

**AN ASSESSMENT OF THE MEDIA HIGH COUNCIL AS A MEDIA REGULATORY BODY IN RWANDA
(2007-2010)**

by

PRINCE BAHATI NKUNDAKOZERA

submitted in accordance with the requirements for
the degree of

MASTER OF ARTS

in the subject

COMMUNICATION

at the

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: MR S SONDERLING

CO-SUPERVISOR: PAST J P UWIMANA

FEBRUARY 2012

DECLARATION

I declare that, **AN ASSESSMENT OF THE MEDIA HIGH COUNCIL AS A MEDIA REGULATORY BODY IN RWANDA (2007-2010)** is my own work and that all the sources used or quoted have been indicated and acknowledged by means of complete references.

Signature:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Bahati Nkundakozera Prince

Date: February 2012

Student number: 44481950

ACKNOWLEDGEMENTS

I would like to thank the following individuals who made a significant contribution to the success of this study:

- My supervisor, Mr Sonderling Stefan, for his patience, encouragement and understanding. Thank you for your invaluable advice. I was honoured to work with you.
- My co supervisor, Mr Uwimana Jean Pierre, for his interest in this research. Thank you for taking time to read this work and advise me.
- The department of Communication staff at the Unisa, especially Bataille Marie Hélène for her care and good service. Thank you for assisting me in administrative issues.
- The Unisa library staff, especially Dawid Malan, for assisting me in obtaining relevant and current documentation. I acknowledge your fast responses.
- The Unisa Directorate Student Funding for funding the Academic year 2011.
Thank you for your support.
- The Media High Council Staff, the journalists and media practitioners in Rwanda for easing my job during the interviews. Thank you for your availability.

ABSTRACT

The Media High Council (MHC) was put in place by the 2003 constitution of the Republic of Rwanda as amended to today. As article 34 clarifies, the MHC is an independent institution which aims to address issues of media and press freedom. In the same spirit, the law number 30 /2009 of 16/9/2009 determines its mission, organisation and functioning. According to article 2 of this law, the Media High Council is responsible for protection, control and promotion of media and media professionals. Based on normative theories, qualitative methods and thematic analysis, this study has explored the policy formation of the Media High Council and how it has been balancing the seeming contradictory responsibilities of protecting and controlling media from 2007 to 2010.

Key terms: media, Media High Council, regulation, statutory regulation, self-regulation, press freedom, Tutsi genocide, normative theories, thematic analysis, professionalisation.

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CHAPTER 1: GENERAL INTRODUCTION

1. CONTEXT OF THE STUDY

1.1 Purpose of the study

This study seeks to explore the role of the Media High Council (MHC), its policy formation and how it balances its contradictory mandate of promoting press freedom and controlling media.

The Media High Council (MHC) was put in place by the 2003 Constitution of the republic of Rwanda in its article 34 as amended on 13/8/2008. It was entrusted with the responsibility to address issues of press freedom, ethics and responsibility; including the respect of law. Originally, it was known as the High Council of the Press (HCP). Later on, the name was changed to the Media High Council (MHC), because the word “press” seemed to be limited to print while “media” encompasses both print and electronic (Constitution 2003: article 34). Media High Council is specifically mandated to promote press freedom and to control or regulate media operations. In reality, it combines both statutory and self-regulatory statuses.

1.2 Background of the study

Rwanda is a small nation located in central Africa. It is a landlocked nation and comprises about 10, 000 square miles (25, 900 square kilometres). According to Spalding (2009: 9), what makes Rwanda special in Africa is that contrary to other African nations, when the colonists arrived, they were surprised by a monarchy ruled by a king with a people sharing the same religion and partaking of the same culture and speaking one language, Kinyarwanda. That the Rwandans were united by the language is true because even today Kinyarwanda is spoken by all the Rwandans in all the provinces.

Despite their strong unity, Rwandans were traditionally classified into three groups of people: the Hutu who practiced agriculture to survive, the Tutsi who typically raised cattle and the Twa who were hunter-gatherer pygmies (Spalding 2009:10).

Currently, the Rwandan history has been terribly affected by the 1994 genocide against the Tutsi which claimed more than a million lives within one hundred days (Spalding 2009 :6). When it comes to the Rwandan modern history, only two of the three aforementioned groups of the Rwandan population seem to be the key players. These are the Hutu and the Tutsi. Clark (2010 : 106) contends that before the arrival of the Europeans, despite the existence of the three groups in ancient Rwanda there was no divisionism ; Rwandans understood each other and the country was characterised by unity.

According to Melvern (2004:3), the version of history used by extremist Hutu such as Theoneste Bagosora who were involved in the genocide against the Tutsi portraying them as aliens has roots in European colonists, especially the Belgians who took control of Rwanda after defeating the Germans in the World War I (1914-1918). They invented the idea that Tutsi and Hutu were different races and taught that the Tutsi had come from somewhere else to invade a country that belonged to the Hutu. Following this thinking, Melvern concludes that it is this version of history that engendered the whole genocide ideology in Rwanda. The same view is supported by Barnet (2002:1) who argues that because of the colonists' divisive lessons, Hutu elite came to believe that Hutu salvation necessitated Tutsi extermination.

It has also been argued that prior and during the 1994 Tutsi genocide in Rwanda, media became channels of hate speech leading to the extermination of approximately one million Rwandans (Thompson 2007:42).

Driven by political affiliations and influence for instance, one pro-government radio station, *Radio-Television Libre des Milles Collines*

(RTLM) was particularly instrumental and active in inciting extremist Hutus to kill Tutsis before and during the genocide. The assumed enormous potential and success of both RTLM and Radio Rwanda to advance the genocide ideology was facilitated by their accessibility to ordinary citizens. In fact, Melvern (2007:70) contends that RTLM started when transistor radios were cheap and available in Rwanda; therefore it had a large audience in the illiterate population.

Though most of the common Rwandans were illiterate during the genocide, the role of the print media in spreading the genocide ideology cannot be simplified because those who could read would tell the rest what had been written and then engage in the debates with them.

On top of the hate newspapers was *Kangura*, born in 1990 when RPF (Rwanda Patriotic Front) attacked Rwanda. Using it as a weapon for the government, its owner, founder and editor Ngeze Hassan was responsible for the content and a controller of the publication.

Beginning from February 1991, with the publication of *Kangura* number 10, the title 'The Voice that Awakens and Defends the Majority People' would appear on the cover of each issue. The term '*rubanda nyamwinshi*', ('majority people'), was used by *Kangura* to refer to the Hutu majority (Thompson 2007: 279).

According to Grünfeld and Huijboom (2007:75), *Kangura* had two versions: one in Kinyarwanda and another in French. With strong support of Government and military officials, it incited ethnic hatred and violence against the *Tutsi*. An example from many of its heinous articles was the article titled "Appeal to the conscience of the *Hutu*", which included the so called "Ten commandments". The article and the "Ten Commandments" portrayed the *Tutsi* as the enemy, as evil, dishonest and ambitious. The Commandments were "inflammatory" rules aimed at creating divisiveness and resentment and hatred for the *Tutsi* in general and the *Tutsi* women in particular as enemy agents.

When evoking the role of media in the genocide, it is also important to note that in some circumstances, there was a synergy between RTLM and *Kangura*. Thompson (2007: 281) recalls times when *Kangura* could organise rewarding competitions for readers to answer questions from its previous issues by sending answers to the questions to RTLM. The synergy was dangerous because the hate messages could be read and transmitted through the airwaves.

1.2.1 Presumed power of the Rwandan media

Despite the seemingly common understanding that media were responsible for the genocide, there should not be an assumption of attributing too much power to media in propagating the genocide ideology. According to Scott and Waldorf (2011:6), there have been many contributors to the Rwandan literature after the genocide with limited knowledge about Rwandan history. These have overemphasised some factors that had contributed to the genocide while underestimating others. In fact, when the genocide was over, so many scholars wrote about the worst role the local media played in fuelling the events. However, most of the authors forget that the whole social and political environment was corrupted and that the genocide was an old ideology. As a matter of fact, even the church was not immune of the genocide ideology. According to Totten et al (2011: 380), some priests, bishops, ministers and nuns of the Roman Catholic and Seventh Day Adventist Church specifically were involved in the slaughter. Even back in the Rwanda history, the Roman Catholic Church had already supported the publication of a “Hutu Manifesto” in 1959 and in 1957, and the Party of Movement for Emancipation of the Hutu (PARMEHUTU) had been established under the guidance of the church.

There is no doubt that media played a role in the genocide but those who comment on the genocide in Rwanda should remember that in the political realm, media is not even the first estate but the fourth. Therefore, in times of wars and genocide, this estate is likely to be manipulated by the other forces. As Pottier (2002: 54), witnesses, during the 1994 Tutsi genocide in Rwanda, both journalists and humanitarians were prone to be manipulated because

they were denied access to true information. Pottier also condemns the fact that during that genocide, the western press virtually ceased to report on Rwanda.

The success of the Tutsi genocide was also a failure of both the U.S and the international community to take the situation in their hands. As Cohen (2007: 24) recalls, the US and UN policy makers had all the means to intervene and stop the genocide but they did not use them. For instance, Beigbeder (2006:276), reports that ten UN Belgian Blue Helmet soldiers were murdered by Rwanda government soldiers; Belgium which had the largest contingent in the UN Peace keeping Force in Rwanda (UNAMIR) withdrew all its military personnel

Looking at all the several factors around the Tutsi genocide, it would be simplistic and naïve to exaggerate the role of media and forget the authors of the genocide ideology.

Killers had developed stereotypes against the Tutsi, had dehumanised them before media could spread the news. Perse (2001:218) is one of the authors who believe that media do not make people aggressive, but it is aggressive people who watch or listen to media violence to justify their own actions and feelings. In what she calls a catharsis model, she even opines that compassionate people can watch or listen to aggressive content and purge their aggressive feelings. This theory does recognise that people are different.

In the context of Rwanda, the role of media in the Tutsi genocide was a result of ethnic ideology taught by colonists (Melvern 2007:4) and not just of a mere exposure to media. It has also been noted that some Hutu were sympathetic with the Tutsi and hid them during the atrocities. Furthermore, people watch films during the annual commemoration week of genocide in Rwanda, people watch films about the genocide not to imitate the characters but to purge their aggression and think about the desirable attitude.

Another eloquent example of how people can resist media propaganda is a story of a former commune that was called “Giti”. According to Andrieu et al (2010:334), the burgomaster (or head of this commune) at that time, Edourd Sebushumba, is credited with being a “rescuer” because he united with his population to protect the Tutsi. Despite the presence of all radio stations which could be heard and the radio propaganda that observers often claim to be drivers of genocidal violence in Rwanda, residents of Giti resisted the genocide, making their commune one of the communes under government control where violence did not occur in 1994.

With reference to media propaganda, Rwanda is not unique. As Horten (2003:63) warns, a media research conducted during the World War II will always remind researchers that media have limited effects because during the war people were able to select the messages to which they had to subscribe. According to Schiappa (2008:11), had there not been the interventions of Lazarsfeld, Berson and Gaudet who advocated for the limited effects model of media, researchers would fall into the trap of the old hypodermic needle or “magic bullet” theory. Schiappa warns that the theory suggests a direct, causal influence between the transmission or injection of mass-mediated message and audience reactions.

From the above critical view of media effects, I suggest that the role of media in the Tutsi genocide should not be separated from other social factors. In fact, the genocide ideology dating from years before the killings took place. Furthermore, it should be wise to reconsider both the national and the international political environments during the genocide because media do not operate in a vacuum.

Concerning the current situation of media, the Rwandan government recognises the provisions of article 19 of the Universal Declaration of Human Rights which stipulates that “every person has freedom of thinking and of expression, which means the right to feel free to give opinions and to seek, to receive and answer, without restrictions, information and ideas

through whatever means of expression.” However, it also recognises the fact that every freedom must come with a sense of responsibility.

To ensure a responsible media industry and an ethical journalism profession, the government of Rwanda established the Media High Council in 2003, as a permanent public institution to regulate media in Rwanda. Before and during the Tutsi genocide, there wasn't any dispassionate regulatory body to hold media accountable, besides 'government'. It has been argued that if there had been an independent and transparent process for licensing private broadcasters in Rwanda, the existence of a variety of viewpoints over the airwaves would have helped to neutralise the effect of RTLM and other media outlets such as Radio Rwanda that facilitated the genocide (Carver 2000: 188).

Article 34 of the 2003 constitution of the Republic of Rwanda, describes and mandates the MHC as an institution entrusted with defending and promoting press freedom and ensuring the development of a responsible and professional media in Rwanda (Constitution 2003: article 34).

The above declaration is also strengthened by other legal instruments and government orders such as the law number 18/2002 of 11/05/2002 governing the press. Specifically, article 2 of the Presidential Order number 99/01 of 12/11/2002 also defines the structure, organisation and functioning of the High Council of the Press, the current Media High Council, and it assigns it six missions:

- to guarantee and ensure freedom and protection of the press and other means of mass communication.
- to ensure respect for press ethics;
- to check whether political parties and associations enjoy equal access to official means of information and communication;
- to give advice on authorisations as to setting up audiovisual press enterprises; to give advice on decisions to suspend,

- to ban the publication of a newspaper or periodical or to close down a radio or T.V. station or a press agency;
- to issue press cards.

Further, article 3 of the Presidential Order number 99/01 of 12/11/2002 defines the composition of the board of the High Council of the Press. This includes three representatives of Central government; four representatives of media, with three members drawn from the private media and one from the public media and two representatives of the Civil Society. It should be noted that all these board members are elected by their colleagues in the respective institutions but their names have to be approved by the cabinet before they start their duties.

With a quick look at this structure of the MHC, it can be argued that such a composition of the board members of Rwanda's MHC can undermine its objectivity in fulfilling its mandate given the most basic definition of a Press Council as private, voluntary organisation that assesses media performance. Ordinarily, according to Paraschos (1998:195), a Press Council consists of media representatives (journalists and/or publishers); professionals as well as lay members of the public unrelated to the media and has no punitive powers other than the moral clout carried by its decisions.

The above prescribed MHC's mandate is clearly reflected in its strategic plan for 2008-2012, in which the institution seeks to promote press freedom and protect media through its mission, vision and its values; the vision being "to become a credible institution known for guaranteeing a free and responsible media; and the values being independence, impartiality and professionalism" (MHC Strategic Plan 2008-2012: 13).

It should be noted that to date, the MHC has established a permanent secretariat for its daily management. As part of its activities, the council has spearheaded and guided exercises that led to the formulation of media regulation policies, such as media practitioners' code of ethics and deontology. Such mechanisms have so far facilitated the MHC in dealing

with complaints relating to violation of press freedom as well as misuse of such freedoms by media practitioners.

In addition, the MHC effectively monitored media coverage of the 2003 presidential and parliamentary elections and ensured that all contestants equally accessed airtime in the public media (MHC Strategic Plan 2008-2012:12). The MHC also contributed towards the establishment of the Great Lakes Media Centre (GLMC) in 2007, which aims at training practicing journalists who may not have obtained journalism skills prior to employment (MHC report 2007:10).

It is therefore in the interest of the proposed study to assess the extent to which the MHC carries out its mandate as indicated above, given its different facets and the composition of its Board. While, the MHC falls into the category of statutory regulatory bodies, it must gain the trust and credibility of the Rwandan journalists whom it serves in order to succeed in its mission. Examples from old democratic nations such as Sweden, Germany and UK have shown that the press councils in these nations tend to originate from the journalists, and are, therefore run by journalists themselves. In this regard, Paraschos (1998: 196) argues that press councils have always been self-regulatory bodies promoting a responsible profession. In these developed nations, media institutions are commercial enterprises. Thus regulators play a double role, first to ensure that media serve the public interest and, second, to control the threats of monopoly and unfair distribution of frequencies (Feintuck 1999:39). Such a role, therefore, requires statutory regulation.

Though it is argued that statutory and self-regulatory bodies are different, the internal and external media policies are not mutually exclusive. They evolve into the same environment. In fact, Oosthuizen (1989: 13) contends that self-regulation, which he refers to as an internal policy is always formulated within the parameters of external framework; therefore, it can't escape the influence of the sociopolitical structure prevailing in a particular country. Other external factors which can all influence the internal media

regulation policy include the introduction of subsidies by the government, the advertisers, the expectations and norms of consumers.

While consulting for the High Council of the Press (HCP), which became the current Media High Council, Communication Strategist Helge (2007:4) argued that for the Council to be legitimate, its planned activities have to be in conformity with media fraternity in Rwanda. He also states that it must be recognised and to some extent accepted by the majority of Rwandan media practitioners. Similarly, its achievements should be reflected in media work. He further contends that the Communication Strategy of the High Council of the Press must reflect the promotion and the protection of media.

But media in Rwanda have become diverse since the 2003 liberalisation, which has since enabled the opening of so many media outlets and journalists associations. In the 2007 report on the state of media in Rwanda, it was noted that 57 newspapers were registered by the Ministry of information, 17 FM radio stations are also broadcasting in Rwanda while there is one public television station, Rwanda TV. There are also 6 journalists associations. This report also shows that during the same year the MHC received complaints against media from the public. More than eight newspapers were monitored and were found guilty of unethical and unprofessional conduct (MHC report 2007:8).

Currently, the Association of Journalists in Rwanda (AJR) has not been able to develop a strong self-regulatory body to address issues related to their profession because members are divided over the ownership of those associations. When there is a complaint against media, the Media High Council makes reference to the Journalist Code of Ethics and handles such a complaint. At the same time, it is in the mandate of the MHC to punish including the suspension or definitive closure of a publication (Media law 2009: article 84).

In reality, therefore, the MHC has a mixture of responsibilities that are also contradictory; combining both statutory and self-regulatory statuses, embedded in both the law and the ethical code of conduct. This makes its

mission delicate since it requires both protection and punishment, two contrary components which are clearly different from each other. In fact, there is an obvious distinction between self-regulation and statutory-regulation.

According to Sara and Luitgard (2005:15), while statutory regulation applies to measures passed by parliament to direct media, self-regulation which focuses on media accountability is the fruit of journalists and publishers who come together to form rules of conduct for journalism and to find out ways of obeying them.

1.3 Relevance of the topic

Before the 1994 Tutsi genocide, besides Radio Rwanda and Rwanda Television which were owned by the Government of the day, there was only one “private” radio station, RTLM and some private-owned newspapers which also belonged to government officials. These institutions were generally used to create awareness of their parties’ political agendas and to a great extent spread the genocide ideology. RTLM, as has been mentioned earlier, was used to spread hate speech which orchestrated genocide. Melvern (2007:71) contends that almost all the shareholders of RTLM including businessmen, bank managers, journalists, army officers and government officials played a significant role in the genocide and had used RTLM to incite the Hutus to kill the Tutsis.

In fact, apart from the courts of law, there wasn’t any media regulation mechanism or body to oversee media activities. After 1994, Rwanda adopted the liberalisation policies which have swept the biggest part of the African continent. Alongside Radio Rwanda and Rwanda TV, the public broadcasters and community radios affiliated to them, there are more than 10 private radio stations and a couple of professional associations. There are also foreign FM radio stations such as the British Broadcasting Corporation (BBC), the Voice of America (VOA) and Radio Deutch Welle (DW).

Thus, with the exception of televised media where the government owns the Rwanda Television, the only TV station in the country today, the government is steadily losing its grip on media monopoly, particularly in the broadcasting sector (MHC report 2007:9).

Furthermore, new journalists associations are being established in a country that can be referred to as a growing democracy. It is believed that a study on media regulation in the Rwanda's current context would be important and that this topic is relevant as it provides an opportunity to assess the MHC's double and conflicting responsibilities of regulating media activities and protecting them. It is paramount to establish the extent to which the government has a hand in the activities of the Council given its board composition. It should be noted that this study is the first of its kind in the country since the creation of the MHC in 2003.

1.4 Relationship of the topic to the discipline of Communication

It has been argued that "the history of freedom of expression can easily slip into being a history of freedom of communication" (Feintuck 1999: 43). This is understandable given that mass media are channels of communication. For example, some barriers to effective communication such as distance are broken through the mass media.

In the context of the proposed study, effective communication can imply that media practitioners are ethically responsible; they serve the public interest, and that press freedom does not infringe other people's freedoms and rights. According to Hyer (2005:4), a guiding principle of effective communication in a global context is that all communication activities and materials prepared for media should reflect the diverse nature of societies in a fair, representative and inclusive manner.

In light of the proposed study, it is fair to argue that effective communication in a country like Rwanda will depend on proper media regulation and a conducive regulatory body that subscribes to the standard structure, values and norms of such an institution. Therefore, assessing the

functioning of the MHC as a regulatory body is significant and relevant to the discipline of communication.

1.5 Other research in the field

Media Regulation is a new area of study in developing countries, especially on the African continent where media have been under direct government control for many years, and Rwanda is not an exception. Therefore, this study about media regulation in Rwanda is new. In the West however, quite a number of studies on media regulation have been carried out. Without pretending to give an exhaustive list, I have attempted to identify some scholarly work that devoted enough time to study media regulation (see for example Thomas Gibbons, 1998; Mike Feintuck, 1999). Gibson's (1998) work, which mainly centers on the regulation of the British media industry, provides a rationale for media regulation in Britain. It also notes the complex relationship between political and cultural roles and the commercial objectives of media. Feintuck's (1999) research on *Media Regulation, Public Interest and the Law*, discusses the relationship between communication and power and argues that any regulatory activity should hinge on the public interest. As for Press Councils, the most comprehensive study was conducted in Europe between 1994 and 1995 by members of the Department of Journalism and Mass Communication of the University of Tampere, Finland (Paraschos 1998:196). In the case of Rwanda, since regulation of media came into being through the Media High Council in 2003, there has not been any academic research in this field.

2. LITERATURE REVIEW

The purpose of this literature review is to inform the research about media effects in the society and their regulation including laws and policies.

In effect, media have social effects of disseminating information: they express different voices and views, they help the public to form opinions on issues and they facilitate the debate McQuail (2005:162).

From this point of view, it is likely that media are channels through which freedom of speech as one of the fundamental human rights is expressed. Humphreys (1996:21), believes that press freedom should go hand in hand with the abolition of licensing and censorship and the acceptance of the principle of the press to become the fourth Estate in the political realm. In a democratic system, promoting press freedom is not a choice but an obligation. Commenting on Article 19 of the Universal Declaration of Human Rights (UDHR), Paraschos (1998:24) argued that press freedom has become synonymous with freedom of expression. Though freedom of media is universally accepted as a fundamental human right (Ducat 2008:935), experience has already proven that it is not an absolute right. This is the reason why every country establishes its own way of regulating media.

Throughout history, governments have been suspicious about media; they have been watching them for censorship to curtail some of their rights. According to Paraschos (1998:98) even Sweden, one of the countries that are most sensitive to press and expression has set a constitutional curtailment on freedom of expression in some circumstances. As an example, Paraschos cites the Swedish Constitutional Press Freedom and Expression Act, Chapter 7. 4, according to which expression deliberately aiming at bringing the country “under the subjection of foreign power by violent or other unlawful means” has to be punished.

In developed countries where the struggle for freedom of the press started earlier, governments and the media have gone a long way towards press freedom. As watchdogs, media hold governments accountable but they are also held accountable through both statutory and self-regulation.

In Africa, most of media have been in the hands of the governments for quite a long period. Not until recent years, some African countries did not have privately owned electronic media. Hydén et al (2003:55) testify that during the past decade; African governments left no room for the media to express independent views. These authors recall that media were used to propagate the views of the ruling establishment or keep quiet. They also

argue that there was no difference between civilian and military governments.

They, however, praise the legal and constitutional reforms that have been introduced in the 1990, which tend to look quite impressive in comparison with preceding clauses.

Unfortunately, they regret the fact that on paper African countries have gone a long way in respecting press freedom whereas in practice most of the political regimes do not allow media to operate freely.

With reference to Africa, most of its countries do guarantee the press freedom in their constitutions and good laws but the implementation is questionable. According to Hydén and Ogundimu (2008:75), in many African countries press freedom is suppressed in the name of threats to “public order”, “public safety” or even “public health”. For media practitioners and human rights defenders, this situation is very complicated. No wonder the African Commission on Human and People’s Rights has more to tell about freedom of expression, reminding the actors in the domain especially the broadcasting regulators to encourage the development of private broadcasting. It also urges them to try their best to transform state or government broadcasters into genuine public broadcasters and to struggle for the independence of the regulatory bodies (Levesque and Barker 2006: 14).

In fact, the mere fact that a State is determined to promote press freedom should be critically analysed. As Hutchison (1999:87) argues, there is a distinction between the State as the apparatus for the orderly governance of geographically defined area and the government of the day, which utilises the apparatus. Therefore, for press freedom to be effective, both the government and the State should be willing to promote it.

Like any other country, Rwanda believes that press freedom includes obligations and responsibilities and it is subjected to a number of formalities, conditions, restrictions or sanctions as provided by the law. According to Rusell (2006: 47), in democratic societies media is granted

freedom to operate but when it fails to fulfill its mandate, news consumers lose faith especially when media use the press freedom as a shield to protect themselves, rather than protect the public. What is clear here again is that press freedom is not an absolute right and there are a lot of ways to regulate media all over the world. These measures are necessary for a democratic society so as to ensure national security, territorial integrity, public safety, keeping order, crime prevention, protection of health and of morals, protection of good reputation and of others' rights; for prevention of disclosing confidential information or to guarantee authority and impartiality of judicial power. Wayne and Belmas (2011:33) argue that even in America in the aftermath of September 11, 2001, a USA PATRIOT Act, passed shortly after the September 11 attacks changed things. Because of terrorism, the federal government was given power to monitor telephone and Internet communications and the attorney general was authorised to detain any foreigner believed to threaten national security, among other measures.

Having discussed the rationales for media regulation however, it is important to note that in many developing countries there is a biased interpretation of media law by government officials who are threatened by media because it holds them accountable. Unlike the situation prevailing in the growing democracies, media sector in democratic countries is independent from the government and the principle of independence within media has been possible through self-regulation. In this area, the experience of media regulation in the European Union (EU) is commendable. In order to avoid control excesses and appease those in government who might attempt to place additional legal limitations on the press; countries have to abide by the rules made by media themselves in addition to domestic legal control

(Paraschos 1998: 195). In this case, there is certainly a room for both external regulation exercised by the government and internal regulation exercised by media practitioners to promote professionalism.

As regards regulation of media in Rwanda, it is a very recent development that saw the MHC being established in 2003 as a recognised regulatory

body. Unlike most of the traditional press councils which originate from media practitioners, the MHC was a government initiative. As Oosthuizen (2002:69) argues, this is delicate because when a government through legislation starts to institute media or press councils, there might be a potential for interference in media activities by the government. As stated in the background of this study, the MHC has got a delicate dual mandate of controlling media and promoting their freedom. This implies that the agency combines both statutory and self-regulatory statuses and this constitutes the research problem of the study.

3. TYPE OF THE STUDY

This study is exploratory in nature. I chose an exploratory perspective for the reason that while there have been extensive studies on issues of media regulation worldwide, this is the first study exploring media regulation in Rwanda. As Du plooy (2001:48) clarifies, exploratory studies are arguably preferred as a method that can be applied to a new or an unexplored area of research. The researcher can use it to obtain new insights, to identify key stakeholders, to prioritise social needs and identify consequences of communication problems.

Therefore, to understand how the MHC exercises its double mandate of regulating and protecting media, I have conducted exploratory interviews with board members and media practitioners in addition to the MHC documents analysis. The exploration aspect in this study paved the way for further research. To some extent, the research was also descriptive because it provided an opportunity to describe the regulatory framework of the MHC.

4. RESEACH PROBLEM AND RESEARCH QUESTIONS

4.1 Research problem

The mission of the MHC requires it to act with two close but contradicting positions and directions. These are: the protection and promotion of press freedom, and ensuring that media adheres to media law – with full mandate to punish those who ‘misuse press freedom’. Being members of the journalism fraternity in Rwanda, the MHC seems to operate under two varying statuses of regulation: statutory and self-regulation. The study hopes to shade light on the two statuses: controlling and promoting freedom of media.

4.2 Research questions

The research was guided by the following questions:

1) How does the Media High Council handle the public complaints against media and accomplish its double mission of promoting press freedom and control media?

Sub-question: What are the consequences of combining the promotion of press freedom and the control of media?

2) What is the impact of the Media High Council’s decisions on press freedom?

Sub-question: How is Media High Council perceived by journalists?

5. Definition of key words

5.1. Press Council

Paraschos (1998:195) defines a Press Council as a private voluntary organisation made up of media representatives, academics and civil society which aims to assess media performance. In his research, this scholar argues that the world’s first Press Council was started in Sweden in 1916 and was

followed by councils in Finland and Norway. He further confirms that currently, 12 of the European Union nations have Press councils. According to Pritchard (2000:91), although Sweden was the first to launch a press council, the best known press council which served as a model for others including the Quebec Press Council was the British Press Council called the Press Complaints Commission since 1990. From Europe and America, press councils were imported to Africa.

In Rwanda, the MHC came later in 2003. Referring to these councils, today, some media scholars prefer to use the term media rather than press because they think that media is modern. As Siebert, Peterson and Schram (1963:1) wrote, in media research the word press means all media of mass communication. Thus, the two words press council and media council mean the same thing.

5.2 Media

According to Jensen (2002:194), there is a convention that defines media as a plural noun of the word “medium”. In his point of view, this plurality is usually taken to include the press, broadcast (radio and television) and cinema. According to Lister (2003:10), Jensen’s definition of media has been used for some fifty years as a social institution referring to communication media and the institutions and organisations in which people work including the press, cinema, broadcast, publishing, and so on and the cultural and material products of those institutions (the forms and genres of news, road movies, soap operas which take material forms of newspapers, paperback books, films, tapes, discs). Due to rapid modern technological changes which have been taking place in the sector since the 1980s, Lister prefers to use the term “new media” to mark a break with history.

As can be noticed, it is not easy to find a proper definition for media especially with the introduction of ICT’s and internet in the communication sector.

In Rwanda, the term media means any process, whether in print, audio-visual, auditory, signs or internet used to disseminate, broadcast and make known to the general public facts, opinions and any other expression of thought particularly in order to inform, educate and train, promote leisure and entertainment (Media law 2009: article 2). In this research however, the discussion was limited to news media (broadcast and print), specifically Radio, Television and Newspapers.

5.3 Regulation

Feintuck (2006:202) defines regulation as a sustained and focused control exercised by a public agency over activities that are valued by a community. This definition is much a state-centered view of regulation, with a total emphasis given to the intervention of public agencies.

In Rwanda, this definition does not fit the Media High Council because the latter deals much more with the content of media. The definition would rather be applied to the Rwanda Utilities Regulatory Agency (RURA) which deals with public utilities including frequency allocation.

In media perspective, Gibbon's definition (1998:4) can be borrowed in an abstract sense. He argues that the regulation of any practice that is socially beneficial consists of shaping and guiding it to achieve the ends that are thought desirable for it. Indeed this definition is inclusive and it can be applied to the MHC whose aim is to guide media in Rwanda. Studying media regulation, Fourie (2008:30) draws a distinction between internal and external media regulation. A glimpse on his distinction would suggest that internal regulation is synonymous with self-regulation while external regulation is synonymous with statutory regulation. To illustrate the two concepts, Fourie gives the example of South Africa where the institution that deals with external media regulation is the Independent Communications Authority of South Africa (ICASA), whilst the one dealing with internal media regulation is the South Africa National Editors' Forum (Sanef). Fourie (2008:77) therefore defines a media regulatory body as an

institution or measure that determines or co-determines, from outside the organisation itself, what is published or broadcast.

The discussion above shows that there is a clear distinction between Statutory and Self-regulation of media. While the term statutory regulation applies to any measure passed by parliament to direct media, self-regulation of media is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public (Sara and Luitgard 2005:17). By doing so, independent media accept the share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy in shaping it (Hulin and Smith 2008:8).

6. ANTICIPATED FINDINGS

6.1 Anticipation of findings

It is through the research problem as well as the research questions that the findings of this study can be anticipated. Since the MHC plays double and contradictory roles (to protect media but also to control them by punishing those who do not abide by media laws), the anticipation of the findings is in the following three major categories:

- 1) The study will specifically establish how the MHC fulfils this double mandate and the way it relates with the government, which entrusted it with these roles; and with media practitioners, who presumably, hold it in suspicion.
- 2) The findings will show the likely effects of MHC's double roles of statutory and self-regulation on its performance.
- 3) Finally the study will come up with recommendations on the best ways in which the MHC can fulfill its mandate and on how the journalism professionalism can be improved in a growing democracy like Rwanda.

6.2 Anticipated contribution of the study to the discipline of Communication

This study has much to contribute to the discipline of communication. For the time being, the contribution is three-fold:

First, the study used classic and new normative theories. While some of them such as the authoritarian theory, the libertarian theory, the soviet communist theory and the social responsibility theory informed the research on the history of media regulation according to different government systems, others like the development theory, the democratic participant theory and the African “*ubuntu*” documented the study on how media should comply with public policy and regulation to satisfy the demand of public interest. They also suggested that media and political institutions could work together without compromising essential media freedoms. In developing countries however, it is the government that defines and enforces the public interest.

Having said that the term “public interest” raises much debate among media scholars, applying theories to the context of media in Rwanda contributed to the existing body of communication knowledge.

Second, according to Gibbons (1998:13), the forms of regulation are likely to have an impact on the functioning of media. He goes on arguing that media regulation should be judged by reference to the purposes that the practice is intended to secure. As far as the Media High Council is concerned, its first mission is to guarantee and ensure freedom and protection of the press and other means of mass communication. Throughout history, press freedom and free speech has been the key role of mass communication. Therefore, assessing the way the MHC accomplishes this mission would be of a great contribution to the discipline of communication.

Last but not least, the study documented the history of the Media High Council in Rwanda. It provided answers to the research questions and possibly provided new insights and better understanding of media and

regulation in Africa and promotion of media freedom and professional journalism.

CHAPTER 2: THEORETICAL FRAMEWORK

2.1 Introduction

The mission of the Media High Council (MHC) requires it to act in two close but contradicting positions and directions: the protection and promotion of freedom of media on the one hand and control on the other (MHC law 2009: article 2).

The aim of this research is to explore the role of the Media High Council (MHC) in Rwanda and above all how it has been balancing its contradictory responsibilities of promoting freedom of media and controlling them.

In order to understand the problem, this study was informed by the normative theories. McQuail (2005:15) argues that a normative theory proposes an ideal model for media in society, or what the role of media should be. Therefore, this chapter is an exploration of the normative theories including the four classic theories of the press (the authoritarian theory, libertarian theory, social responsibility theory and soviet communist theory). Later on, for the sake of current media regulation experience, the study was expanded to “new” normative theories of media which are the development theory, the “*ubuntuism*”, which is an African contribution to normative theory that attempts to theorise the role of African media in an African context and the democratic-participant theory.

2. 2 Normative theories

The four theories of the press and the new normative theories were deemed appropriate to inform this research because besides defining the role of media in the society, they also shade a light on the relationships between media and the State (government) and in most of cases, these relationships have been at the heart of media regulation. More specifically, to assess the MHC, these theories helped the research to go through media regulatory system prevailing in Rwanda because as McQuail (2005:15) states, if one

wants to know about any society's normative theories concerning its own media, he/she usually has to explore the laws, the regulations, the media policies but also the codes of ethics and the substance of public debate.

Despite the courage one might have while exploring the normative theories of media in a given society, there will be no success if there is no distinction between external and internal regulations of media. As Fourie (2007:51) demonstrates, external regulation takes place when laws and statutory organisations are involved in media to determine how they should operate and perform. In this context, the regulators refer to the laws as a tool for regulation. As for internal regulation, Fourie clarifies that it takes place when a medium itself or non-statutory media organisations organise the functioning and performance of media. The tool for such a regulation is a code of ethics.

As it can be seen from the discussion above, due to their social power, their contribution in development and democratic debate, governments always have a desire to regulate media. According to Croteau and Hoynes (2006:20), since media contribute to a democratic process by providing social spaces for dialogue, there has to be an institution that ensures that they serve the citizens instead of solely targeting potential consumers. This is what has been referred to as the "public interest" in the previous chapter. Focusing on ownership, Doyle (2002:172) notes that if media were not regulated, powerful individuals would own them all and consequently their power to propagate a single political viewpoint would threaten democracy and therefore prevent cultural pluralism. He further suggests that because media ownership is a "difficult minefield", the regulatory institution should be robust and equitable in order to meet public policy objectives. Doyle also believes that media always perform an influential role in political destinies.

Furthermore, the choice of the normative theories in this work finds its justification in the discipline of communication. According to Hallin and Manchini (2004:12), the field of communication and particularly the study

of journalism needs normative theories because rather than limiting itself to what is happening, the profession goes beyond and prescribes rules determining how things should be done.

2.2.1 Four theories of the press

Though some scholars such as Oosthuizen (2002: 39) extended the list up to six theories, the classic theories were originally four: the Authoritarian theory, the Libertarian theory, the Social Responsibility theory and the Soviet Communist theory. No one has been able to explain them better than Fred S. Siebert, Theodore Peterson, and Wilbur Schramm in their book, “The Four theories of the Press” published in 1956 (Siebert, et al 1963:1). According to Nerone (1995: xi), the idea of “four theories” was conceived in Gregory Hall, where Illinois’s College of Communication is located. As for the aim of the research around these theories, Hallin and Manchini (2004:1) explain that the founders of the four theories wanted to understand the behavior of the press and why it was serving different purposes and appearing in widely different forms in different countries.

The four theories are normative indeed because they focus on what different societies were expecting from media in different times. According to Semati (2004: 21), there had been no framework of understanding international media systems even in developed countries before the development of the four theories. He further underlines that even when the content is revised, the harshest critics of the model instinctively retain the form. This is true for the third world countries which apply the four theories of the press to their context. In fact, the media theory is a western invention that was transferred to the third world (McQuail 2010: 11).

2.2.1.1 The Authoritarian theory

Siebert et al (1963:2) contend that authoritarianism is the oldest of the four theories and that it came into being soon after the invention of printing. As they argue, truth was not a product of the people but of leaders who were

presumably the wise men of the society and therefore the press was a servant of the State which was responsible for most of its content. With reference to press, history tells that authoritarianism developed in England in the 16th and 17th century.

However, authoritarianism is much older than the 16th or 17th century. It is probably the oldest “theory” regarding the power of the social sovereign such as the king. The idea of authoritarianism in connection with media arose in response to the development of new media of print. For example the response of the church to printing the Bible and other books that challenged its authority, and the response of the monarch and powerful political elites to the rise of the newspaper illustrate this. Newspapers began to comment on political issues and this was resisted by the ruling elites who wanted control over publication. It was a philosophy of absolute power of monarch or his government, or both (Siebert et al 1963:6).

A quick look at this theory shows a system where media are totally controlled by the government. The press is seen as a very powerful tool, and both the clergy and politicians in power use it to convey only the information they want the public to have. They are controlling the press to ensure the promotion of their own interests (Oosthuizen 2002: 39).

While some of the uninformed readers would conclude that this model passed away with history, Oosthuizen warns that even today, it is applicable in countries with total control of media, leading to the suppression of media and media freedom in particular. The statement is true if one recalls that in Africa most of the “public” media are still in the hands of the governments but also as odd as it can sound, some governments can proclaim themselves liberal or democratic while they are authoritarian in practice (Nerone 1995: 32). This assertion can be proven if one compares what is written and what is done on the ground. In most of the countries especially in Africa, there are good media laws based on both the international conventions of Human Rights and the constitutions. However, press freedom has not yet been

practically a reality. To soften this, it is argued that since no country has absolute freedom of the press; one has to talk about the levels or degrees which vary from country to country (Asante 1997: 12).

In Africa, there are many barriers to press freedom due to cultural factors such as too much respect for the authority and authoritarian power. In Rwanda, the state of media report 2009 (MHC report 2010:27) shows that access to public information remains a challenge and the MHC continues to advocate for an access to information law. This will be discussed further in the next chapters.

2.2.1.2 The Libertarian theory

According to Siebert *et al* (1963:7), the libertarian theory was adopted in England after 1688. The writings of Milton, Locke and Mill contributed a lot to the general philosophy of rationalism and natural rights in general and to the struggle over freedom of speech in particular.

Later on in the 18th and 19th century, the theory was developed in the USA and it was influential elsewhere in the West.

Unlike for the Authoritarianism, the libertarian theory suggests that man is able to discern between truth and falsehood because he is rational. The press is no longer an instrument of the government but a channel through which people can check on government and make up their minds as to policy. In the USA and Britain, the press is considered as the “Fourth Estate” in the governing process. The concept “Fourth Estate” was coined after realising that media (originally the press) possess the same or equivalent power to that of the other three “estates”, which are the State (government with its laws), the Church (institutionalised religious practice) and the School (institutionalised education). It was true that they all could lead, influence and dictate people’s political, cultural, religious, economic, and social thinking, behavior, decisions and values (Fourie 2008: 33).

As Nerone (1995:72) contends, while the Authoritarianists believed that the government was more important than the individuals, this time collective units exist only as a sum of the individuals that comprise them. Therefore, individuals can speak, own property, make contracts, and so forth. Briefly as Oosthuizen (2002: 40) clarifies, the libertarian theory is a philosophy of maximum freedom and minimal control. He adds that libertarianism is applied when countries such as the USA use their liberal dispensations to promote maximum freedom without emphasis on control. It can be understood that libertarianism goes beyond press freedom and of speech to cover the whole area of political freedom. Howard (2000:2) explains that though individuals can conduct their own personal campaigns, success in political freedom will always involve collective action.

He further clarifies that while freedom of speech is limited to the right to express concerns and be heard, political freedom includes not only speech but also other forms of action such as the putting pressure on others in order to get desired results. This pressure can involve generally accepted criminal actions such as deliberate damage to property or violence. It can be concluded therefore that the libertarianism is not limited to media but extends to the whole political environment.

2.2.1.3 The Social Responsibility theory

According to Nerone (1995:77), the report of the Hutchins Commission indicated that the libertarian theory had encouraged a *laissez-faire* system in media, which could lead to dangerous selfish politics. Therefore, the social responsibility was one response to the impasse of liberalism in the twentieth century.

As McQuail (2002:185) reveals, in 1947, in the midst of the World War II, Henry Luce, the publisher of the Time and Life Magazines, asked his old Yale classmate, Robert Maynard Hutchins, the then president of the University of Chicago, to recruit a commission to inquire into the proper functioning of media in modern democracies. The reasons behind the

inquiry were numerous including the atmosphere of press criticism of the past few decades, the outbreak of the war, the widespread fears of propaganda and totalitarianism, and the expected rise of a generation of new media technologies in the postwar world. The commission, which consisted mostly of academics with a connection either to Yale or to the University of Chicago, interviewed media professionals, government and the academy. After revisiting the libertarian theory, they finally came out with their report officially named “The Hutchins commission report” in 1947.

With the existence of such an investigation, the social responsibility theory reminds that press freedom must have its limits. It was particularly reminded to media that public interest mattered more than individuals’ rights. Though the term “Public Interest” might be ill defined or difficult to define because of political reasons, McQuail (1992:22) defines it as an expression where the sum of individuals’ interests is held to be paramount. He further adds that public interest reflects the will of the people and that it will be held to lie with the majority choice. In order to understand the social responsibility theory of media in a practical way, it is important to share Oosthuizen’s (2002:41) contribution who defines the theory in terms of professional standards for the supply of information including truth, accuracy, objectivity and balance in reporting. Furthermore, he adds that social responsibility takes place when self-regulation is applied within the framework of the law.

The emphasis of this theory is evidently on self-control. In South Africa for instance, Fourie (2001:73) explains that in the 1990s the democratisation process led to a shift from extreme governmental regulation and censorship which he calls “the external regulation” towards self-regulation or internal regulation in media. While external regulation focuses on the law, internal regulation focuses on ethics. According to Oosthuizen (2002:62), even if laws are regarded as the cornerstone of democratic civilisation, it is the moral respect for the law that forms its foundation. This means that without ethics, the law will not be able to solve social problems.

The adherence to ethical obligation should ideally be voluntary. In that case, the respect for the law does not come out of fear but out of moral respect. This is what makes internal regulation more powerful. It is also important to mention that some laws will be reflected in the codes of ethics and vice versa. For example, if a media law prohibits the promotion of genocide ideology in Rwanda, it is likely to be reiterated in the code of ethics. Therefore, it can be concluded that though the two systems of regulation should be separated, they are not necessarily mutually exclusive. This said however, it is the moral character of the internal regulation that makes it preferable in the social responsibility theory. As Fourie (2001:74) explains, in South Africa the main institutions formally accepted as regulators are the Press Ombudsman, the Independent Communications Authority of South Africa (ICASA) and the Broadcasting Complaints Commission of South Africa (BCCSA). But as Fourie (2011:74) keeps on sharing, there are other media monitoring groups including the South Africa National Editors Forum (Sanef), the Freedom of Expression Institute (FXI) and the Media Institute of Southern Africa (MISA). These institutions play an important role in fighting for press freedom and none of them believes that regulation by state or censorship are needed, but they agree that media should be internally regulated.

Today, many African countries are applying the social responsibility theory to their media by setting up press councils because they view it as a panacea to media offenses and to the gaps left by statutory regulation. For Rwanda however, there are only two institutions formally accepted to regulate media. These are the Media High Council (MHC) and Rwanda Utilities regulatory Agency (RURA), which is a statutory regulator, entrusted with protection, control and promotion of media and professionals (MHC law 2009: article 2). While MHC regulates the content, the other regulator is Rwanda Utilities regulatory Agency (RURA), both of which are statutory regulators. The MHC is a statutory regulator entrusted with protection, control and promotion of media and media professionals (MHC law 2009: article 2). While MHC regulates the content in the broadcasting as well as in the print media, RURA deals with frequency allocation in the broadcasting.

On the ground, it is the MHC that is always seen because of its involvement in public complaints against media especially the newspapers.

With reference to the media regulation environment in Rwanda, there is a gap because media professionals have not been able to form their own institutions to deal with internal regulation. Yes, they have tried to form some but these have never been active nor have they produced any reports on media internal regulation. For that reason, the MHC seems to combine both external and internal regulations. When it comes to handling complaints, it applies both the law and the code of ethics to regulate media professionals. Unfortunately, when a statutory regulation plays the role of a self-regulatory institution, media professionals will look at it with a suspicion eye and it will be perceived as an extended arm of the government within media.

2.2.1.4 The Soviet Communism theory

According to Siebert et al (1963:6), the Soviet Communist theory is grounded in Marxist determinism and in the harsh political necessity of maintaining the political ascendancy of a party. Looking at this theory, one can discover that it is another version of the Authoritarian theory in the Soviet communism. While Authoritarianism proclaimed that truth was a monopoly of the leaders, the Soviet Communism proclaimed that truth had to be seen in the eyes of the party. Surprisingly, some “modern” governments have been using this theory in their media in different parts of the world. This happens when media serve the ruling party instead of serving the public. This is what Oosthuizen (2002:49) reveals as he refers to the time when the South African government used the SABC to promote the interests of the National Party and its leaders. As an example, he points out that the party could directly intervene in news programmes for its own interest and that led the SABC to be like a public relations mouthpiece of the party.

After this simple review of the four classic normative theories, it seems obvious that rather than being mutually exclusive, they are interrelated. It is what Siebert et al (1963:2) confirm in their analysis. Their revelation explains that while the soviet communist theory is a development of the older authoritarian theory, the social responsibility theory is a modification of the libertarian theory. The interrelation is very apparent when one compares the authoritarian theory and the soviet communist theory for instance. The only difference would be the place and the form, other wise they all present the State as more important than the people. The evolution of the libertarian theory to the social responsibility is also true as the Hutchins commission report of 1947 revealed.

2. 2. 2 New normative theories

After exploring the four theories of the press, scholars such as Christians et al (2009: 8) did not find any input from non-western philosophy in them. Therefore, they argue that the four theories of the press limited their scope and history of press freedom to the post-Gutenberg print press. A conclusion that can be drawn from this critique is that it would be a mistake to take the four theories of the press as universal effective rules to guide media all over the world as they represent the western thinking. This is what Kari and Hanitzsch (2009:303) confirm by proposing a de-westernising model which takes ideas from other parts of the world into consideration. In their view, the western ethical discourse is not politically innocent but a political act of power which can use journalism to propagate western propaganda for imperialistic and colonising purposes. In the understanding of Kari and Hanitzsch, de-westernisation means using cross-cultural comparisons when discussing the principles of media ethics, and giving due weight to African, Indian and Eastern ethical systems. However, Christians et al (2009:11) noted that despite their distinctive rich cultural and philosophical traditions, Asia, Africa, and Latin America have not nurtured major innovations in media theories because scholars from developing countries typically reflect four theories of media ethics or their revision. For example, the African “*ubuntu*” with its emphasis on community and collectivity is not free from the western normative theory inputs, especially, the social responsibility

theory with its emphasis on the “will of the people”. This is a proof of dependencies involved. Today, as Christians et al (2009:67) warn, the normative theory is becoming a global dialogue bringing back the normative theories of the west into conversation in different parts of the world and doors are getting open to permit participants to utilise a great variety of normative resources in their cultural traditions. New normative theories require media practitioners to think out of the box and find dynamic ways of media operations.

To understand the functioning of new normative theories, it is important to consider McQuail’s view (2002:16), according to which there is a tension between media claims to freedom and various claims that media ought to serve the public interest. This tension is healthier in a democratic debate because it leads to the flow of different ideas which is the core message of freedom of speech. As Philips (2000: 237) argues, normative theory flourishes best when there is no normative consensus. In his view, it is when people disagree about the principles by which they should live their lives that they most feel compelled to debate them. Even when there is a consensus that comes from the debate, Philips (2000: 238) warns that it is still difficult to find people who will draw the line between ‘is’ and ‘ought to be’, and who will tell others what is right and what is wrong. Indeed, Philip’s observation deserves much attention especially for media regulators. Their job is practically difficult because their decisions will not always be welcomed by those who are regulated. From experience, media professionals think that it is arrogant to instruct somebody about what to do and what to avoid. Once again, the solution will be found in self-regulation.

According to Barran and Davis (2008:107), new normative theories were developed in the 1920s and the 1930s in order to reject both radical libertarian and technocratic control. Stanley and Davis went on revealing that these theories helped the government to regulate radio and that in 1927 the debate led to the establishment of the Federal Radio Commission, which was the forerunner of the Federal Communications Commission, the current statutory media regulatory body in the USA.

The new normative theories are the ones that discuss more the rationales for media regulation. According to McQuail (2002:16), media operations will always touch matters that are politically, morally or ethically sensitive and that are matters of public opinion. Therefore, he suggests that media should comply with public policy and regulation but he adds that for a democratic political system to prevail, media and political institutions have to work together without compromising essential media freedoms.

Bearing in mind that the new normative theories rest upon the rationales for media regulation, it must be said that without the norms, though private media are commercial enterprises, their owners are likely to convert their economic clout into public influence and political pressure. As a consequence, only the voice of the owners would be heard and they would be able to silence those whom they do not want to speak. This would be a barrier to the flow of different ideas and a snare to democracy.

A good example is that of Silvio Berlusconi who used his media to consolidate his private fortunes and political assets and changed the culture of media in his country (Habermas 2006: 421). That commercial media have to be regulated is also true for public media. If left unregulated, they are likely to be used by some governments as a private property. This will lead to disastrous consequences because those media will convert their public service into government services.

For this regulation to be possible the media law has to be put in place. However, when the law becomes silent ethics should play its regulatory role. This is the reason why Oosthuizen (2002:38) advocates for normative ethics concluding that since media workers are part of the society, they should function within the parameters set by the expectations prevalent in that society. From Oosthuizen's point of view, without norms, society cannot prevail. Thus setting up norms for media is essential for social cohesion.

According to Christians et al (2009:13), even if a free press in a democratic society cannot be compelled to follow any particular purpose, there is still a normative element in the media role which is reinforced by customs and social ties. This said however, it is important to remember that social and cultural values differ from country to country. Therefore, rather than pretending to promote universal values, normative theories will be adapted to a particular society according to its beliefs. It is what Christians et al (2009:29); point out about a significant movement in Asia and Latin America which resisted western models because they thought the western models were not meeting their needs. The promoters preferred to explore alternative ethical and normative bases for public communication in the context of their own countries.

The contextualisation of normative theories is also confirmed by Stanley and Davis (2008: 112). Their research reveals that in several developing nations such as South American countries (Honduras and Brazil), there is a trend to relate normative theories to development. This trend leads to the development theory of media.

2.2.2.1 Development theory

The promoters of development theory believe that by supporting government development efforts, media aid society at large. They further argue that journalists should assist government to implement its policies. They advocate for a normative developmental media theory according to which government and media should work in partnership to ensure that media assist in the planned beneficial development of the country. However, Stanley and Davis (2008:112) also revealed that U.S journalists were not satisfied with this theory because they thought it was an updated version of the authoritarian theory. For them, journalists should never surrender their power to criticise government policies even if voicing those criticisms would cause them to fail.

The fact that the USA journalists question the normative development theory of media is not surprising because the context in which they are operating is far different from the one journalists in developing countries are living in.

For instance, media freedom, professionalism and technology have been there for so many years in the USA whereas the progress has been very slow in developing nations especially in Africa. Furthermore, in terms of press freedom, the USA media practitioners are always protected by the first amendment to the Constitution of the United States (1791) which states that the Congress shall make no law abridging freedom of speech, or press (McQuail 1992: 36). According to Watson (1998:92), the development theory is applicable to media operating in developing nations where journalists are compelled to look for 'good news' in contrast to the Free Press where journalists always respond to stories of disaster commanding bigger headlines. Furthermore as Watson argues, there is a trend in the development theory for developing nations to accentuate the positive image in order to attract investors. It is believed that 'bad news stories' should be treated with caution not to damage the economic growth of the nation. This is true in most of African countries and Rwanda is not an exception.

If the critique from American journalists does not present the whole picture of development theory in developing nations, it is true that the theory has a problem. No wonder Fourie (2008: 36) highlights some dark areas including the subordination of media liberties for the achievement of development ideals and projects, but also the justified right for the State to intervene, restrict and censor when it thinks media are going against 'development'. As he further notes, because the government does not give a clear definition of what development is and what it is not, the situation will worsen when media report about mismanagement, corruption and nepotism within the people, organisations and groups associated with 'development'. As can be seen, the main problem with the development theory in developing countries is that it gives too much power to the government to the extent that in the name of 'development' the government can silence the media which are critical of it. Again this confirms the relationship

development theory can have with both the Authoritarian and the Soviet Communist theories.

Talking about the resistance to the western models of the normative theories of media, it is very important to look at Africa in a special way. African countries have been depending on the western models since colonialism. It should be noted that there is a huge gap even among African Nations in terms of Media development. As Fourie (2007:3) argues, in terms of skills, products and technology, the South African media sector is the most advanced on the African continent and therefore, the sector is under the same pressure and faces the same challenges and opportunities as the media sectors in the western societies. Among these challenges, Fourie (2007:3) highlights liberalisation, privatisation, commercialisation, convergence and globalisation which all dictate a move from the media sector as a cultural institution to a market driven-one.

Despite the development gap among the African nations, Africans have been eager to develop their own normative models just like the Asia and the Latin America media scholars. One model that deserves much attention in this study is “ubuntuism.”

2.2.2.2 Ubuntuism

Fourie (2007:9) defines “*ubuntuism*” as a moral philosophy, a collective African consciousness, a way of being, a code of ethics and behaviour deeply embedded in the African culture. He further adds that the term is derived from the Zulu maxim *umuntu ngumuntu ngabantu*, meaning “a person is a person through other persons” or “I am because of others”. This means that rather than putting much emphasis on the rights of an individual, which is a characteristic of European philosophy, it puts emphasis on the community and the subordination of the individual to the community, which is an African philosophy.

The supremacy of the community over the individual is also stressed by Molefi et al (2008:115) who find that one of the core values of *ubuntuism* is “communalism”. They define communalism as an extension of “ubuntuism” because as they explain, the group or the community constitutes the focus of the activities of the individual members of the society at large. They further argue that in communalism the good of the group is the good of an individual and the welfare of an individual is dependent on the welfare of the group.

Establishing a relationship between this philosophy and mass communication, Fourie (2007:11) affirms that an *ubuntu* normative framework would require media practitioners to provide space for the concerns, ideas and opinions of the community. He further adds that the purpose of media would be to play a developmental role allowing citizen participation and consensus based on the consultation with the community.

This thinking is not different from the one of the development theory of media that the Asians and the Latin-Americans media scholars were advocating. In fact, those who support the *ubuntu* normative framework also urge the African media practitioners to ensure the well-being of the collective rather than the protection of the individual’s rights. For them, freedom of expression would be interpreted firstly in terms of freedom of the community.

In Rwanda, the framework sounds more emphatic because the new law governing the MHC has come up with new responsibilities. Besides promoting, defending media freedom and work towards media development, the institution is also mandated to ensure that media organs abide by the country’s culture, to ensure that media act as a catalyst for development, ensure that media serve as a catalyst for unity and reconciliation among Rwandans (MHC law 2009: article 6).

After the review of both the Development normative theory and the “*ubuntu*” framework, it can be concluded that the two are applicable to the

assessment of media regulation in Rwanda by the MHC. It is obvious that the regulators will find the rationale for media regulation in the public interest and the well being of the community. Concerning press freedom, this study wants to explore the possibility to promote it and control media operations at the same time.

Besides the Development theory and the *Ubuntu* normative framework, another new normative theory that deserves attention due to its rich insight in this study is the Democratic-participant theory.

2.2.2.3 Democratic-participant theory

The Democratic-participant theory deserves attention because it goes beyond the context of any nation, since democracy itself is a universal value. Naturally, mass media in their genesis were supposed to promote democracy. As Watson (1998:93) reminds, democratic-participant theory places a particular value upon horizontal rather than vertical modes of authority and communication. This means that rather than having the leaders sending their messages to the people in form of unilateral laws, both the two categories own policies and share them with transparency.

The model also advocates for the receiver rights in the communication process. According to Fourie (2008:199), the democratic-participant theory is also a reaction against centralisation and bureaucratisation in public broadcasting. He further argues that there is a support of media multiplicity, creation and exploration of local media, de institutionalisation of media but also the reciprocal role of communicator and recipient and the interaction.

Looking at the democratic-participant theory, it seems obvious that there has to be an active participation of the people within media. As McQuail and Suine (1998:84) explain, currently there is nothing that can ease people's participation much more than internet because since no person or group or nation has control over it, it is decentralised. Each user has equal power to access, collect, copy and publish information. Internet can be viewed as a

tool to support the democratic-participant theory of media because it enables the user to work in the absence of political or state control of the content; it also favours the interaction of sender-receiver roles and the de-institutionalisation of media.

Despite its advantages in terms of participation, a careful analysis of the democratic-participant theory reveals that with internet, it is linked to the libertarian theory, a system that is subject to very little state or political control. Though some developed countries have started applying laws to internet, it is still difficult to control it effectively.

In developing countries, not only is the access to internet very limited, but its regulation is also an unfamiliar issue.

Furthermore, for people's participation to be effective, Barran and Davis (2008:122) remind that the democratic-participant theory advocates media support for cultural pluralism at the grassroots level, calling for development of innovative "small" media that can be controlled by group members. It can therefore be understood that the rise of community media such as community newspapers and community radios in developing countries will fall under the context of the democratic-participant theory. For the interest of this study, the democratic-participant theory can be used to assess the extent to which the MHC has promoted democratic values in Rwanda and how it has promoted people's participation in media.

2.3 Synthesis

This chapter has discussed the four classical theories of media and the new normative theories. During the discussion, it was noticed that there are many similarities between the "old" and the "new" normative theories. For example, different authors do agree that in the name of national development, governments can silence media when they believe that these media are against their policy. In that case, the development theory can be seen as another version of the authoritarian or soviet communist theories, especially in developing countries.

It was also noticed that the social responsibility theory which was a response to the impasse created by the liberalism cannot be considered as some thing of the past because most of the current media regulatory systems claim to remind journalists about their social responsibilities. Regulators want to sound as public interests defenders. Once again, the public interest can be synonymous with national development which claims to promote the well being of the people. Even the “*ubuntuism*” model which is an African philosophy has similarities with the social responsibility theory because it requires media practitioners to provide space for concerns, ideas and opinions of the community. It resembles the development theory because its purpose is to remind that media should be playing a developmental role allowing citizen participation and consensus based on consultation with the community. This participation also reminds the ideal of the democratic-participant theory which advocates for a horizontal communication rather than a vertical one in media. It also promotes equal access for people to media. Finally, it was noticed that with internet the democratic-participant theory can be transformed into libertarianism, where nobody controls access to media.

As has been discussed in the introduction of this chapter, both the classical theories of the press and the new normative theories were deemed helpful to assess the MHC as a media regulatory body in Rwanda. Though some of the above mentioned theories, especially the authoritarian, the soviet communist and the libertarian may not exactly fit the situation of the MHC in Rwanda; the others can really reflect what is being implemented by this institution.

It is true that both media and the MHC laws encompass normative theories in their different articles but some articles can reflect these theories more than the others. Having participated in the 1994 genocide against the Tutsi, media in Rwanda are regulated in a special way. That is why the law requires media to abide by the country’s culture and serve as a catalyst for unity and reconciliation among Rwandan people. In other words, the media law cares about the reconstruction of the nation. This is reflected in the

ethics of media professionals as well. The location of media into the context of the country has been promoted by both the “*ubuntuism*” and the development theories.

The table below summarises the relationships between normative theories and the Media High Council regulatory framework.

Table 1: Relationship between Normative theories and the MHC regulatory framework

THEORY	LAW ON MEDIA Law number 22/2009 of 12 August 2009	MHC LAW Law number 30/2009 of 16 September 2009
Social responsibility theory	<p>Article 12: describes ten responsibilities of a journalist. In summary, all these responsibilities put much emphasis on ethical values including professionalism, truth, fairness, accuracy and confidentiality.</p> <p>Article 13: describes nine restrictions. They can be summarised into two unethical attitudes including unprofessionalism, and unfairness.</p> <p>Article 14: reminds some of the forbidden publications including confidentiality in the national security, national integrity; confidentiality of judicial proceedings, parliamentary sessions in camera, cabinet deliberations and the trusted authorities in the executive</p>	<p>Article 6 defines responsibilities of the MHC</p> <p>Section 15 : to establish a code containing contracts and setting out responsibilities and rights of audio-visual media organs</p> <p>Section 22 : to assist journalists in instituting guide lines governing their conduct and the journalism profession in Rwanda</p>

<p>Authoritarian theory</p>	<p>Since Article 14 focuses on forbidden publications without elaborating about the interpretation of the concepts, it gives more power to the MHC to interpret them. Therefore, this is authoritarianism.</p>	<p>Section 4 of article 6 states that MHC has the power to decide on temporary suspension of media organs as provided by the law. As it can be found in chapter 4 of this research, the MHC has already applied this law. Some media outlets have been suspended and some editors have been imprisoned.</p>
<p>Development theory</p>		<p>Article 6 reminds the Responsibilities of the MHC</p> <p>Section 8: to ensure that media abide by the country's culture</p> <p>Section 10 : to ensure that media act as a catalyst for national development</p> <p>Section 11: to ensure that media serve as a catalyst for unity among Rwandans</p>
<p>Ubuntuism</p>		<p>Art 6 Responsibilities of the MHC</p> <p>Section 8: to ensure that media abide by the country's culture</p> <p>Section 11: to ensure that media serve as a catalyst for unity among Rwandans</p>

<p>Democratic-participant theory</p>	<p>Article 16: Freedom to receive and broadcast information or opinion</p> <p>Art 18: the right to establish a media enterprise</p> <p>It has been pointed out in this study that there is a relationship between the Democratic-participant theory and liberalism. That truth is reflected in the above articles.</p>	<p>Article 2: In its mission, the MHC shall also protect the public for whom media are intended (the democratic-participant theory: receiver-right)</p> <p>Article 6: Responsibilities of the MHC</p> <p>Section 12: to monitor whether political coalitions enjoy equal access to public media organs during election campaigns</p> <p>Section 13: to issue instructions governing the public media coverage of campaign debates and other election campaign activities</p> <p>Section 14: to ensure that public organs give equal coverage to various election-related news</p>
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2.4 Conclusion

The table above is a summary of the Media High Council regulatory framework in Rwanda and its application to the normative theories.

Starting with the Social Responsibility Theory, both media and the MHC laws point to the responsibilities of all journalists operating in Rwanda with much emphasis on ethical values of their profession. The legislation fits into this category because the MHC uses these laws to prevent and deal with unprofessional behaviour. The law also mentions that press freedom is not an absolute right and this is the core reason of the Social Responsibility Theory.

As for the Authoritarian theory, it has been noted that some articles of both media and the Media High Council laws give more power to the MHC. While article 14 of media law focuses on the forbidden publication providing the MHC with a room for interpretation of the law, articles 4 and 6 of the Media High Council law give it power to suspend media organs.

Regarding the Development theory, media law upholds the role of media in developing countries. The regulators want the media to operate as catalysts for cultural and national development. It is therefore clear that this theory helps to understand the MHC regulatory process in terms of development needs of the country.

Concerning the *Ubuntuism*, media practitioners are urged to provide space for concerns, ideas and opinions of the community. It is also expected from media operating in Rwanda to promote unity and reconciliation among the Rwandans. Being an African philosophy, *ubuntuism* can help the regulator to contextualise the regulatory process and deal with the complaints in an African context. Therefore, the regulatory framework prevailing in Rwanda fits into this category.

Finally, for the Democratic-Participant theory, there are articles from both the Media High Council and media laws which uphold freedom of speech as a fundamental right which can be exercised through media. It is clearly stated that as part of its mission the MHC will promote press freedom. Media legislation also expects media to allow citizens equal and fair participation in the democratic debate especially in the public media. This law helps the MHC to find a basis to regulate both the private and the public media in terms of pluralism and participation. Therefore, for the first time the Rwandan legislation provides a democratic framework for media.

After this discussion, it is reconfirmed that there is certainly a relationship between normative theories of media and the MHC regulatory framework.

Normative theories have also informed this researcher about the rationale for media regulation.

CHAPTER 3: METHODOLOGY

3.1 Introduction

This chapter is crucial to the study because it determines the methods that were used in order to explore the research problem and provide answers to the research questions. In the general introduction, the research problem was formulated and it revolves around the combination of two seemingly contradictory roles the Media High Council (MHC) including the promotion of press freedom and the control of media.

In fact, the whole research is qualitative and it is absolutely critical to the emergence of the field of communication as a science. Though qualitative research has been assigned many labels, they all share a common focus, which is to interpret and construct the qualitative aspects of communication experiences (Du Plooy 2001: 29).

Since the study is qualitative, two qualitative techniques were applied to collect the data. The first one is textual and documents analysis and the second is unstructured interviews.

3.2 Choice and justification of the qualitative method

This study is exploratory and descriptive in nature. It is exploratory because while there have been extensive studies on issues of media regulation worldwide, this was the first study on media regulation in Rwanda, specifically on the assessment of the MHC as a media regulatory body. As Du plooy (2001:48) clarifies, exploratory studies are arguably preferred as a method that can be applied to a new or an unexplored area of research.

Therefore, the exploratory nature of this study compels it to be predominantly qualitative.

Qualitative research is appropriate to this study because as Patton (2002:161) explains, it has the ability to evaluate programs implementation. Furthermore, the MHC being an institution that came into being after many years of unregulated media, the qualitative approach is appropriate to its assessment because, as Leedy (2005:135) argues, besides evaluating, it can also provide a means through which a researcher can judge the effectiveness of particular policies, practices or innovations. This means that through qualitative exploration the researcher can tell whether or not the policies of an institution have been well implemented.

The study is also descriptive because some of the data were collected from the documents of the MHC in the form of themes leading to thematic analysis. According to Scott and Watt (2010:163), thematic analysis is a technique that helps the researcher to draw out key themes from the data, to frame them theoretically and above all to make sense of them. Indeed, the study also selected some cases to be described.

Though Du plooy (2001: 84) contends that description can be applied to content analysis in order to analyse and interpret written or verbal responses, it can be applied to thematic analysis as well because both content and thematic analysis are used to give meaning to qualitative data.

According to Neuman (1997:419), the difference between quantitative and qualitative research is that while the former deals with numbers, for the data, for the latter data are in form of text, written words, phrases or symbols describing or representing people's actions and events in social life. To interpret such data qualitative coding is required. According to Richards (2005:85), this coding refers to data reduction which will generate new ideas by gathering the material by topic and help manage the documents and store information describing the attributes of the interviewees. Coding makes the data manageable.

To get information regarding the role of the MHC in regulating media and promoting media freedom, the study firstly used documents such as MHC

reports and decisions. Secondly, it used interviews with key role players including MHC members of the board, MHC permanent staff and some influential journalists.

3.3 Data collection

According to Patton (2002:47), qualitative data can be collected using observations, quotations or interviews, and documents. Thus, the collection of the data in this study was inspired by two of these techniques namely textual analysis and unstructured interviews. This means that the data are in form of verbal expressions from MHC's policies and reports and from the discussion with media practitioners and MHC's staff expressed through interviews.

3.3.1 Textual and document analysis

If someone were to rely solely on both observation and interviews as strategies to collect qualitative data, there would probably be some gaps in the findings. Textual and document analysis is a helpful strategy that can be used to bridge those gaps. Checked carefully, documents can provide rich information that could not be found using any other data collection strategy. As Flick (2009: 222) notes, like other approaches in qualitative research, documents can be used and their analysis can serve as a complementary strategy to other methods, such as interviews or ethnography. In the same passage, Flick also explains that there are various formats of documents including notes, case reports, contracts, drafts, death certificates, remarks, diaries, statistics, annual reports, certificates, judgments, and letters or expert opinions.

Since the study is exploratory and descriptive, by exploring records and other official documents from the MHC it uses the same sources as the historical research. In fact, Morse and Peggy (1995:33) argue that historical research is frequently considered as a qualitative method.

Documents certainly brought an added value to the information that interviews could not provide.

Moreover, as Taschereau (1998:48), explains, document analysis can be recommended for evaluate a program evaluation because by gathering a great deal of useful information from program files and databases it can provide valuable information on the program's purposes, history, and administration. Therefore, the strategy was also chosen on grounds that one aim of this study is to explore the administrative documents including the law, the policy and the mission of the MHC.

3.3.1.1 Purposive sampling in textual and document analysis

During a period of three years (2007-2010), the MHC monitored many media outlets and published many reports. Since time is short to cover all the documents, the rule of purposeful sampling can be applied to these documents analysis. According to Stead (2001:123), with purposive sampling the researcher selects participants who manifest certain characteristics that he is interested in during interviews. Similarly, it is possible to select documents which manifest characteristics of intense interest to the researcher. Indeed, the interest to select some documents from the MHC is related to the research questions which revolved around how the MHC handles complaints and how its decisions affect press freedom.

Since 2007, the MHC has been publishing reports on the state of media on an annual basis. Each report contains the whole regulatory framework of the MHC for the specific year. It gives an overview of the media operating in the country, the legal framework of media, the level of ethics and professionalism for journalists and the monitoring reports including the complaints received and the decisions made. It finally gives an overview of press freedom in the country.

Currently, there are three reports on the state of media in the MHC (2007, 2008 and 2009). Given that they portray the MHC's regulatory framework, these three reports served as pillars to document analysis in this study. For cases on which reports on the state of media do not provide information, other official documents including press releases and public announcements

were consulted to bridge the gaps. The topics that were discussed included: independence, press freedom, protection, censorship and professionalism.

It should be noted that all the regulatory activities of the MHC cannot be covered in the analysis. There has to be a selection. I have decided to select those that are central to the monitoring reports and have somehow been on the public agenda. According to Rubin and Babbie (2009: 150), this is a purposive sampling procedure that can help the researcher to select a sample of observations which can yield the most comprehensive understanding of the study.

The analysis focused on the decisions affecting media and the journalists. These media have either been suspended or banned or their journalists have been jailed. The analysis investigated the substance of these issues in relation to the promotion of freedom of media by the MHC.

A quick look at the MHC's monitoring reports shows that newspapers were at the heart of almost all the complaints. This situation leads the analysis to the choice of five newspapers and one radio station. These media outlets were treated as case studies. The newspapers comprise the Weekly Post which was closed on the orders of the Minister in the Prime Minister's office in charge of information (MHC report 2007:2). *Umuseso* and *Umuvugizi* were both denied access to information in what was commonly known as government boycott (MHC Report 2008:3) and later on suspended for a period of six months from 13th April, 2010 (MHC Press release of 13 April, 2010). Suspension for a twelve months period was recommended for *Umuco* by the MHC and *Umurabyo* editor-in-chief completed one year in jail in 2008 (MHC report 2008:2).

Concerning radio stations, the Kinyarwanda branch of the British Broadcasting Corporation Radio (BBC) was denied access to information together with *Umuseso* and *Umvugizi* newspapers. Later on, this branch was suspended on 25 April, 2009 after airing an interview in its popular show "*Imvo n'Imvano*", which can be translated in English as "*Origins and*

Causes". According to the analyses done by the MHC, the interview was promoting a blatant denial of the 1994 Tutsi genocide (MHC analysis of BBC show 2009:6).

3.3.2 Interviews

Due to their ability to record people's opinions, interviews can be referred to as the backbone of qualitative research. Indeed, Patton (2002:341) reveals that no one can observe feelings, thoughts, and intentions. In order to know what people think, one has to ask them questions through interviews. So, the interview allows the researcher to find out what is in someone's mind. According to Hatch (2002:91), when interviews are used in conjunction with observation, they provide ways to explore participant's perspectives on actions observed by researchers more deeply. In this study, interviews were used in conjunction with textual analysis and revealed what documents could not.

For exploratory reasons, unstructured interviews are applicable to this study. Such interviews helped to probe deeper and explore issues that a questionnaire could not do. In this process, Du ploy (2001:177) defines the role of the interviewer as creating an atmosphere of trust and to encourage the respondent to talk about a particular (broad) topic. He further adds that one of the main objectives of using an unstructured interview is to obtain insights and depth into the topic being investigated. He then advises the researcher to allow the respondent more freedom to respond in their own words. In brief, this is the main objective of exploratory studies. It is in the purpose of this study to explore all the possible ideas behind the state of the MHC through the people who have been involved in its functioning. The discussion allowed the researcher to assess the MHC as a media regulatory body in Rwanda from 2007 to 2010.

3.3.2.1 Purposive Sampling in interviews

According to Stead (2001:121), unlike quantitative studies which use random selection to generate generalisability, qualitative studies focus primarily on depth or richness of data. Therefore qualitative researchers generally select samples purposefully rather than randomly.

This study being qualitative, purposeful sampling is required. Stead (2001:123) argues that with purposeful sampling the researcher has to select participants who manifest certain characteristics that he is interested in. Though Stead draws a long list of qualitative sampling strategies, this study used one of them; that is the Critical case sampling. As he keeps on explaining, Critical cases are those that are selected because they are central to the issue being studied. With such a strategy the researcher selects people or sites that provide the most important information and that are particularly useful if a small number of cases is to be sampled. To assess the MHC therefore, one needs people who are acquainted with the institution such as board members, the permanent staff and journalists. All of them are central to the MHC. Practically, twelve people were interviewed individually because during exploratory studies, it is not always easy for an interviewee to feel comfortable and speak freely within a group. The twelve were initially classified into three teams:

The first team was composed of two board members. These are the people who have been making decisions for the MHC. One of the two is sitting for the second term in the current board while the other one is an outgoing board member. These interviewees were expected to express different views regarding their role as press freedom promoters and/ or as controllers of media. As can be read in the law governing the MHC, while the former board was composed of nine members, the current board is composed of seven (MHC 2009: article 9).

The second team of interviewees was composed of six journalists. Two of them were picked up from the public media and four from the private media.

They gave their perception on the role of the MHC especially as a protector of media and promoter of press freedom on the one hand and a press controller on the other.

As it appears, the journalist's team is bigger because journalists and media practitioners are always held accountable by the MHC. The choice of four journalists from the private media who constitute a double of those from the public media is justified by the fact that all the complaints and the decisions that had been made involved the private media especially newspapers.

It is also important to mention that there are 427 journalists in Rwanda (MHC report 2008:3). It appears that six journalists are very few as a sample in a quantitative method but since this study is qualitative and its purpose is to explore, this number is sufficient. In this case, the choice of some participants who are central to the problem is wise. As representatives of media, the journalists were selected on the basis of their influence in the profession. It is in this realm that those who are active in press conferences and associations, those who are respected because of their capacities to analyse issues and those who are controversial were selected.

The third team of interviewees was composed of three people from the MHC permanent staff, including the executive secretariat, directors of media regulation departments and monitoring officers. This team has been involved in daily activities of the MHC. Their expression on the MHC provided enriching information on reports and complaints analysis and this bridged some gaps left by the analysis of the texts.

Finally, a media lecturer was also interviewed. He has been a consultant for the MHC and he is still interested in the media sector in Rwanda.

3.3.2.2 Questions

It has been pointed out in the previous section of this chapter that this study will use unstructured interviews. According to Holloway and Wheeler (2002: 81), unstructured interviews start with a general question in the broad

area of study. These authors further advise the researcher to use an *aide mémoire*, an agenda or a list of topics that will be covered at the beginning of the interview. After choosing the teams of interviewees in this study, I followed Holloway and Wheeler's advice to come up with two general questions. The first question was asked to board members and the permanent staff of the MHC: ***What is your role in the Media High Council and how do you see it?***

Aide mémoire

Interaction with media professionals
Promotion of press freedom
Independence in the decisions
Censorship of media

The second question was asked to journalists: ***How do you see the role of the Media High Council?***

Aide mémoire

Perception of the MHC
Press freedom
Censorship of media
Protection of journalists
Independence of the MHC

The comparison of the results from MHC texts and the results from interviews is of intense interest because it showed how the law, the policy and the mission of the MHC were implemented.

3.4 Data interpretation

While the first part of this chapter focused on the strategies used to gather data in general, the second part shows how the data were processed and analysed. Indeed, both data collection and analysis were based on the research questions of the study which are the following:

1. How does the Media High Council handle public complaints against media and accomplish its double mission of promoting press freedom and control media?

Sub-question: What are the consequences of combining the promotion of press freedom and control the media?

2. What is the impact of the Media High Council's decisions press freedom?

Sub-question: How is the Media High Council perceived by journalists?

In order to explore the research problem and answer the research questions, thematic analysis was used. According to Boyatzis (1998:1), thematic analysis is a way of seeing. Thus, thematic analysis process helped the researcher to classify the raw information into categories which in turn eased the analysis of data.

After exploring the documents and transcribing the interviews, the first stage was to familiarise the researcher with the data. Then, I located the themes and even sub-themes under which to analyse and report the findings. This process is what Neuman (1997:422) calls an "open coding". The second stage consisted of finding out similarities and differences between the themes. This stage entailed comparing and contrasting. At the third stage, I reviewed the themes in order to identify the relationship between them. The fourth stage focused on the naming of the themes in order to generate clear definitions. Finally, at the fifth stage I presented the research findings.

In a practical way, the categorisation revolved around the research questions. For example, the way the MHC handles the public complaints could help to understand how independent this institution is. Moreover, the decisions of the Council on the complaints shaded some light on that independence. Therefore, the independence of the council is a theme that was explored. Concerning the second research question, it is obvious that press freedom would be another theme to be explored in this research.

Other themes including ethics, professionalism and censorship are latent and they could be identified during the analysis process. In order to provide answers to the research questions, the analysis revolved around four themes including: the independence of the Council, press freedom, professionalism of media and censorship.

The second step consisted of identifying the relationships between the themes. For instance, the independence of the Council can lead to the promotion of press freedom. Likewise, the promotion of press freedom can lead to media professionalism. Conversely, the lack of independence and press freedom may lead to censorship, banning of publications and imprisonment of editors.

3.5 Conclusion

Needless to say that the chapter about methodology is the backbone of the study because of its capacity to display the means used to collect and analyse the data. In order to explore the research problem and understand how the MHC balances the missions of promoting press freedom and controlling media, qualitative methods were applied because the study is exploratory in nature and descriptive to some extent. It is in that spirit that textual and documents analysis was used. This method helped to analyse some of the official documents of the Media High Council including annual reports and other correspondences.

Furthermore, unstructured interviews were also applied in order to capture the opinions of journalists and MHC's staff.

In all these methods, since it was not possible to analyse all the documents available in the MHC and conduct interviews with all media practitioners in Rwanda, purposive sampling was applied. This enabled the researcher to select documents and people who met the requirements of the research depending on the research problem and the research questions. In this way, it paved the way for the fourth chapter which is about data analysis and interpretation of the findings.

CHAPTER 4: ANALYSIS AND INTERPRETATION OF THE DATA

4.1 Introduction

After the collection of the qualitative data from Media High Council's documents and from unstructured interviews conducted with media practitioners and MHC's officers, the next step was interpretation. This chapter is very important to the assessment of the MHC as a media regulatory body in Rwanda. The reason is that while the previous chapters have a theoretical orientation, this one is practical.

Given that the study is qualitative, two methods have been applied to data collection. The first method is document analysis and the second is unstructured interviews.

This study also covers the period from 2007, when the first report on the state of media was published to 2010, when some private newspapers were suspended.

In order to do a good analysis of data and provide answers to the research questions, data were grouped into themes and sub-themes. In addition, sub-themes have generated other elements which are useful to the analysis. This process has been called "thematic analysis". In their view, Watson et al (2008:91) agree that thematic analysis is one of the methods for synthesis which helps to identify prominent themes in the literature and helps to summarise the findings. According to Tashakkori and Teddlie (2003: 375), when it comes to exploration, this is a way of reducing qualitative data in order to analyse them easily. Indeed, after the collection of qualitative data, I soon realised that there was too much information. Thus, thematic analysis made the data more manageable.

As Holloway (1997:152) warns, in thematic analysis, the researcher goes through a hard task of identifying frequent themes from the data. In this research, recurring themes were discovered through a careful reading of reports of the MHC, listening to tapes after the recording of the interviews and reading the transcripts. After the process, the recurring themes revolved around media regulation, press freedom and professionalisation of journalists.

4.2 Recurring themes and sub-themes

The first theme is **regulation**. Under this theme, statutory regulation, self-regulation and independence of the MHC were identified as sub-themes. The sub-themes have generated new elements including the law, the formation and the code of ethics.

The second theme is **the press freedom**. Under press freedom, sub-themes have been identified including protection and censorship. In their turn, these sub-themes generated new elements which are: access to information and decriminalisation of defamation. The sub-themes also have generated new elements which are the access to information and the decriminalisation of defamation.

The third theme is **professionalisation of journalists**. Under professionalisation, sub-themes have been formal education, informal education and ethics. These sub-themes have generated elements which include: schools of journalism and trainings.

All of the themes identified here are found in the MHC's regulation policy and in the media law. For example, the law establishing the MHC defines it as a regulatory body with the responsibilities of controlling and promoting media professionals but also of protecting the public for whom media are intended (MHC Law 2009: article 2).

As for the theme of press freedom and its sub-themes, it is predominant in every media report published by the MHC. As one example, a whole section is given to media freedom in 2008 (MHC report 2008: 31). The Media law of 2009 also mentions the limitations of that freedom (Media law 2009: 17).

As for the professionalisation of journalists and its sub-themes, besides being the responsibility of the MHC, it has been one of the core themes of the monitoring reports (MHC report 2009:13).

Since document analysis was complemented by unstructured interviews in this research and because analysis includes comparing and contrasting, the same themes are repeated in the interviews in the next section of this chapter.

To assess media regulation by the Media High Council, these themes have been revolving around five newspapers and one radio station as has been mentioned in the critical sampling referred to in the methodology chapter.

4.3 Analytical and interpretation process

In this part, I have combined the data collected from the MHC documents and those from the unstructured interviews. Concerning the documents from the MHC, most of the work was about the states of media reports from 2007 to 2010 but it also touched on some official documents as well. As for the unstructured interviews, twelve interviewees have expressed their views about the role of the MHC. To keep the anonymity of the interviewees, each one of them has been given a number ranging from 1 to 12. The interviews are very rich because they present the reality and have bridged the gaps left by the analysis of written documents.

It should be reiterated that there has been a challenge of having too much information. This state of affairs made the analysis more complicated. To overcome the challenge, I resorted to thematic analysis which according to Patton (2004:4) is a process of encoding qualitative information in which the encoding requires an explicit code which may be a list of themes, a complex model with themes, indicators, and qualifications that are casually related. This is the inspiration that guided me. After setting up a list of themes from both the MHC documents and the unstructured interviews, sub-themes have been identified with some analytical elements. Of course they are all interrelated. Besides summarising, thematic analysis also helps to understand data more clearly. The table below is a good tool to visualise and

analyse the themes leading to the interpretation of data. It is also summarises the whole process.

Table 2: Tool of visualising, analyse and interpret the data

Themes	Sub-themes	Elements of sub-themes
Regulation	Statutory regulation	-Formation - The law
	Self-regulation	- The code of conduct
	Independence	<p>-In the law: -the press law number 18/2002 of 11/05/2002 and the presidential order number 99/01 of 12/11/ 2002 stated that the High Council of the Press (HCP) which is the current Media High Council (MHC) had to report to the office of the President of the Republic.</p> <p>The law number 22/2009 of 12/8/ 2009 obliges the MHC to report to the ministry of information.</p> <p>- In the decisions: monitoring, crimes categorisation, punishment</p> <p>- Funding</p> <p>- Appointment of board members</p>

Freedom of the press	Protection of media	Access to information Decriminalisation of defamation
	Censorship	Pre-publication censorship Self-censorship
Professionalisation of journalists	Formal Education	Schools of journalism
	Informal Education	Informal trainings
	Ethics	Code of conduct

Before developing the themes around which the discussion revolved, it has to be reminded that the whole problem of this research was the dual mandate that the law entrusts the MHC, with which is regulating media the on one hand and promote their freedom on the other (MHC law 2009:6).

To this, all the interviewees accept unanimously that the two missions seem contradictory and that they should not be performed by one institution. Even people working in the MHC do realise that their mission is challenging.

“It is a difficult situation that is adapted to this institution; it is like riding two horses “(informer 3).

4.3.1 Regulation

As showed in the table above, the first theme that was to be analysed is regulation. It involves statutory regulation, self-regulation and independence.

4.3.1.1 Statutory regulation

A regulatory body is statutory, when it is established by laws and voted by the parliament. According to Creech (2007:2), those laws give it the authority to guide and subsequently impose sanctions when the rules are violated.

The Media High Council is statutory indeed because its birth is found in the constitution and in law. In the constitution, the passage states that an independent institution known as the “Media High Council” is established and the law shall determine its responsibilities (Constitution as amended in 2008: article 34). In the law, it is stated that MHC is an autonomous organ responsible for protection, control and promotion of media and media professionals (MHC law 2009: art 2).

While experts argue that media regulation is about bringing order in the media sector by strengthening values such as pluralism, diversity, fairness and impartiality (Lievrouw and Sonia 2006:335), the MHC through the media law has manifested itself as a statutory regulator. It has been suing media outlets and journalists for press offences and has been imposing sanctions against some, which sanctions extended to the suspension of newspapers. For example, in 2010, it used its power to suspend two newspapers *Umuwugizi* and *Umuseso* for six months (MHC Press release 2010:7).

In the discussion, interviewees from the MHC seem to agree that they do both regulation and protection and they seem to give a new definition for the term regulation trying to avoid the term “control” as it is the case for the following informer:

“We do not control, we regulate. Freedoms are rights but there is no absolute right except the right to live. Freedoms do not have to cross the boundaries. There has to be a red line. The regulator’s role is to see that nobody crosses the line” (Informer 1).

The second interviewee also seems to avoid the word “control” of media:

“We have two mandates: we do regulation (which does not always mean punishment) but we also promote the profession and press freedom” (Informer 2).

The officials of the MHC try to avoid the word “control” because they think that it does not reflect freedom. They prefer regulation because they want their institution to carry the image of public interest and press freedom defender.

Though the interviewees do not feel comfortable with the word control, their expression especially with the first one is clear that they do control because he already mentions that they cannot allow freedom to cross the boundaries. It is even stated in the law that besides protection, the MHC is in charge of control as well (MHC law 2009: article 2).

That the MHC controls media should not sound strange because it simply implies organising and supervising. What should be looked at is whether the control is fair or not. According to Wayne (2006:420), control is what a statutory agency always does in its supervisory role.

While the MHC officials want to protect the image of the institution, other interviewees are critical of it. The following is a private journalist commenting on the combination of promoting press freedom and control of media:

“Frankly speaking, though none of the functions is well done, most of the time they focus on regulation and that regulation itself is done after people have cried out. They are not proactive and so their regulation is aggressive. For example, in terms our relationships with them, they invite us only for instructions. While we were expecting them to help us get access to advertisements which have become monopolised by public media, they failed to” (Informer 6).

Not only does the MHC use the law to regulate media, it also uses the code of ethics to regulate professional issues. That is where self-regulation comes in.

4.3.1.2 Self-regulation

The MHC is not a self-regulatory body because it was not formed by professionals themselves. However, due to the gap left by the absence of a strong self-regulatory body in Rwanda, it sometimes plays the self-regulatory role as well. When somebody is hurt by a media organ and brings their complaint, the MHC summons the two parties and if they will, it mediates them and the complaint is purged (MHC report 2009:19). Nevertheless, the mediation role should be the responsibility of a self-regulatory body where journalists should be blamed by their colleagues.

As has been pointed out, the situation is prevailing because journalists do not have strong associations which would play a professional self-regulatory role. Almost all the interviewees have agreed that media associations are very weak and therefore cannot form a credible self-regulatory body. It therefore compels the MHC to use the code of ethics for professional matters as the following informer explains:

“Ethics comes in to supplement the law because people do not live by laws alone. We have a problem because the self-regulatory body does not do its work. For instance, within their self-regulatory body journalists should have documentations and produce their own reports about media ethics. Unfortunately, they do not. Therefore, in addition to the law we use the code of ethics to bridge the gap.” (Informer 7).

Though the MHC believes in the virtue that Ethics should supplement the law, due to the absence of a self-regulatory body, some journalists accuse the institution of usurping their responsibilities:

“The MHC has usurped all the powers; it goes everywhere for funding. Until recently, they had the largest fund from United Kingdom Development For International Development (DFID) until somebody said they were predators of press freedom” (Informer 5).

The result of the discussion about the combination of statutory and self-regulation statuses by the MHC shows that it cannot be effective. In other words it is impossible for one body to do both protection and punishment. Furthermore as Buckley (2008:161) reveals, the success of any regulatory body will depend upon its independence. In other words, the regulatory body needs independence in order for it to be effective.

4.3.1.3 Independence

In terms of media regulation, Carver (2006:26) argues that the regulatory body is independent when no other body is able to make its decisions in its place, or to influence it. It has to be free from the influence, guidance or control from other institutions including the government, political parties or media interests. The independence of the MHC can be understood by observing its regulatory framework. To assess this independence, some factors were considered including the law, the decisions, the funding and the appointment of the board members.

4.3.1.3.1 Legal independence

First and foremost, the independence of the MHC is recalled in the constitution of the Republic of Rwanda in its article 34. The article states that the MHC is established as an independent institution (Constitution 2003:119). To assess this independence, it is wise to go back to the genesis of the institution and see how it has evolved.

According to the provisions of the press law number 18/2002 of 11/05/2002 and the presidential order number 99/01 of 12/11/ 2002, the High Council of the Press (HCP) which is the current Media High Council (MHC) was an advisory institution. It did not have the power to decide. Article 4 of the afore-mentioned order stated clearly that members of the board of directors of the High Council of the Press (the Media High Council today) were appointed and could be dismissed by the cabinet (Official Gazette number 99/01 of 15/11/2002). It could not suspend a media outlet. It had to recommend its action to the Ministry of information. In some cases the Ministry could reject its recommendation. For example, on 13/9/2004, the MHC requested the Minister of information to suspend “*Umuseso*” newspaper but the latter did not (MHC Press release of April, 14, 2010: 3). This was a very bad situation for the MHC and it lasted for many years before the law was amended in 2009.

In fact some media outlets used to despise it; they could not comply with its requirements. In 2008, the MHC received eight complaints and it recommended eight resolutions to the concerned media outlets. Out of the eight resolutions, only three were implemented by the concerned journalists or media houses (MHC report 2008:19).

Without independence, authority cannot be recognised. That is why even public media could not comply with the requirements of the MHC. This is what one of the interviewees recalls from the government owned newspaper called “*Imvaho nshya*”. There was a complaint about the Newspaper and the MHC summoned it for explanation. About this case, the interviewee reports:

“Even imvaho nshya was called and we did not go. My boss said that there is no law calling a government institution for explanation, he refused and nothing was done. They asked the government to close Umuseso and the government did not. Therefore that was an institution without any direction. If the government did not recognise its authority, who else would respect it?” (Informer 9).

As it can be seen from the above testimonies, the media law of 2002 did not give enough power to the MHC. Without the power to decide, there is no independence. As a consequence, the institution lost its authority and its credibility.

Today with the new media law number 22/2009 of 12/8/ 2009, the MHC seems to have some decisional power. It can suspend a media outlet from one to six months (Media law 2009: article 84). One of the interviewees is proud of that power and thinks that they are independent:

“We are as independent as the law says we are. There was a time when we were just advisory. With the new law we are able to take “harsh” or

punitive measures. We can suspend a newspaper and that is a serious responsibility. Often we want to take that step as a last resort” (Informer 1).

In fact, the majority of the interviewees working in the MHC including board members and permanent staff claim to be legally independent. However, a careful look into some articles of the media law shows that they are still depending on the government especially the ministry of information. Article 4 of the MHC law states that the institution will be supervised by the Ministry of Information. Article 5 emphasises that there shall be a contract of performance and evaluation between the MHC and the Ministry of Information and the contract shall be valid for a period equal to the term of office of members of the board of directors (MHC Law 2009: articles 4 and 5). According to a media expert working in Rwanda, the law is not very clear about the independence of the MHC:

“I think the executive secretary is appointed. One would like to see him independent of the appointing authority. In their day to day running they are independent but in the interpretation of the law, there are many key players. Even when they apply the law, people think they are not independent. The independence should be determined in the law. Autonomy should be clear in the law” (Informer 12).

The executive secretary is in charge of the daily management of the MHC. Whereas board members are elected and the executive secretary appointed, some media professionals reveal that when there is a problem in the media sector, it is the executive secretary that they always see for the interventions. This shows that they doubt about the independence of the MHC as this interviewee from a private radio explains:

“Whenever there is a mistake within media, we always see the executive secretary but frankly speaking, we do not see the board members” (Informer 11).

4.3.1.3.2 Independence in the decisions

In its daily management, the MHC has been making a lot of decisions affecting media. The decision making process includes monitoring, crime categorisation and punishment. In terms of accountability, this process is similar to Pritchard's formula of dealing with media complaints. In the presence of a complaint, he advises to Name it, that is identify or monitor, Blame it, that is categorise and then Claim, that is give a sanction or punish. The formula is Naming, Blaming and Claiming (Pritchard 2000:3)

4.3.1.3.2.1 Monitoring

When there is a complaint against media outlets, the MHC does monitoring. While the MHC receives complaints from the public against media, it can also take the initiative and summon a media organ. In that case, it becomes the complainant (MHC report 2007:26).

Given its capacity to review the content of media in the light of the media law and the code of conduct, the monitoring department is key to the MHC regulatory framework. When the reports are out, they display the effectiveness and ineffectiveness by media practitioners. In addition to the law and the code of ethics, there are other instructions taken from the law. For instance elections period has its own guide lines. One of the monitoring officers is very confident of the work they are doing:

"I do enjoy my role because it enables me to develop my analytical skills. The work serves as a light to media practitioners to enhance their professional skills (informer 3).

In the monitoring department, the job seems neutral. Not only do the officers expose the misconduct and the offences of media but they also indicate the state of press freedom in the country. For example, in the monitoring report of the year 2008, while newspapers are blamed for

unprofessionalism, the report also condemns lack of access to information. The same report declares that the monitoring reports can be used by human rights bodies, academicians and media practitioners in their research (MHC report 2008:19).

Apparently, the monitoring department has some degree of independence because of its professional nature. It requires some analytical skills as pointed out one of media practitioners:

“I do not know whether they decide by themselves, but they do a good monitoring job because they analyse each article, that is what they present to the public” (Informer 10).

4.3.1.3.2.2 Categorisation of crimes

The task of categorising crimes always goes with a contravened article of both the law and the code of ethics. To be independent in categorising crimes, one has to be competent in legal matters. For example, in 2007, one private newspaper called *“Umurabyo”* published in its issue number 11 an article titled **“An open letter addressed to all newspapers”**. In one of the quotations, the editor wrote that *“people who killed the Hutu were enjoying life and having fun, because they think that the Hutu who died were not human beings”*. She cited some names of high ranking officials in the army and the government. In this statement, the journalist affirmed that people who killed the Tutsi in the genocide were being held accountable while those who killed the Hutu were free. Unfortunately, the article was not substantiated with sources.

According to the MHC, the article contained dangerous statements that could undermine the unity and the reconciliation of the Rwandans. The MHC then concluded that the publication contravened article 70 of the Press law and articles 2, 5, 10 and 17 of the code of conduct, which are against defamation and unfounded accusations.

On 19/01/2007, the Media High Council, then the High Council of the Press initiated a complaint and summoned the management of “*Umurabyo*” newspaper for a public hearing. They categorised the crime as: defamation, discrimination and sectarianism (MHC report 2007:15). In fact the journalist did not have facts to support her version of the story but the MHC needed more expertise to categorise the crime such as discrimination and sectarianism which are serious crimes in the aftermath of the genocide against the Tutsi.

Indeed because the MHC was a complainant alongside the public prosecutor office, the journalist was sentenced to a one year imprisonment.

On April 2009, the Minister of information suspended the Kinyarwanda BBC programs. That happened after the BBC had aired in its popular show “*Imvo n’imvano*”, which can be translated in English as “*Origins and Causes*”, an interview that the ministry classified as a blatant denial of the 1994 genocide against the Tutsi (Ministry of information 2009: N/ ref 726/03.10).

In the show, the BBC journalist Ally Youssuf Mugenzi had invited five people living outside Rwanda including the former prime minister Faustin Twagiramungu, the head of the Centre against impunity living in Belgium Joseph Matata, an unnamed person who allegedly lives in Germany, Dr Augustin Dukuze, the Executive Secretary of RUD-URUNANA, a political organisation established in the USA and the head of an association for “all the survivors” , known as “*TUBEHO TWESE*”, also chairman of an opposition party against the Rwanda Government called “*Banyarwanda Party*”, Boniface Rutayisire. The show was hosted when the Rwandans were remembering for the 15th time the genocide against the Tutsi.

Though the theme was Reconciliation among Rwandans 15 years after the genocide against the Tutsi, the interventions were very strange. Two examples are given below:

“One may wonder why the Rwandan genocide as recorded by the UN changed its names with time? As you may know, it is not called “Rwandan Genocide” anymore like in past years and was used by Government. Instead, it is known as “the Tutsi Genocide” Why so? Because it was found out that the truth had transpired. Ask anyone in Government to explain that change of name so many times. I want to inform you that such changes aim at avoiding the issue of the Hutus who were killed but cannot be accounted for. That is naked truth but also the reason why, for me and in short, if unity and reconciliation are really genuine, this will only be seen where no issue is ignored”(Boniface Rutayisire).

According to the MHC analysis, this is an evidence for Tutsi genocide negationism and revisionism.

“RPF should confess its committing killings in the country. They should not continue to behave like angels while others behave like demons so that they remain in the saddle of power (in the country)” (Faustin Twagiramungu).

According to the MHC analysis this is tactful way of denying the Tutsi genocide. It is negationism.

The analysis of the MHC was based on the constitution of the Republic of Rwanda of 4th June 2003 which states that “Rwandans are resolved to fight genocide ideology in all its manifestations”. Article 13 reminds that genocide is an imprescriptible crime, and that negationism and revisionism of genocide are punishable by the law. The analysis was also based on the International Covenant on Civil and Political Rights, International Convention on the elimination of all forms of Racial Discrimination and the Rwanda Press law number 18/2002 of 11/05/2002. After the analysis of the MHC, they confirmed the decision by the Ministry of information and accused the BBC of two crimes including: first, Incitement to hatred and violence and racial discrimination and second, Genocide negationism/denial and divisionism (MHC analysis of BBC show 2009:7). In fact there was no appeal because the MHC’s analysis came after the Ministry had taken

action. It was a way of saying that the suspension of the BBC by the Ministry of information was legal.

With the new law number 30/2009 of 16/9/2009, the MHC has got the power to suspend media outlets on its own. It used its power for the first time when it suspended two private newspapers *Umuseso* and *Umuvugizi* for a period of six months in April 2010 (MHC Press release 2010:7). It was accusing them of disturbing the public order and the security of the country, threatening authorities and national institutions, inciting the army and the police to insubordination and many others. The following examples were analysed by the MHC:

When General Kayumba Nyamwasa fled the country, *Umuseso* wrote the following in its issue number 398 of March 08-15, 2010:

“I swear to you that many of these soldiers will desert Kagame because of the initiative that Kayumba has taken.”

About the President of the Republic *Umuseso* wrote:

“Even if Kagame cannot admit it openly, but any one who concludes that Kagame lives in fear of being overthrown any time would not be lying to himself at all.”

A Colonel in the army whose name is Semana was arrested and *Umuvugizi* wrote the following in its issue number 59 of July 16-30, 2009:

“...A part from his great heart, anyone else in his place would apply for retirement instead of being abused unceasingly and would leave for private business, given that he is a doctor; he was a doctor when he joined the rebellion and he was in a better situation.”

For the MHC, this is an open call and encouragement to the military to disobedience and to desert the army (MHC Press release 2010:9).

The problem with this conclusion is that the MHC interprets the law. The conclusions that it draws are questionable because another person could interpret the statements as a free expression of opinion by the journalists. That is a confirmation that this task of categorising crimes goes beyond the competence of the MHC and it makes its independence more questionable. The categorisation of crimes is done by the MHC through its legal advisors as this officer declares:

“As a lawyer, I know how to identify and categorise crimes. For instance defamation is defined. The law and the penal code can tell. At our level we are able to categorise and there are ways of appealing” (Informer 2).

Though the MHC has legal advisors among its permanent staff who claim to be competent enough to categorise crimes, many of the other interviewees have questioned the legal competence of the institution in categorising serious crimes such as genocide ideology, negationism and revisionism, disturbance of the public order and national security and so on. It is their belief that since these crimes are likely to lead the presumed authors in prisons, they require enough competence in legal matters; therefore, it is only the judge that should categorise them. Even one board member realises that there is a judicial gap in their structure. This is what the informer tells:

“This is within the law. Interpretation of the law should be done by the judge but the MHC has legal advisors who are competent to do the interpretation though I can say that it is incomplete. There is a weakness in terms of interpretation of the law; we sometimes mix crimes and offences. However I do not think that we are biased” (informer 7).

The competence of the MHC to categorise crimes is also questioned by almost all the journalists interviewed as this one witnesses:

“There are serious crimes like genocide ideology, disturbing the national security and others. I think it is too much and the MHC should not have the

mandate to categorise such cases. If a journalist writes about genocide ideology, it is not the MHC that should determine the crime. It should be dealing with ethics. The law itself shows that it is not independent. That means it is the government working through MHC” (Informer 11).

Back to the discussion, journalists were not the sole people to question the independence of the MHC in categorising crimes. Among the interviewees was a media consultant in Rwanda who revealed his concern:

“If you are going to impose penalties you should be competent and have the capacity to investigate. If there is any single doubt then the benefit goes to the defendant. The problem with the MHC is that they do not have the capacity to investigate the intention” (Informer 12).

A part from some individuals working directly with the MHC, the majority of the interviewees did agree that the institution is not competent enough to categorise crimes.

4.3.1.3.2.3 Sanctions

Although sanctions are important for rebuke and correction, Buckley et al (2008: 179) wrote that in the regulatory framework they should be proportionate to the harm done. They also state that regulatory bodies should remember that their purpose is not primarily to “police” media but rather to protect the public interest. It should be reminded however that the concept of public interest is always ambiguous especially when it comes to interpretation in non democratic countries. This was discussed in introduction of this study. It is only the public that should define the public interest.

Like any other regulatory body, the MHC has been imposing sanctions. Though it was an advisory institution with the law of 2002, some of its decisions were taken into consideration by the Ministry of Information and the courts of law. A good example goes with “*Umurabyo*” publication as

discussed in the exercise of categorising crimes. In 2007, after the newspaper had published stories that the MHC categorised as defamatory and discriminatory, it advised the government through the Ministry of Information to suspend the newspaper. Moreover, the editor Nkusi Uwimana Agnes pleaded guilty to all accounts in the Kigali court of 1st instance on 3/04/2007 and was sentenced to a one year jail term (MHC report 2007: 15).

In 2008, the MHC recommended the Ministry of Information to suspend a Kinyarwanda publication called “*Umuco*” for a period of twelve months. It accused it of sedition after the newspaper had likened President Paul Kagame to the former German dictator Adolph Hitler in its issue number 045 of 12th to 27th March 2008. What was very interesting in this story is that Bonaventure Bizumuremyi, the owner and director of *Umuco* newspaper was accused by fellow journalists of publishing ethnically divisive stories. He went into hiding for some time to avoid arrest, and later fled the country in May 2008. He was then tried in absentia, found guilty and was sentenced to five years in prison on 13 June 2008 (MHC report 2008:20).

In this scenario, there is something unusual in the Rwandan media. For the first time, a journalist was blamed by his colleagues. They dissociated with *Umuco*'s publication and none of them questioned the decision of the MHC when it recommended the Ministry of Information to suspend it. Certainly, in terms of press freedom, there is more trust for a self-regulatory than it is for statutory regulator such as the MHC. According to Hulin and Smith (2008:11), though the media law is necessary, the press can only perform its crucial role as a watchdog of the government if there is as little state control as possible.

During the discussion, it was easy to notice that the people working with the MHC were happy and confident that the media law of 2009 gives them power and that nobody can despise them as was the case before its establishment. In one of its reports, the MHC reported that it had been seen

by media practitioners as able to “bark” only and lacking the power to “bite” (punish) (MHC report 2007: 19). During an interview, one of the MHC officers expressed their confidence:

“The current situation is the best. Ignorance of the law is not an excuse. The MHC had not the power to decide but now it has it” (Informer 3).

The power of the MHC to punish to the extent of suspending media outlets has been subject to a hot debate among the rest of the interviewees. Most of them argue that is not logical to have an institution that claims to promote freedom of media and protect journalists imposing punishment on them as well. They believe that there should be a separation of powers and that only the judiciary should be the one to decide. Some of the journalists think that the suspension of media outlets is not an initiative of the MHC but of somebody behind its decisions and their implementation. This is a declaration of one of the private newspaper journalists:

“When the newspapers “Umuseso” and “Umuwugizi” were suspended, the MHC was influenced and ordered. It was not by coincidence that the President of the Republic declared before the parliament almost in the same period that they were fed up with the newspapers and that these had to be suspended” (informer 4).

Though the independence to punish media professionals seems to be legal for the MHC, almost all the interviewees agreed that if the MHC is not competent enough to categorise crimes, it is not competent to impose criminal sanctions as well. Furthermore, they find it suspicious and contradictory for an institution whose mandate is to advocate for press freedom and protect journalists to impose serious sanctions such as the suspension of a media outlet. In any case, therefore, when a regulatory body that is committed to promote press freedom gets the power to suspend media outlets, there is always a lot of questionings about its mission.

4.3.1.3.3 Independence in the funding

For any institution to be sustainable, funding is a critical pillar. Without it, plans become futile. It is therefore very difficult for regulatory bodies to be independent of their funding agencies since most of them get the money from their respective governments. Yet, as Carver (2006:31) notices, inadequate funding exposes a regulator to interference and improper pressure. In order to avoid this inconvenience, the framework for funding should be very well determined in the law establishing the regulator. This should entail a vote in the legislature, or in whatever is part of the normal procedure for assigning funds to independent public entities. In this area, the example of Benin is commendable. According to Buckley et al (2007:169), the budget of the *Haute Autorité de l'Audiovisuel et de la Communication (HAAC)* which is the regulatory body in Benin is provided for by the National Assembly upon request of the President of *HAAC* and administered through the ministry of Finance.

As far as the MHC is concerned, the law number 30 /2009 of 16/9/2009 declares that apart from grants and donations, the first source of its property is the State budget (MHC law 2009: art 28). This law is not clear about which institution of the State is to fund the MHC but many of the interviewees revealed that MHC is funded by the executive. The following is a journalist working for a public newspaper:

“There is a saying that when you eat a man’s food, you have to talk good about him. These people are paid by the government, they are on the payroll of the government, and they have to follow the instructions from the government. If the MHC had another support from elsewhere, we could see that independence. I am not sure whether they can call the police and disagree with it” (Informer 9).

Reading the article of the media law about funding and considering what the interviewees reveal, it can be said that it is not easy for the MHC to be independent of the government since it is the same government that funds it.

For example, when the Ministry of Information closed a newspaper called “the Weekly Post” after the publication of its first issue, the MHC which was known as the High Council of the Press (HCP) was not happy with the decision. It even found it illegal. Despite the efforts of the Weekly Post management in seeking arbitration from the MHC, the decision was implemented and the newspaper disappeared for ever. Later in its 2007 report, the MHC supported the reason given by the Ministry of Information according to which the authorisation given to the Weekly Post to operate in Rwanda was based on incomplete data, some of which accuracy was suspect (MHC report 2007: 31).

The scenario of the Weekly Post is a clear testimony of how a regulatory body depending on the executive cannot work in total independence. All the reasons given for the closure of this newspaper were not convincing and the MHC did not communicate its decisions to the public as it usually does. Since then, the newspaper launched a formal suit in the courts of law but from that time it stopped publishing.

4.3.1.3.4 Independence of the MHC board members

The appointment of the board members is another crucial ingredient to the independence of media regulatory bodies. Being decision makers of the supreme organ of regulatory bodies, board members are likely to be loyal to the people who appoint them and find it difficult to oppose their decisions.

From his experience in media regulation, Carver (2006:29) suggests that employees of the government should be excluded from the regulatory body, the reason being that since they are subject to discipline of their employers they will be unable to fulfil their regulatory functions independently. Contrarily to this advice, the MHC law number 30 /2009 of 16/9/2009 provides a room for government employees. In fact, out of the seven MHC board members, 3 are employees of the government. While 2 of them are appointed by the cabinet on proposal by the minister of information to represent the central administration, there is another person who represents

the public media. That person is also an employee of the government (MHC law 2009: art 9).

During interviews, most of the private journalists were complaining about the appointment of the MHC board members. While some believe that all the members should be elected and not appointed, many of them also complained that even the elections within private media are not free.

“The way people were appointed in the last elections is a problem. They changed everything at the last minute. In private media, elections of the members are not free” (Informer 6).

Looking at the appointment of the MHC board members through the law and through the interviewees’ views, their independence is still questionable.

So far, the discussion has revolved around regulation as the main theme of the research. It has encompassed three sub-themes: the statutory regulation, the self-regulation and the independence of the MHC.

In terms of statutory regulation, since the MHC has been established by the constitution and its law voted by the parliament, there is no question that it is a statutory regulatory body. This status implies control and sanctions but the MHC officers do not agree with journalists on this issue. While the former do not want to be referred to as controllers but prefer to be called regulators, the latter confirm that the MHC does control. What matters here is not whether or not the MHC regulates but how it does this and it has been explained in other sub-themes.

Concerning self-regulation, it has been discovered that though the MHC is not a self-regulatory body, it sometimes behaves like a self-regulator. This happens whenever it applies the code of conduct to deal with the professional offences in the media. While some of the interviewees think that the MHC comes in to bridge the gap left by journalists associations

which are not strong enough to play a self-regulatory role effectively, some journalists also think that their role has been usurped. Without going deep in the debates between the two sides, I suggest that persistent is the combination of the two statuses by the MHC. Since it is statutory, it cannot perform well as a self-regulatory body. This combination which implies controlling and promoting media freedom and professionalism is contradictory.

The third sub-theme of regulation was the independence of the MHC. To explore the theme, it has been helpful to divide it into different elements including the law, decisions, funding and appointment of board members.

In regard to the law, though the situation has evolved from an advisory in 2002 to a decision making role in 2009, the MHC is still dependent upon the government through the ministry of information, which by law is the supervisor. Moreover, the new law is not clear about the limits of the supervision by the ministry.

Concerning decisions, the process is three fold. First, it has to do monitoring, which according to the interviewees is done independently. Second it has to categorise crimes, which according to the interviewees is the task of the judiciary since it involves serious crimes such as genocide ideology, disturbance of the national security and all these can bring the presumed authors to be jailed. The third part of the process is imposing sanctions. The MHC has got the power to punish that extends to the suspension of a media outlet. This, according to the interviewees should also be the task of the judiciary. While statutory regulators can punish according to the law, it will still be contradictory for any of them to claim that it promotes media freedom alongside punishing them.

As for funding of the MHC, the law states that besides donations and grants the source of its funding will be the State budget and interviewees have revealed that the money comes from the executive. It is therefore, very difficult for such an institution to be independent of its funding agency.

Thus, the law should make it clear that the regulatory body is independent of its source of funding.

The last element of the independence of the MHC is the appointment of its board members. Once again, it has been noticed through the law and the interviewees' views that some board members are government employees. It is very hard to believe that they shall be independent since they have to be loyal to those who appointed them.

4.3.2 Press Freedom

Press freedom is another theme that has to be discussed in this thematic analysis.

According to article 34 of the constitution of the Republic of Rwanda of June 2003, press freedom and information are guaranteed by the State (Constitution 2003:119). This right is also recalled in article 16 of the media law number 22/2009 of 12/08/2009. The article clarifies that every journalist has the freedom to express opinions.

This freedom includes the right to gather, receive, give and broadcast information by means of media (Media law 2009:16, 17).

Although article 34 of the constitution and article 16 and 17 of the media law affirm that the press freedom is guaranteed, a careful exploration of these texts reveals some limits of this freedom. In the same paragraph, it is reminded that the right to press freedom shall not prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. This situation is a proof that press freedom is not an absolute right and its exercise is delicate, which gives the rationale for regulation. Press freedom is also a powerful tool that can be used to assess the effectiveness of a regulatory body. According to Gibbons (1998: 21), press freedom is a political value whose protection may be regarded as a consequence of securing liberty for the individual and it is thought to safeguard the values of discovering truth, participating in democracy and promoting human dignity.

4.3.2.1 Protection of media

The responsibility of the MHC to protect media and media professionals is embedded in its mission (MHC law 2009: article 2). That the MHC will protect media means that it will sometimes protect it from some government officials who may use their power to hinder the press freedom. For an institution to protect media, it has to be independent. Yet, the previous discussion has proved that the independence of the MHC is questionable. There is a lot of suspicion among journalists about the responsibility of the MHC to protect media. During interviews, all the journalists questioned the role of the MHC as a protector of media. While some believe that it does not have the power to protect, others cannot trust it as this one reveals:

“The question of the MHC from the outset is that it is not there to protect. If it were there to protect, it would look at all the conditions to let the media industry to actually continue to operate. When it takes journalists to courts saying that sanctions should be given for example in some articles of the law, the MHC is given power to censor and suspend newspapers. It is intended to intimidate. The MHC does not protect” (Informer 5).

Back to the Press law number 18/2002 of 11/05/2002 and the presidential order number 99/01 of 12/11/ 2002 according to which the institution was advisory, it is obvious that its role of protecting media could not be effective as declares one of its permanent staff:

“We are independent to a certain level but we cannot make decisions for the government. We tried to show the mistakes and in that time we were an advisory body” (Informer 2).

There are many examples where the MHC tried to protect media but in the end it could not succeed. A quick look at following three cases can illustrate this.

1. Despite its efforts to defend the Weekly Post after the Minister of information had closed it in 2007, the MHC did not succeed though it had found the decision to close the newspaper not legally substantiated. The newspaper management launched a formal suit in the courts of law but until now, there is no new publication from it (MHC report 2007:31).

2. In september 2007, three journalists from RIMEG (Rwanda Independent Media Group) Charles Kabonero, Gerard Manzi and Mugisha Furaha came to complain to the MHC of intimidation against them by some top government officials. The journalists were accusing some cabinet ministers of associating them negative forces without substantiating the facts. They also complained that top police officers were using abusive languages, threatening them on phone and laying false charges against their journalists. Though the MHC met with some ministers and Police officials to seek explanations in this regard, they dismissed the complaints as baseless allegations (MHC report 2007:15). Regarding the report, one does not find room for follow up and the MHC seems to have ceased to sue the mentioned institutions. This is another case where the MHC was not successful in protecting media.

3. In 2008, the MHC observed restrictions on some media outlets to access information in what was commonly known as government boycott of *Umuseso*, *Rushyashya*, *Umuwugizi* newspapers and the BBC. Although the MHC acknowledged that these media outlets had not been professional and ethical in their publications, it also realised that denying them access to information would aggravate the situation, and those media outlets might claim legitimacy for publishing rumours. The MHC also made it clear that the decision from the government contravened article 34 of the constitution and the press law 2002, which provides that press freedom and opinion is guaranteed by the State (MHC report 2008:20).

Though the MHC continued to work on the case, it was not able to convince the government to lift the boycott. It is only after the suspension of some newspapers in 2010 that the boycott ceased.

The three examples given above are a testimony that the role of the MHC as a media protector has been very delicate. This is the view of almost all the interviewees. One of the top permanent staff members has given a summary of their situation with regard to this:

“When it comes to decisions with regard to media freedom and the nature of power that the MHC has in that area in enforcing respect of those laws in that field, our powers are somehow limited. I have to be very frank. Our role is more of advocacy and promoting awareness to ensure that with time there is going to be an environment that help. As for now, we condemn and that is it. Can we exceed that level? The regulator has powers over media, but when it comes to any other institution outside the media, the regulator can condemn, he can sue but he cannot take any decision” (Informer 1).

4.3.2.2. Access to information

While it has been accusing media outlets of publishing news without sources (MHC report 2007: 10), the MHC has never ceased to advocate journalists’ access to sources of information. In 2008, when the government denied access to information to some media outlets, the MHC was able to condemn a good number of senior public officials who were refusing to speak to local journalists especially on controversial issues. The MHC also realised that the absence of a right to information law was making the situation harder for all media practitioners and started to advocate for it (MHC report 2008: 20). In 2009, the MHC continued to advocate access to information law because it realised that it was a serious challenge for journalists. Some media practitioners had revealed that even with press cards delivered by the MHC, they were denied access to information (MHC report 2009:5).

Despite the efforts of the MHC to advocate for information access bill which is about to be published as a law, media practitioners are still

pessimistic about its implementation because they have no confidence in the MHC. Some of them have expressed their worries. They propose a dialogue between media practitioners and government institutions about access to information:

“What we need is a dialogue between government institutions and media. For example, we want the police to have more than one spokesperson in the country.

The MHC and the associations of journalists should initiate the debate. Even journalists from public media do not have easy access” (informer 10).

With reference to access to information, interviews revealed that there is a lot of doubt about the implementation of the access to information law. Surprisingly, even journalists working for the government are not optimistic. It was the case with the informer 10.

4. 3. 2. 3 Decriminalisation of defamation

Defamation has been made a crime since the creation of the MHC. For example, with the press law number 18/2002 of 11/05/2002 it was clear that contempt of the President of the republic through the press, defamations and abuses committed through the press towards public authorities and forces availed to the Government to maintain law and order were punished by the maximum of the related penalties provided for in the Penal Code (Press law 2002:84 (2)). Making defamation criminal is likely to lead many journalists in the courts of law. After all, journalism is about words. Therefore, if in their search for truth journalists are always under pressure of criminal penalties, their job will be very tough and a new window to self-censorship will be opened as a hindrance to the press freedom. According to media experts one of the mostly repeated offences in the press all over the world is defamation and countries have to find a way of dealing with it without breaking the principle of press freedom (Paraschos 1998:59).

In 2008, the MHC was sad to realise that libel and slander which are two forms of defamation were still entrenched in national legislations despite its efforts to lobby parliament to legislate them as civil offences (MHC report 2008:20). While with the ancient press law of 2002 many newspapers had been in courts of law due to press offences including defamation, the new media law 22/2009 of 12/08/2009 also maintained it criminal. Some of the words have been highlighted with a lot of emphasis. For example, this law is more precise by stating that contempt to the Head of State of Rwanda, the Head of a foreign State, Ambassadors of countries accredited to Rwanda is criminal. The same law also states that inciting the army or the National Police to insubordination through media is criminal (Media law 2009: article 83(3, 4)).

From its experience, the criminalisation of the defamation has always brought worries to the MHC. In 2009, it realised that the current media law did not pave the road for free speech because defamation remained criminal. Moreover, the matter is serious because of article 22 of the constitution of

04 June 2003, which overprotects people's privacy preventing journalists from seeking truth (MHC report 2009:3).

However, even if the road is not yet well paved, the MHC is determined to advocate for decriminalisation of defamation. Both the board members and the permanent staff have made it their goal:

“The MHC is not yet mature. It is still growing. However, we are all in the process to advocate for decriminalisation of defamation” (informer 7).

4.3.2.4. Censorship

Censorship is a hindrance to the press freedom because it prevents people from expressing and share what they think. No wonder the media law in Rwanda has been clear that censorship is not allowed (Media law 2009:17). This is a very good sign for a country that promotes press freedom. However, to have a law is one thing and to implement it is another. This is the reason why there is a need for assessment. Taking into account the reports of the MHC and the data from interviews, one will realise that censorship in media is a two-fold game: pre-publication censorship and self-censorship.

4.3.2.4.1 Pre-publication censorship

There is a disagreement between the MHC agents and some journalists from private media. All the interviewees working for the MHC have denied the existence of a pre-publication censorship as this one declares:

“The MHC always reviews after publication. That is not censorship” (informer 3).

While MHC officers totally deny the existence of pre-publication censorship, some journalists though few do agreed that they face it:

“It is not officially there but sometimes people know what you are going to publish before. There are people who enter the printing houses” (informer 4).

What this journalist mentions here can be understood in the sense that to be understood because censorship is a complex issue. Even when the law does not allow it, it can be manifested in the daily practice of the profession. According to Graber (2007: 391), in some countries, there are no censorship laws but government officials do create a coercive climate that forces the press into self-censorship in line with the wishes of public officials and sometimes the criticism of government policy is considered as unpatriotic. This reminds the danger of the development theory whereby some people in the government think that being critical of them is being against national development.

4.3.2.4.2 Self-censorship

In the State of media report of 2008, the MHC published that there is a high level of self-censorship. It explained that this has two major causes: first, it pointed out that journalists working in a country where media played a key role in spreading genocide ideology are very reluctant to discuss very sensitive issues. Second, the report attributed self-censorship to unprofessionalism of journalists which was expressed in stories without sources, false accusations, invasion of privacy and above all a low level of education and especially lack of enough journalists trained in the schools of journalism (MHC report 2008:34).

This lack of professionalism for journalists as a major cause of self-censorship was also recalled by almost all the MHC officers during the interviews. The following is a declaration of one of them:

“There is no censorship but there is self-censorship due to unprofessionalism” (informer 2).

While the MHC denies the existence of censorship by attributing self-censorship to unprofessionalism of journalists, practitioners do not agree with that. They rather think that the MHC does not prepare a censorship-free environment. Consequently, there is a growing self-censorship even among journalists working with government media. Almost all the journalists interviewed have agreed that they do not feel free to write or talk about everything. The following interviewee shares the concern with the rest of his colleagues.

“Journalists do not like writing about everything. They fear, they do not want their CV to be questioned when they apply for another job. They are likely to lose it if they write about somebody. They care about their future and so they censor themselves” (informer 8).

As can be discovered from the analysis, there is a disagreement between MHC officers who affirm that self-censorship is a result of unprofessionalism and journalists who claim not to have a favorable environment to overcome self-censorship. Regardless of its nature however, censorship is a barrier to the free flow of information. Be it pre-publication censorship or self-censorship, the MHC ought to pave the way for a censorship-free environment.

In order to be well explored press freedom as an important theme has been divided into two elements: protection of media and censorship. In terms of protection, despite its efforts to advocate decriminalisation of defamation and the access to information law, the MHC is far from being accepted by media practitioners as their protector. This is a serious issue because it touches the credibility of the institution that has a bad image before its partners. As for censorship, it has been revealed that there is a high level of self-censorship. If it really wants to stand as a promoter of press freedom, the MHC will have to work hard to ensure a censorship-free environment.

However, the debate about press freedom as a democratic value seems to be far from ending as it is a very complex domain. This value has been embedded in the law establishing the MHC as its main pillar.

Looking at the reports published by some international organisations advocating press freedom, one has to be very careful about the ranking and the image they attribute to Rwanda. In fact, RSF (Reporters without borders) as accessed on 2010/12/12, ranked Rwanda as 147th out of 169 in 2007, 145th out of 173 in 2008, 157th out of 175 in 2009 and 169th out 178 in 2010 (www.rsf.org).

This ranking portrays the government of Rwanda as a predator of the freedom of press. Although they agreed that Rwanda still has a long way to go in terms of press freedom, almost all the interviewees pointed that the ranking is not based on have facts beyond the reasonable doubt. They accused RSF of using secondary information and lack of contextualisation. This complaint is not for Rwandans alone. It has been the worry of many other Africans.

No wonder Hydén (2003:216) questions the ranking of the freedom house which goes hand in hand with Reporters without borders and argues that it should not be taken as accurate because its panellists rely on secondary information and not on direct observations of political and social phenomena in target countries.

4.3.3 Professionalisation of journalists

The third theme that has been discussed in the assessment of the MHC is the professionalisation of journalists.

One of the legal responsibilities of the MHC is media development (MHC law 2009:6). Media development can be seen through different angles but none of them can show it better than professionalisation. As Maier and Tenscher (2006:32) contend, the professionalisation of any domain refers to a process of change that brings about efficient organisation of resources and skills in order to achieve desired objectives. They further affirm that this process always suggests a high level of development.

Although this theme is not directly related to the research problem of the study, it can be helpful in assessing the regulatory framework of the MHC. After all, by professionalising media, the MHC might be promoting press freedom because it is believed that knowledge is a key to development. Furthermore, as Gibbons (1998:243) contends, true professionalism promotes responsibility and therefore, by professionalising media, the regulator puts in place adequate mechanisms for supervision which arouse the satisfaction of the public's grievances about media practice. The professionalisation of any domain always requires specialised intellectual training (Gibbons 1998:70), which can be acquired through both formal and informal education. To be useful to the society, however, any training needs to be ethical.

4.3.3.1 Formal education

According to the MHC reports, there was no school of journalism in Rwanda before 1994. It was unfortunate that even some of the few who had studied abroad perished in the genocide against the Tutsi. It is after 1994 that the first school of journalism and communication started in the National University of Rwanda. Later in 2002, the Catholic University of Kabgayi in the southern province also introduced a five year course of social communication, with a specialty in journalism. Besides, there was a creation

of the GLMC (Great Lakes Media Center) in 2007 which aims to train practicing journalists in the Rwandan media houses (MHC report 2008: 11). The creation of the schools of journalism is like a rescue to the profession but it has not yet provided enough qualified journalists to the sector. Media houses are still poor in terms of qualified journalists.

4.3.3.2 Informal education

Due to lack of professional journalists after the genocide, the door was widely opened to anyone who wanted to practice journalism. Not only was the profession in danger but it was not formally regulated until the MHC was born in 2002. Furthermore, the few journalists from the National University of Rwanda were not interested in practicing journalism because it was not paying them good salaries. They would join companies for public relations and this has been the case up to now (MHC report 2009:11). Consequently, there have been practicing journalists with a very low level of education.

According to one media statistics report (2008:5), until 2008, there were some journalists who did not have at least a bachelor's degree in any domain. Furthermore, the report shows that out of 427 journalists who were working in Rwanda in 2008, 0, 94% had not completed high school, 27.87 % had completed high school while 24. 82% had associate degrees.

In order to help the practicing journalists to have some knowledge about their profession, there have been several training programmes. Some of them were organised by the MHC and others by the government and NGOs. The table below is a summary of the trainings offered to journalists in 2007 (MHC report 2007:11)

Table 3: Summary of trainings offered to journalists in 2007 (MHC report 2007:11)

Trainer	Theme of training	Period
High Council of the Press (the current Media High Council)	Social Responsibility of journalists and the need for media regulation and self-regulation	August 20-24, 2007
Ministry of Information	General government policy	July 9-11 2007 and August 27-29, 2007
Ministry of Information	ICT (Photoshop)	November 26 to December 1, 2007

Ombudsman Office	Techniques of investigation on Justice and Corruption	November 2007
Nation Unity and Reconciliation Commission	Conflict Management	December 21-23, 2007
Rwanda Journalists Association	Management and Protection of Environment	December 20-21, 2007
LDGL (an NGO that advocates human rights in the Great Lakes Region)	-Parliamentary Network - Judiciary Network	March 26 to May 18, 2007

This table gives an overview of the training programmes offered to journalists in 2007 and the trend was the same for the following years. Whoever had the means (money) and the will to organise a workshop for journalists could do it without assessing their needs. Consequently, the results could not meet the needs of the trainees. During interviews, MHC officers revealed that nobody was coordinating those training programmes as can be seen in the following remark:

“In the past the training programmes were not coordinated. There has been no assessment of their impact” (Informer 1).

It is unfortunate that for so many years nobody was able to evaluate the impact of the training programmes offered to practicing journalists. Even those offered by the MHC were not evaluated and all the interviewed journalists were very critical of them. While some said that the training programmes did not cater for their needs, others think that they were useless:

“The training they offer does not benefit journalists. What journalists need is freedom. Without freedom, everything becomes useless. Rather than organising training programmes in order to find justification for money expenditure, the MHC should help us to fight for our freedom” (informer 4).

This journalist has a very bad image of the MHC, there is nothing good he can expect from it. That is why he does not even want to appreciate the initiative of training journalists. He sounds revolutionary.

Looking at professionalisation of journalists through academic eyes, one realises that there is a pressing need of qualified journalists in Rwanda. After the death of the pioneering journalists in the genocide against the Tutsi, schools have not been able to provide competent human resources for the profession because of two reasons: first there were few graduates and second many of them chose to work for Public Relations companies instead of joining journalism. The informal training programmes offered by NGOs and the MHC are also criticised for not being coordinated and for not having catered for the real needs of journalists.

4.3.3.3. Ethics

As has been proved in the previous discussion, the associations of journalists have been very weak. Consequently, they have been unable to develop a strong self-regulatory body. In countries where self-regulatory bodies are well established, they use codes of conduct to regulate themselves. Codes of conduct are usually developed by media practitioners. According to the reports of the MHC, Rwandan journalists developed their code of conduct in 2005 (MHC report 2008:12). Rather than being used by the professionals to deal with ethical issues, the MHC has been using it in its daily regulation. Whenever there is a complaint, it refers to both the law and the code of ethics as tools of regulation. When the code of ethics was developed, there were very few private broadcasting media in Rwanda. The first private radio after the 1994 genocide was launched in 2004. For the last

5 years, many other media outlets were born. Given that the code has never been revised since its development, its validity can be questioned. In fact, while times and circumstances which it applies to are always dynamic, it has remained the same for relatively a long time. Even after the media law changed in 2009, there has been no amendment to the code of ethics. According to Hulin and Smith (2008:30), since societies change constantly, the codes of ethics should be always revised. The idea that the code of ethics should be revised has been also recalled by interviewees. Some journalists have revealed their concern about it:

“Ethics should be voluntary and therefore be harmonised with the law. I do not know whether the code was provisional but I think that after 5 years there should be a revision to see whether the code complies with the context” (informer 8).

When discussing professionalism of media as one of the themes through which the MHC could be assessed, the objective was to see how the institution has been fulfilling this noble responsibility of developing the media sector. Looking at the two sub-themes namely education and ethics, the results from the reports and the interviews show clearly that the MHC has a long way to go. For example, it has been proved that there was no coordination for the training programmes that were organised for journalists in the past.

Concerning ethics, though always used in the day to day activities of the MHC, the code is old and might not be in harmony with the new media law. It has also been revealed that the code is not used by journalists; it is rather used by the MHC alone.

4.4 Conclusion

The chapter was devoted to the analysis and the interpretation of data which were done through thematic analysis. After reviewing the reports of the MHC and the interviews conducted with journalists and MHC officers, recurring themes were identified. These are regulation, press freedom and professionalisation of journalists.

As was touched on in the introduction of the chapter, the analysis and interpretation is the chapter that covered the practical part of this study. It is in this chapter that the research problem was examined with tangible illustrative examples. The combination of the promotion of press freedom and the control of media has been studied in detail based on and relevant tangible information.

For the first research question which was about the complaints from the public, the analysis has identified and shown the process through which the MHC handles these. The process starts with a complainant writing and bringing the complaint to the MHC which starts the process of monitoring. Within the monitoring process, the officers identify the offence, categorise it and propose a sanction using the law and the code of ethics.

Sometimes, the MHC can itself become the complainant. This happens when in the name of “public interest” it starts to investigate about a publication which it views as dangerous to the public. In such a case, the monitoring process does not change. It goes through identification, categorisation and sanction

Concerning the sub-question about the consequences from the combination of promotion of press freedom and the control media, the fact is that these roles are contradictory and as a result the control aspect swallows the aspect of promoting press freedom.

As for the second question which was on the impact of the MHC’s decisions on press freedom, the results have proved that due to the combination of

promotion and control, in other words defending and punishing, the MHC cannot stand as a press freedom advocate. The reports of the MHC and interviews revealed that there is a high level of self-censorship in the media sector and the MHC has not been able to help journalists overcome it.

Finally with regard to the sub-question about the image of the MHC among the journalists, the latter see it as an extended arm of the government which aims to censor them, despite its claim to defend them and promote press freedom.

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The aim of this research was to assess the Media High Council (MHC) as a media regulatory body in Rwanda from 2007 to 2010. More specifically, I wanted to understand how the institution fulfils its seemingly contradictory responsibilities of promoting press freedom and control media.

The research was led by the following research questions:

1) How does the Media High Council handle the public complaints against media and accomplish its double mission of promoting press freedom and control media?

Sub-question: What are the consequences of combining the promotion of press freedom and the control of media?

2) What is the impact of media High Council's decisions on press freedom?

Sub-question: How is The Media High Council perceived by journalists?

The research used some of the normative theories in order to understand the history and the principles of media regulation. These theories include the Authoritarian, the Libertarian, the Social Responsibility, the Soviet Communist and the new normative theories namely the Development Theory, the "*Ubuntuism*" and the Democratic Participant Theory.

Normative theories were deemed appropriate to this research because they not only explain the role of media in society but they also shade light on the relationships between media and the State. According to McQuail (2010:3), it is believed that media regulation is based on these relationships because normative theories of media are usually found in laws, regulations, media policies and codes of ethics.

Furthermore, emphasis was put on new normative theories because they reflect the context of developing countries, African ones. No wonder Wasserman (2010:26) contends that African context and experience should contribute towards theory building. For example, the “*Ubuntuism*” model is one of the theories which can be applied to the African media to promote a development founded on cultural values of unity.

According to Fortner and Fackler (2010: 3), if “*ubuntu*” were explored very well in the media, there would be a lot of success in the African journalism.

The data were collected using qualitative methods by collecting MHC documents and conducting unstructured interviews. These were finally analysed and interpreted using thematic analysis. This analysis was the practical part of the research because it yielded the results which in provided answers to the research questions.

5.2 Answers to the research questions

The conclusion is drawn after the research questions have been answered. The first question which was about how MHC deals with public complaints was answered throughout the review of MHC documents and the unstructured interviews. As has been demonstrated in the analysis and interpretation of data, when people are not satisfied with any publication in media, they can write a statement and submit it to the MHC to express their grievance. This is known as a complaint. However, the MHC can also take the initiative to write such a statement and summon a journalist or a media organ for a hearing. This is done in the name of public interest.

According to McQuail (2010: 164) though there is no clear definition of public interest, when applied to media, there is a presumption that they carry out a number of essential tasks in the contemporary society and that it is the general interest that these are performed well. Therefore, media should be guided by the same principles governing justice, fairness, democracy and avoid to cause social problems.

In this research, three categories of complaints were identified depending on the complainant:

- The first category of complaints is the grievance of ordinary people: most of their complaints revolve around defamation. According to Paraschos (1998: 59), a printed defamation is called libel and a spoken defamation is called slander. People also complain about unfounded accusations in the media and invasion of privacy.
- The second category of complaints is the grievance of journalists. They complain about denial of access to information, arbitrary arrest, threat and intimidation.
- The third category of complaints is from the initiative of the MHC. The statements it makes revolve around unprofessionalism which is made manifest into unbalanced reporting and unfairness. The MHC also complains and summons media for incitement to hatred and violence, genocide negationism/denial and divisionism, abusing and insulting the President of the Republic, attempt on public order and national security.

To deal with complaints, the MHC has been using both the law (external policy control) and the journalist's code of conduct (internal policy control). After exploring the system, it was noticed that this combination of the media law and the code of conduct was introduced due to lack of a self-regulatory body capable of handling professional issues. Therefore, there is a complexity in the task of the MHC which is a statutory body on the one hand and which sometimes behaves like a self-regulatory body on the other. This again goes back to the combination of the press freedom promotion and media control. After the research, the two were found incompatible.

In addition to controlling and promoting press freedom, the MHC has also the responsibility to improve media professionalism. In all media reports it published, the MHC pointed a finger to unprofessionalism of journalists as one of the biggest challenges facing media in Rwanda. In attempting to overcome this challenge, the MHC has organised training programmes. Unfortunately, during interviews, journalists expressed their dissatisfaction

criticising them for not catering for their specific needs. More explanations on this issue will be provided in the answer to the second research question.

For the sub-question which focused on the consequences of the combination of press freedom promotion and control of media by the MHC, it was pointed out that the controlling aspect has always swallowed the aspect of press freedom promotion and therefore, the MHC seems not effective in its regulatory framework.

With reference to the second question which was about the impact of the MHC's decisions on press freedom, the combination of promoting press freedom and controlling media has certainly had bad repercussions on press freedom. After the law number 22/2009 of 12/8/2009 gave it the power to suspend media organs, the MHC exercised it in the suspending two newspapers *Umuseso* and *Umuvugizi* in April 2010 (MHC Press release 2010:7).

Though there can be many reasons behind this decision of the MHC, the closing of newspapers by an institution that claims to promote press freedom will always remain questionable.

Before drawing a conclusion from media practitioners' views, it is better to go back to the reports the MHC published to answer the sub-question about the image of the MHC among journalists. Despite its attempt to protect newspapers, the MHC failed on this issue. For example, it was pointed out in this study that when the "Weekly Post" newspaper was suspended by the Ministry of Information in 2007, the MHC was not happy; but later it subscribed to the decision of the Ministry (MHC report 2007:31). This failure to protect was portrayed by journalists as a complicity of the MHC in their doom. Also looking at the power the law gave to the MHC and how it suspended newspapers, rather than upholding them as a promoter of press freedom, journalists portrayed it as an extended arm of the government to control and censor them.

Though the previous chapters have explained in details how this research was conducted and what its findings are, it is only by going back to the thematic analysis that a clear picture can be displayed for this concluding part.

5.2.1 Regulation

Due to lack of a strong self-regulatory body capable of handling professional issues in the media sector, the MHC, which is a statutory regulator, has come in to bridge the gap. This has been done by advising journalists on professional matters but also by blaming and punishing them using the code of conduct. As has been stated in the research problem, this combination has not helped the MHC to fulfil its mission because journalists have never agreed to the claim that it promotes the press freedom. Instead, they think that rather than supporting them, the MHC has usurped their self-regulatory role.

Moreover, research findings have eloquently proven that regardless of its status, any regulatory body will be effective if there is enough room for its independence. With reference to independence, Castendyk et al (2008: 996) contend that even in Europe where there are democratic traditions, media regulatory bodies are urged to be independent. Unfortunately, despite the ground paved by the Rwandan constitution in its article 34 whereby the MHC is presumed to be independent, the analysis has proven that it is not practically independent. This has been demonstrated through different media laws. For example, it has been discovered that from its creation in 2002 to 2009, the MHC was advisory to the Ministry of Information and had not the power to decide by its own. That state of affairs has badly affected its authority because it could not oppose the decisions made by the Ministry of Information. Even with the new media law of 2009 where the MHC seems to have decisional powers, its independence is still not clear because some articles place it under the supervision of the Ministry of Information.

The independence of the MHC has also been assessed through its decisions, its funding and the appointment of its board members. The analysis has proven that this independence is not visible on the ground. This lack of independence in the daily practice of the MHC has been a source of several deficiencies. Among them, there is a tarnished image of the institution among media practitioners some of whom have been rebelled against its decisions and the loss of credibility for MHC.

5.2.2 Press freedom

In its article 34, the constitution of the Republic of Rwanda declares that press freedom and information are guaranteed by the State. In the same spirit, the law establishing the MHC states clearly that the institution will promote press freedom by protecting media. According to Topidi and Morawa (2011: 236), for a free media to flourish, there has to be a proper regulatory framework. However, the findings of the research show that despite its willingness to promote press freedom, the MHC has not been able to do so because it combines this responsibility with media control and lacks independence.

Furthermore, while the MHC claims to be the protector of media, the analysis of documents and interviews has confirmed that it is not in the right position to play this role. For example, the analysis has revealed that despite its efforts to promote access to information and advocate decriminalisation of press offenses including defamation, the powers of MHC have always been limited to advocacy.

For a deeper understanding of the assessment of press freedom of the press promotion by the MHC, it is important to recall the sub-themes that were explored in chapter 4 of this research, which are protection of media on the one hand and the censorship of media on the other.

- **Protection**

The research considered that protection could be expressed through access to information and decriminalisation of defamation. Concerning access to information, the MHC has tirelessly advocated for access to information bill which is now in the parliament to be voted but media practitioners are still pessimistic about its implementation. Their doubt is built on bad memories of the year 2008 when some private media were denied access to information in the presence of the MHC. They do not trust what the MHC is doing for them. Concerning the decriminalisation of defamation, this has been not achieved and some journalists are still facing the courts of law.

- **Censorship**

The media law clearly states censorship is not allowed and this is a very good sign of press freedom promotion. However, as has been seen in this research, the implementation of this law is questionable. As has been elaborated in the analysis, there is a high level of self-censorship which hinders a free flow of information.

- **Self-censorship**

While MHC officers attribute self-censorship to the unprofessionalism of media practitioners, the latter impute it to the inability of the MHC to pave the way for a censorship-free environment by assuring them that it can protect even when they are critical of the government. Though they have disagreed on pre-publication censorship, both journalists and MHC officers agreed that there is a high level of self-censorship among sources of information who do not feel free to talk about all issues and journalists who are not ready to debate and publish sensitive stories. According to Karlekar and Marchant (2007: xxi), censorship is seriously considered by Freedom House as one of the obstacles to the free flow of information. Thus, media regulatory bodies should be able to overcome this challenge if they want to promote press freedom.

5.2.3 Professionalisation and education of journalists

Professionalisation and education of journalists is another responsibility that the law entrusts to the MHC. To assess how it has been implemented among journalists, the research focused on three sub-themes including formal education, informal education and ethics.

- **Formal education**

In terms of formal education, it was realised that there was no school of journalism in Rwanda before 1994. It is unfortunate that even some of the few journalists who studied journalism abroad were killed in the 1994 Tutsi genocide. After the genocide, schools of journalism were created both by the government and the private sector. Despite the state of media report of 2008 declaring that the MHC played a pivotal role in the creation of the Great Lakes Media Center (GLMC), its role in the formal education is still far from being practical. For example, there is no report about its contribution to the curriculum of schools that teach journalism. Furthermore, there is no report about any sponsorship offered to media students. Due to that lack of the input of the MHC in journalists' formal education, most of the courses offered in the schools of journalism do not cater for the reality of the country in terms of regulation. Furthermore, contrarily to other sectors which usually support their employees and help them to pursue further studies, journalists who cannot pay for themselves are not able to upgrade their academic level.

- **Informal education**

In terms of informal education, after the 1994 Tutsi genocide, practicing journalists had a very low level of education. Some of them did not even have high school certificates. Furthermore, the few who graduated from the school of journalism created later in the National University of Rwanda have not been joining the profession; rather, they have been joining companies for public relations institutions where salaries were higher.

The MHC did not take part in sending journalists to colleges or universities but it joined NGOs in offering professional training programmes. However, in spite of training programmes being one of the aims of the MHC, it has not been able to set guidelines to cater for specific needs in journalism. This was found true after reviewing documents and conducting interviews with journalists. It was realised that there has been no coordination for the training programmes, thus, nobody has ever assessed the needs of the trainees before the training and up to now, nobody has assessed the impact of those trainings on the profession.

- **Ethics**

For any profession to develop, ethics must be abided by. No wonder Sanders (2005:3) affirms that in the area of journalism ethics is what journalism is and what journalists do. He argues that this implies both technical and practical knowledge. This means to learn the best way of doing something and apply one's intellectual capacities in order to achieve the right result in the area concerned. From this statement, one would deduce that journalism without ethics is dead.

Due to the invaluable importance of ethics in journalism, Borden and Boeyink (2010:3), argue that though all of the human beings have the responsibility to avoid harming others, journalists are in a special position with regard to this because of the power of the modern media they exercise. Therefore, it is these authors' belief that journalists who act unethically might end up harming millions. This is another proof that ethics is the oxygen for this profession. In Africa, the theory of "*ubuntuism*" discussed in chapter two of this research urges journalists to integrate cultural values in their reporting. One of those values is the African unity, which brings Africans together. It can also be argued that the hate media were able to spread the ideology of genocide in Rwanda because there was no ethics.

Back to the MHC, the research found out that the code of ethics and the law have been working hand in hand in the regulatory framework. It was also

discovered that due to lack of strong journalists' associations that are capable of forming a viable self-regulatory body, the MHC has bridged the gap and that has made its task more complex. The biggest problem is that while ethics should be voluntary and the code of conduct should be developed (and eventually amended) by professionals themselves, the one used by MHC was developed by some of its officers together with some journalists who are no longer in the profession. In addition, a statutory regulator has been implementing that code of conduct.

Furthermore, from 2005, the code of conduct has not been amended in order to be harmonised with the media law. Concurring with this statement, Buckley et al (2008:145) argue that only self-regulatory systems can be the effective means to promote professional standards and that when they are in place, there is no need for statutory systems to be imposed.

After reviewing all the themes explored in this study, it has to be reiterated that almost all the challenges facing the MHC are related to the combination of both statutory and self-regulatory statuses. Therefore, this problem should be solved for the good health of regulation and future development of media in Rwanda. The onus is on both the government and media professionals to start a process of media policy reform.

5.3. Recommendations

After the assessment of the Media High Council as a media regulatory body in Rwanda, the following recommendations are deemed helpful to improve its policy implementation.

5.3.1 For the regulatory framework

First and foremost, the main problem as discussed in the research is the combination of two seemingly contradictory responsibilities by the MHC: controlling media and promoting the press freedom. One of the interviewees compared this to a situation of person riding two horses. To overcome this challenge, there should be a clear separation between the two responsibilities because, as Seabright and Hagen (2007: 314) state, the

division of labour between regulatory institutions is a modern trend for emerging democracies and in most countries regulatory bodies have been restructured along with the restructuring of the media sector.

In terms of regulation, while the MHC is a statutory regulatory body, it should prepare and implement the regulatory framework using the law. However, another independent institution should be put in place to address press freedom promotion and other media professional issues. This should be none other than a totally independent self-regulatory body and it should start immediately. For the process to be successful however, since the creation of such an institution has to be voluntary, journalists and media professionals should invest ideas and resources into it and come up with reliable associations which in turn would be the foundation of the self-regulatory body. According to Haenens and Saeys (2007: 74) the separation of responsibilities between statutory and self-regulatory bodies is a must because experience has proven that media freedom always restricts the scope of statutory regulation and therefore the State alone cannot regulate the media effectively.

While some governments would be reluctant to allow media regulate themselves, the remarks of Gunning and Szoke (2003: 77) should help remove this reluctance. These two media regulation experts discovered that statutory and self-regulatory are not exclusive concepts, the reason being that all of them can establish standards, protect the interests of the profession and above all defend public interest.

- In terms of **independence**, the autonomy of the MHC should be clearly stated in the law. For example, one would like to see how it is independent of the Ministry of Information which is the supervising institution. It is paramount for this institution to be independent in its decisions and this has to be determined by the law. However, as Norris (2010:399) warns, the recognition of principles alone is not enough because the challenge in many countries remains to make them effective in practice and not merely on paper. It is therefore not sufficient to have the independence of the MHC enshrined in the constitution. What matters more is how this law is

implemented on a daily basis. For example, this independence should be visible in the categorisation of crimes as well as in the proposing sanctions. This will certainly require competent people in legal matters.

- **For funding** not to be a cause the MHC's dependence on the Executive, there should be a vote in the legislature determining how it can be funded.
- As for the **board**, government employees should not be part of it because they are subject to the discipline of their employers; therefore they are not able to fulfil their regulatory functions independently.

5. 3. 2 For the promotion of the press freedom

The promotion of press freedom is a corner stone of the responsibilities of the Media High Council. According to Hulin and Smith (2008:16), press freedom should not be a responsibility of a statutory regulator, because in the name of protecting other freedoms, governmental regulations can unintentionally harm press freedoms. As they explain, any statutory regulator will always put limitations on press freedom in order to protect other values such as State security, social peace, or personal rights. This is exactly what happened whenever the MHC wanted to protect press freedom. Therefore, there should be another institution in charge of promoting press freedom and uphold professional values.

In this case, through their associations, journalists should be able to form a strong professional self-regulatory body which would promote ethics and this would be in the right position to promote the press freedom. In Rwanda, the road for self-regulation seems to be paved because according to the cabinet decisions of 30th March 2011, the government has already declared that the MHC must refrain from regulating professional issues in media and allow professionals to regulate themselves (Cabinet decisions: section 3). It is therefore up to media professionals to prove that they are able to perform that task.

5.3.3 For the professionalisation of the journalists

Given its responsibility to develop media in Rwanda, the Media High Council is determined to participate in journalism capacity building and development in general (MHC 2009: art. 6, section 19 and 20). As has been pointed out in the research, the task of professionalising media was not well carried out in the last years. This is not surprising since the main problem of the MHC lies in combining statutory and self-regulatory functions. No wonder Buckley et al (2008: 145) argue that self-regulatory systems are the most effective means of promoting professional standards of media. It is therefore high time that the responsibilities of the MHC were revised and the institution put a lot of efforts in the following:

-In Formal education: the MHC should participate in developing the curriculum of journalism schools so that media regulation courses can be integrated. This would help students to have some information about regulation issues. It should also help some students to get scholarships in journalism both inside and outside the country.

-In Informal education: MHC should coordinate all the training programmes offered to journalists. Once this done, it will help to assess the specific needs in media and cater for them. The MHC should also assess the impact of these training programmes on the capacity journalists' day to day activities as well.

-For Ethics: First of all, journalists should be able to form strong associations which would give birth to a strong self-regulatory body. Once this is done, they will be able to revise the current code of conduct or, eventually create a new and more inclusive one. In fact, a lot of new media outlets did not take part in the development of the current one. For this to happen however, journalists should be able to exploit their legally guaranteed freedom of association. According to Buckley et al (2008: 145), journalists should be free to establish professional associations of their own choosing.

5. 4 Prospects for the future

The study focused on the seemingly contradictory responsibilities of the Media High Council which responsibilities have compelled it to combine the promotion of press freedom and the control of media. Further research can explore topics such as press freedom in Rwanda after the 1994 Tutsi genocide, of which findings could be more reliable than those published by Human Rights international organisations which always use second hand information in their studies.

The study also touched on the professionalisation of media but did not cover it as a whole. Therefore, future research can explore the impact of unprofessionalism on the development of media in Rwanda. The findings of such a study could shade more light on the issue, especially because this research has noticed disagreements between MHC officers and media practitioners over its implications.

Furthermore, the study tackled weaknesses of journalists' associations in Rwanda as one of the challenges to a creation of a viable self-regulatory body. Future researchers can explore this to identify its causes and suggest solutions.

SOURCES CONSULTED

- Andrieu, C, Sémelin, J & Gensburger, S (eds). 2010. *Resisting the Genocide: The Multiple Forms of Rescue*. New York : Columbia University Press.
- Asante, C. 1997. *Press freedom and development: a research guide and selected bibliography*. Westport: Green Wood Press.
- Barnet, M. 2002. *Eyewitness to a genocide : the United Nations and Rwanda*. New York : Cornell University Press.
- Barran, S. & Davis, D. 2008. *Mass Communication Theory: Foundations, Ferment, and Future*. 5th edition. Boston: Lyn Uhl.
- Beigbeder, Y. 2006. *Judging war crimes and torture: French justice and international criminal Tribunals and Commissions*. Leiden : Martinus Nijhoff.
- Borden, S & Boeyink, D, 2010. *Making Hard Choices in Journalism Ethics: Cases and Practice*. New York: Routledge.
- Boyatzis, R. 1998. *Transforming qualitative information: thematic analysis and code development*. London: Sage.
- Buckley, S, Kreszentia, D, Toby, M & Seán, O. 2008. *Broadcasting, Voice, and Accountability: A Public Interest Approach to Policy, Law, and Regulation*. Washington D.C: University of Michigan Press.
- Carver, R. 2000. *Broadcasting and Political Transition: Rwanda and beyond*. Oxford: [sn].
- Carver, R. 2006. *Broadcasting, Pluralism and Diversity*. Training manual for African Regulators. London: Article 19.

Castendyk, O, Dommeneig, J. & Scheuer, A. 2008. *European media law*. Alphen aan den Rijn :Kluwer Law International.

Christians, CG, Glasser, T, McQuail, D, Nordenstreng, K & White, R. 2009. *Normative theories of the Media: Journalism in Democratic Societies*. [SI] University of Illinois Press.

Clarck, P. 2010. *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers*. New York : Cambridge University Press.

Cohen, J, 2007. *One-hundred days of silence: America and the Rwanda genocide*. Lanham: Rowman & Littlefield.

Creech, K. 2007. *Electronic media law and regulation*. 5th edition. Oxford: Focal Press.

Croteau, D & Hoynes, W. 2006. *The business of media: corporate media and the public interest*. 2nd edition. London: Sage.

Doyle, G. 2002. *Media ownership: the economics and politics of convergence and concentration*. London: Sage.

Ducat, C. 2008. 9th edition. *Constitutional interpretation: Rights of individual*, Volume 2. Boston :Wadsworth.

Du Plooy, GM. 2001. *Communication research: techniques, methods and applications*. Wetton: Juta.

Feintuck, M. 1999. *Media Regulation, Public Interest and the Law*. Edinburgh. Edinburgh University Press.

Feintuck, M. & Varney, M. 2006. 2nd edition. *Media regulation, Public Interest and the law*. Edinburgh: Edinburgh University Press.

Flick, U. 2009. *An introduction to Qualitative Research*. 4th edition. London: Sage.

Fortner, R & Fackler, M. 2011. *The Handbook of Global Communication and Media Ethics*. [SI]: Wiley-Blackwell.

Fourie, P (ed). 2001. *Media studies: Institutions, theories and issues*, Volume 1. Lansdowne: Juta.

Fourie, P. 2007. Moral philosophy as the foundation of normative media theory: The Case of African Ubuntuism, *The European Journal of Communication Research* 32 (9): 1-29.

Fourie, P. 2008. *Media studies: Policy, Management and Media Representation*. Volume 2. Cape Town: Juta.

Fourie, P. (ed). 2008. *Media Studies: Media History, Media and Society*, Cape Town: Juta.

Gibbons, T. 1998. *Regulating the Media*. 2nd edition. London: Sweet & Maxwell.

Graber, D (ed) 2007. *Media Power in politics*. 5th edition. Washington D.C: CQ Press.

Grünfeld, F. & Huijboom, A. 2007. *The failure to prevent genocide in Rwanda: the role of bystanders*. Leiden: Martinus Nijhoff.

Gunning, J. & Szoke, H. (eds). 2003. *The regulation of assisted reproductive technology*. Humpshire: Ashgate.

Haenens, L& Saeys, F (eds) 2007. *Western broadcast models: structure, conduct, and performance*. Berlin: Mouton de Gruyeter (formely Mouton).

Habermas, J. 2006. Political Communication in Media Society: Does Democracy Still Enjoy an Epistemic Dimension? The Impact of Normative theory on Empirical Research, *Philosophy Department, Johann-Wolfgang Goethe Universität Frankfurt, Frankfurt, Germany* 16 (4): 411-426.

Hallin, D & Mancini, P. 2004. *Comparing media systems: three models of media and politics*. New York: Cambridge University Press.

Hatch, A. 2002. *Doing qualitative research in education settings*. New York: State University of New York.

Helge, R. 2007. *High Council of the Press Communication Strategy*. Kigali.
Hollow, I & Wheeler, S. 2002. *Qualitative research in nursing*. 4th edition. Oxford: Blackwell .

Horten, G. 2003. *Radio goes to war: the cultural politics of propaganda during World War II*. Los Angeles: University of California Press.

Howard, D. 2000. *Political freedom, Associations, Political purposes and the Law*. London: British Library Cataloging-publication-Data.

Hulin, A. & Smith, J (eds). 2008. *A Guide book on Media regulation: All questions and answers*. Vienna: Miklós Haraszti, the OSCE Representative on Freedom of the Media. [O] Available: http://www.osce.org/publicrelations/rfm/2008/04/30697_1117_en.pdf. Accessed on 2009/2/2009.

Hutchison, D. 1998. *Media Policy*. [SI]: Wiley.com. [O] Available: http://books.google.rw/books?id=gEAIzSiIFjAC&pg=PA80&lpg=PA80&dq=Theories+on+media+policy&source=bl&ots=nGUA9h0Wev&sig=57iiVUrbroObRigP1LDUooCZFvaU&hl=en&ei=xz4rSpKrFpG5jAeGp4XrCg&sa=X&oi=book_result&ct=result&resnum=2. Accessed on 2009/06/07.

Humphreys, P. 1996. *Mass media and media policy in Western Europe*. Manchester: Manchester University Press.

Hyer, R. 2005. *Effective communication during public health emergencies: a WHO field guide*. Geneva : World Health Organisation.

Hyden, G. Leslie, M. & Ogundimu, F. (eds). 2003. *Media and Democracy in Africa*. New Brunswick: transaction Publishers.

Jensen, K (ed). 2002. *A handbook of media and Communication research: qualitative and quantitative methodologies*. London: Routledge.

Kari, W& Hanitzsch, T. 2009. *The Handbook of Journalism studies*. London: Routledge.

Karlekar, K. & Marchant, E (eds). 2007. *Freedom of the press 2007: a global survey of media independence*. Lanham: Rowman & Littlefield.

Leedy, PD. 2005. *Practical Research: Planning and Design*. 8th edition. Upper Saddle River, NJ: Pearson Merrill Prentice Hall.

Levesque and Barker (ed). 2006. *Broadcasting Pluralism and Diversity. A training manual for African Regulators*. London: Article 19.

Lievrouw, L & Sonia, L. 2006. *Handbook of new media: social shaping and social consequences of ICTs*. London: Sage.

Lister, M, 2003. *New media: a critical introduction*. London: Routledge.

Maier, M &Tenscher, J (eds). 2006. *Campaigning in Europe- Campaigning for Europe: political parties, campaign*. Berlin: Rutgers University.

McQuail, D, 1992. *Media performance: Mass Communication and the Public interest*. London: Sage.

McQuail, D & Suine, K. 1998. *Media policy: convergence, concentration, and commerce*. London: Sage.

McQuail, D, 2002. *McQuail's reader in mass communication theory*. London: Sage.

McQuail, D. 2005. *McQuail's Mass Communication Theory*. 5th edition. London: Sage.

McQuail, D. 2010. *McQuail's Communication theory*. 6th edition. London: Sage.

Media High Council. 2007. *Annual Report of the State of the Media in Rwanda*. Kigali.

Media High Council. 2008. *Strategic Plan 2008-2010*. Kigali.

Media High Council. 2008. *Annual report of the State of the media 2008*. Kigali.

Media High Council. 2008. *Media Statistics 2008*. Kigali.

Media High Council. 2009. *Annual report of the State of the Media 2009*. Kigali.

Media High Council. 2009. Analysis of a BBC Kinyarwanda Program broadcast : "*Imvo n'Imvano*"-*Origins and Causes* of 25/04 /2009 (From 7.00 to 8.00 and 10.00 to 11 am).

Media High Council. 2010. *Press release of April, 14, 2010*. Kigali.

Melvern, L. 2004. *Conspiracy to Murder: the Rwandan genocide*. London : Verso

- Melvorn, L. 2007. *A people betrayed: the role of the West in Rwanda's genocide*. London : Zed Books Ltd.
- Molefi, K, Yoshitaka, M & Jing, Y. 2008. *The global intercultural communication reader*, London: Routledge.
- Morse, J & Peggy-Anne, F. 1995. *Qualitative research methods for health professionals*. 2nd edition. London: Sage.
- Nerone, J (ed). 1995. *Last rights: revisiting four theories of the press*. [SI]: University of Illinois Press.
- Neuman, WL. 1997. *Social research methods: qualitative and quantitative approaches*. 3rd edition. Boston: Allyn & Bacon.
- Norris, P (ed). 2010. *Public Sentinel: News Media & Governance Reform*. [SI]: The World Bank.
- Oosthuizen, L. 1989. *Media Policy and Ethics*. [SI]: Juta.
- Oosthuizen, L. 2002. *Media ethics in the South African context*. Lansdowne: Juta.
- [O] Available: <http://books.google.rw/books?id=UzDm7NNHVGUC&pg=PA39&lpg=PA39&dq=Normative+media+theory&source=15keT74D4j&sig=cEVCVgsJMNrNJV5x9FOH-gQk7c&hl=ipLSuWuGcRjAfS6Oz1Cw&sa=X&oi=bookresult&ct=result&resnum=6>. Accessed on 2009/07/01
- Pradip, T& Zaharom, N (eds). 2004. *Who owns the media?: Global trends and local resistances*. Prenang: Southbound Sdn.
- Paraschos, E. 1998. *Media Law and Regulation in the European Union, National, Transnational and U.S perspectives*. Iowa: State University Press.
- Patton, M. 2002. *Qualitative research and evaluation methods*. 3rd edition. London: Sage

Perse, E. 2001. *Media effects and Society*. [SI]: Routledge.

Philips, A. 2000. Equality, Pluralism, Universality: current concerns in normative theory,
British Journal of Politics and International Relations 2 (2): 237-255.

Pottier, J. 2002. *Re-imagining Rwanda. Conflict, survivor and disinformation in the late twentieth century*. [SI]: Cambridge University Press. [O] Available: http://books.google.rw/books?id=bZNTqQ0yYgC&dq=Johan+Pottier%2BRe-imagining+Rwanda+2002&printsec=frontcover&source=bn&hl=fr&ei=DkUdSq7rHYz51QexzmuCw&sa=X&oi=book_result&ct=result&resnum=4. Accessed on 2009/06/02.

Pritchard, D (ed). 2000. *Holding the Media accountable: Citizens, Ethics and the Law*. Bloomington: Indiana University Press.

Reporters without borders: *Press Freedom Index* 2010. [O] Available: www.rsf.org. Accessed on 2010/12/12

Richards, L. 2005. *Handling qualitative data: a practical guide*. London: Sage.

Ruben, A & Babbie, E. 2009. *Essential Research Methods for Social Work*. Belmont: Brooks/Cole.

Russell, N. 2006. 6th edition. *Morals and the media: ethics in Canadian journalism*. Vancouver : University of British Columbia.

Rwanda. 2002. *Press Law 18/2002 of 11/05/ 2002 governing the Press*. Kigali; Government Printer.

Rwanda. 2002. *Official Gazette 99/01 of 15/11/2002*. Kigali: Government printer.

Rwanda, 2002. *Presidential order 99/01 of 12/11/ 2002*. Kigali; government Printer.

Rwanda. 2003. *National Constitution, 2003*. Kigali: Government Printer

Rwanda. 2009. *Law on Media 22/2009 of 12/08/2009*. Kigali: Government Printer

Rwanda. 2009. *Law 22/2009 of 12/8/2009 on Media*. Kigali: Government Printer

Rwanda. Ministry of Information. 2009. *Suspension of the BBC Kinyarwanda program. 2009: N/ ref 726/03.10*. Kigali.

Rwanda. 2009. *Media High Council Law 30 /2009 of 16/9/2009*. Kigali: Government Printer

Rwanda. Ministry of Cabinet affairs. 2011. Cabinet decisions of March 30, 2011. Kigali.

Sanders, K. 2005. *Ethics and Journalism*. London: Sage.

Sara, B & Luitgard, H. 2005. *Freedom and Accountability. Safeguarding Free Expression through Media Self-Regulation*. London: Article 19.

Schiappa, E. 2008. *Beyond representational correctness: rethinking criticism of popular media*, Albany: University of New York.

Scott, S & Waldorf, L (eds). 2011. *Remarking Rwanda: State Building and Human Rights After Mass Violence*. London : University of Wisconsin Press.

Scott, J & Watt, S (eds). 2010. *Ethnography in Social Practice*. Madison Avenue: Routledge.

Seabright, P. & Hagen J. V, 2007. *The economic regulation of broadcasting markets: evolving technology and challenges for Policy*. Cambridge: Cambridge University Press.

Semati, M (ed). 2004. *New frontiers in international communication theory*, Lanham: the Rowman & Littlefield Publishing Group.

Sierbert F, Peterson T& Schram W. 1963. *Four theories of the Press: the authoritarian, libertarian, Social responsibility and soviet communist concepts of what the press should be and do*. [SI]: University of Illinois Press.

Spalding, F. 2009. *Genocide in Rwanda*. 1st edition. New York: the Rosen Publishing Group.

Stead, G. B, 2001. *Planning, designing and reporting research*, Cape Town: Hanli Venter.

Taschereau, S. 1998. *Evaluating the impact of training and institutional development programs: a collaborative approach*. Washington DC: The World Bank.

Tashakkori, A. & Teddlie, C (eds). 2003. *Handbook of mixed methods in social& behavioral research*. London: Sage.

Thompson, A (ed). 2007. *The Media and the Rwanda Genocide*. London: Pluto Press.

Topidi, K. & Morawa, A. 2001. *Constitutional Evolution in Central and Eastern Europe: Expansion and Integration in the EU*. Burlington; Ashgate.

Totten, S, Bartrop, P & Jacobs, S. 2008. *Dictionary of genocide: A-L*. Westport : Greenwood Publishing Group.

Wasserman, H (ed). 2010. *Popular media, Democracy and Development in Africa*. Abingdon: Routledge.

Watson, J. 1998. *Media communication: an introduction to theory and process*. Hampshire: Palgrave.

Watson, R, McKenna, H, Seamus, C & Keady, J. 2008. *Nursing research: designs and methods*. [SI]: Elsevier.

Wayne, O, 2006. *Major principles of media law*. Belmont: Hally J. Allen.

Wayne, O & Bemas, G. 2011 edition. Boston : Lyn Uhl.