuguese news media have adopted stylebooks, they became important tools for newsroom internal functioning, and not just for technical reasons (Fidalgo 2006). In fact, as in most countries, the first generation of stylebooks could be seen as essentially writing manuals. Today, several newsrooms have adopted far more sophisticated newsroom tools. In addition to crucial aspects regarding news writing and content, a second generation of stylebooks incorporates detailed aspects regarding editorial stance and ethical issues. The publication of such stylebooks is also an empowering instrument for readers, listeners, and viewers, as they have access to newsroom rules and guidelines. The social contract with the public is therefore strengthened.

## Looking for an (Im)possible Balance

When looking at the journalistic regulatory structures in Portugal, it is clear that it has changed considerably over recent years: legal instruments have been developed and the links between different social actors have become more complex. Despite the efforts of journalists themselves, the state appears to be the most relevant actor in the sphere of media and journalistic regulation in Portugal. The state – as a legislator, as a media owner, and as a financing body of the system – is at the center of the most visible “sustained and focused attempt to alter the behaviour of others” (Black 2002, 20). Analyzing the overt dimension of media regulation in Portugal, it could be argued that the state is still the most powerful actor, probably because other regulatory mechanisms are still incipient. Co-regulation is embryonic and journalists themselves are still struggling to go beyond very fragile modes of professional self-regulation. The traceable reinforcement of state regulation might be perceived as a consequence of the professional failure to ensure self-regulation.

If it seems noticeable that the state has extended its regulatory arm in the journalistic field, legislating inclusively about professional ethics, one could question the efficiency of such an accomplishment. Indeed, it is highly doubtful that more legal tools and a new state media regulatory body *per se*, even if necessary, have a significant impact in the overall quality of journalistic output. The “invisible” daily commercial pressures might have a more significant impact on the daily choices journalists are expected to make. Due to the increasing fragmentation of audiences and the concomitant reduction of advertising revenues, media companies are under increasing pressure and most journalists perform in commercial contexts.

If the defense of public interest depends on the overall functioning of the entire media regulatory construct, state and professional media regulation is far from sufficient. Indeed, citizens’ participation – at different stages and levels – is an indispensable dimension in the continuous attempt to develop a responsible and accountable media culture. In Portugal, various mechanisms were put in place in order to make way for citizens’ contributions. All newsrooms receive on a daily basis correspondence from their readers, listeners, and viewers by highly differentiated means (phone calls, letters, email, etc.). Frequently, the media dedicate time and space to put forward views and opinions expressed by citizens, both in terms of journalistic coverage and programming. More recently, another institution has emerged in order to represent/express people’s opinions in the media companies – the ombudsman. In the daily press, these mediation experiences started in 1997 and the initiative was taken by the newspapers themselves (three daily newspapers, up to now). In the broadcasting arena, the first mediation experiences started in 2006, but only in public service radio and television. The broadcasting company RTP acted according to the Ombudsman Law, approved by the Parliament.

Although the media give some time and space to the public, either directly or with the support of ombudsman mediation, citizens should also play a more active role in the relationship with the media. If media are to be accountable to citizens,

citizens must take at least some responsibility for the media they have (and especially for the media they want). As Daniel Cornu has underlined, together with the social responsibility of the media, there is such as thing as the "mediatic responsibility of the society" (Cornu 1999, 436). That is the point to which Silverstone (2004, 440) called our attention when he argued for our need to develop "a responsible and accountable media culture" – more than just "responsible and accountable media." And he explained that this particular culture "depends on a critical and literate citizenry, and a citizenry, above all, which is critical with respect to, and literate in the ways of, mass mediation and media representation" (Silverstone 2004, 440).

The importance of deep and extended media literacy – regarded as "a critical activity" and "a civic activity" required for all citizens – is thus stressed by Silverstone (2004) as an alternative way to approach the media regulation issues in a long-term perspective. And media education plays an important role here. He argued for:

a shift away from regulation as narrowly conceived in minds and practices of parliaments and councils, towards a more ethically oriented education, and towards a critical social and cultural practice which recognizes the particular characteristics of our mediated world. We once upon a time taught something called civics. It is perhaps time to think through what civics might be in our present intensely mediated century. (Silverstone 2004, 446)

Regulation, after all, is not just a matter of *production*. Media *consumption*, Cees Hamelink suggested, "should be viewed, like professional media performance, as a social practice which implies moral choices and the assumption of accountability for these choices" (quoted in Silverstone 2004, 448). So citizens themselves must also be accountable for their use of the media, because, as the "ecological" perspectives argue, it is everybody's responsibility to take care of our *cultural* environment (where production and distribution of information play an increasingly central part), just as it is everybody's responsibility to take care of our *natural* environment. After all, what the media do or do not is, partly, the result of their interaction with the public. So "if one accepts the interactive character of the professional-client relationship, it follows that media ethics cannot be limited to the rights and wrongs of the producers only and should also be ethics for media users" (Hamelink 1995, 500).

Contemporary regulatory practice should be more and more open to "policy tools that include both direct interventions and also indirect attempts to shape the market partly by engaging the public in various ways," as Lunt and Livingstone put it:

In the communications sector ... technological developments, such as digital switchover, broadband spectrum and convergence, are driving a shift from state regulation, strongly influenced by a public service ethos, to the complex delivery of diverse contents and services across multiple platforms to a media-literate public. (Lunt and Livingstone 2007, 3)

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As for self-regulation, it poses important challenges to the media industry as a whole and to their professionals in particular. Notwithstanding, it will be more or less expanded and efficient according also to the stronger or weaker capacity of citizens to demand it, and to involve themselves in some kind of co-regulatory mechanisms where they can have a voice, too. After all, the various media accountability systems (MAS) publicized and recommended by Claude-Jean Bertrand – and including a vast array of self-regulatory and co-regulatory instruments – are very accurately defined as an “arsenal for democracy” (Bertrand 1999), thus encouraging citizens to do their share in order to improve media quality and to enhance their own opportunities for civic participation. Within a political economy perspective, one would argue that today it is no longer sufficient to ask “whether, on balance, the media system serves to promote or undermine democratic institutions and practices,” as McChesney puts it (2008, 12). In a time of traditional media erosion and unprecedented cultural environmental challenges, one should also question whether, on balance, citizens/consumers serve to promote or undermine democratic institutions and practices.

The Portuguese situation regarding journalism regulation, briefly presented and discussed in this chapter, cannot be dissociated from the country’s political and social specific context – a country that became a democracy only in the mid-1970s, after a long period of dictatorship and total absence of press freedom. It is a case study worth considering either for its own merits or as a contribution for further comparative studies with countries where different media systems have been trying different answers for (often) similar problems.

### Notes

This chapter is based on a paper delivered at the International Conference “Comparing Media Systems, West Meets East,” Kliczków Castle, Wrocław, Poland, April 23–25, 2007.

- 1 For the purposes of this chapter, we will use Black’s definition of regulation: “the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard-setting, information-gathering and behaviour-modification” (Black 2002, 20). For more on the concept of regulation, see, *inter alia*, Hans-Bredow Institute for Media Research at the University of Hamburg (2006), McGonagle (2003), Palzer (2003).
- 2 Wahl-Jorgensen and Galperin (2000, 38) argue that far from being a simple commodity like “cans of fruit and bars of soap,” the mass media should actually be viewed as “the sole site for political agency in late modernity” – this meaning that they are “the place where we may get together to justify the norms on which we act, and build the solidarity we need to live together.”
- 3 Even more than two sides of a coin, or two extremes in a constant fight with each other, “rights” and “responsibilities” (rights to free speech and to free press,



- responsibilities for its adequate use) should be regarded as intimately bound together, like two strings that make a rope, to use Vernon Jensen's metaphor (according to Johannesen 2001, 2008). This author even suggests the use of a new term, "rightsabilities," to stress how both concepts depend on each other, and how the first one can never be understood without the second.
- 4 Recalling the "Protocol on Public Service Broadcasting" adopted by the European Union (EU) in 1997, in Amsterdam, Christians and Nordenstreng (2004, 7–8) underline the "vital point" that "public broadcasting (vs. commercial broadcasting) should be understood in the EU as part of the cultural and social sphere based in national priorities, instead of the economic sphere based on free competition within the broader European scale. Accordingly, public service broadcasting is defined at the constitutional level as an exception to the principle of a free European market." This helps the authors to assert that "the Social Responsibility theory prevails in the deep structures of political economy and media policy," and, therefore, "one is entitled to say that the spirit of Hutchins [Report] is very much alive in Europe today."
  - 5 These responsibilities are diverse, according to their source and to the degree of compulsion involved – and, therefore, they stress differently the kind of regulatory mechanisms that should be most adequate in each case. The three main types of media responsibility, following Hodges (1990) and McQuail (1997), are the "assigned" responsibilities (mostly covered by law and serving to balance media freedom with the rights of other members of society and the public interest), "contracted" responsibilities (arising because of some implied covenant between press and society, maintained by convention and mutual agreement), and "self-imposed" responsibilities (referring to voluntary professional commitments to observe certain ethical standards and to serve public purposes). And "a full consideration of media accountability" has to take account of all the categories (McQuail 1997, 516).
  - 6 As McQuail (1997, 517) suggests, media accountability can assume different modes, according to the degree of coercion involved and to the main purpose intended: in one model, the mode of "liability," characterized by "an adversarial relationship," deals mostly with issues of harm caused by the media and with material sanctions that can punish that behavior; in the other model, the mode of "answerability," more concerned with improving mass media quality, and specially open to voluntary negotiations and interactions in order to achieve the resolution of differences. However, "there is a range of possibilities in between these alternative models," adds McQuail (1997, 517). And the preference for one or other of these models (the first more suitable for public regulation, the second closer to self-regulation mechanisms) somehow depends on the choice for a particular perspective of political organization of the media system.
  - 7 See <http://www.jornalistas.online.pt> (accessed April 4, 2007).

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