The Role of Investigative Journalism in Kenya: A Deontological Perspective

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Abstract

This paper explains meaning of deontological theory and links it to the role that is played by investigative journalism. It also explains what investigative journalism entails. The paper points out the ethical mandate of investigative journalism. It also explains the role that is played by investigative journalism in society and the challenges face by investigative journalists.

Key terms: investigative journalism, deontology, ethics, morality

Introduction

Investigative journalism has played a great role in unearthing unethical practices both in the developed and developing world. This has catapulted democracy in many nations though it has cost the lives many daring journalists who put their lives on the line to ensure that evil deeds are dealt with and thus making the world a better place to live in. Orend (2000) argues that Immanuel Kant’s theory of ethics is considered deontological for several different reasons. First, Kant argues that to act in the morally right way, people must act from duty (deon). Second, Kant argued that it was not the consequences of actions that make them right or wrong but the motives of the person who carries out the action. It is therefore upon this theory that this paper is anchored to affirm that investigative journalism is duty bound.

Deontological Theory

Deontology (or Deontological Ethics) is an approach to ethics that focuses on the rightness or wrongness of actions themselves, as opposed to the rightness or wrongness of the consequences of those actions (consequentialism) or to the character and habits of the actor (virtue ethics). (Luke, 2008).

It is sometimes described as "duty-based" or "obligation-based" ethics, because Deontologists believe that ethical rules bind people to their duty. The term "deontology" derives from the Greek "deon" meaning "obligation" or "duty", and "logos" meaning "speaking" or "study", and was first used in this way in 1930, in the book “Five Types of Ethical Theory” by C. D. Broad (1887 - 1971). (Luke, 2008). Thus, to a Deontologist, whether a situation is good or bad depends on whether the action that brought it about was right or wrong. What makes a choice "right" is its conformity with a moral norm: Right takes priority over good.

According to Lacewing (2010) Deontologists believe that morality is a matter of duty. We have moral duties to do things which it is right to do and moral duties not to do things which it is wrong to do. Whether something is right or wrong doesn’t depend on its consequences. Rather, an action is right or wrong in itself. Most deontological theories recognise two classes of duties. First, there are general duties we have towards anyone. These are mostly prohibitions, for example do not lie, do not murder. Some may be positive, for example help people in need. Second, there are duties we have because of our particular personal or social relationships. If you have made a promise, you have a duty to keep it. If you are a parent, you have a duty to provide for your children. And so on. (Waller, 2005)

All deontological ethics theories are not consequences bound. This means that they place the emphasis on the decision or action itself – on the motivations, principles, or ideals underlying the decision or action – rather than being concerned with the outcomes or consequences of that decision or action. This reasoning is founded on the desirability of principle (usually duties or rights) to act in a given situation.
consequentialist theories are ethics of duties and ethics of rights and justice. Both of these are rooted in assumptions about universal rights and wrongs and responsibilities. This means that people who promote these types of ethical principles usually believe that they should be applied to everyone, everywhere in the world. (Lacewing, 2010). Luke, (2008) points out that there are five types of ethical theories as postulated by C. D. Broad (1887 - 1971) in his book “Five Types of Ethical Theory” which he wrote in 1930. These five theories according to Luke, (2008) include:

**Immanuel Kant’s Categorical Imperative**

Modern deontological ethics was introduced by Immanuel Kant in the late 18th Century, with his theory of the Categorical Imperative. Immanuel Kant defined an imperative as any proposition that declares a certain action (or inaction) to be necessary. A hypothetical imperative would compel action in a given circumstance (e.g. if I wish to satisfy my thirst, then I must drink something). A categorical imperative would denote an absolute, unconditional requirement that exerts its authority in all circumstances, both required and justified as an end in itself.

He argued that the "highest good" must be both intrinsically good and good without qualification (when the addition of that thing never makes a situation ethically worse). He concluded that there is only one thing that is truly good: a good will chosen out of a feeling of moral duty. From this concept of duty, Kant derived what he called a categorical imperative, a principle that is intrinsically valid (good in and of itself), and that must be obeyed in all situations and circumstances if our behaviour is to observe moral laws. He considered it an unconditional obligation, regardless of our will or desires, and regardless of any consequences which might arise from the action. He also believed that if an action is not done with the motive of duty, then it is without moral value and therefore meaningless.

Kant developed his moral philosophy in three works: "Groundwork of the Metaphysic of Morals" (1785), "Critique of Practical Reason" (1788) and "Metaphysics of Morals" (1797), and he formulated it in three different ways:

- Act only in such a way that you would want your actions to become a universal law, applicable to everyone in a similar situation.
- Act in such a way that you always treat humanity (whether oneself or other), as both the means of an action, but also as an end.
- Act as though you were a law-making member (and also the king) of a hypothetical "kingdom of ends", and therefore only in such a way that would harmonize with such a kingdom if those laws were binding on all others. (Luke, 2008)

**Divine Command Theory**

This is a form of deontological theory which states that an action is right if God has decreed that it is right, and that that an act is obligatory if and only if (and because) it is commanded by God. Thus, moral obligations arise from God's commands, and the rightness of any action depends upon that action being performed because it is a duty, not because of any good consequences arising from that action. Therefore, if God commands people not to work on the Sabbath, for example, then people act rightly if they do not work on the Sabbath (but solely because God has commanded it). If they do not work on the Sabbath because they are lazy, then their action is not truly speaking "right", even though the actual physical action performed is the same. The proponents of this theory are Saint Augustine, Duns Scotus, and Thomas Aquinas Robert Merrihew Adams.

**Natural Rights Theory**

This theory holds that humans have absolute natural rights (in the sense of universal rights that are inherent in the nature of ethics and not contingent on human actions or beliefs). The theory,
espoused by Thomas Hobbes and John Locke among others, originates with the concept of natural justice or natural right of Socrates, Plato and Aristotle. The development of this tradition of natural justice into one of natural law is usually attributed to the Stoics. After the incorporation of the pagan concept of natural law into Christianity by St. Thomas Aquinas, it was Hugo Grotius (1583 - 1645), with his philosophy of international law, who finally freed it from dependence on theology, and allowed its development into what we now refer to as human rights.

**Contractarian Ethics (or the Moral Theory of Contractarianism)**

This theory claims that moral norms derive their normative force from the idea of contract or mutual agreement. It holds that moral acts are those that we would all agree to if we were unbiased, and that moral rules themselves are a sort of a contract, and therefore only people who understand and agree to the terms of the contract are bound by it. The theory stems initially from political contractarianism and the principle of social contract developed by Thomas Hobbes, Jean-Jacques Rousseau and John Locke, which essentially holds that people give up some rights to a government and/or other authority in order to receive, or jointly preserve, social order.

**Pluralistic Deontology**

Pluralistic Deontology is a description of the deontological ethics propounded by W.D. Ross (1877 - 1971). He argues that there are seven prima facie duties which need to be taken into consideration when deciding which duty should be acted upon:

- **Duty of beneficence** (to help other people to increase their pleasure, improve their character, etc.).
- **Duty of non-maleficence** (to avoid harming other people).
- **Duty of justice** (to ensure people get what they deserve).
- **Duty of self-improvement** (to improve ourselves).
- **Duty of reparation** (to recompense someone if you have acted wrongly towards them).
- **Duty of gratitude** (to benefit people who have benefited us).
- **Duty of promise-keeping** (to act according to explicit and implicit promises, including the implicit promise to tell the truth).

In some circumstances, there may be clashes or conflicts between these duties and a decision must be made whereby one duty may "trump" another, although there are no hard and fast rules and no fixed order of significance. (Luke, 2008). In this view investigative journalists take the mandate of exposing unethical issues some of which would go unnoticed. Investigative journalism is a rigorous and risky venture and one can only attribute the work done by this category of journalists as being propelled by great zeal to ensure democracy is upheld for all. This is a clear illumination of what deontological theory is about.

**Investigative Journalism**

Investigative journalism seeks to expose unethical, immoral and illegal behaviour by government officials, politicians as well as private citizens (Kovach and Rosenstiel, 2007, pp.145-9). This genre of journalism has the potential to make a worthwhile contribution to society by drawing attention to failures within society’s systems of regulation and to the ways in which those systems can be circumvented by the rich, the powerful and the corrupt” (de Burgh, 2008, p. 3).

Investigative reporting however not only demands the highest standards of accuracy, but also delivers more ethical dilemmas on a daily basis than almost any other form of journalism” (Houston, 2009, p.108). Investigative reporting reveals scandals, and shames the
individuals involved and so it isn’t always popular. Obviously, people caught out in wrongdoing never like it. But sometimes readers have their doubts too. Simple scandal-mongering may have no purpose beyond appealing to people’s nosiness about the private lives of others. To be worth investigating, a scandal must go beyond personal misbehaviour into the kind of wrongdoing that affects the public interest and where there is a lot at stake. The words ‘covert’ and ‘non-public’ identify what investigative journalism is most often associated with, namely, secret goings-on and activities working against the public good. (Forbes, 2005) The idea of investigative reporting as a public service is important to journalists because they see public agents and civil servants involved in corruption as betraying what is good in society: the responsibility to the public authority they represent.

In emerging democracies, reporters play a critical role in development. While they may reflect government initiatives aimed at development in society, good journalism requires reporters to speak out where these initiatives go wrong and to alert the public the reasons why. Investigative journalists are often criticised by politicians and others in positions of power because of their manner of digging out hidden information. Some reporters believe they exercise their rights as citizens of a country through their investigative work – they are citizens first and then journalists.

To create a clear picture of what investigative journalism entails Forbes (2005) points out some of the tenets that constitute investigative journalism. They include:

- In-depth reporting of serious matters which affect the public interest.
- Proactive journalistic enterprise to reveal information that someone wants hidden or something that may not be that well known or appreciated.
- A long-term process of planning, information gathering and corroboration using a diverse range of sources.
- The application of more sophisticated techniques to interrogate and piece together meaning from fragments of information provided by various sources.
- Investigative reporting needs to be independent of special interests; it must aggressively serve the public trust and enrich public debate.
- Investigative reporting may have an agenda to expose any form of villainy or wrongdoing with the object of inspiring positive change through informed public debate and outrage. (Forbes, 2005:6)

Ethical Mandate of Investigative Journalism

For when I preach the gospel, I cannot boast, since I am compelled to preach. Woe to me if I do not preach the gospel! (1\textsuperscript{st} Corinthians 9:16). This verse in the Holy Bible which is the beacon of the theory of divine command can apply in the case of investigative journalism. Just like Apostle Paul who confessed these words investigative journalist are compelled by a great desire to serve humanity and to help create a democratic society.

While it is recognised that journalists should be independent and play a role in encouraging the free flow of information in society, they also have an obligation to work in the public interest. The values of good journalism are generally codified in each society in the form of a professional code of ethics. Some basic ethical principles of journalism, however, remain the same, for instance to: seek the truth and report it as fully as possible, minimise harm be accountable and to act independently.

It is this ethical relationship of trust with the public at large that defines journalistic integrity and credibility. Membership or registration with national press councils tends to be voluntary, unlike in the legal or medical professions. Government control of the media through the registration or licensing of media organisations and journalists is regarded as contrary to freedom of expression and the principle of self-regulation of the media is vigorously defended. In most Western countries journalism has developed largely as an unregulated or free profession. The common position worldwide is that a code of ethics for the media should be developed and enforced by media practitioners themselves. The development of the African
press as an unregulated (albeit self-regulated) profession is being challenged by government moves to control the media through the licensing of journalists and their publications. Although journalists have created their own guidelines and codes of conduct, some questionable practices persist. (Forbes, 2005)

Investigative journalism lacks profitability and can therefore be seen as an obligation; a duty to serve society. It is quite demanding and for one to venture into it he/she should be propelled by an all-consuming desire to serve humanity. Investigative journalism strives towards seeing a society that upholds morals; a society in which all are treated equally regardless of social status.

Media freedom is not a special right for journalists – it is a right of all citizens; but one that the press is most suitably placed to exercise due to its specialised capacity and resources to gather and disseminate information that educates, informs and entertains. For journalists in general and investigative reporters in particular, public interest is the test most often used to justify their methods. Most press guidelines or codes of practice recognise that gathering news by dishonest or unfair means – such as invasion of privacy, paying for stories or using deception – should not be permitted unless there is overriding public interest. Public interest does not mean – whatever interests the public. It refers to serious matters about which the public has or should have a legitimate concern.

**Significance of Investigative Journalism**

Investigative journalism enhances good governance and freedom of speech and thus giving citizens a voice to demand accountability from leaders. This helps to create an open and accountable society because there will always be a feeling that someone is watching. It also sensitizes the public on things going on around them that they would otherwise never know. Investigative journalism helps in empowering vigilant people because the information unearthed is a very vital resource.

People love stories that bring them added value – information that they can’t find anywhere else, that they can trust, and that gives them power over their lives. The information can be about politics, or finance, or the products they use in their homes. What matters is that their lives can change because of what we have to say on these subjects. So take note: Investigative journalism is not only or mainly a product, it is a service, and that service makes peoples’ lives stronger and better.

The claim that investigative journalists side with the less powerful and the forgotten (Spark, 1999, p.6) pins the role of investigative journalism to defending the general society, who according to Spark need to be protected from the excesses of the power elites and the ruling class in society. Investigative journalism function is to reveal the truth, to root out facts many people often want to keep hidden, to re-establish fairness, to shine light in dark places. This is of great significance because it helps uncover that which people in power would like to keep secret for their own gain and the detriment of society.

Coronel argues that investigative journalists need to look beyond individuals; “The best investigative work exposes not just individuals, but also systemic failures. Investigative reports show how individual wrongs are part of a larger pattern of negligence or abuse and the systems that make these possible. They examine what went wrong and show who suffered from the mistakes. They probe not just what is criminal or illegal, but also what may be legal and overboard but nonetheless harmful’’ (Coronel, 2010, p.113).

**Challenges in Investigative Journalism in Kenya**

**Political**

Journalism in Kenya has always been sailing through a rough current since independence. Though there has been growth more liberalization of the journalism the hangovers of one party
democracy and one well censored television station are still alive. Mwaura, (1994) asserts that political interference and self-censorship go together in African journalism. State security is a common justification for censorship in Africa; safety of the nation or national security is often used to suppress journalism. To justify censorship, African governments tend to equate public interest with public morals, and critics of government are commonly charged with sedition. Most African countries view invasion of privacy and protection of personal reputation as more important than freedom of expression or the public interest. Journalists are expected to protect individuals and criticism of government officials is outlawed.

In Kenya investigative journalists have faced challenges for example invasion in media houses and even imprisonment of journalists. Worth noting is the invasion of the standard group media house a few years ago and the infamous statement ; if you rattle a snake expect to be bitten. In the recent times the media fraternity has been fighting battles with the government regarding implementing laws which are seen to muzzle journalist. Many journalists have paid the price for the duty. In the Middle East American investigative journalists have been murdered for example James Foley and Steven Sotloff. In Kenya journalists who rub the government the wrong way have also found themselves fighting battles. The most recent case is that of Yassin Juma who was detained a few days (January 2016) ago after posting information on the Alshaabab attack of KDF soldiers.

The government and the political class will always fight any attempt to be portrayed in negative light. This apart from puncturing the ego of the political class is always seen as a deterrent factor in attracting investors; it’s rather paradoxical because the very investors encounter the reality in the long run. It is therefore at this point that journalist should for what is right; the ethics of duty as postulated by Immanuel Kant. Given the small advertiser pool in the private sector, an important share of media revenue in developing countries also comes from governments. This contributes to making media vulnerable to political pressure. It is therefore not strange that no tangible actions are taken once scandals are exposed by investigative journalist. Media houses owned by government are typically more pliable to government pressure, especially in an environment characterized by weak governance. They can be compromised beyond merely skewing news reporting to the government’s agenda.

Black mail
Sometimes there are cases of vested interests where a journalist can’t carry out an incriminating story on some organizations/companies which advertise through the particular media house the investigative journalist is attached to. This is because the media house may not want to lose the revenue earned from such companies.

Corruption: Prey befriends Hunter
A country’s weak governance environment is equally reflected in the media sector. Mudhai, (2007) asserts that it is common to offer cash to journalists for coverage of even a small, non-contentious story. Some journalists barely earn enough to make a living and are understandably vulnerable. Others accept significant sums of money, for example, to suppress unwanted stories. This affects all levels of the hierarchy in media houses. Corruption has permeated into every sector in Kenya. From the legislature to judiciary and to the watch dog, so it not strange that some journalists may trade a very explosive story especially if it has to do with a significant figure in government or any other wealthy person. Ethics should take centre stage in such circumstances and journalists should abide by what deontology advocates.

Negative Ethnicity
Negative ethnicity rears its head every time there is a scandal. In Kenya it’s not strange to find people holding press conferences to defend “one of their own”. This has perpetuated a culture of impunity whereby prominent people commit unethical things and they retreat to their ethnic communities for refuge. As a result instead of allowing the law to take its course the issues that
matter are trample upon while ethnic war of words takes center stage. This causes disillusionment among journalists who sacrifice time, money and energy to bring to surface such scandals.

**Failure by Government Authorities to Take Action**

There are many scandals which have been brought to light by investigative journalists but the government never seems to be in a hurry to prosecute the culprits. Many of the scandals have been given a blind eye which is like trashing the work of investigative journalist which is time and money demanding equally very risky.

**Conclusion**

It is therefore clear that investigative journalism is anchored on deontological theory. Investigative journalists have a crucial duty in society. They use their time, energy and money to tell stories which would not be told under normal circumstances. They however encounter a lot of challenges in their work and therefore communication laws that protect journalists should be strengthened. It is also important that the government should take the necessary action once investigative journalists reveal scandals.

**References**


