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**Journalism in the Struggle for Democracy in Kenya: Analysis
of *the Standard* and *Nation News* Coverage on Freedom of the
Media in the Kenyan Constitution (2010)**

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Declaração

Declaro que esta dissertação, parte integrante das condições exigidas para a obtenção do grau de Mestre em Jornalismo, resulta da minha investigação pessoal e independente. O seu conteúdo é original e todas as citações estão devidamente identificadas.

Lisboa, Julho de 2016

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Resumo

Os meios de comunicação social têm desempenhado um papel muito importante na luta pela democracia e pelas reformas constitucionais no Quénia. No entanto, não podemos negar o facto de os jornalistas nem sempre terem correspondido à expectativa de salvaguardar o interesse público. Alguns estiveram envolvidos em casos de corrupção, de etnicidade e de promoção de violência, especialmente através de estações vernáculas.

A imprensa queniana é dominada por quatro jornais de língua inglesa – *Daily Nation*, *East African Standard*, *People* e *Kenya Times* – e por um de língua suaíli, *Taifa Leo*. *Nation* e *Standard* têm desempenhado um papel importante na democratização do Quénia, mas com um custo, devido ao grande número de jornalistas perseguidos, detidos e assassinados por políticos e empresários. Estas perseguições e detenções ocorrem quando os jornalistas relatam questões sensíveis sobre: segurança nacional, terrorismo, assassinatos extrajudiciais, corrupção, casos do Tribunal Penal Internacional, tráfico de droga e apropriação de terras.

O Quénia tem melhorado notavelmente no que diz respeito à liberdade de imprensa e considera-se que a sua imprensa é melhor, em comparação a muitos outros países africanos. Mas, de acordo com o *Freedom House Report*, a imprensa está parcialmente livre. O governo ainda emprega várias táticas dos regimes anteriores para controlar os meios de comunicação social e negar-lhes liberdade. O estado introduziu diversos projetos de lei que abrangem a autorregulação e que permitem multas severas e termos de prisão para os jornalistas.

A nova constituição queniana (2010) garante a liberdade de expressão e dos meios de comunicação social, mas ainda atravessa uma fase difícil de implementação e de reformas institucionais.

Palavras-chave: Media, Jornalismo, liberdade de expressão, constituição, democracia

Abstract

The media has played a very important role in the struggle for democracy and constitutional reforms in Kenya. However, we cannot deny the fact that; journalists have not always lived up to their objective of safeguarding the public interest. Some have been involved in corruption, ethnicity and promotion of violence, especially, through vernacular stations.

Kenyan press is dominated by four English-language newspapers – the *Daily Nation*, the *East African Standard*, the *People* and the *Kenya Times* – and a Swahili language daily, “*Taifa Leo*”. The *Nation* and the *Standard* have played an important role in Kenya’s democratisation, but at a price, with many journalists being harassed, detained and killed by politicians and businessmen. These harassments and arrests occur when journalists report sensitive matters about: national security, terrorism, extrajudicial killings, corruption, International Criminal Court case, drug deals and land-grabbing.

Kenya has improved remarkably in press freedom and is considered to be having a better press compared to many other African countries. According to the Freedom House Report, the press is partly free. However, the government still employs various tactics of the past regimes to control the media and deny them freedom. The state has introduced several bills that undermine self-regulation and allow for harsh fines and jail terms for journalists.

The Kenyan new constitution (2010) guarantees freedom of expression and freedom of the media, but it still undergoes a difficult stage of implementation and institutional reforms.

Key words: Media, Journalism, freedom of expression, constitution, democracy

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PART ONE

1. INTRODUCTION

Journalism plays a fundamental role in each and every society. It has power to influence public opinion and thus intervene in all dimensions, without excluding the society's political aspect. Journalism provides a forum for discussing ideas, hence giving voice to the voiceless. It helps citizens to be informed about politics and the performance of politicians by giving a warning when they detect signs of corruption and abuse of power.

“Journalism is important in the development of democratic processes in contemporary societies. The core responsibilities of the media should be understood to involve their roles as watchdogs, agenda setters, and gatekeepers. As watchdogs, the media have a responsibility to help guard the public interest, ensuring accountability of powerful decision makers by highlighting cases of malfeasance, misadministration, and corruption, thereby strengthening the transparency and effectiveness of governance. As agenda setters, the news media have a responsibility to raise awareness of pervasive social problems, helping to turn public attention to matters of common interest, to inform governing officials about social needs, and to inform the international community about development challenges. As gatekeepers, the news media have a responsibility to reflect and incorporate the plurality of viewpoints and political persuasions in reporting, to maximize the diversity of perspectives and arguments heard in rational public deliberations, and to enrich the public sphere.”¹ By training the citizens and informing them about what is happening, journalists play an active role in policy-making, and contribute directly or indirectly in political life. Electorate need to be well informed in order to have a mature democracy. When citizens are not informed they will not be able to constructively participate and engage with the democratic process. “Voters need to be informed in order to make choices; the media are the best placed institutions to provide that information to the voters.”² Portuguese prime-minister, António Costa on the 7th anniversary of one of the Portuguese TV channels, TVI24, said that information is what nurtures democracy and 24 hours of information means 24 hours informing and nurturing democracy.³

¹ Norris, P. & Sina O. (2010) “Evaluating Media Performance” in Pippa Norris (ed.), *Public Sentinel News Media & Governance Reform. Washington: The World Bank*, p. 15. Available at «<http://siteresources.worldbank.org/EXTGOVACC/Resources/PublicSentineleBook.pdf>» (Consult. 11 May 2016).

² Obonyo, L. & Erneo N. (2011) *Journalists and the Rule of Law*. Available at «http://www.kas.de/wf/doc/kas_22570-1522-2-30.pdf?110418095802» (Consult. 2 April 2016).

³ Tvi24, 26 February 2016. Available in «<http://www.tvi24.iol.pt/videos/sociedade/personalidades-nacionais-felicitam-a-tvi24-em-dia-de-aniversario/56d0bd9d0cf221dcc3cfd4e1>»

Politicians rely on media to reach out to the voters and to communicate to them. Therefore, politics and journalism are inseparable. There is a close relationship between the media and the political class. Journalists depend on the politicians to get the information and politicians depend on journalists to pass the same information to the electorate. According to Richard Gunther and Anthony Mughan, “the mass communications media are the connective tissue of democracy. They are the principle means through which citizens and their elected representatives communicate in their reciprocal efforts to inform and influence.”⁴ Journalists are gatekeepers, as they select information to be relaid to the public hence, influence the way people think and act. Therefore, the media is fundamental in Kenyan politics, and we cannot talk about the struggle for democracy without investigating on the role played by journalists. Media has been very important especially during elections and many politicians have been using them to present their manifestos to the voters. With the emergence of vernacular stations, Kenyan media has provided opportunity for those in the villages to be more informed about the country’s politics. Media has played a very big role in campaigning for peace in Kenya, especially in the 2013 general elections, to avoid the repeat of 2007/2008 post-election violence. In this work we shall highlight the importance of journalism in the struggle for democracy in Kenya.

In most African countries, few individuals with power have managed to dominate the political systems and turned to be “eternal leaders” hence, eroding any semblance of accountability, legitimacy and democracy. Just to give some few examples: Paul Biya of Cameroon has been in power for 40 years, Teodorio Obiang of Equitorial Guinea – 36 years, José Eduardo dos Santos of Angola – 36 years, Robert Mugabe of Zimbabwe – 36 years and Yoweri Museveni has been the president of Uganda for the last 30 years. There are many other African leaders who have even changed their countries’ constitutions for their selfish interests. Therefore, we may ask: Is journalism really playing its role in Africa? And does it have power or freedom to exercise its role? Despite being home to several of the world’s worst performing countries in terms of respect for human rights, the region saw uneven progress toward democratization during the 1990s and the early 2000s. However, recent years have seen backsliding among both the top performers, such as South Africa, and the more

“Informação é aquilo que alimenta a democracia e 24 horas de informação é 24 horas informar e alimentar a democracia”, António Costa.

⁴ Gunther, R. & Mughan, A. (2000), “The Media in Democratic and Nondemocratic Regimes: A Multilevel Perspective” in Gunther, R. & Mughan, A. (ed.), *Democracy and the Media, A comparative perspective*. Cambridge: Cambridge University Press, p. 1.

repressive countries, such as The Gambia and Ethiopia. Lack of adherence to the rule of law, infringements on freedom of expression and association, widespread corruption, and discrimination against women and the LGBT community remain serious problems in many countries.⁵ Since the introduction of multi-party politics in Kenya, in the early 90s, many changes have taken place, but still a lot needs to be done. With many challenges that the country is undergoing, we may ask the following questions: is there room for democracy? What role has the media played in the promotion of democracy? Is journalism playing its role well, or it is compromised by the government and some powerful people? Does freedom of expression, fundamental for democracy exist in Kenya, or does it only exist in the paper? This investigation contributes to the answering of these questions.

The objective of this research is to study the role of journalism in the struggle for democracy in Kenya. While not claiming to be exhaustive, our goal is to respond to the question: What role has journalism played in the struggle for democracy in Kenya? In order to realize this objective, we will analyse The Standard and Nation 2010 news coverage on freedom of the media as guaranteed by the constitution of Kenya (2010). *The Standard* and *Daily Nation* are the main daily newspapers in Kenya, owned by the private companies: the Standard Media Group and the Nation Media Group respectively. The choice of the period studied - from January to December 2010 - derives from the implementation of the New Kenya's Constitution in 2010. In 2010 there were many discussions about the new constitution which was presented to the Attorney General of Kenya on 7th April 2010, officially published on 6th May 2010, and then subjected to a referendum on 4th August 2010, whereby 67% of the population voted YES. The constitution was then promulgated on 27th of August 2010.

Freedom of the press is among the greatest achievements of the new constitution. Article 34 of the constitution states, "Freedom and independence of electronic, print and all other types of media is guaranteed. The State shall not—exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium."⁶ With this development, through the new constitution, it seems that freedom of the media continues to exist only in the paper. And if this is the case, what is the role of journalists in this "struggle" for democracy? It is indeed a

⁵ Freedom House, *Sub-Saharan Africa*. Available at «<https://freedomhouse.org/regions/sub-saharan-africa>» (Consult. 10 Maio 2016).

⁶ The Constitution of Kenya (2010) Article 34: *Freedom of the media*. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 2 April 2016).

“struggle” because true democracy is still an illusion in Kenya. In many African countries, democracy faces serious challenges due to lack of freedom of expression, the best example being the recent elections in Uganda. In Kenya, the media is still the target of reprisal from powerful people who benefit from the silence of a compromised press. It is for this reason that the term “struggle” for democracy is used. In a free and democratic society, freedom of expression is fundamental.

This study does not concentrate on legal aspect. It is not based on a legal interpretation of the constitution. It takes a journalistic approach, because our goal is to investigate the role of journalism in this struggle, and to scrutinize the reactions of the politicians, journalists and citizens about this constitutional change. It is evident that this investigation is not sufficient to tackle this topic. There are already some studies that have been carried out by some great Kenyans about the role of journalism in African politics, and about democracy in Kenya.⁷ But most of these studies have given a general perspective about democracy, without putting more emphasis on the role of journalism. They have concentrated on the role played by the civil societies, opposition politicians and the international community’s roles in the long struggle for change. This research will just be a contribution in this topic, opening the door for future studies on the role of journalism in the struggle for democracy. In fact, this topic will still need to be studied until democracy reaches a mature stage in Kenya.

The study seeks to reveal what has been done so far by journalists in the hard struggle for change, freedom of the media in the new constitution (2010), and the coverage that was done by the two main Kenyan newspapers on constitutional change about media freedom. It will also give a brief picture about journalism and politics in Kenya. The second part of this investigation focuses on freedom of expression in Kenya, analysing reports published on media freedom. In the last part there is a presentation of an empirical investigation carried out about main newspapers in Kenya (Standard and Daily Nation), with analysis on how they have contributed to the freedom of expression in Kenya, basing the study on the coverage that the two newspapers did about the new constitution (2010) on freedom of the media.

⁷ Some books published about Journalism and Democracy - that have also been used in this research include: Murunga, G. & Shadrack W. N. (2007) *Kenya. The Struggle for Democracy*; Branch, Daniel (2011) *Kenya: Between Hope and Despair*; Esipisu, M and Isaac E.K. (2009) *Eyes of Democracy: The media and Elections*; Nyamnjoh, F, B. (2005) *Africa’s Media: Democracy and the Politics of Belonging* and several articles of the magazine - Media Observer.

1.1. METHODOLOGICAL APPROACH

This dissertation is based on the analysis of primary and secondary written sources. Given the type of questions to be answered, the most interesting methods appeared to be mainly qualitative, even though quantitative methods have also been adopted. The first part of this study is based on a literature review. We also proceeded to collection and analysis of official documentation, laws, speeches, reports and news. For example, analysis of the code of conduct of journalism in Kenya, Constitution of Kenya 2010; reports published about the role of media in the last general elections; The Commission of Inquiry on Post-Election violence (CIPEV), Waki report⁸, The Kenya National Dialogue and Reconciliation (KNDR)⁹, Electoral Commission of Kenya (ECK) and Independent Electoral and Boundaries Commission (IEBC).

The second part of this study focused on the collection and press analysis. As previously mentioned, we proceeded with the analysis of articles published during 2010 by the *Standard* and the *Nation* about freedom of expression and freedom of the media as guaranteed by the new Kenyan Constitution. We selected and analysed 104 articles; 48 *Nation* articles and 56 articles published by the *Standard*. Most of the articles were found from the sections of national news and opinion.

In addition, there are some interviews that were conducted to verify some of the facts, with some open and closed questions, done through questionnaires. The questions were sent to media owners, journalists, religious leaders, activists and civil servants. Some of those who were interviewed filled the questionnaire and sent the answers through email. The general questions were asked about their understanding of democracy in Kenya and the role played by journalism in this struggle.

Additional information was received by e-mail contact with those who were interviewed, and through social networks such as twitter and Facebook.

In the appendix, there is the questionnaire: names of people who responded to the questions; and titles and authors of all the articles that were analysed.

⁸ "The Commission of Inquiry into Post-Election Violence (CIPEV) was the outcome of the Kenya National Dialogue and Reconciliation Accord of February 28, 2008, negotiated by Kofi Annan and the Panel of Eminent African Personalities, and its sister agreement of March 4, 2008, known as Agenda Item 4, which called for the establishment of a number of bodies of inquiry to address justice and accountability and longer-term issues of governance and the rule of law". The full report is available at:
http://www.kenyalaw.org/Downloads/Reports/Commission_of_Inquiry_into_Post_Election_Violence.pdf

⁹ "Forum for dialogue and mediation composed of eminent African Personalities, whose goal was to achieve sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights."

PART TWO

2. JOURNALISM AND DEMOCRACY IN KENYA

Kenyan voters just like in any other part of the world need to be informed in order to make informed decisions, and media are the most reliable institutions to provide that information to the electorate. This is why journalism is not only important, it is necessary. Even though journalism contributes a lot to change to the country's political system, there are many factors that limit its capacity in championing for a democratic Kenya. Instead of acting on behalf of "*wananchi*" - (citizens), Kenyan media are influenced by business owners and the elites.

2.1. KENYA'S SOCIO-POLITICAL CONTEXT

"One cannot understand the news media without understanding the nature of the state, the system of political parties, the pattern of relations between economic and political interests, and the development of civil society, among other elements of social structure."¹⁰ It's for this reason that we need to understand Kenya's socio-political context because Kenyan media system has also been shaped by its political history and culture.

In the last official census, in 2009, Kenya had a population of 38,610,097, and the current population of Kenya is approximately 47 million, based on the latest United Nations estimates; subdivided into around 42 ethnic groups. The top ethnic communities by numbers, according to the census were Kikuyu at 6.62 million, Luhya 5.33 million, Kalenjin at 4.96 million, Luo at 4.04 million and Kamba 3.89 million. The census results showed that Protestants churches had the biggest following in Kenya, with 18.3 million followers, followed by the Catholic Church with 9,010,684 and other Christians with 4,559,584 followers. The results indicated 4,304,798 Muslims and 53,393 Hindus. The capital city, Nairobi has a population of approximately 4 million.

Kenya obtained its independence from the British in 1963, and a year later, on 12th of December 1964, it became a republic, with Jomo Kenyatta as the first president. Prior to the independence, two political parties were formed, the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU). The major difference between the two

¹⁰ Hallin, D.C. & Paolo M. (2004) *Comparing Media Systems: Three models of Media and Politics*, Cambridge: Cambridge University Press, p.8.

parties resided in the fact that KANU presented a tendency to embody those that were most closely associated with an urban-oriented nationalism and sought a highly centralized political system for Kenya; on the other hand, KADU represented the more rural tribes, who feared a concentration of power by a central government. The political conflicts between these two parties tended to become identified with tribalism, since each party had a core group of tribes committed to it. The first president, Kenyatta, originated from KANU. After independence, KADU was voluntarily disbanded and KANU was the only party existing in the Kenyan territory. After internal wrangles, Jaramogi Oginga Odinga, who was the vice president, lost his position in 1966 and formed Kenya People's Union (KPU) which was then banned by the government in 1969, and its leaders taken to prison. KANU dominated Kenyan politics until the introduction of multi-partism in the early 1990s, when it faced a strong opposition from other parties. KANU combined Kikuyu and Luo interests, while KADU found its political base among some smaller ethnic groups, mainly in the Rift Valley. Since Kenya gained its independence in 1963, elections have been held every five years. Between 1964 and 1991, Kenya was a single party state, and therefore elections were only intra-party contests. Many elections have been conducted in Kenya since Independence but democracy is still a dream.

Many changes have taken place in Kenyan history, but we cannot ignore that colonial rule also had an immense impact in determining the political shape of the modern Kenya. Great Britain and Germany established control of the Eastern African territories in 1890. "Among the most significant aspects of the political heritage of colonialism were the emergence of an authoritarian structure of government and the statist policies of administrative control and centrally directed development."¹¹ To maintain power and control at the local level, the colonizers formulated alliances with groups to enhance a local administration. They used "chiefs" who were their spokesmen and supervisors at the ground. The local chiefs had powers, and were backed by the colonial administration. Through them, the colonialists maintained authoritarian system of administration locally. They favored the chiefs and mistreated the rival parties. This led to competition between the two camps, in order to have control of the local resources. The colonial masters then created a "divide and rule policy", which later led to division among ethnic identities or "tribes", especially in the administration of local groups. This system has defined the Kenyan socio-political system

¹¹ Oyugi, W.O. (1994) *Politics and Administration in East Africa*, Nairobi: East African Educational Publishers, p. 33.

for many years, even in the post-colonial period, with the Kenyan leaders employing the same tactics to gain power and to have control of the people. Immediately after independence in 1963, the first Kenyan president, Mzee Jomo Kenyatta (1964-1978) encouraged this system of leadership, as his party was mostly dominated by Kikuyus and Luos. Mr. Kenyatta belonged to the Kikuyu tribe; Kikuyu is also Kenya's largest tribe. Kenyatta's assistant Mr. Jaramogi Oginga belonged to the Luo tribe. The divide and rule system of politics was then promoted by his successor, Daniel Toroitich Arap Moi (1978-2002) who followed Kenyatta's "footsteps" *Nyayo*, and then by Mwai Kibaki (2002-2013). The current president of Kenya, who is the son of the first president of Kenya, also learnt from his predecessors, and has done very little to deal with this problem, but instead he has employed the divide and rule tactic to survive politically. "British indirect rule kept governance at a distance from the people. The colonial state centralized, racialized and ethnised power. This administrative set up, save its racial trappings, was wholly inherited by the post-independence regime. In a fundamental sense post-colonial governance became even more autocratic. Unlike the governor who was accountable to the House of Commons, Kenya's postcolonial presidents have hardly been accountable to Parliament."¹² The practise of division along ethnic or regional background has proven to be a powerful factor in politics and development; with the ethnic groups distinguishing themselves between "us" and "them".

Another system that was introduced by the colonial masters, that is still applied today, especially in the villages of Kenya, is "*barazas*". A late-nineteenth-century Swahili dictionary (Krapft 1882) defines "*baraza*" as follows: "a stone seat or bench table, either outside of the house or in the hall, where the master sits in public and receives his friends; hence the public audience held by the Sultan and the council then held; meeting of a council."¹³ This word has continuously been used to mean meeting place, or rather council meeting. In colonial days, it was a place where a village elder or an administrative officer could hold a meeting. Through "*barazas*" the natives could be addressed, and they could also air their views. The "*barazas*" were like the Greeks' "*agoras*". "*Barazas*" also served for settling the local disputes. People in "*barazas*" used the local languages to communicate among themselves. These "*barazas*" later on grew and became forums for challenging the government and its style of administration, with people fighting for an alternative form of

¹² Ndege, P. (2009) *Colonialism and its legacies in Kenya*. Available at «<https://student.cc.uoc.gr/uploadFiles/181-%CE%91%CE%9D%CE%91%CE%9A375/Colonialism-and-Its-Legacies.pdf>» (Consult. 12 May 2016).

¹³ Haugerud, A. (1993) *The Culture of Politics in Modern Kenya*, Cambridge: Cambridge University, p. 61.

government. In the 1990, there was an increased struggle for democracy in Kenya, with rising political tensions. The most audible 1990s calls for democracy at this time did not go beyond rhetoric attacking corruption and promoting accountability and economic efficiency.¹⁴ The multiparty advocates considered fight for democracy as - a fight for the “second liberation.” In 1992, president Moi - bowed down to international and domestic pressure and began to create space for opposition parties, allowing them to hold their rallies. There was a large political gathering organized by Forum for the Restoration of Democracy (FORD) at Nairobi’s Kamkunji grounds in January 1992, where Jaramogi Odinga condemned “Nyayo” era, and many people who were present at the rally showed that there was thirst for change. Later on, Moi tried to tame these gatherings through delays of permits, cancellations or even denial of permits to hold the gatherings. Politicians then resolved to other tactics; for example, attending to traditional funerals where they carried out their political campaigns.

The first multiparty elections were held on 29th December, 1992, where Moi won with only 36 percent of total vote. This led to suffering, especially in areas that voted for the opposition, as Moi retaliated by withholding national development resources. He served only “his people”, those who campaigned and voted for him. Employing divide and rule technique by even enticing some opposition members with ministerial posts for them to join the government. The opposition politicians were harassed by the government and were not allowed to hold public rallies. They then opted for funeral gatherings, as a way of reaching and addressing the people. Still today, many politicians take advantage of funerals where they participate to meet the local people and pass their political messages. In some cases, political intolerance and chaos have been witnessed in the funeral politics, but many politicians have still opted to this method. Senator of Kakamega, Boni Khalwale said during Madaraka Day celebrations at Bukhungu Stadium in Kakamega last year that he is not going to stop addressing residents in funerals. This was after an earlier request by the governor of Kakamega, Wicliffe Oparanya, who had said that politicians should stop turning funerals into political rallies. Khalwale in a quick response said, "I use funerals and rallies to reach out to people on development issues."¹⁵ Politicians have turned funerals into Kenya’s biggest political rallies, especially when the dead is a politician, or a family member to a politician. Some of these funerals even get a live TV coverage, and for this reason political leaders do not want to lose the opportunity. Some go to an extent of attacking others during funerals.

¹⁴ Haugerud, A. (1993) *The Culture of Politics in Modern Kenya*, Cambridge: Cambridge University, p. 19.

¹⁵ Standard Digital, 2nd June 2015. Available at «<http://www.standardmedia.co.ke/article/2000164284/stop-turning-funerals-into-political-rallies-says-governor-oparanya>» (Consult. 20 May 2016).

President Moi employed several tactics to remain in power for 24 years. He is the longest serving president in Kenyan history, holding presidential duties from 1978 to 2002. He took power after the death of the first president, Jomo Kenyatta. He was the vice president of Kenya when Kenyatta died. Moi had to surrender power in 2002 due to term limit imposed by the Kenyan constitution. He had completed his two term limits, counting from 1992, when the first multi-party elections were held in Kenya. According to the Kenyan constitution a president is elected for a five-year term by the people and can only serve two mandates. It has been a long struggle to reach at this level, with civil organizations, social movements, church leaders, political parties and international community mounting pressure to Moi to give room for democracy. Kenya African National Union (KANU) that had been in power for four decades, that is, since Independence, was defeated in 2002 general elections, ushering a new era in Kenyan politics, with various groups campaigning for serious constitutional changes and creation of better institutions of governance. After 2002 general elections, there were elections on 27th December 2007, where Kenyans elected the president, members of parliament and local councillors. The presidential elections were a two horse race between Mwai Kibaki, of a Party of National Unity (PNU) and Raila Odinga, leader of the Orange Democratic Movement (ODM). It is true that media also played a big role in these campaigns by covering the activities of these two candidates and leaving the others in the darkness. One who visited Kenya during campaign period could easily think that there were only two candidates; Kibaki and Raila. This was not the case as - the Electoral Commission of Kenya (ECK) had cleared nine candidates to run for the presidency:

1. Joseph Karani, Kenya Patriotic Trust Party
2. Mwai Kibaki, PNU
3. Nixon Kukubo, Republican Party of Kenya
4. Kenneth Matiba, Saba Saba Asili
5. Pius Muiro, Kenya People's Party
6. Kalonzo Musyoka, ODM-K
7. David Waweru Ngethe, Chama Cha Uma
8. Raila Odinga, ODM
9. Nazlin Umar, Workers Congress Party of Kenya

Reports from a media monitoring initiative by the United Nations Development Program (UNDP) 2007 Elections Assistance Program indicated that some media houses accorded certain parties more coverage than others. In fact, Raila Odinga and President Kibaki received the most air coverage on most of the radio stations. Vernacular radio stations provided more coverage to the parties with a perceived following among their listeners (broadcast languages in parentheses): Egessa (Kisii), Kass (Kalenjin), Mulembe (Luhya), and Ramogi (Luo) gave more coverage to ODM than other parties. Musyi FM (Kamba) covered more of ODM-K, while Inooro and Kameme (Kikuyu) provided more coverage to PNU than other parties.¹⁶

These elections were marked by tribal hostility and post-election violence in which over 1,300 lives were lost and some 600,000 Kenyans were displaced from their homes. Many pointed fingers at the media houses for having done very little to avert the bloodshed. In fact, Kass FM presenter Joshua Arap Sang was accused of having contributed to the violence that occurred. He was facing crimes against humanity charges at the International Criminal Court (ICC) over the 2007/2008 post-election violence. The judges of the court then decided to terminate the case against him and the Kenya's deputy president on 5th April 2016 for lack of sufficient evidence.

On 4th March 2013, Kenyans went back to the ballot to change the destiny of the nation. This was the first elections under a new constitution that had been promulgated on 27th August 2010. The new constitution replaced the independence constitution of 1963. With the new constitution considered by constitutionalists as one of the best in Africa, voters for the first time had to vote for six positions unlike in the past where they only elected the President, Member of Parliament and the Councillor. Kenyans also had to elect; governors, senators and women representatives on the same day. The 2013 elections brought together many challenges, but there were no serious cases of violence, and many international observers considered the process as free and fair. Independent Electoral and Boundaries Commission (IEBC) had problems in the tallying process due to technological failure of the data transmission system, making them to turn back to manual tallying system. IEBC declared Uhuru Kenyatta as a duly elected president, having received over 50 percent of the votes cast. His closest rival, Raila Odinga who had about 43 percent of the votes cast did not

¹⁶Election Observation Mission Final Report, *Kenya Presidential, Parliamentary and Local Elections December 27, 2007*. Available at «<http://www.iri.org/sites/default/files/Kenya's%202007%20Presidential,%20Parliamentary%20and%20Local%20Elections.pdf>» (Consult. 7 April 2016).

accept the results, saying that the IEBC had failed to conduct a credible election. On 31st March 2013, the Supreme Court of Kenya declared that the 4th March 2016 election was free, fair and credible. According to the court, the reversion to manual tallying method did not compromise the integrity of the process. Raila accepted the court ruling and occupied the seat of the leader of the opposition, waiting for the next elections to be held in the year 2017.

2.2. ETHNICITY IN KENYAN POLITICS

Kenya's political system has been characterized by ethnicity. This is one of the main obstacles in the struggle for democracy. An ethnic group - is a group of people or a community that shares a cultural tradition, language and social practices. People from the same ethnic group have got common ancestral, social, cultural, or national experiences. They also have common interests. Collective interests in this case include - political interests. The terms “ethnic group” and “tribe” in many cases are used interchangeably, but the term tribe has a more negative connotation. Therefore, we prefer to use the word ethnicity instead of ‘tribe’ and ethnic politics instead of ‘tribalism’.

“Ethnicity is increasingly used as an analytic category for social and economic problems. Although we hear relatively little – at least little that is taken seriously – that uses race or genetics to explain group and political differences, it is not uncommon for “ethnicity” to be invoked as a legitimate reason, explanation, or cause of behaviour.”¹⁷ For this reason it is better to understand how ethnic factor influences Kenya’s politics. Judging by the results of the elections that have been conducted in Kenya, especially the last general elections, it has become clear that even though media coverage is very important, it is not a key determinant of electoral choices in the country. Even political ideology is not a key determinant factor. A key determinant is ethnic background.

Kenya has around 42 separate ethnic groups. Some ethnic groups like “Mijikenda”, “Abaluyia” and “Kalenjin” are further sub-divided according to geographical and cultural differences. According to the last population census; carried out in 2009, the largest ethnic communities are; Kikuyu 22%, Luhya 14%, Luo 13%, Kalenjin 12%, Kamba 11%, Kisii 6% and Meru which comprises of 6% of the population of Kenya. Politics in post-independent

¹⁷ Ellis, D.G. (1999) *Crafting Society. Ethnicity, Class and Communication Theory*, London: Lawrence Erlbaum Associates, p. 142.

Kenya has been dominated a lot by these main tribes; especially by the Kikuyus, Luos and the Kalenjins.

To understand the origin of these ethnic divisions, we cannot forget the impact of colonial roots in the Kenyan society, especially the political organizations that were created based on locations and districts. The districts were like the ethnic units. Politically defined units were based on territory, culture and language. When Kenya obtained its independence in 1963, Kenya's first president Jomo Kenyatta (from the Kikuyu tribe) and his Vice President Jaramogi Oginga Odinga (Luo) adopted an 'ethnically-driven-politics' to defeat a party of small tribes, not giving room to a strong opposition.

Kenya's political processes are still being shaped by this groupings and how various leaders from different regions manage to interact and create alliances, with tribal kingpins negotiating on behalf of others, and dividing the government posts among themselves. This has been the trend for many years, and it became even clearer with the re-introduction of multipartyism in the country. "In Kenya, there is a symbiotic relationship between ethnicity and class in the national political arena. This explains why population, ethnicity and politics are intertwined in the country, and why these three issues give character to Kenya's districts and provinces."¹⁸ Back in early 1990s official rhetoric both portrayed multiparty advocates as "tribalists", and argued that tribalism made Kenya unsuited to a multiparty political system.¹⁹ Ethnicity in Kenya's politics became very open in the way in which political parties were formed when multiparty politics re-emerged. In 1992, the original FORD (Forum for the Restoration of democracy) split into two separate parties, FORD – Asili, meaning the original FORD and FORD – Kenya. The party also split into other parties such as the Kenya National Congress, Kenya Social Congress, and Kenya National Democratic Alliance. FORD – Asili and the Democratic Party benefited from the largely Gikuyu votes in central province. Moi benefited a lot from a divided opposition, with the multiplication of the opposition parties along ethnic backgrounds. Due to a divided opposition, along ethnic lines, Moi won in the presidential elections with only 36.9 percent of the votes cast against a combined opposition, which managed 63.1 percent. Each and every opposition candidate got most of the votes from his home region or rather from his tribesmen. KANU won with 100 parliamentarians against a combined opposition which had 88 seats.

¹⁸ Oucho, J.O. (2002) *Undercurrents of Ethnic Conflict in Kenya*, Leiden: Brill, p. 63.

¹⁹ Haugerud, A. (1993) *The Culture of Politics in Modern Kenya*, Cambridge: Cambridge University, p. 39.

2.2.1. Results of the 1992 Presidential Elections

Table 1

Candidate and Party	No. of Votes	% of Votes
Daniel Arap Moi KANU	1,964,867	36.8
Kenneth Matiba Ford-Asili	1,430,627	26.8
Mwai Kibaki Democratic Party	1,064,700	20.0
Jaramogi Oginga Odinga Ford-Kenya	944,564	17.7
Others	43,037	0.8

2.2.2. Results of the 1992 Parliamentary Elections

Table 2

Party	Seats	% of Votes
KANU	100	30.4
Ford-Asili	31	24
Ford-Kenya	31	20.7
DP	23	21.8
KNC	1	1.7
PICK	1	1
KSC	1	0.4
Others	0	0

Source: ECK Elections Report 1992

In the 1997 general elections, almost the same results were repeated. Moi secured a victory with 40 per cent of the votes cast, against 60 per cent from the opposition that was again divided along ethnic lines. Moi's KANU was dominated by the Kalenjins and a mixture of small ethnic groups. DP was dominated by the Kikuyu's, NDP by the Luos, FORD – Kenya by the Luhya and SDP had a dominance of the Kamba tribe.

2.2.3. Results of the 1997 Presidential Election

Table 3

Candidate and Party	No. of Votes	% of Votes
Daniel Arap Moi (KANU)	2,500,856	40.51
Mwai Kibaki (DP)	1,911,472	30.97
Raila Odinga (NDP)	667,886	10.82
Michael Wamalwa (FORD-K)	505,704	8.19
Charity Ngilu (SDP)	488,600	7.91
Martin Shikuku (FORD- A)	36,512	0.59
Katama Mkangi (KNC)	23,554	0.38
George Anyona (KSC)	16,428	0.27
Kimani Wanyoike (FORD-P)	8,306	0.13
Koigi wa Wamwere (KENDA)	7,745	0.13

Munyua Waiyaki(UPPK)	6,194	0.10
Godfrey Mwereria(GAP)	4,627	0.07
Wangari Maathai (LPK)	4,196	0.07
Stephen Oludhe (EIC)	3,691	0.06
Joseph Kangethe (UPPK)	3,584	0.06

Source: ECK Elections Report 1997

In 2002 various political leaders tried to show that they were united, regardless of their ethnic backgrounds, and joined forces to remove KANU regime from power. Having been beaten twice in 1992 and 1997 even as they cumulatively got more votes, the opposition United into the National Alliance Rainbow Coalition (NARC) and rallied behind one presidential candidate resulting in a major victory over the incumbent party.²⁰

2.2.4. Results of the 2002 Presidential Election

Table 4

Candidate	Party	Votes
Mwai Kibaki	NARC	3,636,783
Uhuru Kenyatta	KANU	1,837,479
Simion Nyachae	FORD-People	362,668
James Orengo	SDP	24,340
Waweru Ng'ethe	Chama Cha Umma	9,941

Source: ECK Elections Report 1997

²⁰ Murunga, G. & Shadrack W. N. (2007) *Kenya: The Struggle for Democracy*, London: Zed Books Ltd, p. 46.

One of the key pillars of the NARC programme that created unity and led to victory in 2002 elections, was a Memorandum of Understanding (MoU) signed before the elections by the main leaders, agreeing to conclude the constitutional reform process that started in 2001. In this pre-election pact, the leaders had also agreed to share powers among themselves, and re-introduce the position of Prime Minister with executive powers after reducing the powers of the president, and Raila Odinga was the one to occupy the position of the Prime Minister. Division in the coalition started when president Kibaki failed to honour the MoU. He continued with the centralised system of government and a powerful presidency which he inherited from the government of Moi.

Even though most of the Kenya's tribes voted for Kibaki, there were also ethnic games involved. Alliance's top organ, the Summit, was a multi-ethnic coalition of politicians. All the main leaders and tribal kings who formed the NARC alliance; Mwai Kibaki, Raila Odinga, Kijana Wamalwa, Charity Ngilu, Kipruto Arap kirwa, Kalonzo Musyoka, George Saitoti and Moody Awori had personal interests. These leaders were waiting for big posts in the NARC government. They managed to influence their ethnic groups to vote for Kibaki, but later on, failed to work together, blaming president Kibaki for not honouring the Memorandum of Understanding (MoU), or rather, not awarding the ministerial posts according to the agreement.

“When two bulls fight, it is the grass that suffers,” African proverb. Those who suffer a lot from the ethnic politics in Kenya are the *hoi polloi*, and not the mighty ones. As President Obama noted, during his visit to Kenya in July 2015, “old tribal divisions and ethnic divisions can still be stirred up. I want to be very clear here - a politics that's based solely on tribe and ethnicity is a politics that's doomed to tear a country apart. It is a failure - a failure of imagination.”²¹

The politicians use the ethnic theory for their own selfish interests. Sometimes, they keep on changing alliances as they wish while eating and laughing together, while their supporters fight on the other side. Many alliances have been formed and many have been broken. This is because the formation of these alliances is neither based on ideology nor on issues. They are influenced by personal and tribal interests. In some instances even those who

²¹ The White House, Office of the Press, *Remarks by President Obama to the Kenyan people*, Nairobi, Kenya, July 26, 2015. Available at <https://www.whitehouse.gov/the-press-office/2015/07/26/remarks-president-obama-kenyan-people>

have been enemies, or with different ideologies, come together in order to ascend to power through ethnic arithmetic. In the tables below we are going to see how politicians have formed various alliances in the last three general elections held in Kenya, shifting from one team to another. Whoever manages to unite with many tribal kings win the game. Concentration is always on the major tribes in order to get many votes.

2.3. MAIN ALLIANCES IN THE LAST ELECTIONS

2002 General Elections

Table 5

Presidential Candidate	M. Kibaki (Kikuyu)	U. Kenyatta (Kikuyu)	S. Nyachae (Kisii)
Party	NARC	KANU	FORD–People
Influential Politicians	R. Odinga (Luo)	M. Mudavadi (Luhya)	
	K. Musyoka (Kamba)	W. Ruto (Kalenjin)	
	C. Ngilu (Kamba)		
	K. Wamalwa (Luhya)		
	M. Awori (Luhya)		
	K. Kirwa (Kalenjin)		

Source: various media reports

Mwai Kibaki of the National Rainbow Coalition (NARC) was elected president of Kenya with 3,646,277. Against his main rivals Mr. Kenyatta of KANU with 1,835,890 votes and Mr Nyachae of FORD – People with only 345,152 votes.

2007 General Elections

Table 6

Presidential Candidate	M. Kibaki (Kikuyu)	R. Odinga (Luo)	K. Musyoka (Kamba)
Party	PNU	ODM	ODM - K
Influential politicians	U. Kenyatta (Kikuyu)	M. Mudavadi (Luhya)	J. Ojiambo (Luhya)
	M. Wetangula (Luhya)	W. Ruto (Kalenjin)	S. Poghisio (Pokot)
	S. Nyachae (Kisii)	C. Ngilu (Kamba)	
	G. Moi (Rift Valley)	N. Balala (Coast)	
	M. Awori (Luhya)	A. Duale (N. Eastern)	

Source: various media reports

The December 2007 elections were a two horse race between the incumbent Mwai Kibaki who ran on a Party of National Unity (PNU) and garnered 4,584,721 votes and Raila Odinga of Orange Democratic Movement (ODM) who got 4,352,993 votes. Kalonzo Musyoka of ODM – Kenya managed to get 879,903 votes.

2013 General Elections

Table 7

Presidential Candidate	U. Kenyatta (Kikuyu)	R. Odinga (Luo)	M. Mudavadi (Luhya)
Party	TNA - Party	ODM - Party	UDF - Party
	Jubilee Alliance	CORD Alliance	Amani Coalition
Influential Politicians	W. Ruto (Kalenjin)	K. Musyoka (Kamba)	J. Kioni (Kikuyu)
	A. Duale (North Eastern)	M. Wetangula (Luhya)	
		H. Joho (Mijikenda)	
	C. Ngilu (Kamba)		
	N. Balala (Coast)		

Source: various media reports

Uhuru Kenyatta of The National Alliance (TNA) won the elections with 6,173,433 votes, followed by Raila Odinga of the Orange Democratic Movement (ODM) with 5,340,546 and Musalia Mudavadi of United Democratic Forum Party (UDF) with 483,981 votes. In 2007, ODM was made up of strong representatives from different ethnic communities. In 2013 ODM lost its key political actors to Uhuru's Jubilee Alliance.

Politicians do say that in politics there are no permanent friends or enemies. There are only permanent interests. This is reflected in the coalitions and alliances that have been formed in Kenya. The history of these alliances started before 1992 elections, when Forum for Restoration of Democracy (FORD), was formed. It was then divided since the politicians could not agree to field a single candidate. Many alliances have been formed since 1992. Some of these coalitions were not even expected to take place. Political parties and alliances in Kenya do have some policies or agendas but still the unifying principle has been ethnicity. Party manifestos do have many similarities, which means that what reigns over everything is ethnic self-interest. One of the reasons why the alliances break easily - after the elections and new ones are formed is due to lack of an ideological identity in these parties. The practice of ethnic voting makes it easy to determine to a certain extent each party's strongholds, and even predict the winner of the elections, as one of the political analysts in Kenya, Mutahi Ngunyi, predicted that Jubilee Alliance, headed by Uhuru Kenyatta, was going to win the elections. Kenyan government still carry out development projects and favours depending on who voted for it. "Tribal quotas have been the basis for public service recruitment, school intakes and literally every sphere of public life. This too heightened tribal consciousness, reinforcing the notion that access to public resources is dependent on the proximity of one's tribe to power."²² At an event at the Kenyan coast, president Uhuru told the Waitiki land squatters to their face that they supported the opposition during elections and therefore should not expect assistance from his government. Despite pleas from local leaders including MPs and county governor, the president insisted the squatters even though poor must pay the fee to get full ownership of the land. "*Hamkutupigia kura, mlipigia wale wengine sasa hii 182,000/= lazima mtalipa hata kama ni kwa miaka kumi na mbili,*" the president said.²³ The abuse of political

²² Schmidt, S. & Gichira, K. (2002) *Kenya on the Path Toward Democracy? An interim evaluation*, Nairobi: Konrad Adenauer Foundation, p. 57.

²³ Kenya Today, 9th January 2016. *Uhuru Punished Likoni Squatters for voting Raila*. Available at «<http://www.kenya-today.com/politics/uhuru-punishes-likoni-squatters-for-voting-raila-demands-they-pay-182000-to-get-title-deeds>» (Consult. 28 May 2016).

power in Kenya is the main factor contributing to increased level of ethnic division that is shown during elections and in the formation of political parties and distribution of government positions. Kenyans believe that when their tribesman is elected, it is their ethnic community's turn to benefit from government resources. This has been the trend in all the governments, starting from Jomo Kenyatta to the current president Uhuru Kenyatta.

President Moi and KANU won the 1992 and 1997 general elections because he managed to build ethnic and regional alliances, in order to achieve 25 per cent of votes in at least five provinces of the eight provinces of Kenya, as it was required by the constitution. This requirement changed later, with the 2010 constitution which highlights: "A candidate shall be declared elected as President if the candidate receives more than half of all the votes cast in the election, and at least twenty-five per cent of the votes cast in each of more than half of the counties."²⁴ Failure to attain this, two candidates, who receive the greatest number of votes go back to the ballot box, to achieve the required results. In 2013 elections, politicians formed tribal alliances and mobilised voters in their various regional strongholds in order to reach the constitutional requirements, because no single political party could win the presidential election. The presence of tribal kings in various coalitions that have been formed attract a lot of support from ethnic groups that are represented in the parties.

Former presidential candidate professor James ole Kiyiapi after a long period of silence spoke out to Kenya Television Network (KTN):

"I expected that Kenyans were going to do some introspection. They were going to really do some serious reflections and say okay now we have this new beginning, these are the leaders that are presenting themselves. Let's do something different. Unfortunately, they did what exactly they have been doing since 1963. They allowed again the tribal factor which perpetually is hurting this country to decide and to inform the decision of 2013."²⁵

Kiyiapi comes from a small tribe and is not a tribal king. He had earlier said that for him, the 2013 elections were a referendum on whether Kenyans had moved away from tribalism, but it is very unfortunate that there is no change. "Some of us were able to get a

²⁴ The Constitution of Kenya (2010) Article 138 (4) - Procedure at Presidential Election. Available at « <https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf> » (Consult. 2 April 2016).

²⁵ Standard Digital News, 15th April 2016. Available at « <http://www.standardmedia.co.ke/ktnhome/video/watch/2000106455/former-presidential-candidate-professor-james-ole-kiyiapi-speaks-out> ». (Consult. 15 April 2016)

few votes here and there, but the major voting blocks were on tribal lines.” The professor realized that on election day many Kenyans ditched the issues that affect them for their tribal candidates. People were not concerned about issues even during campaigns. It was all drama. He censured his rivals for allegedly entering into tribal political alliances and sharing key government slots even before winning the polls. The Restore and Build Kenya party leader said he was opposed to the formation of tribal alliances and challenged leaders to embrace democracy and let the people choose their preferred leaders irrespective of the tribe.²⁶ Kiyiapi who is now lecturing at the University of Eldoret was the second last candidate in the elections with only 40,998 votes, which represent 0.33 percent of the total votes cast.

Trying to solve the problem of ethnicity in Kenyan politics and public service, the new constitution on Article 130 (2) states that: “The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.”²⁷ Public institutions are supposed to represent the face of Kenya’s diverse communities. Community and cultural diversity of Kenya should be reflected, not only at national levels, but also at county assemblies and county executives. No docket should be dominated by members of one ethnic community, in a county like Nairobi where all the ethnic communities are present.

This is already a step forward but still a lot needs to be done, because there are many ethnic games being carried out along the corridors of power. Will it be the Kenyan media to help solve the ethnic problem in Kenya? Are vernacular broadcasts encouraging more ethnicity in Kenyan politics, instead of providing a solution?

2.4. A GLIMPSE OF THE KENYAN MEDIA

An understanding of democracy in Kenya is not possible without having an overview about the Kenyan media system, state of the media industry and the role played by the media. Kenyan media have grown considerably and contributed as an agent of change, but there is still a long journey to make in order to have a strong and a responsible media. With the slight evolution of the Kenyan media since independence, political debates were a distance dream under the *de facto* or the *de jure* one party rule under the former Presidents Kenyatta and Moi. Even though the media in Kenya has had it better and have been less repressed than in

²⁶ Daily Nation, 4th December 2012.

²⁷ The Constitution of Kenya (2010) *Principles and Structure of the National Executive*, Article 130(2). Available at « <https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf> » (Consult. 2 April 2016)

most African countries, it was only until the end of the Moi's regime in 2002 that it became open to criticize the government.²⁸ Media in Kenya still remains the main source of information, and its role as a forum for public discussion and debate has always been recognized by politicians and Kenyans. This is why some politicians like Moi, Uhuru Kenyatta, Kenneth Matiba and many others, tried by all means to have some influence on the media companies, through ownership of the media groups or by funding. The former prime-minister of Kenya, Raila Odinga has also benefited a lot from the media. Still targeting 2017 elections, CORD leader, Mr. Odinga, has started an extensive and aggressive media campaign in order to consolidate his support base and to reach out to potential supporters and to engage with them. Media has been seen as a principal indicator of Kenya's democratic strength since it has been at the forefront in the struggle for multiparty democracy.

Media is considered by Kenyans as a watchdog, and guardian of the public interest. Opinion polls have been carried out in Kenya to identify the most trusted institutions and media is always at the top. The opinion polls conducted by the Infotrak Research Consulting Firm, showed that people have trust in media. Opinion poll conducted in the year 2015 found out that an overwhelming majority of Kenyans had a total faith in the media. According to the same survey, 83% of Kenyans had faith in the media and were satisfied with the watchdog role played by journalists. The survey conducted by Infotrak Research and Consulting in the month of March 2016 still confirmed that media enjoys the highest trust level from Kenyans, while Ethics and Anti-Corruption Commission (EACC) is the least trusted institution. Even though media has always received a good rating, we cannot deny the fact that it has not always lived up to the ideal. The widespread of vernacular and local media in Kenya has had positive and negative consequences.

Kenya has two official languages, Kiswahili and English, but still there is a large percentage of people who can only speak their local languages, especially the old. Those who speak the two official languages also prefer to communicate through their vernacular languages, while at home or with fellow tribesmen. This led to the introduction of vernacular or community-based languages that is mostly used in radio, and considered as one of the most important platforms of interaction and socialisation. "According to the BBC World Trust study, the spread of the TV is just about 37 per cent of the population. The mainstay of the media influence however is the radio. It reaches, according to the same study, nearly 95 per

²⁸ Odinga, C. (2013) *Use of New Media during the Elections*. Available at «<https://www.diva-portal.org/smash/get/diva2:633138/FULLTEXT01.pdf>» (Consult. 16 March 2016).

cent of the population, and in the case of Kenya, it does reach the big chunk of this population via their vernacular language.”²⁹ Kameme which is a station for the Kikuyu, was the first vernacular radio to be set up in 2000. After the foundation of the first vernacular radio, there were discussions that the local stations would create ethnic conflicts. The number of local stations has grown steadily in Kenya.

“Today, there are over 100 vernacular stations. Of these, Royal Media Services (RMS) has the largest comprising 11 radio stations while Kenya Broadcasting (KBC) has 5 stations. According to a BBC World Service Trust report, by 2007, vernacular radio stations constituted 27 per cent of the market share. The mainstream media contributed 33 per cent. Some of these vernacular stations include: Kass FM and Change broadcast in Kalenjin, Kameme, Inooro and Coro in Kikuyu, Ramogi and Lake Victoria FM in Dholuo, Mulembe FM and West FM in Luhya, Mbaitu and Musyi FM in Kamba and Muuga in Meru.”³⁰

Vernacular FM radio target listeners from different ethnic communities, especially major ethnic communities: Kikuyu, Luhya, Luo, Kalenjin and Kamba. Most of these stations were founded for commercial purposes and for entertainment. Their main aim was neither for promotion of development nor for political purposes. This is why they continue being more business oriented. Due to public demand, they have started to focus on popular public debates and talk shows through which many Kenyans express their political feelings.

Radio and television in Kenya used to be a monopoly of the Voice of Kenya, today known as Kenya Broadcasting Corporation (KBC). KBC is still owned by the state and has a countrywide coverage. Most of the times KBC presented positive news about KANU and negative news on the opposition. Moi and KANU had a bigger coverage than the opposition. I remember those olden days when a photograph of president Moi would remain on the screen for almost 10 minutes, at the beginning of the news at night. The news began: “Today His Excellency President Daniel Toroitich Arap Moi said... or did...” then a story lasting about 5 to 10 minutes could be presented only about the president. The opposition was rarely mentioned even during campaign period. There was no equal coverage of the events.

²⁹ Obonyo, L. & Erneo N. (2011) *The Kenyan Media Scene. Journalists and the Rule of Law*. Available at «http://www.kas.de/wf/doc/kas_22570-1522-2-30.pdf?110418095802» (Consult. 2 May 2016).

³⁰ Media Council of Kenya (2015) *Ethics in Ethnic media. The Radio Landscape in Kenya*. Available at «<http://www.mediacouncil.or.ke/en/mck/jdownloads/MEDIA%20MONITORING%20REPORTS/Ethics%20in%20ethnic%20media.pdf>» (consult. 16 March 2016).

Currently KBC faces a lot of competition from the private sector. The main private media houses in Kenya are the Nation Group owning a television station, three newspapers and an FM radio station; the Standard Group which has a television station and a newspaper; and the Royal Media which owns a television station, a newspaper and several vernacular FM stations. The four leading television channels in Kenya are owned by different media groups. Citizen TV owned by Royal Media, a Kenyan multimedia house; Nation TV (NTV) belongs to Nation Media Group, KBC, is owned by the government. And KTN is owned by the Standard Group. The largest private national broadcaster Royal Media services, has a countrywide coverage and broadcasts in English, Swahili and various vernacular languages. Dominating the press today are three English-language dailies – the Daily Nation, the East African Standard, and the Kenya Times – and a Swahili language daily, Taifa Leo. Recently, a fourth English language daily, The People has become a serious player in the Market, appearing under the banner “Fair, Frank, Fearless”.

For many years the East African Standard and the Daily Nation were the only papers in Nairobi.³¹ Their journalists and editors faced harassment and detentions when being critical to the government. The ruling party then started Kenya Times in order to spread its party news and agenda. There are also international media organisations which play a very important role in Kenya. The international broadcasters, particularly Al Jazeera, CNN and the BBC World Service/BBC World are also available in Kenya. On paper, the country has a very vibrant and diverse media: 140 radio stations spread across the country, 67 TV stations are on air following the migration from analogue to digital, four daily newspapers and nearly 100 periodic publications. With nearly 100 bloggers, the online space is also very active. We currently have 120 media training institutions and nearly 2700 journalists accredited by the Media Council of Kenya.³² Media Council of Kenya (MCK) is an independent and national institution that regulates the media and the conduct of journalists in Kenya. It was established by the Media Act, 2007 to safeguard media freedom, enhance professionalism and arbitrate media disputes. Since then there have been many changes and improvements in the Kenyan media, and the Kenyan society, with media working hard to adapt to several political, constitutional, economic and social changes.

³¹ Sobania, N. (2003) *Culture and Customs of Kenya*, London: Greenwood Press, p. 80.

³² Standard Digital News. Available at «<http://www.standardmedia.co.ke/article/2000200527/not-yet-uhuru-for-the-media>» (Consult. 8 May 2016)

2.5. MEDIA AND 2013 GENERAL ELECTIONS

The new constitution (2010) created many changes on representation of the people. These changes had to be implemented in the 2013 elections and afterwards. This means that media had a greater responsibility of informing and educating people about the changes that were made, for them to make right choices for the country's future. Media had to be more responsible in order not to fuel tension among various ethnic groups as it happened after 2007 general elections. Consulting editor of the magazine Media Observer, Gathenya Njaramba, said that despite the technical challenges that were faced during the elections and delays in announcing the results, many believe that media acted responsibly. They feel by being extra careful they helped the nation oversee a delicate transition of power and thawed feelings of anger, frustrations and huge disappointment, which usually burn a country.³³ The editors tried to be less sensational by avoiding provocative headlines that could create tension in the country. In 2007, media used some provocative headlines and was criticized for having contributed in promoting negative ethnicity and airing pictures that fuelled violence. To avoid repeat of the same problems in the last general elections, many precautions were taken, with headlines constantly reminding people the need to be calm and to maintain peace. Almost all radio stations campaigned for peace playing songs that show the importance of patriotism and ethnic unity.

The Media Council of Kenya played a big role as the country was preparing for the elections. This independent national institution established for the regulation of media, and regulation of the conduct and discipline of journalists, gave guidelines to media professionals on how they were supposed to cover the events. They trained journalists on how to carry out reports that are sensitive to conflicts, in order not to encourage premature celebrations that could later lead to conflicts. Media houses were warned to be careful in announcing the results without verification. They were to obtain election results exclusively from the IEBC as the official source. Media companies tried to be objective and neutral in their reports, and not to show direct support to specific candidates. Unfortunately, this was not achieved because some journalists and media owners supported some candidates. Many did it secretly but some declared their support publicly, expecting to benefit after the elections when their candidates won. For example, the Royal Media Group, owner of Citizen Radio and television and over ten vernacular stations, declared its support for Raila Odinga and Kalonzo

³³ Njaramba, G. (2013) *“Media on the other side as scribes self-evaluate coverage of March Elections”* in The Media Observer, April – June, p. 4.

Musyoka's Cord Alliance. Cord Alliance even went to the extent of naming Mr Macharia as a member of the CORD Summit - a main decision making organ for the coalition. After this, Citizen TV crew experienced a hostile reception from supporters of other political parties, as they felt that this TV was biased. And in fact, it was, by declaring publicly its support for the CORD coalition. As the struggle continued, UDF supporters clashed with Mediamax and Citizen journalists, while holding a press conference at their party headquarters in Nairobi. They claimed that the two stations were affiliated to Jubilee and CORD respectively, and had nothing new to offer to Kenyans, since they were defending some individuals' interests. Complaints were also raised by smaller parties that media stations focused attention more on Jubilee and CORD which were the main coalitions.

Some people also had a different opinion about the role played by media in the last general elections held on 4th March 2013. The critics of the media said that media did not act responsibly, because, while it is the duty of the media to provide accurate information to citizens, it failed to do so during the elections. The media turned pacifist. Some have even accused it of usurping the traditional role of the Church in enthusiastically jumping into peace campaigns while abdicating its watchdog mandate.³⁴ Mr Alex Chamwada, an associate editor at Citizen TV and specialist in political reporting, noted that some feel that media preached peace too much at the expense of justice. Many TV and radio stations such as Citizen Radio entertained listeners with music and calls for peace instead of addressing relevant issues about the elections.

Among the critics of the media's performance was, Henry Maina one of the experts involved in the defence of freedom of expression in Kenya. He argued that media failed Kenyans in some critical aspects. He explained: "the chairman of IEBC came out after a day or so to tell us that the constitution gives him 6 more days to announce the results, but we did not remind him that he had voluntarily told Kenyans he would announce results in 48 hours. What had failed? As a manager was he telling us that his planning was not up to bit?" He added, "Where was this question to ask in deed?" Media failed to demand serious answers about the efficiency of the whole electoral system. "What journalists did in relaying a peace message was okay, but if peace messages supplanted news, if peace messages tended to be used to cover up a slot where there would have been a controversial question, asking the

³⁴ Gachuhi, R. (2013) *"Media embraced peace drive, turned blind eye to core role"* in The Media Observer, April – June, p. 20.

competence of IEBC, asking the process of manipulating the voting or the tallying process then that could be a very big risk we got ourselves in.”³⁵ Mr Maina said.

Journalists such as David Ohito (vice Chairman, Editors Guild), Kathryn Omwando of KTN and Martin Mutua of The Standard responded that journalists did their best and gave out all the information that was necessary. The media did not deprive Kenyans of what they needed to know. Mr. Mutua said, “if we could have gone the same way, we covered elections last time, probably we would have seen more emotions coming out, and probably we would have had negative reactions in terms of appealing to the emotions of the people.” Responding to the criticism from the opposition politicians like Mr. Raila Odinga, who had earlier said that there was a conspiracy by the local media to completely give black out to any complains by the contestants, Mr. David Ohito explained, “some of the things we did not air are pretty bad and even if we air them today. They will have instant impact on the society. They will inflame ethnic tensions and even put people on street to riot.”³⁶

The chairman and Independent Electoral and Boundaries Commission (IEBC) only addressed the public on some selected issues and did not answer the questions that the opposition and some citizens wanted to know. It was very difficult to reach the commissioners due to a heavy security that surrounded them. Many felt that the media could have played its role better and could have tried to reach IEBC officials and ask them to give clear answers to the public without fear.

Before declaring Mr. Kenyatta a winner, the chairman of the IEBC, Issack Hassan congratulated the Kenyan media for having done a good work. President Uhuru Kenyatta and his deputy, William Ruto also applauded the media on their inauguration. But journalists need to ask themselves if they were worth all the praise that they received. Can we say that the pat on the back was because they favoured the authority? Or is it because the authority expected some favour from them? As some critics have indicated, I also tend to think that journalists ought to have asked more clarifications about the mistakes that were committed by the electoral body. They ought to have told Kenyans why the Biometric Voter Registration (BVR) kits did not function, and the actual number of voters who voted in the year 2013. In

³⁵ KTN News, 31 March 2003. Available at «<http://www.standardmedia.co.ke/ktn/m/video/2000064734/media-challenges-in-elections-coverage-and-criticism>». (Consult. 15 April 2016)

³⁶ Ibid.

fact, it was not clear to many about the register that was used, due to many contradictions in some polling stations.

Journalists did not play their role perfectly in the last elections, but in comparison to 2007 and other years, there is no doubt that there were improvements. Last elections had many complications and Kenyan media had to take all into consideration. Among these we must consider that voters were called to elect the President, members of the National Assembly and new Senate, as well as County Governors and Representatives. This means that they had to elect six leaders on the same day. There was anxiety and fear of conducting elections after a highly divisive poll in 2007. Then, we must also recall that Jubilee Alliance presented a presidential candidate, Uhuru Kenyatta, and his deputy, William Ruto, who were facing crime charges at the International Criminal Court (ICC). Finally, the confirmation of charges against a journalist of Kass FM, Joshua Sang' at the ICC for crimes against humanity in connection with the 2007/2008 violence also served as a challenge to the Kenyan journalists. Another issue is that election was to be carried out under a new electoral body which also introduced a new technology for conducting the elections.

Media opted for a peace campaign in 2013, because this is what the public was yearning for. It was important to ensure that there was no repeat of the 2007/2008 conflicts. It's true that media failed its central role of democratization, but we cannot deny the fact that it had many challenges to face - especially, those arising from the complexity of the elections and expectations from Kenyans. It was very difficult to campaign for peace and maintain media objectivity. To fulfil all these conditions and face all the challenges, there must be a mature media that informs well on what is happening in the society, and mature citizens that are able to evaluate and make informed choices after being informed. This is the case in countries where media is at an advanced stage such as United States, Britain, France and Germany. These countries have a higher degree of journalistic professionalization and press freedom where the state also creates necessary conditions for media to conduct its role.

Kenyan media still has a long path to undertake. This does not mean duplicating either of the three models set out by Hallin and Mancini (2004), i.e polarized pluralist, democratic corporatist and the North Atlantic or liberal models. To replicate either of these models in Kenya is a task that is almost impossible since the social, economic and political structures are not the same. For example, since there are many vernacular stations in Kenya, with the type of political environment that we have, there should be skilful and careful moderation of political debates in these stations to reduce ethnic animosity. While recognising many good

aspects of Hallin and Mancini's three models, Kenyan journalists should study how journalism has performed its role in developed countries, countries with mature democracies, and see how it can be adapted to improve the Kenyan system. It is evident that this does not depend only on the media fraternity, but it also demands collaboration from all Kenyans: government, politicians, lawyers, businessmen and various stakeholders.

2.6. POLITICAL ANALYSIS AND COMMENTARY IN KENYA

“Representation of electoral campaigns is not done only through news. Commentators and analysts also mark and influence the "tone" of each and every campaign”.³⁷ Commentary is considered as a supplement of news and thus turns into an explanatory journalistic genre and contextualizer of the most outstanding facts of the day.³⁸ It is an interpretation and explanation of actual facts making people to have a better understanding. Political analysis is even more demanding as it requires better understanding of facts. It involves thorough investigation and high level of objectivity. Analysis is more scientific, which is not the case of political commentary; that is based on how one manages to put his facts right and defend them. We are going to use the two terms interchangeably as they are usually used in Kenya. However, in our opinion, serious political analysis is still lacking, and the probability of existence of “real political analysts” is almost zero. The main objective of a political analyst should not be to achieve self-political gain but to help others make decisions, by giving his opinions, hence helping in the formation of public opinion. This is why an analyst should be honest, have a critical mind and pass credibility test for people to believe in what he says.

By political commentary, journalists help citizens to evaluate the qualities of the candidates to participate in the elections, and their possibilities of winning or losing through studying various strategies and tactics that the candidates employ during the campaign period. Journalists and political commentators analyse the reactions of the people and their needs, to judge the outcome and even influence the results of the elections, because a commentary done in a television, radio or newspaper has a capacity for reaching out many people in a short time. During Kenyatta and Moi's regimes there was no open space for

³⁷ Serrano, E. (2006) *Para Compreender O Jornalismo*, Coimbra, MinervaCoimbra, p. 93.

Original Text: (Portuguese) “Mas a representação das campanhas eleitorais não é feita, apenas, através das notícias. Também os comentadores e analistas marcam e influenciam o “tom” de cada campanha.”

³⁸ Lopes, M.C. da Silva (2014) *O espaço 'Opinião' do jornal público – Perfil e Agenda dos Comentadores no início de 2014*. Relatório do Estágio – Mestrado, Lisboa, ESCS, p. 57.

political commentators. Those who played the role of commentators could only defend the government. No criticism was allowed, and it was very risky to do so. Those who spoke openly or criticized the president and the government could either be arrested and tortured, or even assassinated. This was the case of journalists like Otieno Makonyango of the Sunday Standard and Gitobu Imanyara, editor of the Nairobi Law who had to suffer after publishing negative stories about Moi's government. Moi clamped down on free expression and criminalized opposition groups. The commentators became a bit free to express their opinions when Moi left power in 2002. In the last polls, there were many special election programmes that showed candidates, commentators and analysts, breaking down political party manifestos and trying to analyse party programmes and policies. Television analysis was richer and more informative.

There are commentators who are journalists and those who are not journalists. Some are politicians and some are not politicians. In Kenya there are many commentators who are neither journalists nor active politicians, but are regular or occasional commentators and columnists. This group is composed of intellectuals and people who are specialized in various fields like, political Science, social communication, sociology, history, philosophy, law e.t.c. Some of them are also columnists in main newspapers. These intellectuals are usually invited in the media stations to give out their opinions about the situation of the country and political matters. Some of the known political analysts in Kenya today include: Mutahi Ngunyi, Barrack Muluka, Kipkoech Tanui, David Makali, Dr. Adams Oloo, Prof. Makau Mutua and Godwin Murunga.

Mutahi Ngunyi is a political scientist who has taught at the University of Nairobi and other international universities. His main areas of competence include policy research, short term studies, evaluations and strategic reviews. Mutahi is the current CEO of Consult Afrika, a research consortium operating in ten countries of Africa and involved in knowledge management. He is well known for the "Tyranny of Numbers hypothesis".

Barrack Muluka is a publishing editor and a social and political commentator on global affairs. He is a columnist in The Standard and has also published in the local and international publications, including The Nairobi Law monthly and the Daily Nation of Kenya. Muluka is specialized in linguistics, mass communications and armed conflicts and peace studies. He served as a Director of Communications of Kenya's ODM party.

Kipkoech Tanui is a veteran in the media industry. He has served The Standard Media Group in various editorial leadership positions since 2001, including as managing editor weekend editions, Daily edition, The Counties, with the latest position being that of Group Managing Editor for the standard titles. Mr Tanui, who moved from Nation to Standard, is a prolific opinion writer and well known for his weekly column in the Friday Standard.

David Makali graduated in political Science and then studied journalism. He is a media critic, political analyst, reporter and TV talk show host. He served as an editor in various media groups; managing editor of The Nairobi Law Monthly, editor Sunday Standard. Makali also worked as a director of the Media Institute.

Dr. Adams Oloo has lectured in Kenyan and internal universities. He has done research and consulting projects with several firms. Mr Oloo has done many publications on development, politics and institutions in Kenya. Currently, he is a senior lecturer at the department of Political science and Public administration in University of Nairobi.

Prof. Makau Mutua studied Law at the University of Dar es Salaam, and later studied at Harvard University, where he became the Associate Director of the Harvard Law School. Mr Mutua is a lawyer and human rights advocate. In 2003 he became the Chair of the Task Force on the establishment of a Truth, Justice, and Reconciliation Commission which recommended a truth commission for Kenya. Mutua became the leading and most popular columnist for the Sunday Nation. He then joined The Standard where he is a columnist.

Godwin Murunga is the Director of the African leadership Centre and also a Senior Research Fellow at the Institute for Development Studies at the University of Nairobi and Deputy Director of the African Leadership Centre, Nairobi. Murunga is specialized in History, and has widely published in a number of international journals, including Africa Development. He writes a weekly column for the Saturday Nation.

Kenyan media stations do invite politicians and commentators who are active politicians to participate in political debates and give their opinions. In this case party politics always take the centre stage, as each and every politician defends the positions taken by his own party. Those who frequently take part in the political debates include Senators, Members of Parliament and influential figures in Kenyan politics.

There are also some politicians who have received frequent invitations in various media stations, due to the roles that they play in their parties. Within this group we highlight:

Anyang' Nyong'o - Professor of Political Science, Kisumu senator, former secretary general ODM party and Standard columnist;

Billow Kerrow - Mandera County senator, member of United Republican Party of Kenya. Kerrow is also a columnist at The Standard newspaper;

Hassan Omar - Mombasa County Senator, Human Rights Activist and Secretary General - Wiper Democratic Movement – Kenya;

Kithure Kindiki - Senator for Tharaka Nithi County and the leader of majority in the Kenya Senate. Mr Kindiki belongs to The National Alliance (TNA);

Aden Duale - Member of Parliament for Garissa Township and leader of majority in the National Assembly of Kenya;

Raila Odinga - is a famous politician in Kenya. He is opposition leader; CORD coalition leader and former Prime Minister of Kenya (2008-2013).

Kenyan media refer to the first group, composed of specialists such as Mutahi Ngunyi, as political analysts, while the second group composed of politicians are neither called analysts nor commentators, due to the positions that they have in their parties and in the government. Media refer to them using their party positions. They act as commentators and are strong actors in the political field. However, their objective is to achieve political gains and to defend their party's interests. Their main aim is not to help Kenyans make objective political decisions. The commentator is the mediator between the party politics and the public. In this sense, the more the mediator is connoted with the party politics and mind game, the lower his credibility, and his influence, but this does not lower his reputation as an actor on the political stage.³⁹ "Political commentator is the deliverer of the meaning of political things up to the individual level to the group level, at the community level. And this is a very big responsibility."⁴⁰ Political commentary has a big influence on the decision made by the political class. For instance, before the last general elections a political analyst, Mutahi Ngunyi, known for Jubilee tyranny of numbers, predicted that the Jubilee Alliance of Uhuru Kenyatta was going to win the 2013 presidential election in the first round with a majority over the CORD Coalition of Raila Odinga. Ngunyi used electoral demographics and analysed Kenyan voting system, which is based on ethnicity. Even though the opinion polls conducted

³⁹ Alta Autoridade para a Comunicação Social (1995) Colóquio, *o Comentário Político na Comunicação Social*. Lisboa, Alta Autoridade para a Comunicação Social, p. 91.

⁴⁰ Ibid., p. 24.

earlier were favouring Raila's side, Mr Mutahi reasoned that the Jubilee Alliance had a numerical advantage and had high chances of winning the presidential election in the first round. He argued that Mt. Kenya and Rift valley regions which are Jubilee Alliance's strongholds had an ethnic vote of 6.2 Million (or 43.2% of the total vote) while CORD Coalition had Kamba and Luo votes, that was 19.2% of the votes or 2.8 million votes. After this analysis, Mutahi said, "the difference is 4.3 million votes to reach the 50+1 percentage. It therefore means that CORD has to work 4 times more than Jubilee to be able to meet that particular threshold".⁴¹ It was not going to be an easy task for CORD considering that historically Kenyans vote on ethnic lines.

Politicians then used this analysis to strengthen their bases, inviting their supporters to vote in large numbers. And when the results were released, Jubilee carried the day. The Alliance continued to use the same theory in parliament, designated as "tyranny of numbers", showing the opposition that they have majority in the National Assembly and Senate. With this they voted to pass various motions. The same theory of "tyranny of numbers" has been applied in politics and as Kenyans continue preparing for the next elections, some have started predicting who will win. Mr. Mutahi has repeated in several occasions that Raila Odinga cannot win the elections since he does not have numbers. He said on twitter that Ruto will become the president and not Raila. Below is Mutahi's post on twitter.

Mutahi Ngunyi @MutahiNgunyi 12 Dec 2014

Ruto will become president. READ MY LIPS. You cannot stop him. He is the alternative to Raila after 2017. The solution to - Tyranny of Numbers.

As Yash Pal Ghai, a Kenyan academic in constitutional law, noted, "Kenyans are obsessed with politics - and love talking about it, almost all the time. The media are obsessed about politics, devoting most of their coverage to politics and politicians. Nearly 100 per cent of op-ed pieces deal with politics (including, I have to confess, most of mine). There are endless commentaries on the relationship between parties and politicians, especially movement of prominent politicians from one party to another. Most of our politicians have migrated from one party to another, and then another and another. New alliances of

⁴¹ Kenya CitizenTV, 5 February 2013. Available at «https://www.youtube.com/watch?v=977VqPqcQvk&ab_channel=KenyaCitizenTV» (Consult. 15 April 2016).

politicians are formed fairly regularly, as are breakups of alliances. The obsession is surprising because Kenya has no politics; politicians seldom propose or discuss policies, but attack each other fairly constantly on their conduct.”⁴²

There is a culture of too much politics in Kenya and media’s role is inevitable. Media promotes the culture of politics, as many listen to vernacular radio stations every time. Newspapers, radios and televisions always create space for commentaries and ask for the contributions of the commentators especially during the election period. Some of the commentators are even paid and used secretly by the politicians for their selfish interests. Political information always includes commentaries. The commentaries have influence on voters who are undecided, and rely on media to make political choices. It does not have a direct influence on those who are already decided. Political analysis is very important for the politicians who at times use them to evaluate on how to play their cards and influence their supporters to vote. Most of the voters are influenced by the positions taken by their tribal kings and when these leaders switch the parties or alliances, the voters also do the same. In 2010, when Kenyans were to vote for the new constitution, many supporters of Raila Odinga, who was leading the YES campaign team, declared publicly before reading the draft constitution that they were going to vote YES. They said that there was neither need of reading the constitution nor listening to the commentaries. It was not necessary because “baba⁴³”, Raila, had read the draft and said that it was good. Some even went to the social networks saying that they could not contradict what “baba”, had said.

Even though the new constitution creates room for freedom of expression, promoting the role played by the political commentators and journalists to inform the citizens, there has been a lot of control from the Kenyan government. Those who are in power fear the consequences of a free press and a democratic society. Analysts and commentators also have not been objective in their role due to influence from the political class, especially from Kenya’s main political parties tribal kings. This means that there is more of political propaganda in Kenya, and serious political analysis that is fundamental for democracy is still lacking.

⁴² Ghai, Yash Pal (2015) *Kenya: Politics, Kenya Style*. (Internet) Available at «<http://allafrica.com/stories/201507201005.html>» (Consult. 28 March 2016).

⁴³ *Baba* is a name used to refer to the former Prime Minister of Kenya, the current opposition leader and Leader of CORD Alliance, Raila Odinga. Baba means father, especially in Luo and Swahili languages spoken in Kenya. His supporters call him baba as a sign of respect, because he is considered as an important man in Kenyan politics, especially in the struggle for democracy.

PART THREE

3. FREEDOM OF EXPRESSION IN KENYA

“The problem facing Kenya’s media is not an excess of media freedom. It is a lack of it.”⁴⁴ The Kenyan society has changed but many journalists still suffer the consequences of an environment that fears to give room to freedom of expression and freedom of the media. Many journalists have recently been harassed by the police and supporters of some powerful politicians and businessmen. Media houses have been warned not to cover certain stories or individuals: especially those involving in corruption and criminal activities. “Some journalists have been forced to escape from their work places due to threats. Robert Wanyonyi, Osinde Obare Paul Gitau (*The Standard*), Walter Barasa, David Wainaina (*Mediamax*), Mathews Ndanyi (*Radio Africa Group*), Suleiman Mbatia (*Nation*), Vincent Musundi (*Royal Media Services*) and Joel Eshikumu to name just a few, have experienced nasty altercations from criminal goons, political activists or security agencies.”⁴⁵ Threats to journalists and media professionals are still very high in Kenya. Many journalists have been beaten during party primaries and campaign period, and their equipment confiscated by those who claim that they are biased and do not represent their interests in the media. Similarly, many have been banned from attending meetings or campaign initiatives. Some politicians go far as to declare some areas as a no-go zone for certain media stations. Safety and security of journalists in Kenya is a very big concern. This is because, intimidation, harassments and arrest of journalists limits their freedom, and sacking and killing of media practitioners means killing the future of journalism and the struggle for democracy in Kenya.

3.1. FREE JOURNALISM ON TRIAL IN KENYA

Freedom is associated with the lack of interference to ones activities. “Freedom of expression is relevant to every individual and every society. It is often regarded as a fundamental right as its existence helps guarantee other human rights and freedoms. For

⁴⁴ Abdi, J. & Deane, J. (2008) *The Kenyan 2007 elections and their aftermath: The Role of Media and Communication*. Policy Briefing No. 1, BBC World Service Trust, p.2.

⁴⁵ Bwire, V. (2013) “*The Shrinking Space for Journalists in Kenya*” In *The Media Observer*, January - March. Available at

«http://www.mediacouncil.or.ke/jdownloads/MEDIA%20OBSERVER%20MAGAZINE/the_media_observer_magazine_january-march_2013.pdf» (Consult. 20 April 2016).

instance, without it, social justice will not be realised and good governance will be seriously hindered.”⁴⁶

What is this freedom of expression? And what is freedom of media? Freedom of expression extends to freedom of speech, freedom of the press and freedom of opinion or thought. “Press freedom is a special case of the wider claim to freedom of expression, especially in speech. It is differentiated from this by two main features: it always involves public expression; and it involves material forms of production and distribution and the possession or use of property.”⁴⁷ Article 19 of the Universal Declaration of Human Rights, states that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”⁴⁸ Therefore, freedom of the press is the liberty to print or to disseminate information, as in print, by broadcasting, or through electronic media, without control or interference; usually, without government control or censorship. “Press freedom relies heavily on external factors, but independence and professionalism are strictly internal, almost literally sanitary choices for practitioners in the media,”⁴⁹ said Linus Kaikai, chairman of the Kenya Editor’s Guild.

In a democratic system, people rule by choosing their leaders and holding them accountable for their policies and conduct in office. A free media informs the people about what their leaders do, for them to hold them accountable. Freedom of expression forms one of the most important factors in the development of political will and sustenance of democracy. This truth justifies the conclusion that a “democratic and open government cannot exist without freedom of expression.”⁵⁰ Democracy is contrary to dictatorship, and it is for this reason that dictators never give space to free media. They fear being challenged by

⁴⁶ Obonyo, L. & Erneo N. (2011) *Freedom of Expression. Journalists and the Rule of Law*. Available at «http://www.kas.de/wf/doc/kas_22570-1522-2-30.pdf?110418095802» (Consult. 2 May 2016).

⁴⁷ McQuail, D. (2003) *Media Accountability and Freedom of publication*, Oxford: Oxford university press, p. 168.

⁴⁸ *Freedom of Expression*. Available at «<http://www.un.org/en/universal-declaration-human-rights/>» (Consult. 14 June 2016).

⁴⁹ Linus Kaikai, Chairman (KEG) *Speech on World Press Freedom Day, 3 May 2016*. «<http://www.mediacouncil.or.ke/en/mck/images/AJEA2016/speech/LINUS%20KAIKAI%20PRESS%20FREEDOM%20DAY%20SPEECH.pdf>» (Consult. on 14 June 2016).

⁵⁰ Kabudi, P.J. (1995) *Human Rights Jurisprudence in East Africa*, Baden-Baden: Nomos Verlagsgesellschaft, p. 282.

them since this can make them loose their control of the people. No democracy has survived without a free press. And no government of dictatorship can permit a free press.⁵¹

The colonial government never gave room to an African media fearing that a free press would act as an instrument for the fight for political independence. Jomo Kenyatta who became Kenyan president after independence controlled the media for his self-interests and to fight his political opponents. Daniel Moi who was Kenya's second president also succeeded in controlling the media and limiting political freedom. Through legal means, Moi went to an extent of banning foreign media in Kenya. KANU government suppressed media freedom, monopolised airwaves through its Voice of Kenya (now Kenya Broadcasting Corporation) and allowed very few independent media, which could not be reached by many Kenyans. Journalists could neither criticize the government nor carry out serious investigations on corruption cases within the government. Doing this was considered as political sedition. Whoever openly criticized the government faced serious consequences. Many journalists and editors of Daily Nation and Standard Group faced the wrath. The list of journalists and editors who have suffered harassments and reprisals during Moi's regime is long and includes renowned professionals such as Otieno Makonyango, assistant managing editor of the Sunday Standard, Wahome Mutahi of the Sunday Nation newspaper and Gitobu Imanyara, editor of the Nairobi Law Monthly. Many magazines and newspapers were also banned when they published stories presenting the then government negatively. This led to poor standard of journalism in Kenya as the editors were scared to publish some stories.

Foreign journalists suffered as well. There were many restrictions to obtain work permits, including the requirement that they produce letters from their professional associations or labour unions and the embassies of their respective nationalities. For instance, some Norwegian and Swedish journalists were barred from visiting Kenya after reporting human rights abuse of political prisoners in 1987. President Moi had earlier said that the Government would not respond to a request by a group of Swedish and Norwegian journalists to visit Kenya, saying that the reporters had refused an earlier offer he had made to them. "They cannot continue insulting us every day," President Moi said of foreign reporters in his

⁵¹ Traquina, N. (2002) "*Quem vigia o quarto poder?*" In "*Media, Jornalismo e Democracia – Comunicações apresentadas ao seminário Internacional*", Lisboa: Livros Horizonte, p. 117. Original text in portuguese: "Nenhuma democracia sobreviveu sem uma imprensa livre. Nenhuma ditadura pode permitir uma imprensa livre".

speech in Nairobi. He claimed that Norwegian and Swedish newspapers had falsely reported, among other things, that Kenya had jailed 40,000 children.⁵²

The 1991 multi-party democracy was considered to be a “second liberation” with many hopes from the media outlets. This struggle for freedom of expression reached a higher stage in 2002 with the coming to power of President Mwai Kibaki. Kibaki’s NARC government came into power with the objective of carrying out reforms. The reform agenda generated a wave of hope and expectations, particularly among journalists. Unfortunately, it did not live up to the expectations as it failed to enact a new constitution within a hundred days as it had promised. NARC government was involved in many scandals and also started to control the media. In May 2005, First lady Lucy Kibaki stormed the Nation Centre where she confiscated notebooks, pens, cameras and tape recorders from journalists. “Mrs Kibaki had been angered by a story on how she interrupted a party at the home of outgoing World Bank country director Makhtar Diop. She had also demanded the arrest of a reporter who wrote the story. Mrs Kibaki slapped Kenya Television Network cameraman Clifford Derick, who was recording her. At one point, she said that she was protecting the President because he could not protest.”⁵³ The saddest moment of Kibaki government’s relationship with the media was in early 2006, when the state used mercenaries to raid the Standard Media Group offices in Nairobi, assaulting journalists, confiscating computers and other broadcast equipment after burning the following day’s newspapers. This was later justified by the then Internal Security Minister, John Michuki who alleged that the raids on the Standard Group in Nairobi were to protect state security. He said, “if you rattle a snake, you must be prepared to be bitten by it. According to Mr Michuki, the Standard Media had “rattled a snake” and had to face the consequences. “The minister’s admission of the Government knowledge and execution of the raid is a clear indictment of the Government’s involvement.”⁵⁴

Many Kenyans admit that media play a positive role by educating and informing the people, and this is fundamental for the struggle for democracy. However, there is lack of a conducive environment to perform their role, as the government has been too reluctant to create better conditions. The government has been giving mixed signals as far as media freedom is concerned. Sometimes it hails press freedom when the international community is

⁵² The New York Times, 16 September 1987. Available at «<http://www.nytimes.com/1987/09/16/world/kenya-to-examine-reporters-status.html>» (Consult. on 14 May 2016).

⁵³ Daily Nation, 2 May 2005. Available at «<http://www.nation.co.ke/news/-/1056/57698/-/iltcluz/-/index.html>» (Consult. on 14 May 2016).

⁵⁴ “Report on Standard Raid” in The Standard. 25 November 2010, p. 4.

watching, but when it comes to taking a serious action then the government speaks a different story all together.

Who does this freedom of press serve in Kenya? Is it for the citizens or journalists? Many journalists think that freedom of press is to serve their interests, but this is not true. This is a wrong interpretation of the code of conduct of journalists in Kenya, like also in other parts of the world. For example the Canadian Royal Commission on Newspapers (Canada, 1981) opens with the words: “Freedom of the press is not a property right of owners. It is a right of the people.”⁵⁵ The provisions of the *Code of Conduct for the Practice of Journalism* are also very clear in this regard: “The fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest. All sides of the story should be reported, wherever possible. Comments should be obtained from anyone who is mentioned in an unfavourable context.”⁵⁶ Freedom of the press exists in order to protect public interests, and media houses exist in order to serve the people. This truth justifies why greater responsibility is demanded for media operators in all corners of the world. “Whenever it is recognized that an inaccurate, misleading or distorted story has been published or broadcast, it should be corrected promptly.”⁵⁷ Freedom is not like libertinism; where one does whatever he wants and how he wants without respect of established laws or standards. There should be respect of privacy, human dignity and security matters while exercising ones freedom. The International Covenant on Civil and Political Rights (ICCPR) in Article 19 guarantees necessary restrictions for the rights and reputations of others and for the promotion of national security, public order, public health and morals. The African Charter on Human and People’s Rights also is similar to the ICCPR, stating that the right of expression must be “within the law”.⁵⁸ The freedom we are talking about is a “responsible freedom,” that is, freedom to transmit certain messages and not others, after making responsible decisions about what to say or report. Freedom of expression should go hand in hand with

⁵⁵ McQuail, D. (2003) *Media Accountability and Freedom of publication*, Oxford: Oxford University Press, p. 185.

⁵⁶ Media Council of Kenya (2007) *Code of Conduct for the Practice of Journalism in Kenya. Accuracy and Fairness*. Available at «<http://journalism.co.za/wp-content/uploads/code%20of%20conduct%20for%20the%20practice%20of%20journalism%20in%20kenya.pdf>» (Consult. 21 April 2016).

⁵⁷ Media Council of Kenya (2007) *Code of Conduct for the Practice of Journalism in Kenya. Accuracy and Fairness*. Available at «<http://journalism.co.za/wp-content/uploads/code%20of%20conduct%20for%20the%20practice%20of%20journalism%20in%20kenya.pdf>» (Consult. 21 April 2016).

⁵⁸ Trager, R. & Donna L.D. (1999) *Freedom of Expression in the 21st Century*, Thousand Oaks: Pine Forge Press, p.97.

responsibility, whereby the speaker accepts full personal responsibility and is regarded as honest and having integrity of purpose with respect to the intended audience or the public and society at large.⁵⁹ Media houses in Kenya have been associated with political parties, ethnic affiliations and influenced by some leaders; with some reporters acting irresponsibly and supporting leaders on tribal basis.

Kenya is considered as having a free and better press compared to many other African countries. On the other hand, a “true freedom of expression” which is fundamental for any democratic country is still far from being reached. “In Europe, countries have implemented guarantees of press freedom in their constitutions and or judicial systems. However, other factors such as economic influences, historic, cultural and social conditions also have a substantial impact on media independence and on the media’s ability to fulfil their societal functions.”⁶⁰ Media freedom can be achieved if media companies are financially fit, free from state and media owners’ interference, and operate in a competitive environment. Only the last condition has been achieved as there - is a competitive media environment in Kenya. There is no more monopoly in this industry as it used to be during KANU regime. Unfortunately, other conditions that have been mentioned are still lacking. This is why media groups have not lived up to the democratic ideal of the press as watchdog, public forum and promoter of social reforms. Even though the Jubilee government claims to be committed to press freedom, this is not the reality on the ground.

There has been a rocky relationship between the media and the Jubilee administration. The government has made many promises which are yet to be fulfilled. During the official opening of a journalist's convention in Nairobi to commemorate the World Press Freedom Day, Information Cabinet Secretary Joseph Mucheru said that the Government is committed to establishing a favourable environment for the media. The Cabinet Secretary said that the Government would continue promoting a free environment for journalists through policy interventions, as it considers the media a very important partner in driving its development agenda. "We are committed to a consultative and inclusive efforts aimed at creating frameworks and establishing institutions and legal regimes to support the work of an

⁵⁹ McQuail, D. (2003) *“Freedom and Accountability” in Media Accountability and freedom of publication*, Oxford: Oxford university press, p. 181.

⁶⁰ Czepek, A., Melanie H. & Eva N. (2009) *Press Freedom and Pluralism in Europe*, U.K: Intellect Books, p. 9.

independent and professional media," he said.⁶¹ Mr Mucheru added that challenges pitting the government and media can be solved amicably.

Journalists must be free to investigate and to hold those in authority accountable. This is not the case in Kenya as media owners always tend to influence their work, using different resources for this purpose. Poor working conditions also undermine true press freedom in the country. On the other hand, many editors and journalists have experienced a lot of harassments. They have been threatened, arrested, beaten and detained. Some have also disappeared mysteriously. On the commemoration of the World Press Freedom Day in Nairobi, Media Council of Kenya Chief Executive Officer Haron Mwangi complained of intimidation and harassment of journalists, saying that the council had received over 24 cases in the year 2016. "Out of the cases, 14 of the individuals were singled out for speaking or writing uncomfortable truths on corruption", said Dr Mwangi.⁶² Despite all these dangerous limitations, some moves have been undertaken, and major progress has been made. These achievements should not be distanced from the struggle unleashed by some journalists who have courageously questioned the government and fought for press freedom.

However, all progress achieved cannot lead us to ignore the challenges that media in Kenya still encounter due to their big business interests. Thirst for money by owners and editors make them to be easily compromised and less free because they tend to favor those who finance them, or rather their business partners. They are not free since their main intention is to make profits. It is evident that "no one can serve two masters, either you will hate the one and love the other, or you will be devoted to the one and despise the other" (Mathew 6:24). Media cannot serve public interest for information and personal interest for money, at the same time. "The editors form personal friendships to protect their interests – it's not a case of being made a director on a parastatal (state-owned company) or that sort of thing; often it is just a beer and roast meat and maybe an envelope with some money in it for publishing "good stories". So, if a reporter does a hitting story, they kill it."⁶³

KANU government also tried to control the freedom of independent newspapers which they considered as anti-government by killing them economically. They did this by raising printing charges or not accepting to print the magazines considered to be anti-

⁶¹ Standard Digital, 3 May 2016. Available at «<http://www.standardmedia.co.ke/article/2000200539/state-to-promote-media-freedom-information-cs-assures>».

⁶² Ibid.

⁶³ An Africa Watch Report, *Kenya Taking Liberties*, Washington DC: Human Rights watch, 1991, p. 188.

government. They also punished some newspapers and magazines financially by failing to offer them advertisements which were main sources of revenue for media enterprises. The government of Kenya still employs various tactics of the past regimes to control the media and deny them freedom, while blaming the media for the problems that they are facing. There is a blame game going on in Kenya, with the government pointing its fingers at media for not being responsible, and media blaming the government for denying them their right to freedom. Who will help Kenyans to solve this problem of “blame game” in order to have an independent and responsible journalism in the country? Should Kenyans depend only on the new constitution, or Kenyans should invest on other strong and independent institutions such as judiciary and parliament, in order to control the government and media from the abuse of power?

The Constitution provides for the safety and security of all Kenyans, and the protection of freedom of expression. There are also legislations that have been put into place by the Kenyan institutions, as we shall explain better in the next two chapters. However, without any fear of contradiction, we can affirm that free journalism is still on trial. “Kenya Union of Journalists (KUJ) has hit out at the police for reintroducing criminal libel in the country following increased arbitrary arrest of journalists. Reacting to arrest of Standard journalist David Odongo in April 2016, KUJ Secretary General Erick Oduor noted that police have resorted to obsolete section 194 of Penal Code and misuse of Section 29 of the Kenya Information and Communication Act to lock up journalist in police station. Mr Odongo becomes the fifth journalist to face police cruelty and brutality over the past six months despite the Constitution guaranteeing freedom of expression and independence of the media.”⁶⁴

Media practitioners resolve to a practice of self-censorship, in which, they decide not to write a fair, accurate and an unbiased story on matters of public interest for fear of the consequences that may be applied by the “mighty ones” through sanctions to the individual, his family and media platform. Self-censorship could be due to fear of serious direct and indirect actions from those who have been covered or exposed for their negative acts. It could also be due to fear of losing advertising revenue and sponsorship, or rather fear of losing the clients; readers and viewers, who may be influenced to believe that a certain media station is biased and is against a certain party by exposing serious problems committed by a very

⁶⁴ Standard digital, 16 April 2016. Available at «<http://www.standardmedia.co.ke/article/2000198449/kenya-union-of-journalists-kuj-hits-out-at-police-after-odongo-s-arrest>» (Consult. on 16 April 2016).

influential individual or politician. This happens in Kenya as main politicians and tribal kings easily influence their supporters or ethnic groups, making them to believe that they have been victimised. It can be dangerous also when those in authority ridicule the media and do not have respect for them.

In the year 2015, President Uhuru Kenyatta criticized the print media in Kenya saying, newspapers are only good enough for wrapping meat in butcheries. “I no longer read newspapers”. While speaking in Bomet, he rubbished the work done by journalists in the country as only fit for wrapping meat. “*Nitarudia kusema kila siku kwamba gazeti ni ya kufunga nyama* (I will repeat every day that newspapers are meant for wrapping meat),” Mr Uhuru said.⁶⁵ President Kenyatta complained that newspapers published stories that were untrue. He spoke in reference to reports that there was a political conflict in Deputy President William Ruto's Rift Valley backyard. By saying this, he repeated what he had also said two years earlier while addressing the crowd in Chuka town. He had earlier said, “*mimi niliwaambia gazeti ni ya kufunga nyama baada ya siku moja.*” (I told you that newspaper is for wrapping meat after one day). As he said this, his supporters clapped and responded, “Yes!!”⁶⁶ Uhuru alleged that the media was fuelling the crisis in the Jubilee government through consistent reporting on the wrangles between United Republican Party (URP) leaders. URP is the party of the Deputy President of Kenya, William Ruto. It is indeed true that there were wrangles in the party and the media was right, even though the president used harsh words. This could be confirmed through the president’s speech on the same event, when he said, “I agree that there are differences of opinion, but that must not be allowed to divide us. Let us respect each other as leaders because we were elected on the same manifesto.” He explained that the wrangles in URP were undermining the Jubilee government’s development agenda and must end to allow the coalition implement its manifesto.⁶⁷ It is very unfortunate that the supporters of the president and the deputy president went back home believing that the president was right in everything and that media could not be trusted.

There is no big difference between what is happening today and many difficult circumstances that many journalists have underwent. John Gachie observed that:

⁶⁵ Standard Digital, 11 May 2015. Available at «<http://www.standardmedia.co.ke/article/2000161788/uhuru-accuses-media-of-fanning-rivalry-among-urp-leaders>» (Consult. 25 May 2016).

⁶⁶ NTV, 5 December 2013. Available at «https://www.youtube.com/watch?v=_7pv6hEdLYo».

⁶⁷ Standard Digital, 11 May 2015. Available at «http://www.standardmedia.co.ke/article/2000161788/uhuru-turns-heat-on-media-over-ruto-woes/?articleID=2000161788&story_title=uhuru-accuses-media-of-fanning-rivalry-among-urp-leaders&pageNo=1».

“In post-colonial Africa, many local journalists, their editors and owners found that not all in authority really valued freedom of expression and by extension, press freedom nor paid any regard to professionalism in journalism. Many times journalists were asked and expected to pay homage and even loyalty to power and those in authority or risk their personal and collective safety, security and protection and often times with dire consequences. To stem further personal and even at times indirect sanctions against their families and media institutions including career advancement and employment, many journalists resorted to self-censorship to survive”.⁶⁸

Censorship is also a big challenge to the Kenyan media. It involves suppression of content that is considered objectionable, harmful, politically incorrect, sensitive or inconvenient as determined by a government, media outlet or others who control the production of media contents. Dr. George Nyabuga, a senior lecturer at the School of Journalism and Mass Communication of University of Nairobi explained: “Censorship is considered a serious threat to press freedom and democracy given the notion that the rule of law, accountability, transparency and good governance all rely on information and the means through which that can be widely shared”.⁶⁹ Most of the censors in Kenya are carried out neither by the government nor by politicians. They are carried out by the media owners. Media owners have power to control its editorial contents and access to it. Media companies do censorship to avoid the publication of what may cause negative impacts to their economic situations. Some practice self-censorship due to fear of attacks or harassments. In some situations, journalists have full security and freedom but still practice self-censorship to receive economic benefits. This compromises the public’s ability to access objective information. It denies people their right to be informed. Journalists and editors have been very careful not to create more conflicts, due to ethnic tensions that were experienced especially in the last elections. In 2013, during the election period journalists and media entities were too careful in everything they reported and covered. They closed their eyes and focused on preaching peace.

⁶⁸ Gachie, J. (2015) “*Sad State of Affairs as Free Speech at Risk*” In The Media Observer, April-June, p. 11. Available at <http://www.mediacouncil.or.ke/en/mck/images/Observer/MEDIA%20OBSERVER%20JULY%20ISSUE%20.pdf> (Consult. 20 April 2016).

⁶⁴ Nyabuga, G. (2015) “*Why Censorship Pressure isn’t About to Ease*” In the Magazine The Media Observer, April - June. Available at <http://www.mediacouncil.or.ke/en/mck/images/Observer/MEDIA%20OBSERVER%20JULY%20ISSUE%20.pdf> (Consult. 20 April 2016).

As we have already explained, there are many factors that force journalists to engage in self-censorship, but, all journalists and media owners are to fight for freedom of expression and play their role as custodians of information. We can also not deny the fact that media censorship is sometimes positive especially when it is applied by the government to avoid abuses of freedom, and to protect its citizens from selfish, irresponsible and poorly trained journalists and editors. According to Denis McQuail, “freedom of expression needs not to be conceived only in negative terms, with no restraint or limitation, but also positively, where the benefits of freedom are identified and actively promoted, even by governments”. McQuail added that: “where an affirmative view of press freedom is chosen, accountability can be seen as one means of extending access, promoting higher standards, and monitoring performance in the public interest”.⁷⁰

3.2. MEDIA ACT AND MEDIA COUNCIL OF KENYA

The media have shaped and continue to play a central role in the struggle for democracy in Kenya. However, they can only make full use of this potentiality if their rights are protected. Therefore, a safe working environment for journalists is fundamental. Media practitioners are humans and any attack to them creates a climate of fear and self-censorship. The media in Kenya have undergone several constitutional changes. A body that is responsible for self-regulating the media and the conducts and discipline of journalists, the Media Council of Kenya (MCK) was established by the 2007 Media Act. The function of the Council is:

“to mediate or arbitrate in disputes between the government and the media, the public and the media and intra-media; to promote and protect freedom and independence of the media; to promote high professional standards among journalists; to enhance professional collaboration among media practitioners; and to promote ethical standards among journalists and in the media. This independent body is also in charge of ensuring the protection of the rights and privileges of journalists in the performance of their duties; advising the government or the relevant regulatory authority on matters pertaining to professional, education and the training of journalists and other media practitioners; making recommendations on the employment criteria for journalists; upholding and maintaining the ethics and discipline of journalists as set out in this Act and any other relevant law; doing all matters that appertain to the effective

⁷⁰ McQuail, D. (2003) *Media Accountability and Freedom of publication*, Oxford: Oxford university press, p. 171.

implementation of this Act; compiling and maintaining a register of journalists, media enterprises; and conducting an annual review of performance and the general public opinion of the media”.⁷¹

Kibaki’s government created the MCK for two main reasons: to regulate the conduct and discipline of journalists and the media, and to resolve disputes between the media, the government and the public. In order to perform its roles in an objective manner and committed to media freedom and responsible journalism, the Media Act states that the council shall operate without any government, political, commercial or other bias or interference. Media council shall be wholly independent and separate from the government, political parties, organizations and commercial enterprises.

The European Union Election Observation Mission report on the 2007 general elections clarifies that, “A self-regulatory Media Council was established in 2002 as a professional body for the media to receive complaints from members of the public about media coverage and develop standards in the media industry. After a protracted period of disagreement between the media and government over the Media Act, it was passed by parliament in October 2007 and transformed the self-regulatory Media Council into a statutory body. The Media Act introduced statutory provisions for the regulation of standards in the media sector in the form of a legally binding code of conduct.”⁷²

Before the Media Act 2007, the Media Council of Kenya was a self-regulatory body for media stakeholders. It was only after agreements between the government of Kenya and the media that it was converted into a statutory body, in 2007. Council membership is drawn from media stakeholders in Kenya including the Media Owners Association, Kenya Union of Journalists, Kenya Correspondents Association, Kenya Editors Guild, Public Relations Society of Kenya, Kenya News Agency, Private and Public Universities, the Kenya Institute of Mass Communication and the Law Society of Kenya. By establishing the Media Council of Kenya, the Media Act created an independent and credible media in Kenya, after many years of too much control by the government, media owners, politicians and powerful businessmen. Even though MCK led to some independence, government’s influence did not

⁷¹ Laws of Kenya (2007) The Media Act. Revised Edition 2009 (2007). Nairobi: The National Council for Law Reporting. Available at «http://www.mediacouncil.or.ke/jdownloads/Media%20Laws/media_act_2007_and_rules_of_procedure..pdf» (Consult. 25 May 2016).

⁷² European Union Election Observation Mission (2008) *Kenya Final Report General Elections 27 December 2007*. Available at «http://www.eods.eu/library/FR%20KENYA%2003.04.2008_en.pdf» (Consult. 20 May 2016)

cease. It was still viewed as a quasi-government organization because it depended on public funding and the government maintained its control by appointing representatives to the MCK.

Section 23 of the Act provides for the establishment of a Complaints Commission for complaints and dispute resolution. Complaint means: “a breach of the Code of Conduct for the Practice of Journalism set out in the Act for example fairness and accuracy, taste and tone in the publication or non-publication of a news-item or statements; Freedom of the press being threatened or encroached upon through denial of facilities that helps in collection or dissemination of news or through threats, harassment or assault.”⁷³ Complaints Commission helps MCK to perform well its function of upholding and maintaining the ethics and discipline of journalists. Section 23 also explains the composition of the commission; as consisting of five persons who are not members of the council, but are appointed by the Council. These are: “the chairperson, who shall be a person who holds or has held judicial office in Kenya or who is an advocate of the High Court of Kenya of not less than ten years standing; and four other persons possessing experience and expertise in any one of the following areas, that is, journalism, media policy and law, media regulation, business practice and finance, entertainment, education, advertising or related social issues.”⁷⁴ The Complaints Commission’s role is to discipline journalists and media enterprises: “

Any person aggrieved by any publication, or any conduct of a journalist media enterprise or the Council; or anything done against a journalist or media enterprise that limits or interferes with the constitutional freedom of expression of such journalist or media enterprise, may make a written complaint to the Council setting out the grounds for the complaint, nature of the injury or damage suffered and the remedy sought”.⁷⁵

The commission can order journalists and media enterprises to publicly apologise to news subjects they may have offended through publications. For instance, on 28th May 2013, the Complaint Commission, which was chaired by Grace Katasi, ordered the Star Newspaper to retract and apologise over an article it published about President Uhuru Kenyatta. The

⁷³ Association of Media Women in Kenya (2014) *Laws Governing Media Practice in Kenya: A Journalists’ Handbook*. Available at «<http://amwik.org/wp-content/uploads/2014/12/Laws-Governing-Media-in-Kenya.pdf>» (Consult. 19 May 2016).

⁷⁴ Laws of Kenya, The Media Act (2007). Available at «http://www.mediacouncil.or.ke/jdownloads/Media%20Laws/media_act_2007_and_rules_of_procedure..pdf» (Consult. 25 May 2016).

⁷⁵ Laws of Kenya, The Media Act (2007). Available at «http://www.mediacouncil.or.ke/jdownloads/Media%20Laws/media_act_2007_and_rules_of_procedure..pdf» (Consult. 25 May 2016).

ruling arose from a complaint filed by President Kenyatta to the council reporting that an article titled “What if Uhuru, Ruto Win” was not only offensive and biased, but was also in breach of the law on accuracy and fairness. He argued that the newspaper and the writer, failed to maintain the Code of Conduct in breach of Section 35(2) of the Act.⁷⁶ The article was authored by The Star columnist Mr Jerry Okungu and published on 6th February 2012. Uhuru, then a presidential aspirant, took offence with a line in the opinion that compared his possible election to that of Adolf Hitler. The Star and Mr. Okungu, who were the respondents in the case, were reprimanded for vilifying Kenyatta and failing to respect his reputation. According to a news issued by *Capital News*, “The story claimed that if Kenyatta became president it will remind the world of Adolf Hitler in the 1930s when he won a German election in a landslide. Kenyatta complained that the article incited public hatred and incited ethnic hatred besides comparing him to a leader whose reputation is unspeakable. The complainant stated that the publication was deliberate and malicious especially by equating him to Adolf Hitler, a German tyrant ruler famous for causing the 2nd World War and extermination of more than six million people in torture chambers, the commission recalled.”⁷⁷

The second schedule to the Act sets out a Code of conduct for the practice of journalism in Kenya. The Code has 25 Articles consisting of “dos and don’ts” of the media. These include: “accuracy and fairness, Independence, integrity, accountability, opportunity to reply, use of unnamed sources, confidentiality, misrepresentation, obscenity and bad taste, privacy, use of pictures and names, intrusion into grief and shock, protection of children and victims of sexual violence, acts of violence and hate speech. The Code of conduct reinforces the media’s duty to provide information to the public. For instance, on accuracy and fairness, the Act states: the fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest. All sides of the story must be reported, wherever possible. Comments should be obtained from anyone who is mentioned in an unfavourable context”.⁷⁸

⁷⁶ Daily Nation, 28 May 2013. Available at «<http://www.nation.co.ke/News/politics/Apologise-to-Uhuru-Star-newspaper-ordered-/-/1064/1865134/-/cf472jz/-/index.html>» (Consult. 20 May 2016).

⁷⁷ CAPITAL NEWS, 28 May, 2013. Available at «<http://www.capitalfm.co.ke/news/2013/05/star-ordered-to-apologise-to-president-uhuru/>» (Consult. 20 May 2016).

⁷⁸ Laws of Kenya (2007) *The Media Act*. Available at «http://www.mediacouncil.or.ke/jdownloads/Media%20Laws/media_act_2007_and_rules_of_procedure..pdf» (Consult. 20 May 2016).

The Media Act 2007 provided good founded provisions for the practice of journalism in Kenya, which then made some contributions to the new constitution that also permits and creates room for a free and independent media. The constitution on Article 34 (5) indicates that, “parliament shall enact legislation that provides for the establishment of a body, which shall be independent of control by government, political interests or commercial interests; reflect the interests of all sections of the society; and set media standards and regulate and monitor compliance with those standards.”⁷⁹ This was achieved through Media Act 2013, with the reestablishment of the Media Council of Kenya that has many functions, which include: “promotion and protection of the freedom and independence of the media, and promotion of ethical and professional standards amongst journalists and media enterprises.”⁸⁰ In adhering to the established norms, Media Council of Kenya (MCK) has also tried to work with various stakeholders and the IEBC to issue guidelines on media coverage and promote peace journalism in Kenya.

There have also been some setbacks in the whole process of change in the Kenyan media with the government trying to control this regulatory body through recruitment of the chairperson and members of the Media Council of Kenya, and still fighting for power to check the conduct of journalists. Two restrictive laws adopted in late 2013, the Kenya Information and Communication Amendment Act (KICA) and the Media Council Act, created a government-appointed Communication and Multimedia Appeals Tribunal with the power to hear appeals on complaints initially handled by the statutory Media Council of Kenya.⁸¹ This led to legal struggles with Media practitioners moving to court to challenge the draconian media law assented to by President Uhuru Kenyatta, with the intention to control this body. Paul Ogemba, a Court Reporter wrote an article in the *Daily Nation* explaining this act:

“The Kenya Editors Guild, Kenya Union of Journalists and the Kenya Correspondents Association claimed that the Kenya Information and Communication Amendment Act and the Media Council Act 2013 contravene constitutional freedoms of the media and should be declared invalid, null and void. And to safeguard public funds in the event the court finds that the two Acts are unconstitutional, the media practitioners want an

⁷⁹ The Constitution of Kenya (2010) *Freedom of the media*, Article 34. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 19 May 2016).

⁸⁰ Republic of Kenya (2013) Kenya Gazette Supplement Acts. Available at «<http://kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/MediaCouncilAct2013.pdf>» (Consult. 12 June 2016).

⁸¹ *Kenya: Freedom of the Press*. Available at «<https://freedomhouse.org/report/freedom-press/2015/kenya>» (Consult. 19 May 2015).

order stopping recruitment of chairperson and members of the Media Council of Kenya and Communication and Multimedia Appeals Tribunal. The petition was filed through Senior Counsel and Siaya Senator James Orengo who argued that selection and appointment of the members would violate journalists' rights and fundamental freedoms guaranteed by the constitution."⁸²

The regulatory body which was meant to improve journalism in Kenya has gone through many challenges especially from the government. And media players had to go to court to seek Constitutional interpretation of the mandates of the Media Council of Kenya and the Communications Authority of Kenya (CA) created by the government to solve content and media related complaints. "For the past three years, the matters are still in court, and for that reason the council currently has no board or a complaints commission to deal with media complaints. As such, people are going back to seek court interpretation."⁸³

Media regulation has become even more difficult with the increased use of the internet as a source of information. Many Kenyans freely interact through the internet. Several blogs, Facebook pages and many other social networks have been created, attracting a number of readers in Kenya. According to the Freedom House Reports, about 43 percent of Kenyans accessed the internet in 2014, and due to this, Kenya is termed as the leader in usage in East Africa and boasts a thriving online community, including a number of prominent, critical blogs.⁸⁴ Kenyans have embraced mobile internet, and many people living in rural areas use mobile devices as a way of accessing to internet services.

3.3. NEW CONSTITUTION ON MEDIA AND FREEDOM OF EXPRESSION

There have been positive developments in Kenyan media, from the independence constitution to the current one. The Kenyan new constitution opened up freedom of expression and freedom of media, which is now undergoing a difficult stage of implementation and institutional reforms. The new Constitution was approved by a two-thirds majority (67%) and was promulgated on 27th August 2010. Kenya for over 40 years was ruled

⁸² Daily Nation, 22 January 2014. Available at «<http://www.nation.co.ke/news/Media-moves-to-court-to-challenge-new-law/-/1056/2156004/-/3kofk4z/-/index.html>» (Consult. 21 May 2016).

⁸³ Standard Digital News, 4 May 2016. Available at «<http://www.standardmedia.co.ke/article/2000200527/not-yet-uhuru-for-the-media>» (Consult. 15 May 2016).

⁸⁴ Kenya: Freedom of the Press. Available at «<https://freedomhouse.org/report/freedom-press/2015/kenya>». (Consult. 19 May 2015).

under a constitution that empowered the ruling class, denying citizens their democratic rights. This change from the old constitution was a result of many years of struggle and negotiations to review the constitution in order to promote democracy, accountability by the government and protection of human rights.

The independence constitution of Kenya had a framework for freedom of expression on section 79 (1) which states that:

“Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence”.⁸⁵

This provision on the constitution had some limitations as it only provided for freedom to receive information, but did not provide for freedom to seek the ideas, which is essential for journalists, since they have to be informed in order to inform the public. In fact, it omitted the part that mentions “freedom to seek ideas”, in the Universal Declaration of Human rights, Paris 1948, Art. 19. This part is then integrated with the adoption of the new Constitution, in Article 33 (1) which provides for the freedom to seek information. Prior to the promulgation of the 2010 Constitution, Kenyans had no law on access to information.

The constitution guarantees freedom of expression and of the press in Articles 33, 34 and 35. Article 33 states that:

“Every person has the right to freedom of expression, which includes -

- (a) freedom to seek, receive or impart information or ideas;
- (b) freedom of artistic creativity; and
- (c) academic freedom and freedom of scientific research”.⁸⁶

⁸⁵ The constitution of Kenya, 1969 (as Amended to 1997). Available at «http://www.lcil.cam.ac.uk/sites/default/files/LCIL/documents/transitions/Kenya_2_1969_Constitution.pdf» (Consult. 02 April 2016).

⁸⁶ The Constitution of Kenya (2010) *Freedom of expression*, Article 33. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 19 May 2016).

These provisions are complemented with articles 34 and 35 of the Kenyan Constitution.

Article 34 states that:

“Freedom and independence of electronic, print and all other types of media is guaranteed (...) The Article explains further that; the State shall not -

- (a) exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; or
- (b) penalise any person for any opinion or view or the content of any broadcast, publication or dissemination.”⁸⁷

On access to information, the constitution, in Article 35 affirms that:

“Every citizen has the right of access to -

- (a) information held by the State; and
 - (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.
- (2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.
- (3) The State shall publish and publicise any important information affecting the nation.”⁸⁸

In short, the constitution guarantees the right to freedom of expression, which includes freedom to seek, receive or impart information or ideas; independence of the media and the right to access information. It should also be noted that the state is prohibited from interference with editorial decisions in both public as well as private media. The state media is required to be impartial and present a diversity of views. However, this freedom that is guaranteed by the constitution is not absolute. Robert Trager and Donna Dickerson explain, “Even the most liberal philosophers do not support an unlimited freedom of expression.”⁸⁹ When a philosopher John Stuart Mill talks about freedom or liberty, as he uses the two words

⁸⁷ The Constitution of Kenya (2010) Article 34, *Freedom of the media*. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 19 May 2016).

⁸⁸ The Constitution of Kenya (2010) Access to information, Article 35. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 19 May 2016).

⁸⁹ Trager, R & Donna L.D. (1999) *Freedom of Expression in the 21st Century*, Thousand Oaks: Pine Forge Press, p. 101.

synonymously - Mill argues that preventing a person who is “ignorant of the circumstances” from crossing an unsafe bridge is not infringement of his liberty. This is because liberty involves doing what one desires and a normal person does not desire to fall into the river. Absolute freedom of press does not exist - even in USA freedom is limited by the constitution. Article 33(3) creates a balance where every person is required to respect the rights and reputation of others in the exercise of their own right to freedom of expression.

While the constitution protects press freedom, it states that the right to freedom of expression does not extend to propaganda for war, incitement to violence, hate speech, or advocacy of hatred. With this, it controls the abuse of freedom, but the problem is on the interpretation of the second part of this article 33, on what freedom of expression does not extend to. Those who usually determine what constitutes propaganda for war, incitement to violence, or hate speech are the police and state agents whose interpretations of those terminologies are determined by their political and other vested interests. In this case, media still become a victim since the state agents always rule according to what is in their favour.

Just like in the old constitution, the freedom that is guaranteed by the new constitution is again subordinated to the public interest – that is state security and maintenance of law and order. Kenya needs to balance the freedom of expression against reputation of others, privacy or public security. The problem is that the executive takes this to its advantage. It equates its self-interests to public interest, hence anything that is considered not to be in its favour is considered to be contrary to the public interest. “Of all the aspects of freedom of expression, it is freedom of the press that has been subjected to a lot of restrictions in East Africa. It is these restrictions, such as licensing, ban on importation of printed and published material and censorship that determine the scope of freedom of the press in each country.”⁹⁰ Freedom of the press was not expressly mentioned in Kenya’s old constitution but was included in the section 79 - mentioning, freedom to receive information and communicate them without interference. The new constitution recognizes the importance of a free press and explicitly mentions this fundamental freedom in Article 34, as we have already indicated.

While articles 33 and 34 of the constitution are clearer and direct about freedom of expression and freedom of the media, there are also other articles that indirectly promote journalists’ roles. The whole of chapter four which is on The Bill of Rights, - an integral part

⁹⁰ Kabudi, P.J. (1995) *Human Rights Jurisprudence in East Africa: A Comparative Study of Fundamental Rights and Freedoms of the Individual in Tanzania, Kenya and Uganda*, Baden - Baden: Nomos Verlagsgesellschaft, p. 284.

of Kenya's democratic state and the framework for social, economic and cultural policies, has a lot to offer to the media fraternity. Article 19 consecrates the Rights and fundamental freedoms of all citizens, including journalists. Article 29 is about freedom and security of the person, in particular, the right not be deprived of freedom arbitrarily or without just cause. The same Article is categorical about detention without trial, being subjected to any form of violence from either public or private sources; subjected to torture in any manner, whether physical or psychological and treated or punished in a cruel, inhuman or degrading manner. In this regard all citizens enjoy all these rights, journalists and media professionals included. All Kenyans are entitled to the safety and protection of their basic human rights, particularly, right to life. Journalists and media professionals also enjoy labour rights as indicated in Article 41 of the constitution, which states: "Every person has the right to fair labour practices, including fair remuneration and reasonable working conditions." Safety and protection of journalists and other media professionals is also included in the Bill of Rights that every Kenyan citizen should enjoy.

The article on freedom of the media explains how the state and its agents should treat the media. The state shall not penalise any person for any opinion or view or the content of any broadcast, publication or dissemination. It clarifies that media have freedom of establishment, subject only to licensing procedures that are independent of control by government, political interests or commercial interests. There is need for the establishment of an independent body that is free from control by government, political interests or commercial interests. This ambitious desire to have a responsible media which operates in accordance with the constitution is promoted through the Media Council of Kenya, whose role is to ensure that all state media exercise full editorial independence, be impartial, set media standards, regulate and monitor compliance with the standards that have been set.

The new constitution, as we have just explained, creates room for media freedom. However, this is yet to be fully achieved through a supportive environment and legislative framework. "The preamble to the new Constitution recognises the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. The new Constitution is media friendly and will surely act as a catalyst for additional investment and advancement in the media sector. The government shall have to put laws that monitor and regulate the negative influence of

multinational mass communication structures, strategies and practices that negate Kenyan ethnic languages and cultures.”⁹¹

There are many provisions that guarantee freedom of expression, but many journalists in Kenya feel that the environment in which they live tell a different story. Many face a lot of problems in their professional lives. These challenges make them to surrender their freedom as provided in the constitution, in order to survive. It is very ironical that state agents also participate in issuing of these threats and denying journalists their right to report on matters of public interest as guaranteed by the constitution. On 3rd May 2016, in a celebration to mark World Press Freedom Day, Linus Kaikai, chairman – Kenya Editors Guild (KEG), in his speech, explained how media practitioners encounter a lot of difficulties, including harassments, physical attacks and legal challenges as they exercise their professions. According to Mr Kaikai media has had many tribulations with the executive, even though - it is a fundamental duty of the state and every state organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. “Life has been tough for the media in the law courts. We appeal to the judiciary today to end our long wait by giving a decision on our petitions challenging the constitutionality of sections of the Kenya Information and Communications Act 2013 and Media Act of 2013. We have waited long enough, give us justice.”⁹² Linus said. The chief editor expressed his disappointment that Kenya has not reached the optimum in realizing freedom of expression. “No matter the changes to the constitution, Freedom of the Press remains a journey and not necessarily a destination.”⁹³

3.4. STATUS OF PRESS IN KENYA

Having presented some facts about freedom of expression in Kenya, especially the constitutional changes that have taken place, we may still ask the following questions: How is the press status in Kenya? The answer seems to be obvious: the press is partly free due to the constitutional guarantees and achievements made by some journalists who have strongly

⁹¹ Saturday Nation, 27 November 2010.

⁹² Linus Kaikai, Chairman (KEG) *Speech on World Press Freedom Day, 3 May 2016*.
«<http://www.mediacouncil.or.ke/en/mck/images/AJEA2016/speech/LINUS%20KAIKAI%20PRESS%20FREEDOM%20DAY%20SPEECH.pdf>» (Consult. on 14 June 2016).

⁹³ Daily Nation, 4 May 2016. Available at
«<http://www.nation.co.ke/news/Freedom-of-Press-still-elusive/-/1056/3188008/-/r2h8i4/-/index.html>»
(Consult. on 14 June 2016).

defended and fought for Freedom of the Press. However, even though the constitution recognizes press freedom, Kenyan government has introduced several bills that undermine self-regulation and allow for harsh fines and jail terms for journalists. Uhuru’s government promises to support the media but does not fulfil the promises. Journalists face legal harassments, threats, or attacks. And private sectors, politicians and media owners manipulate news outlets. Many issues still need to be settled on the ground in order to have a true freedom. For example, parliament should also enact legislation on freedom of media. This may lead to a reform of all anti-media laws and to have an easy access to official information. There is need for a favourable political, economic and legal framework in order to have a free media.

According to Freedom House report, Kenya is partly free, as indicated in the table below:

3.4.1. Freedom of the Press in Kenya: 2015 Scores

Table 8	
PRESS STATUS (KENYA)	Partly Free
PRESS FREEDOM SCORE	
(0 = BEST, 100 = WORST)	57
LEGAL ENVIRONMENT	
(0 = BEST, 30 = WORST)	17
POLITICAL ENVIRONMENT	
(0 = BEST, 40 = WORST)	23
ECONOMIC ENVIRONMENT	
(0 = BEST, 30 = WORST)	17

Source: Freedom House ⁹⁴

There is a very slight difference in the status of Kenyan press between the year 2015 and 2016.

⁹⁴ Kenya: Freedom of the Press. Available at «<https://freedomhouse.org/report/freedom-press/2015/kenya>». (Consult. 19 May 2015).

3.4.2. Freedom of the Press in Kenya: 2016 Scores

Table 9

PRESS STATUS (KENYA)	Partly Free
PRESS FREEDOM SCORE	
(0 = BEST, 100 = WORST)	58
LEGAL ENVIRONMENT	
(0 = BEST, 30 = WORST)	17
POLITICAL ENVIRONMENT	
(0 = BEST, 40 = WORST)	24
ECONOMIC ENVIRONMENT	
(0 = BEST, 30 = WORST)	17
Internet	Free ⁹⁵

Source: Freedom House 2016⁹⁶

There has been a lot of control from the government and interested parties that use some of the “loopholes” in the same constitution to control the same freedom of expression that is guaranteed. They refer to public security and privacy as reasons for this control on media. In the late 2014, parliament passed a controversial security measure. According to the government this was to help strengthen security by fighting terrorism. This was due to a series of terrorist attacks by the Somalia-based extremist group Al-Shabaab. Al-Shabaab gunmen shot dead more than 60 non-Muslims in two separate incidents in northern Kenya in late November and early December, 2014. The Kenyan parliament passed and the president signed an expansive security law in December, 2014. “The new anti-terror legislation requires journalists to obtain police permission before investigating or publishing stories on domestic terrorism and security issues. It also stipulates that police must approve publication

⁹⁵ Freedom house. *Kenya* «<https://freedomhouse.org/country/kenya>» (Consult. 21 May 2016).

⁹⁶ Freedom House. *Freedom in the World 2016*. Available at «<https://freedomhouse.org/report/freedom-press-2016/table-country-scores-fotp-2016>» (Consult. 21 May 2016).

or broadcasting of information relating to investigations on terrorism.”⁹⁷ The media, human rights groups and the main opposition coalition opposed the new law saying it will restrict freedoms by controlling media coverage of terrorist attacks and security operations in the country. The law was strongly criticized by the Kenyan opposition MPs who argued that Kenya was becoming a "police state" and that Uhuru's government was taking Kenya back to the autocratic regimes of Kenya's first two presidents - Presidents Jomo Kenyatta and Daniel Arap Moi - despite many sacrifices that have been made by many Kenyans in the struggle for freedom and democracy.

World Press Freedom Index unveiled on April 20th, 2016 by Reporters Without Borders (RSF) indicates increasing press control by governments and private-sector interests.

“The Index ranks 180 countries according to the freedom allowed to journalists. It also includes indicators of the level of media freedom violations in each region. These show that Europe (with 19.8 points) still has the freest media, followed distantly by Africa (36.9), which for the first time overtook the Americas (37.1), a region where violence against journalists is on the rise. Asia (43.8) and Eastern Europe/Central Asia (48.4) follow, while North Africa/Middle East (50.8) is still the region where journalists are most subjected to constraints of every kind.”⁹⁸

According to RSF Report, Namibia is Africa's first country in the rank, at position 17 (with 15.15 points). Kenya is ranked at position 95 worldwide, - with 31.16 points and Eritrea is the last country in the ranking list, with 83.92 points. Kenya has improved in the ranking list, from last year's position 100 to position 95. Kenyan media continue to be courageous and pluralist. Criticism of the government is widespread in the blogosphere, to which nearly half of the population has access.⁹⁹

3.5. SOME REPORTS ON PRESS CHALLENGES IN KENYA

The Kenyan media survived a tough KANU regime and will still have to survive the return of anti-media tenure. There have been frequent threats, intimidations and attacks on the media, by the government and private sectors. These harassments and arrests occur when

⁹⁷ BBC News, 19 December 2014. Available at «<http://www.bbc.com/news/world-africa-30546951>» (Consult. 19 May 2016).

⁹⁸ World Press Freedom Index, 2016. «<https://rsf.org/en/news/2016-world-press-freedom-index-leaders-paranoid-about-journalists>» (Consult. 21 May 2016)

⁹⁹ World Press Freedom Index, 2016. *Kenya*. Available at «<https://rsf.org/en/kenya>» (Consult. 21 May 2016)

journalists report sensitive matters about: national security, terrorism, extrajudicial killings, corruption, International Criminal Court case, drug deals and land-grabbing.

In order to demonstrate many challenges faced by media on reporting sensitive issues, we are going to present a series of cases from various sources, which include: Committee to Protect Journalists, Freedom House, International News Safety Institute, Nation Media, Standard Digital News, Kenya Today, The Guardian and BBC News. The cases to be presented were reported by several media stations, and are clear indications on how media practitioners have suffered in the recent years while exercising their profession:

(i) Trent Keegan, a New Zealand-born photojournalist was found dead in Nairobi on 28th May 2008. Prior to his death, Keegan was investigating a land dispute in northern Tanzania between local Maasai and the Massachusetts-based Thomson Safaris Company. Keegan said that while he was reporting in Tanzania people representing themselves as police and employees of the safari company had visited him and questioned him about his work.¹⁰⁰

(ii) Mr. Francis Nyaruri, a private Weekly Citizen reporter went missing on 15th January 2009. His body was found in the forest two weeks later. Prior to his disappearance, Mr Nyaruri had complained of receiving death threats after publishing a story on irregularities and embezzlement of funds by senior police officers in a police construction project. Three local journalists who interviewed the chief investigative officer, Robert Natwoli, said they were told that Nyaruri was killed on orders of a high-ranking officer in Nyanza province.

A 2013 survey by the Kenya Media Programme polled 282 journalists across the country and found that the media is regularly induced to self-censor on crucial issues such as politics, corruption and land.¹⁰¹ Few journalists courageously reported these sensitive issues, and they were not spared by the authority.

(iii) Bernard Wesonga, a correspondent for The Star daily newspaper was found dead at his house on 31st March 2013. Wesonga had received anonymous threats by phone and text message in connection with his reports on alleged corruption. He had written some sensitive stories. One was about allegations of unlawful shipment and sale of expired fertilizer, and another denounced alleged illegal car imports made through the port of Mombasa.

¹⁰⁰ Committee to Protect Journalists. *Trent Keegan – Freelance*. Available at «<https://cpj.org/killed/2008/trent-keegan.php>» (Consult. 15 July 2016).

¹⁰¹ Committee to Protect Journalists. *Kenya: Broken Promises*. Available at «<https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-critical-journalists-silenced-by-threats.php#more>» (Consult. 23 May 2016).

(iv) John Allan Namu and Mohammed Ali of KTN received threats of arrest from the Police Inspector General, David Kimaiyo, after covering suspected extrajudicial police killings as well as other sensitive security issues like the response to terror attacks on Westgate Mall in 2013 and in the coastal town of Mpeketoni in 2014. These pieces were aired in Swahili as “Jicho Pevu” and in English as “The Inside Story.” They exposed lack of coordination by the police to fight terrorism in Kenya. Ali then went into temporary hiding in December 2014, after receiving death threats.¹⁰²

(v) Purity Mwambia and Frankline Wambugu of K24 were arrested by police in April 2015, over an expose “*Bweta La Uhalifu*” (signs of crime). This report was to expose the loopholes in security system in Kenya, and was supposed to air on K24. As part of her research, Mwambia said she acquired explosives and transported them from Garissa, in northeast Kenya, to Nairobi (about 228 miles or 336km), passing through more than a dozen police stations and check-points without any officer noticing the material. She was not charged for smuggling explosives and the piece also was not broadcast. Mwambia and cameraman, Francis Mwangi instead went into hiding due to fears for their lives.¹⁰³

(vi) Nehemiah Okwembah of NTV and Reuben Ogachi of Citizen TV were attacked and badly injured by GSU personnel in Tana River County on 18th April 2015. They were attacked after visiting the village and interviewed locals who complained that the GSU officers drove away 200 of their cattle for allegedly trespassing into the expansive Galana Ranch. According to Mr Okwemba, the security personnel started attacking them when they were about to interview the Agricultural Development Cooperation (ADC) on the issue.¹⁰⁴

(v) Mr. John Kituyi, editor and publisher of the Mirror Weekly was attacked and killed in Eldoret by unknown people on 30th April 2015. Before his death, the *Mirror Weekly* had published a story with a title, "Now ICC plot to jail Ruto." The story was about the case against Kenyan Deputy President William Ruto, at the International Criminal Court (ICC) for crimes against humanity, for allegedly participating in organizing 2007/2008 post-election

¹⁰² Committee to Protect Journalists. *Critical journalists silenced by threats of arrest or violence*. Available at «<https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-critical-journalists-silenced-by-threats.php#more>». (Consult. 15 July 2016).

¹⁰³ Committee to Protect Journalists. *Critical journalists silenced by threats of arrest or violence*. Available at «<https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-critical-journalists-silenced-by-threats.php#more>». (Consult. 15 July 2016).

¹⁰⁴ Daily Nation, *Journalists, county officials assaulted by Tana River GSU officers*. Available at «<http://www.nation.co.ke/news/-/1056/2690304/-/154rgglz/-/index.html>». (Consult. 15 July 2016).

¹⁰⁴ Committee to Protect Journalists. *John Kituyi*. Available at «<https://cpj.org/killed/2015/john-kituyi.php>» (Consult. 15 July 2016).

violence, in which more than 1,000 people died and hundreds of thousands were displaced. Kituyi was also planning to release a story about Meshack Yebei, an ICC witness who had disappeared.¹⁰⁵

(vi) John Ngirachu of Daily Nation, Alphonse Shiundu of Standard and Mr James Mbaka of The Star, were summoned by police over the stories they published in November 2015, questioning how Sh3.8 billion was spent by the Interior ministry on security contracts. Cabinet secretary, Joseph Nkaissery reversed the arrest decision due to pressure and condemnation from members of parliament and senators.¹⁰⁶

According to research by CPJ and the Media Council of Kenya, there were an estimated 19 cases of threats or attacks against the press between January and May 2015, almost one a week, and all but three involved police or other state officials, including members of county assemblies.¹⁰⁷

(vii) Elijah Kinyanjui Maina, managing editor of the website Nakuru County News, was arrested by the police on 12th January 2016 in Nakuru, and released in the same evening. The website's coverage included allegations of corruption against local officials.

(viii) Yassin Juma, freelance journalist and blogger was arrested and released by Kenyan police on January 23rd 2016. It is likely that he was arrested following his extensive reporting of the attack by Al-Shabaab on KDF camp in El-Ade, Somali where more than 100 officers were killed, 12 held hostage and about 30 rescued with another approximately 80 unaccounted for. Interior Cabinet Secretary Joseph Nkaissery had warned against the distribution of photos of Al-Shabaab attacks. Mr Juma was not charged with a crime, but was accused of "misuse of communication gadgets."¹⁰⁸

“In northern Kenya close to the border with Somalia, journalists trying to cover security are sometimes squeezed between pressure from Al-Shabaab militants and local Kenyan officials vying for control of the news narrative. Investigative journalist Noor Ali,

¹⁰⁶ Standard Digital News, *Now State drops probe against journalists*. Available at «<http://www.standardmedia.co.ke/article/2000182277/now-state-drops-probe-against-journalists>» (Consult. 23 May 2016).

¹⁰⁷ Committee to Protect Journalists. *Kenya: Broken Promises*. Available at «<https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-critical-journalists-silenced-by-threats.php#more>» (Consult. 23 May 2016).

¹⁰⁸ Kenya Today, *Top Journalist Yassin Juma Arrested, held at Muthaiga Police Station*. Available at «<http://www.kenya-today.com/news/journalist-yassin-juma-arrested-held-muthaiga-police-station>» (Consult. 15 July 2016).

who covers the area, said authorities warned journalists in March to be “patriotic” and to refrain from reporting increased youth recruitment by Al-Shabaab.”¹⁰⁹

(ix) Denis Galava, managing editor at the *Daily Nation*, was sacked from his job after an editorial critical of the Kenyatta administration, on 1st January 2016. The editorial criticized President Uhuru Kenyatta's administration touching on the issues of unemployment, economic stagnation, corruption and poor leadership. Galava was suspended from his position as managing editor just a few days later, pending a disciplinary hearing. He was told that he didn't follow the correct procedure for publishing an editorial, including failing to consult with senior staff and management.¹¹⁰

(x) Godfrey Mwampembwa's contract at the Nation newspaper was terminated in February 2016. Mr. Godfrey, known as Gado, told CPJ that he firmly suspected the paper was under pressure from government officials. Gado had been under considerable pressure for months from the Kenyan government over his cartoons, especially after President Uhuru and his deputy were indicted by the International Criminal Court. On another occasion, Gado described receiving a call from the deputy president, Mr. William Ruto's office complaining that his cartoon about Mr Ruto in relation to the allegedly illegal appropriation of a school playing field was unfair.

(xi) David Odongo, Standard Group reporter was arrested on 15th April 2016 by police and released without charge the following day. He was arrested over a story on the April 8th 2016 issue of The Nairobi newspaper about a billionaire Richard Kimani Rugendo over a family land dispute. Rugendo was at the centre of a family court dispute in which some members accused him of illegally acquiring their three-acre piece of land 13 years ago. Police told Standard group that they had received “orders-from-above” to arrest the journalist.¹¹¹

The police also intended to arrest writer, Pkemoi Ng'enh who had been directed to surrender at CID headquarters.

¹⁰⁹ Committee to Protect Journalists. *Kenya: Broken Promises*. Available at «<https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-critical-journalists-silenced-by-threats.php#more>» (Consult. 23 May 2016).

¹¹⁰ The Guardian, *Blow to Kenya's media after editor sacked for criticising president*. «<https://www.theguardian.com/world/2016/jan/27/blow-to-kenyas-media-after-editor-sacked-for-criticising-president>» (Consult. 15 July 2016).

¹¹¹ Standard Digital, *Fury as Standard journalist detained over expose on tycoon embroiled in land tussle*. Available at «<http://www.standardmedia.co.ke/article/2000198486/fury-as-standard-journalist-detained-over-expos-on-tycoon-embroiled-in-land-tussle056/3162070/-/q1fuyy/-/index.html>» (Consult. 15 April 2016).

These are just very few cases that have been reported in the last years. There are other several cases that have not been addressed, because many media practitioners prefer to suffer in silence for fear that the police or those in authority can retaliate if they report them. Some decide not to report because they are convinced that no serious action would be taken against those who harass or intimidate them, even if they mention them.

Despite all the difficulties that journalists face, as some have risked their jobs and lives, some few Kenyan journalists like Mohammed Ali and John Allan Namu of KTN have continued championing for freedom and social justice in the society. KTN's investigative reporter Mohamed Ali, famously known as *Jicho Pevu* has refused to be cowed from exposing many scandals within the corridors of power. Mohammed's name, "*Jicho Pevu*" is drawn from his facts hitting and explosive expose TV programme Jicho Pevu which has since revolutionized the investigative journalism in Kenya. In 2015, John Allan Namu and Mohammed Ali became the overall winners in the maiden Media Council of Kenya awards in the Journalist of the Year Award.

PART FOUR

4. ANALYSIS OF THE MAIN NEWSPAPERS IN KENYA

4.1. NATION AND STANDARD NEWSPAPERS

Kenyan press is dominated by four English-language newspapers – the *Daily Nation*, the *East African Standard*, *the People* and the *Kenya Times* – and a Swahili language daily, “*Taifa Leo*”. “The history of the press in Kenya is rather recent. Literacy started in Kenya following the arrival of Protestant missionaries nearly a century and a half ago. The missionaries embarked on teaching new converts how to read and write primarily so that the new converts could read biblical literature for themselves.”¹¹² Today, the church still publishes some magazines with religious and moral teachings.

Nation and *Standard* are the most influential newspapers in Kenya, and it is for this reason that they were selected for analysis. They are highly circulated in the country and in whole of East Africa. The two newspapers are of great importance in the formation of public opinion of the citizens in the East African countries, and also those who are in diaspora. They have existed since the beginning of the struggle for democracy. Therefore, their contributions cannot be denied by any serious researcher.

Standard (now the *East African Standard*) and the *Daily Nation* became very critical of the government and its policies with the emergence of multiparty politics in Kenya. The state on its part never let these criticisms go unchallenged. In many instances, Kenyan government responded by closing down some of the printing facilities of the newspapers and magazines. It has in some cases arrested proprietors, journalists and editors of the print media that are considered critical of the state and charged them with sedition or other such serious offences.

Daily Nation and East African Standard are the main newspapers in Kenya. Nation is the most popular newspaper, with a daily circulation of approximately 150,000 copies. Its main competitor, Standard, has a daily circulation of approximately 100,000 copies. Standard is the oldest newspaper in Kenya, founded by Alibhai Mulla Jeevanjee in 1902. It offers comprehensive news coverage. The East African Standard is owned by the same investment

¹¹² Kenya, Print Media. Available at «<http://www.pressreference.com/Gu-Ku/Kenya.html>» (Consult. 17 July 2016).

group which owns KTN TV. The two main media houses, the Nation media Group and the Standard Group, have lively internet sites for their dailies.¹¹³

Many Kenyans buy these two main newspapers due to the loyalty that they have developed for these papers for many years. This loyalty has been translated into a relationship of trust, as people keep on buying and depending more on these for news, even after the emergence of other newspapers. Daily Nation and Standard media groups had a big effect on voters during the 2007 elections and its aftermath. ODM supporters tended to trust the Standard newspapers and KTN among other ODM affiliated media, while PNU supporters trusted the Nation newspapers, NTV, Citizen TV, Kameme FM and other media affiliated to them.¹¹⁴

Nation and Standard have played an important role in Kenya's democratisation, but at a price, with many journalists being detained and killed. The two newspapers are still proud of their high level of reporting.

The principal shareholder of the Nation Media Group, the largest media corporation in the country, is Prince Karim Aga Khan IV, who also has huge investments in other sectors of the economy. The company has four daily newspapers, a regional weekly, a television station and FM radio stations. The former President Moi's family is the largest shareholder in the Standard group.

4.2. CORPUS ANALYSIS

In this study, we carried out an analysis of Nation and Standard newspapers that were published in the year 2010, the year when the new constitution was promulgated. The constitution created space for freedom of expression and freedom of the media. This was a very big step in the struggle for democracy in Kenya. The new constitution was presented to the Attorney General of Kenya on 7th April 2010; it was officially published on 6th May 2010, and then subjected to a referendum on 4th August 2010. The constitution was then promulgated on 27th August 2010. For this reason, there were various coverages about freedom of expression. In some circumstances with the government trying to pass some

¹¹³Nation - <http://www.nation.co.ke/>; Standard - <http://www.standardmedia.co.ke/>

¹¹⁴Oriare, P., Rosemary O. & Wilson U. (2010) *The Media we want: The Kenya Media Vulnerabilities Study*. Available at «<http://library.fes.de/pdf-files/bueros/kenia/07887.pdf>» (Consult. 17 May 2016).

legislations before the promulgation of the constitution, and in some instances with the media owners, opposition and civil right bodies trying to fight for the media.

The articles that were analysed were published by the two main Kenya’s newspapers between 3rd of January 2010 and 25th of December 2010. The themes that we selected for the analysis were - freedom of expression and freedom of the media in Kenya. When the topics press freedom, freedom of expression, media freedom, media gag were selected, more than 300 articles were found. We then opted for articles focusing on the topic, and not articles that only mention the words freedom of expression or freedom of media. We decided to put more emphasis on the articles about the constitutional developments. With this objective, 104 articles were selected and analysed - 48 Nation articles and 56 articles published by the Standard.

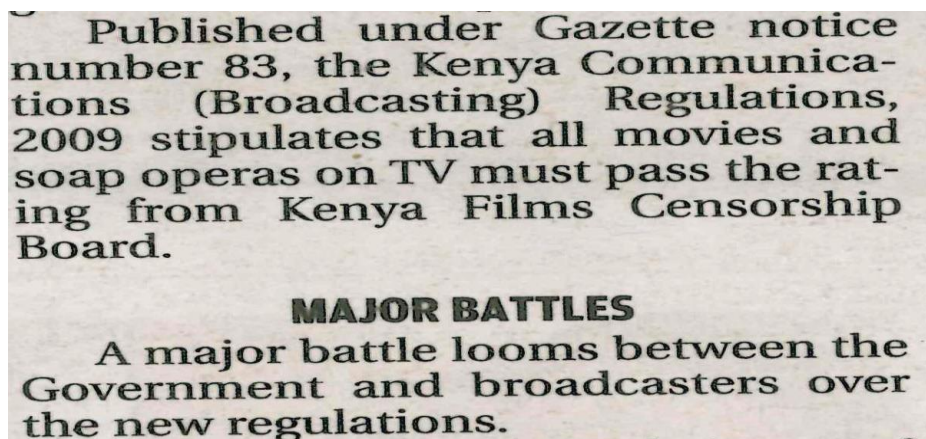
4.2.1. Publications According to the Months

Table 10

Month	Nation	Standard	Total
January	6	15	21
February	-	2	2
March	13	7	20
April	4	-	4
May	9	6	15
June	6	3	9
July	1	3	4
August	2	-	2
September	-	3	3
October	-	4	4
November	5	10	15
December	2	3	5
	48	56	104

As it is indicated in the table above, most of the articles were published in the months of January and March 2010. In January, government gazetted new media rules without consulting the media, raising many discussions about the topic. On 9th January 2010, *The Standard* reported the situation on an article entitled “State moves to tame errant broadcaster.” (See Image 1)

Image 1: State moves to tame errant broadcaster” excerpt



Source: *The Standard*, 9th January 2010, p.4.

Two days later *Standard* newspaper published an editorial under the title, “Once again State declares war on Media”.

Image 2: “Once again State declares war on Media” excerpt

LATEST ASSAULT

Now, in the latest assault on the media under laws gazetted as Kenya Communication (Broadcasting) Regulations (2009), the minister seeks not only to control content, but even how news is reported as well as crafting apologies and shareholding patterns. It also introduces punitive licensing procedures as well as rules on such internal matters as advert placement and running time. It

Source: The Standard, 11th January 2010, p.14.

This was followed by a series of coverage on the same issue with reactions from several groups; Members of Parliament, Media Owners, Editors’ Guild and activists who termed the new laws as an affront to the press and as government’s attempts to control the media. The counsel for the Media Owners Association (MOA) Mr. Paul Muite said that Kenyans should reject the new laws because they had a hidden agenda i.e., to muzzle the press. He said the draft constitution contained the issues of press freedom and wondered why secondary legislation should introduce draconian and harsh penalties to be supervised by the government. According to Mr. Muite, the government’s intention was to cover up corruption and issues of bad governance that were constantly revealed by the press. Media Owners Association then vowed to fight the newly gazetted laws, which they said were crafted in bad faith.¹¹⁵

In March, there were many articles about press freedom, by the two newspapers. The *Nation* led in the publications since March coincided with its golden jubilee. *Nation* hosted a series of activities, which included the Pan African Media Conference from 18th to 19th of March 2010. The conference brought together more than 1,000 delegates, including media professionals and scholars, under the theme *Media and the African Promise*. For this reason,

¹¹⁵ Daily Nation, *Kenyans urged to reject new law*. 11 January 2010, p. 6.

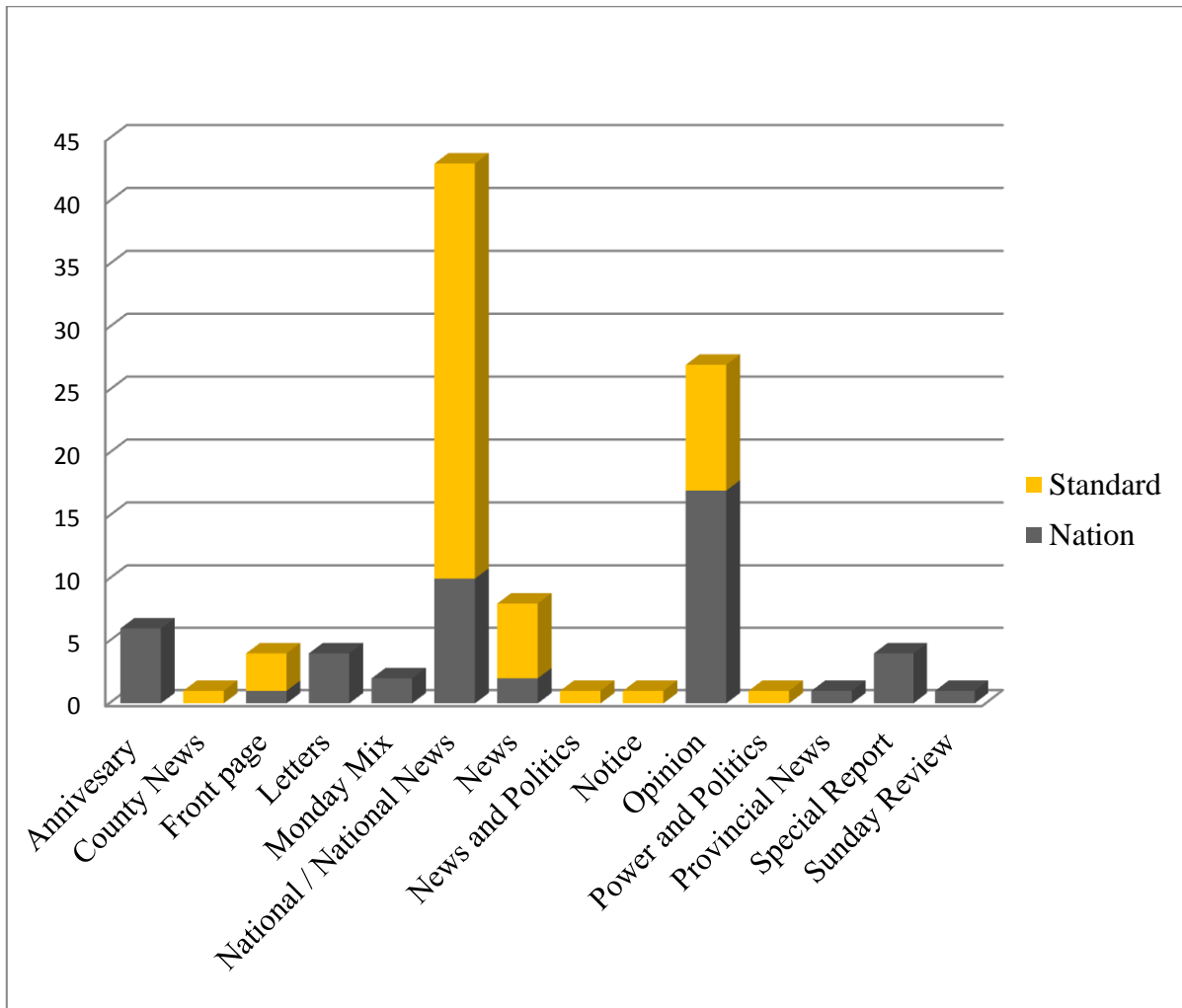
on 20th of March, the *Nation* dedicated several pages about the anniversary and talks about Press freedom and calls for greater responsibility.

We were expecting many publications about freedom of expression and press freedom in the months of August and September, after the promulgation of the new constitution, but this was not the case. Only five articles were published: two of them by *Nation* and 3 by *The Standard*. Journalists decided to concentrate on the other changes that were promoted by the new constitution such as land reforms, representation of the people, executive and legislature.

4.3. SECTIONS OF NEWSPAPERS AND THEMES

The Standard and Nation newspapers have a wide coverage which includes national, regional and international news. They also have a large number of photographs, sports coverages and columns by commentators and letters to the editor. The articles on our theme of study were published in various sections of the two newspapers, starting from the front page to the last page. Most of the articles were published in the section of the national news and in the section of the opinion, as you can see in the illustration below:

4.3.1. Graph 1: Sections of Newspapers



National News and opinion had much coverage in the year 2010 because the country was already preparing to enact a new constitution with many discussions about the role of the Kenyan media in the whole process of constitutional change. When the draft constitution was published people started reading it, and media calling experts to interpret it to the citizens. Through the new constitution many Kenyans were expecting very many positive changes and Kenyan journalists/reporters also had very high expectations. Media and political parties tried to educate people on the benefits of the new constitution, with the “Yes team” campaigning for the constitution and “No team” campaigning against the constitution. At some point, the “No team” complained that media was biased in its coverage, as it was only showing the positive aspects of the constitution, yet, forgetting its role of giving both sides of the story, negative and positive.

The National News section also covered the legislations that were carried out by the government, through creating the Communication Commission of Kenya to regulate Kenyan media. Many politicians, civil rights groups and media experts had insisted that the legislations that had been introduced by the government were not in the spirit of the constitution. This led to a lot of criticism and debates with the government defending its position through the Minister of Information, and on the other side, politicians, human rights' body and media owners trying to defend journalists.

A part from the new constitution, the year was also marked with the celebrations of the Golden Jubilee of Nation media. As previously mentioned, during the celebrations to mark the anniversary (1960-2010), Nation Media organized a media conference about press freedom and call for greater responsibility among journalists. Most of this media debate was published in the anniversary section. A report was also released by the Parliamentary Committee that investigated the raid of The Standard, back in the year 2006. Standard published 10 articles about the truth behind the raid and those who might have contributed in the raid. Most of these articles were published on 25th of November, with different titles, such as: "Finally, truth emerges on how the Standard was raided," "Standard Raid: Shock as faces behind the 2006 attack" and "Inquiries into the covering of Artur Brothers marred." Government was criticised for using force to suppress press freedom, with the parliamentary committee asking for sacking of the then Minister of Security, Mr. Michuki.

The report was released while the constitutional changes had already been started in order to show that parliament was committed towards the fight for freedom of expression that the new constitution was to promote. The report on raid was published in the National section.

All the titles of the articles that were analysed, their authors and dates of publication are in the appendix. In most of the articles, the government is shown in bad light, as being the greatest burden to media freedom, by using force and attempting to gag press through new laws. Nation and Standard faced many challenges, but have played a positive role by exposing malpractices and promoting social and political changes. In some articles, media is blamed for being irresponsible and not playing well its role, but, still many Kenyans have trust in media. The new constitution is presented as media friendly and as holding lots of promises for the country.

4.4. MAIN CHARACTERS IN THE ARTICLES

Main characters in the articles that were analysed included: Africa and developing countries, commission and organization, constitution and laws, entrepreneur and media antagonist, journalist, media, politicians and ruling class.

Articles on Africa and developing countries condemned poor leadership in Africa and other developing countries. They showed how bad leadership creates a difficult environment for journalists. Poor leadership countries “stifle press freedom.”¹¹⁶ On 20th March 2010, *Nation* also published other two articles: “Clean up your image if you want positive coverage,” and “Why African Government's Bid to Control the Media Failed.” African countries were asked to clean up their image to receive positive coverage from the Western media and employ more African correspondents who would report the continent as it is. The *Standard* published three articles on 20th March 2010 - on how media should promote development in the African continent, leading in peacebuilding and fighting against hate speech. The 19th UNESCO general assembly met to debate on how to promote development through information policies. Africa and other developing countries were disappointed with the Western idea of a free press. While they fought to control the media in their nation-states, those from developed countries like Canada do not believe that either politicians or public servants should have anything to say in the management, direction or correction of the media.¹¹⁷

Ten articles published with Commission and organization as main character, focussed on different commissions existing in the country. Some attempted to control media freedom, for example, the government's Communication Commission of Kenya (CCK), and commissions and organizations that defended freedom of press, hence promoting media's role in the fight for democracy, for instance, Kenya National Commission on Human Rights (KNCHR), a body that strongly condemned new regulations that were gazetted to control press freedom. “The commission called on the government to degazette the laws and focus on establishing frameworks through the Media Council of Kenya, to provide redress to those

¹¹⁶ *Saturday Nation*, 20 March 2010, p. 9.

¹¹⁷ *Ibid.*, p. 13.

aggrieved by the media. The then commission vice Chair, Mr. Hassan Omar faulted the media for not being persistent in piling pressure over reform issues they highlight.”¹¹⁸

On constitution and laws, Standard and Nation presented the articles about the media in relation to the new constitution which introduced access to information. Media had to play a role of educating citizens to adjust to new constitution, as indicated in the Standard article, published on 4th September 2010, with the title, “Media should immediately stop tribal overtones...” The articles on constitution and laws focussed also on the new laws that had been published before by the government to regulate the media, and were not in line with the constitution.

Entrepreneur and media antagonist covered enemies of the media, who included businessmen that attempted to gag the media by blocking them from covering them. These powerful businessmen included Kamlesh Pattni and Mr. Kirubi. Antagonists of the media also included the two “Artur Brothers”, Artur Margaryan and Artur Sargasyan who conducted a raid on Standard in the year 2006. A report released in November 2010 by the Parliamentary Committee unveiled the faces behind the raid. Artur Margaryan claimed that the President and other top Government officials knew well about the shocking attack on Standard.¹¹⁹

Journalist was also considered a main character in more than 10 articles presenting various moments when journalists faced several threats in their work. Some were denied access to the information, some arrested, and some beaten and killed. Journalists from Nation and Standard faced many challenges, but still, they promised to serve public interest without intimidation. “Fight for press freedom has been long and risky.”¹²⁰ There is a close relationship in the classification depicting journalist and media as a main character. Though under media, we grouped articles giving emphasis to media at large, with media practitioners and stakeholders taking the centre stage, and not only on journalists.

Politicians and ruling class received the largest number of publications, as we can see in the graph below. In this category, we classified all the government officials and people’s representatives; the president, ministers, ambassadors and Members of Parliament. The relationship between the government and media has not been presented in a positive way. The government has been presented as a major obstacle to a free press in Kenya. Sometimes

¹¹⁸ The Standard, 13 January 2010, p. 4.

¹¹⁹ *The Standard*, 27 November 2010, p. 6.

¹²⁰ *Sunday Nation*, 29 August 2010, p. 28.

it hails media freedom but then it pulls back and stirs a storm. This position has been explained by The Standard editor in the article, “Once again State declares war on media.”¹²¹

The negative relationship between the media and the ruling class, particularly the executive, is expressed in various publications. Standard published an article on 9th January 2010 with the title, “State moves to tame errant broadcasters.” This explains how the government introduced new laws in order to regulate the content of television and radio stations. Information Permanent Secretary, Mr. Bitange Ndemo said that all movies and soap operas on TV had to pass the rating from Kenya Films Censorship Board.

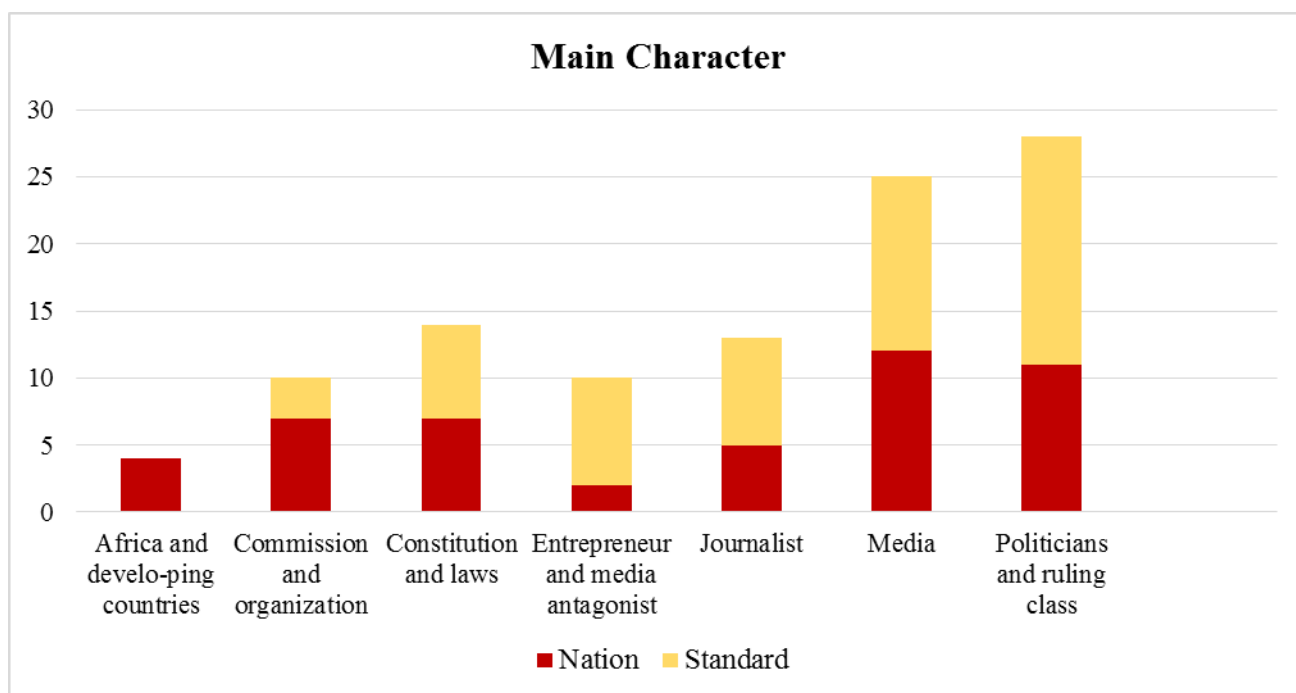
In the article, “Government renews assault on Kenya’s media,” the government gazetted new laws without consultation with the media. Lawyers, media stakeholders and the public reacted to the action taken by the government, terming the draconian regulations unlawful, and insisted that they be repealed.¹²²

On 15th July 2010, Nation published an article, “Move to bar Media group from House a threat to press freedom.” Readers, Boniface Munyiri, Luvembe Dennis and Cheruiyot Nicholas wrote letters to the editor expressing their dissatisfaction with the House speaker, Kenneth Marende. According to them, it was not a good idea to ban the Radio Africa group from covering proceedings in Parliament. The move by Mr. Marende was untenable and showed the absence of media freedom in Kenya.

¹²¹ *The Standard*, 11 January 2010, p. 14.

¹²² *Ibid.*, p.1.

4.4.1. Graph 2: Main character



4.5. AUTHORS AND CATEGORIES

A good number of articles that were published about freedom of expression, in the year 2010 were written by journalists and other media practitioners who included media consultants, editors or sub-editors and columnists from the *Nation* and the *Standard*. The articles written by journalists were especially news reports, by the reporters from the two newspapers. Main authors of the articles that were analysed included journalists like: Peter Mwaura who wrote five articles, Evelyn Kwamboka wrote four articles, Maseme Machuka four articles and Jibril Adan contributed with three articles.

Peter Mwaura is a journalist with the Nation Media Group. He served as a Commissioner of the Complaints Commission of the Media Council of Kenya as from 2008 to 2014. In the year 2015, he became the Public Editor of the Nation. He wrote five articles in the year 2010, on freedom of expression and freedom of speech. All the articles were published in the opinion section.

Maseme Machuka is a journalist, who worked with The Standard. Currently he is the Director of Communications at County Government of Kisii. Machuka wrote four articles in the month of January, 2010, on government's attempt to control the media through new laws.

Evelyn Kwamboka is a journalist with The Standard. She was a senior court reporter between the years 2006 and 2012. Evelyn covered news and feature stories from local courts, the East Africa Court of Justice and the International Criminal Court. In 2010, she wrote four articles following court proceedings. Kwamboka is currently the city editor at The Standard Group Limited.

Jibril Adan is a news editor at The Standard Group since 2010. The articles selected for analysis included three articles that he wrote on The Standard Raid: Shock as faces behind the 2006 attack. These articles were published in November 2010.

Many journalists wrote one or two articles based on the topics of analysis. Other media practitioners wrote on the section of opinion on the role of the media and the importance of having a free press. Only 15 articles were written by non-media operators, who included readers, through letters to the editor, and articles written by members of the government and international organizations, who contributed by giving their opinions about the state of media in Kenya and Africa, and how they should discharge their duties without fear or intimidation.

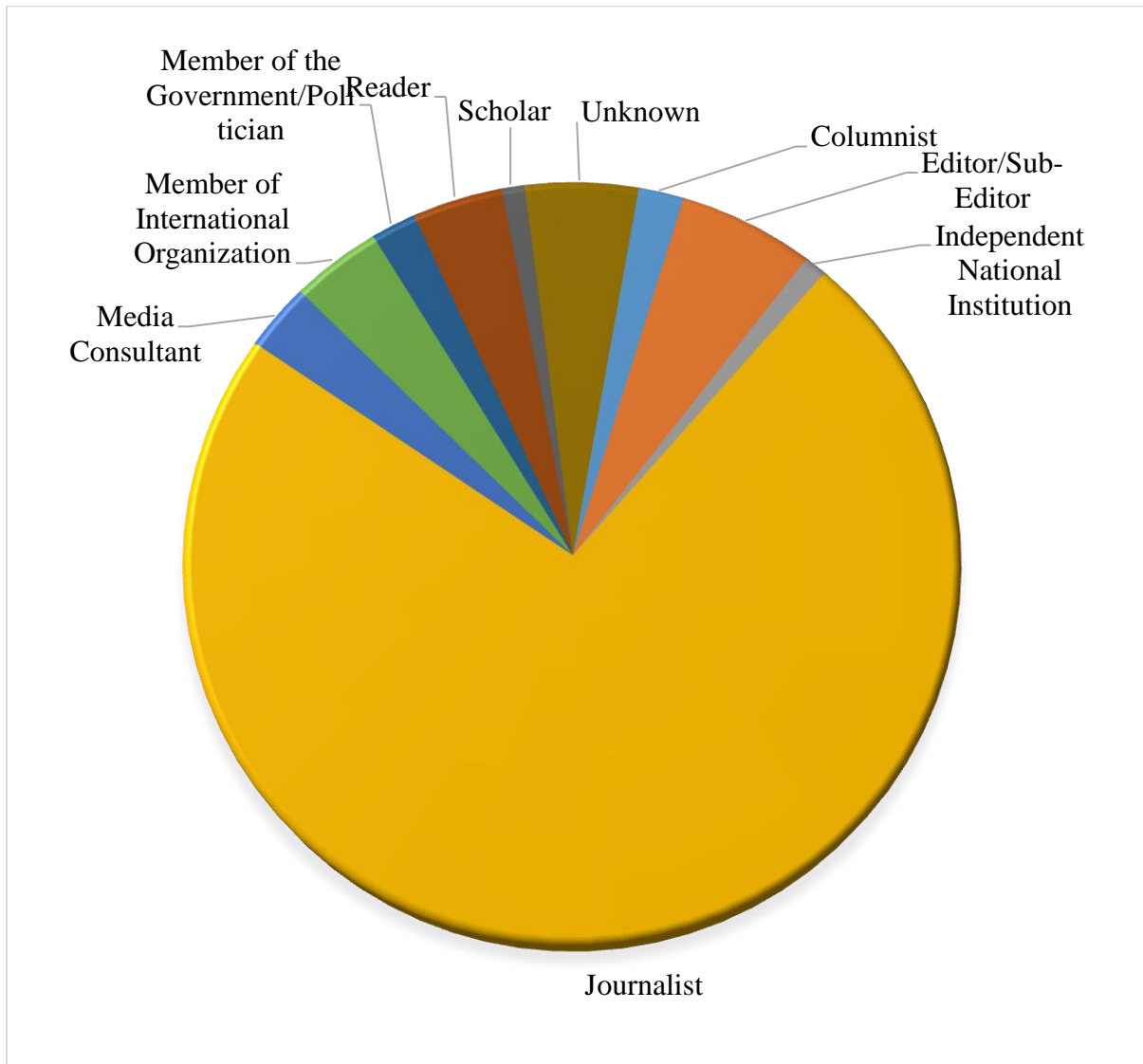
Members of the international organizations who wrote the articles included: Trevor Ncube and Charlayne Hunter-Gault - co-chairs of the African Media Initiative; Henry Maina - director of Article 19 Kenya and Eastern Africa and Ms Bokova - Director-General of Unesco: who wrote an article on the World Press freedom Day of the year 2010, titled, "World has come a long way, but . . ." This article was published by the Nation on 3rd May 2010. Five articles were published in the section of opinion without the names of the authors, and in this case we could not identify categories of the authors.

4.5.1. Categories of the authors and number of articles published

Table 11

Category of the Author	Nation	Standard	
Columnist	1	1	2
Editor/Sub-Editor	3	3	6
Independent National Institution		1	1
Journalist	31	45	76
Media Consultant	3		3
Member of International Organization	2	2	4
Member of the Government/Politician	1	1	2
Reader	4		4
Scholar		1	1
Unknown	3	2	5
TOTAL			104

4.5.2. Graph 3: Category of the Author



4.6. IMAGES OR PHOTOGRAPHS

Many articles that were published about the topics on research were accompanied by photographs; to be concrete 58 articles had photographs. Around 50 percent of the photos published together with the articles were taken from files of the two media groups, *Nation* and *Standard*. This is due to the fact that the two are main newspapers in Kenya, with enough resources and a good number of journalists, reporters and correspondents in almost all the regions of the country. The photos in most cases presented journalists at work, and some presenting government officials addressing the media.

Only one photograph from the file Reuter, a foreign news agency, was identified. This was a photograph of UNESCO Director General Irina Bokova, published in the Nation on 3rd May 2010, together with the article, “It’s hats off to a brave world media”.

The table below presents the number of articles, with photographs and without photographs that were published by the two newspapers in the year 2010.

Articles with photographs and without photographs

Table 12

Photographs	Nation	Standard	Total
No photo	21	25	46
Photo	27	31	58
Total			104

4.7. MOODS OF THE ARTICLES

Most of the articles that were analysed had a negative mood. This clearly shows the situation of media in Kenya: media which has undergone suppression from the government and powerful men in the society. The articles with a negative mood present different groups condemning the government for its negative actions towards the media, for example, by trying to regulate the media through tough rules and controlling journalists’ access to information. In some cases, media practitioners are also condemned for not playing well their role of informing and educating people due to lack of sufficient preparation. A good example is the article, “The Press must liberate itself first”, published on 25th March 2010, in The Standard by the Managing editor of quality and Production, Okech Kendo. Mr. Kendo explains that media faces a big challenge due to deficient training, lack of initiative, and practitioners’ unwillingness to mature like wine. According to the Standard’s editor, so often journalists just want to parody the obvious by reporting events without context and perspective.

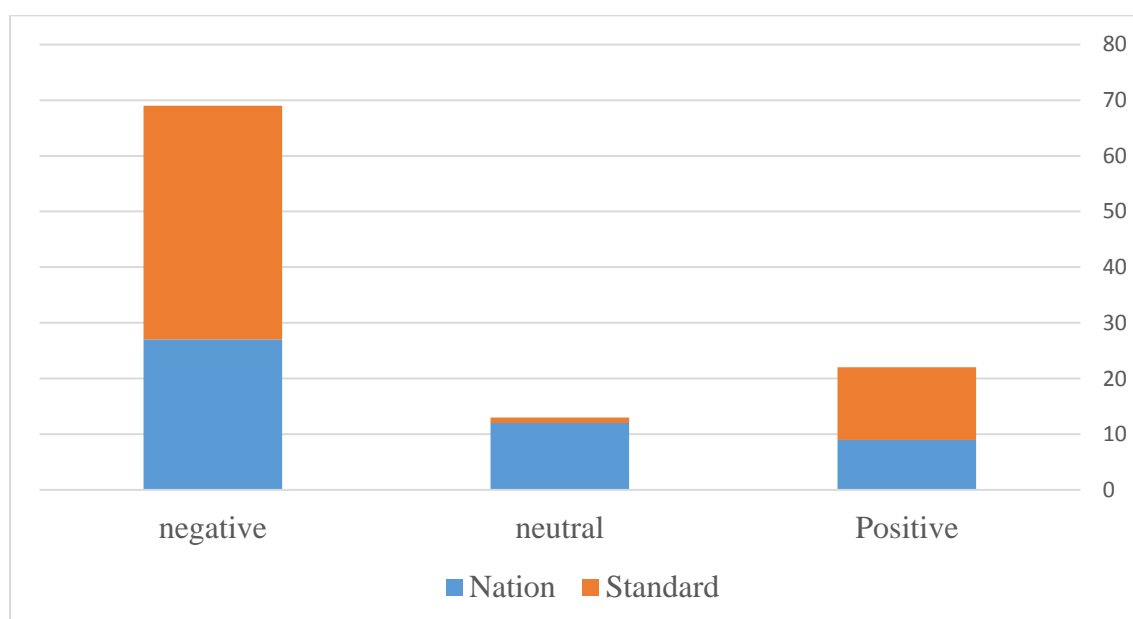
Neutral articles that were identified during analysis neither had appraisals for the government and media, nor condemned them. They presented some ideas that the government and media practitioners were to take into consideration in order to improve the media standard in Kenya and other developing countries. In some situations, these neutral articles started with a negative mood and then ended by presenting a message of hope. An example of this type of article is the message of Irina Bokova on World Press freedom, titled

“World has come a long way, but... “. The story was published in the *Nation* newspaper on 3rd May 2010. It explained how too many journalists exercise their profession in an environment where restrictions on information are very common. Journalists deal with pressure, harassment, intimidation or even physical assault, in their duty. The article gave some hope and encouragements to the media practitioners by expressing that, significant advances have been made in the area of press freedom.

A sense of hope for the Kenyan media was noted through the articles that were analysed. Some of the articles presented the contributions of the media in the Kenyan society and signs of positive change brought about by the new constitution. The first article that was analysed, published by *Standard*, on 3rd of January 2010, gave a positive start by expressing hope to Kenyans. The article’s title was, “This is the year for the media to stand and be counted.” This indicated that 2010 was going to be a challenging but defining year for the media in Kenya, with the implementation of the new constitution, the role that media had to play in the whole process, and the difficulties that could arise with the new changes. The year ended with positive news for the Kenyan media, after an opinion survey had been conducted, showing that Kenyans had more trust in media. The article about the opinion poll was published in *Standard* newspaper on 25th of December, with the title, “Media and Marende score highly in ratings”.

Below is a graph showing the mood of *Standard* and *Nation* articles that were published in the year 2010.

4.7.1. Graph 4: Mood of the Articles



4.8. SOURCES OF INFORMATION

The two main Kenyan newspapers, *Standard* and *Nation*, had two major sources of information; official and non-official sources. The official source consisted of information from the government and public institutions.

These included:

- Information sent to the media by the government officials and institutions, for example Parliamentary Report on 2006 Standard raid. This report was published in the *Standard* on 25th November 2010. The newspaper dedicated around five pages on the topic; revealing how the Standard was raided, details on how “Artur Brothers” were given visitors passes, how they arrived into the country and other government officials who participated in the raid.
- Speeches during official functions, for example Information Permanent Secretary Bitange Ndemo’s speech about the necessity of regulating television and radio stations in accordance with the new law. This was published in the *Standard* on 9th January 2010, under the title “State moves to tame errant broadcasters”.
- Parliament proceedings, for example an article, “Marende kicks out Radio Africa journalists.” The article explains how the speaker of the National assembly ordered the journalists from Radio Africa Group out of the parliament over a programme that one of its FM station had aired on MP’s salary increment. The article was published in the *Standard*

on 14th July 2010. There were also other official information from parliamentary committees, on various issues such as new media rules, *Standard* said that we have just mentioned and many others.

- Press conferences called by ministers, permanent secretaries and members of the national assembly also contributed as official sources of information.

Non official sources that were used in the articles that we identified included the following:

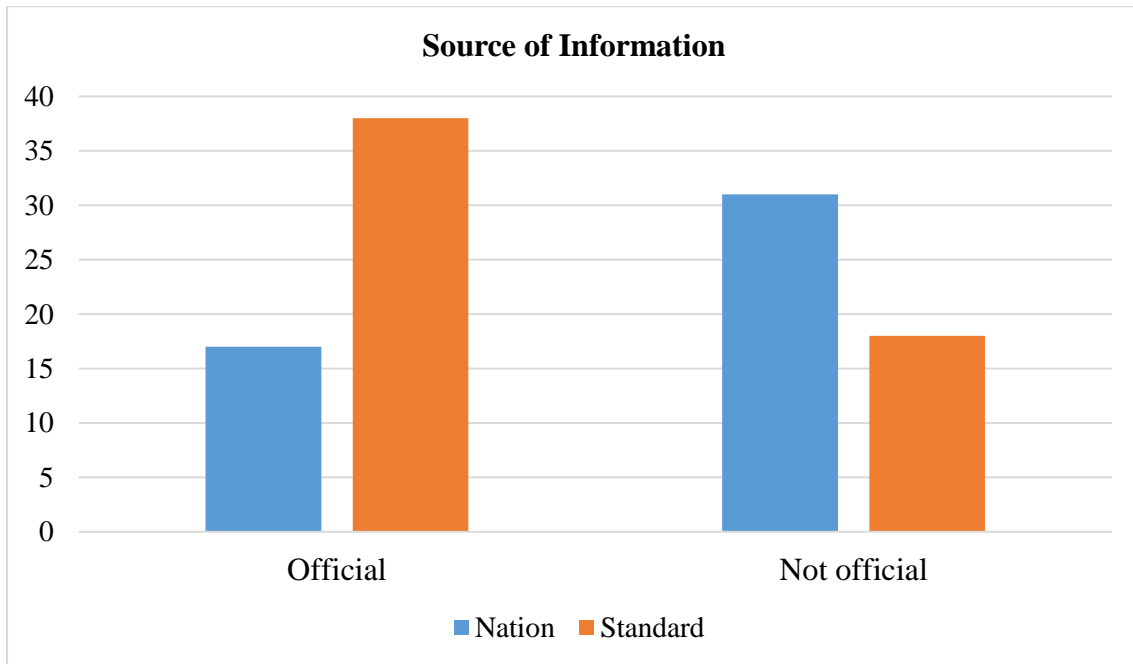
- Information from anonymous citizens: There were five articles in which the authors were not indicated; four of these articles were published in the opinion section by *Standard* on 11th of January and 19th March, under the titles, “Once again State declares war on media” and “Flame of free media must remain alive,” respectively. *Nation* published two articles without authors on 3rd May, and one on 4th of May 2010, under the titles; “our media still under threat” and “Expand options in war against hate speech.”

- Opinions and letters written by various *Standard* and *Nation* readers, for instance, letters written by Boniface, Luvembe and Cheruiyot to *Nation* under the title “Move to bar Media group from House...” The letters were then published on 15th July 2010.

- There was also some information from social-cultural institutions that was classified as non-official information.

The graph below shows the distribution of the two sources of information that were used by the two newspapers. *Standard* used more official information than non-official ones, while *Nation* depended a lot on non-official information. This difference is due to the fact that *Standard* published a good number of proceedings from parliament and parliamentary committees.

4.8.1. Graph 5: Distribution of sources of Information



Not official sources were also made up of most of the information that were presented by Nation and Standard reporters after covering events like campaigns and informal gatherings.

CONCLUSION

The Kenyan media have undoubtedly made significant contributions in the struggle for democracy within the country. Despite of operating under a very difficult and hostile political environment: that is - serious scrutiny and control by the government, politicians and other powerful individuals or institutions with specific interest- the Kenyan press still continues to play a central role in the ongoing democratisation process in the country. While the elite have found other ways of muzzling the press - through courts and by introducing new oppressive laws to limit the freedom of press - others have put a spirited fight to undermine the press freedom through the use of informal pressures like threats and violence. Media practitioners in Kenya face many safety and security challenges especially during political campaigns, while they attempt to expose corruption cases and criminals involved in drug deals.

In order to remain relevant in their field of operation and to the code of conduct of journalism, Kenyan Journalists should defend their independence from those seeking influence or control over news content. They should gather and report news without fear or favour, and vigorously resist undue influence from any outside forces, including advertisers, sources, story, subjects, powerful individuals and other interested groups. Journalists in Kenya should resist those who aspire to buy or politically influence news content or who would seek to intimidate those who gather and disseminate news.¹²³ If they all put collective efforts it might be easier to fight censorship. Unity is strength! However, this has not been the case as media houses fight to protect their selfish interests. The intention to make profit overrides public interest. Some journalists have been caught up in political biasness and tribal politics; hence their writings are not objective. Each and every media group fights for itself and consider other media houses as business competitors, instead of uniting to promote common interests.

The main obstacles to democratization in Kenya are tribalism and corruption. Therefore, it is the duty of the Kenyan press to deal with these two vices, by looking at new ways of financing the industry and promoting principled journalism to strengthen the media, because without a free and independent media, there can't be a political progress. "Many

¹²³ Media Council of Kenya (2007) *Code of Conduct for the Practice of Journalism in Kenya, on Independence*. Available at «<http://journalism.co.za/wp-content/uploads/code%20of%20conduct%20for%20the%20practice%20of%20journalism%20in%20kenya.pdf>» (Consult. 20 April 2016).

countries are taking real steps towards democracy, building societies where citizens have a voice on how they are governed, and on how they live their lives and raise their children. This historic change requires free and effective media, the one instrument that democratic societies all over the world rely on to make it possible for citizens to meaningfully participate in national political life.”¹²⁴ Kenyan journalists need to do everything possible to avoid tribal animosity and not to use vernacular stations for promoting disunity.

One of the greatest achievements in the struggle for democracy in Kenya was the promulgation of the new constitution. This position was confirmed by journalists, media owner, activists and civil servants who were interviewed through questionnaire on the role of journalism in the struggle for democracy in Kenya. According to Steve Mbogo, “Kenya has a good constitution and all that it needs to achieve the highest level of democracy.”¹²⁵ The Constitution of Kenya, 2010, is the supreme law of the country. It proceeds over all other forms of law, written or unwritten. “Every person has an obligation to respect, uphold and defend this Constitution.”¹²⁶ The constitution guarantees freedom of expression, freedom and independence of electronic, print and all other types of media. It also recognizes free access to the information. These rights are important for journalists in exercising their duty to the public.

It is a true and independent media that will contribute a lot as Kenya continues with the long struggle for change. Therefore, media practitioners must also respect Kenyan law and in particular the rights and reputations of others. Journalists must have some basic legal knowledge in order to report, know the limits of the freedom of expression, know the rights that they should enjoy, and be informed about the rights enjoyed by their sources and subjects of information. Journalists act in the name of the people and their work is to serve the people. They should never take the advantage of freedom guaranteed by the law, to serve their personal interests. To promote this change that the country has fought for, journalists need to be well trained and know how to use the “little freedom” that they have. Good training of journalists serves as a solution to some of the challenges they face, because a well-trained journalist will always try to conform to the required ethical standards.

¹²⁴ “Free Press is key to Africa’s progress”, in The Standard, 19th March 2010, p.15.

¹²⁵ Steve Mbogo, Managing editor- Mt. Kenya Star Newspaper. Answer to the questionnaire sent by email on Journalism in the Struggle for Democracy in Kenya.

¹²⁶ The Constitution of Kenya (2010) *Chapter One – Sovereignty of the People and Supremacy of this Constitution*. Available at «<https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>» (Consult. 20 July 2016).

Kenya has improved remarkably in press freedom. A number of developments have been achieved, for example: an ever increasing number of media outlets, both print and electronic that are quite critical of the government. Many Kenyans have faith and confidence in the Kenyan media. This is because journalists have done a good job in informing the public and exposing malpractices conducted by citizens and senior government officials. However, Kenya has not reached the optimum in realizing freedom of expression. “A truly independent media cannot be predictably partisan, narrowly politicised, nor superficially personalised. Journalistic shortcomings cannot be disguised behind political or partisan agendas... Freedom, in any area of human activity, does not mean the moral license to abuse that freedom. The best way for media, in Africa and elsewhere, to maintain their independence is to prove their indispensability.”¹²⁷

Even though many developments have been achieved in regard to the freedom of expression, Kenyans are still far away from the “promised land.” Journalists are still being jailed and sacked for the stories they write. The government is still determined to control the media through passing media bills that inhibit the press freedom, and not enacting the legislations that should promote freedom of the media. Even though, the constitution gives room for freedom of expression and freedom of the press, it is necessary to work on the implementation process so that what is written becomes a reality. In our point of view, the government should create a working environment in order to speed up this process, and enact legislations that provide for the establishment of institutions that reflect the interests of all Kenyans. “Freedom of press is essential to be able to bring out the different voices from the people. It reflects different points of view, which helps the leadership to see people’s different approaches.”¹²⁸

¹²⁷ “An edited version of the speech of Agakhan during the official opening of the Pan-Africa Media conference”, in Saturday Nation, 20th March 2010, p. 10.

¹²⁸ Saturday Nation, *Press freedom and calls for greater responsibility draw heated debate*, 20th March 2010, p. 9.

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APPENDIXES

APPENDIX A: THE CONSTITUTION OF KENYA

Freedom of Expression.

33. (1) Every person has the right to freedom of expression, which includes—

(a) freedom to seek, receive or impart information or ideas;

(b) freedom of artistic creativity; and

(c) academic freedom and freedom of scientific research.

(2) The right to freedom of expression does not extend to—

(a) propaganda for war;

(b) incitement to violence;

(c) hate speech; or

(d) advocacy of hatred that—

(i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or

(ii) is based on any ground of discrimination specified or contemplated in Article 27 (4).

(3) In the exercise of the right to freedom of expression, every person shall respect the rights and reputation of others.

Freedom of the media.

34. (1) Freedom and independence of electronic, print and all other types of media is guaranteed, but does not extend to any expression specified in Article 33 (2).

(2) The State shall not—

(a) exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; or

(b) penalise any person for any opinion or view or the content of any broadcast, publication or dissemination.

(3) Broadcasting and other electronic media have freedom of establishment, subject only to licensing procedures that—

- (a) are necessary to regulate the airwaves and other forms of signal distribution; and
- (b) are independent of control by government, political interests or commercial interests.

(4) All State-owned media shall—

- (a) be free to determine independently the editorial content of their broadcasts or other communications;
- (b) be impartial; and
- (c) afford fair opportunity for the presentation of divergent views and dissenting opinions.

(5) Parliament shall enact legislation that provides for the establishment of a body, which shall—

- (a) be independent of control by government, political interests or commercial interests;
- (b) reflect the interests of all sections of the society; and
- (c) set media standards and regulate and monitor compliance with those standards.

Access to information.

35. (1) Every citizen has the right of access to—

- (a) information held by the State; and
- (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.

(2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.

(3) The State shall publish and publicise any important information affecting the nation.

APPENDIX B: THE STANDARD AND NATION NEWSPAPERS ANALYSED

Date	Publication	Title of the Article	Page	Author
26/01/2010	Standard	Don't come unless invited, PPS tells Media	5	Stephen Makabila
04/05/2010	Nation	Truth team key in healing agenda	48	A. Shiundu and J. Shilita
02/12/2010	Nation	Media playing role of the opposition	17	Aby Agina
17/07/2010	Standard	Media rated highly as an informer	6	Alex Ndegwa
04/05/2010	Standard	Journalists still face brick walls in search for public information	12	Ally Jamah
14/06/2010	Nation	Amnesty hands E. Africa a poor grade for rights record	17	Alphonse Shiundu
01/10/2010	Standard	Melly says media won't be cowed	6	Amos Kareithi
27/01/2010	Standard	Media stakeholders Criticize PPS Directive	9	Augustine Oduor
25/11/2010	Standard	Finally, truth emerges on how The Standard was raided...	7	Beauttah Omanga
25/11/2010	Standard	Finally, truth emerges on how The Standard was raided...	6	Beauttah Omanga
15/07/2010	Nation	Move to bar Media group from House...	14	Boniface, Luvembe and Cheruiyot
14/01/2010	Nation	Let media be free	14	Cathy Abonyo
09/09/2010	Standard	Extradited journalist to face terror charges in Uganda	4	Cyrus Ombati and Patrick Beja

03/05/2010	Standard	Kenyan scribes hopeful as world marks freedom day	4	David Ochami
15/06/2010	Standard	Media barred from PAC Angoleasing Probe	23	David Ochami
11/05/2010	Nation	Your editorial had effect of besmirching the government	13	Dr. Bitange Ndemo
26/09/2010	Standard	Everyone has the right to access information	18	Edga Sichangi
04/09/2010	Standard	Media should immediately stop tribal overtones...	17	Elias Mokua
16/10/2010	Standard	Broadcasters accused of airing adult content	9	Elizabeth Mwai
29/08/2010	Nation	Fight for press freedom has been long and risky	28	Emman Omari
05/03/2010	standard	Standard Group faults gag bid	12	Evelyn Kwamboka
05/02/2010	Standard	Why CCK could face contempt proceedings	7	Evelyn Kwamboka
03/11/2010	Standard	Presenter accused of airing person's HIV status on radio	10	Evelyn Kwamboka
04/11/2010	Standard	DoD gets gag order against Standard	6	Evelyn Kwamboka
19/06/2010	Nation	Freedom of speech must have its own limitations	15	Francis, Ng'ang'a and Wokabi
27/11/2010	Nation	Weak Commission cannot effect new laws	13	Gabriel Dolan
03/01/2010	Standard	This is the year for the media to stand and be counted...	15	George Nyabuga
22/01/2010	Nation	Broadcasting rule: Media failed to regulate itself	13	George Opiyo

25/05/2010	Standard	Envoy urges media to lead in peace building	18	Harold Ayodo
07/05/2010	Standard	Access to information crucial for good governance reforms	15	Henry Maina
03/05/2010	Nation	World has come a long way, but...	13	Irina Bokova
16/01/2010	Standard	Editor fault new broadcast rules	8	Isaiah Lucheli
20/03/2010	Nation	Talks end on hopeful note	8	Jeff Otieno
25/11/2010	Standard	Inquiries into the covering of Artur Brothers marred...	6	Jibril Adan
25/11/2010	Standard	Standard Raid: Shock as faces behind the 2006 attack...	1	Jibril Adan
25/11/2010	Standard	Report: Faces behind raid on Standard Group	4	Jibril Adan
24/06/2010	Nation	Hate speech must be penalised	13	John B. Osoro
12/01/2010	Standard	Laws wants TV and radio stations to splash apologies	4	John Oywa
03/03/2010	Standard	Out of infamy, a new hope for journalists is born	18	John Oywa
03/05/2010	Nation	It's hats off to a brave world media	3	Joy Wanja
20/03/2010	Nation	Nation honours African journalists	10	Joy Wanja
01/07/2010	Standard	'Standard' won't pay Koigi sh 20m sought in suit	4	Judy Ogutu
25/05/2010	Standard	Journalists barred from TJRC forum	8	K. Njoroge and R. Wanyonyi

07/03/2010	Standard	Media must discharge duties without fear of intimidation...	15	Kenneth Marende
11/01/2010	Nation	Kenyans urged to reject new law	6	Kenneth Ogosia
27/11/2010	standard	Artur Brother claim Kibaki knew about 2006 raid on "Standard"	6	Kipchumba Some
26/11/2010	Standard	What's this big story Kenya media missed	15	Kipkoech Tanui
23/04/2010	Nation	Pattni seeks to gag "Nation" in court case	2	Kiplagat and Emeka-Gekara
19/01/2010	Standard	New Media regulations are impractical and retrogressive	15	Larry Madowo
25/11/2010	Standard	Scribe beaten for filming row	24	Linha Benyawa
26/01/2010	Nation	Media told to respect Kibaki private life	30	Lucas Barasa
04/05/2010	Nation	Why is it that top cop Iteere didn't keep his promise?	12	Macharia Gaitho
12/01/2010	Standard	Leaders' outrage as ministry gazettes stiffer rules	4	Machuka
09/12/2010	Standard	Arturs: MPs say Michuki "unfit" to hold public office	6	Martin Mutua
09/12/2010	Standard	Michuki "unfit" to hold public office, say MPs	1	Martin Mutua
15/01/2010	Standard	MPs to grill minister on regulations	7	Maseme Machuka
11/01/2010	Standard	Media: New laws to herald a rough period for industry	7	Maseme Machuka
09/01/2010	Standard	State moves to tame errant broadcasters	4	Maseme Machuka

11/01/2010	Standard	Government renews assault on Kenya's media	1	Maseme Machuka
06/10/2010	Standard	Media Council of Kenya	33	Media Council of Kenya
04/04/2010	Nation	It's a bold new Kenya	1	Nation editor
22/06/2010	Nation	Law gives freedom of cultural expression	5	Nation editor
30/06/2010	Nation	What new law says about freedom of media	5	Nation editor
20/03/2010	Nation	Media and governments can work together	10	Nation editor
20/03/2010	Nation	Press freedom and calls for greater responsibility	9	Nation editor
25/03/2010	Nation	News media pose challenge to traditional journalism	17	Nation editor
20/03/2010	Nation	Press freedom and calls for greater responsibility	8	Nation editor
22/03/2010	Nation	How Newspaper's coverage put it on Collision Course	6 and 7	Nation editor
20/03/2010	Nation	Clean up your image if you want positive coverage	8	Nation Reporter
20/03/2010	Nation	Poor leadership countries "stifle press freedom"	9	Nation Reporter
24/11/2010	Nation	Media owners to fight corruption	9	Nation Reporter
02/04/2010	Nation	New rules could reverse gains in media freedom	2	Nation Reporter

06/12/2010	Nation	Shutting WikiLeaks threat to press freedom	10	Ng'ang'a Mbugua
04/11/2010	Nation	Expand options in war against hate speech	12	No author
03/05/2010	Nation	Carjackers pose new threat for journalists	10	No author
19/03/2010	Standard	Flame of free media must remain alive	14	No author
03/05/2010	Nation	Our media still under threat	12	No author
11/01/2010	Standard	Once again State declares war on media	14	No author
12/01/2010	Nation	Unions oppose new media laws	10	Ogosia and Barasa
13/01/2010	Nation	Opposition to new media laws rages	10	Ogosia and Kaluoch
25/03/2010	Standard	The Press must liberate itself first	15	Okech Kendo
18/03/2010	Nation	Death has occurred of Mrs Africa Media freedom	12	Onyango-Obbo
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ANNEX C: MEDIA COUNCIL OF KENYA AND THE CODE OF CONDUCT FOR THE PRACTICE OF JOURNALISM

Thursday, October 6, 2010 / The Standard

NOTICE / Page 33

MEDIA COUNCIL OF KENYA

PROMOTING PROFESSIONALISM IN THE MEDIA

The Media Council of Kenya is an independent national institution established by the Media Act, 2007 as the leading institution in the regulation of media and in the conduct and discipline of journalists.

Currently, there are 10 complaints related to media conduct and discipline before the Council's Complaints Commission having already resolved 80 complaints.

The Council draws its mandate and authority from the Media Act, 2007. It is mandated to do the following:

- Mediate or arbitrate in disputes between the government and the media, between the public and the media and intra-media.
- Promote and protect freedom and independence of the media.
- Promote high professional standards among journalists.
- Enhance professional collaboration among media practitioners.
- Promote ethical standards among journalists and in the media.
- Ensure the protection of the rights and privileges of journalists in the performance of their duties.
- Advise the government or the relevant authority on matters pertaining to professional, education and the training of journalists and other media practitioners.
- Make recommendations on the employment criteria for journalists.
- Uplift and maintain the ethics and discipline of journalists.
- Compile and maintain a register of journalists, media practitioners, media enterprises and such other related registers.
- Conduct an annual review of the performance and the general opinion of the media, and publish the results.
- In addition, the Council strives to build capacity at the Secretariat to effectively and efficiently deliver the Council mandate.

Vision

A professional free media accountable to the public

Mission

To safeguard media freedom, enhance professionalism and arbitrate media disputes.

The Complaints Commission

Media Act establishes the Complaints Commission comprised of five members to arbitrate in disputes between (a) Public and the media (b) Government and media (c) Intra-media disputes.

Jurisdiction

The commission has jurisdiction in the following matters:

- Any publication including online publications, or any conduct of a journalist, media enterprise or the Council that amounts to a breach of any article of schedule 2 (The Code of Conduct for the Practice of Journalism in Kenya) of the Media Act.
- Anything done against or in relation to a media enterprise that limits or interferes with the Constitutional freedom of expression of such journalist or media enterprise.

How to make a complaint

- One may make a written complaint by completing Form 1 stating their reasons requested through email.
- The completed form can be hand-delivered at the Council offices, Nairobi Baptist Church court off Ngong road, or sent through P. O. Box 43132 00100 Nairobi.
- The Council will refer the complaint to the Complaints Commission for assessment within 14 days from the date of receipt.
- The Commission will assess the complaint and if need be, notify the person complained against to respond within 14 days from date of notification.
- The Respondent is expected to reply within 7 days of receipt of the response from the respondent, send the same to the complainant.
- If the dispute is not resolved, the Commission can either set up a conciliation or mediation panel consisting of not less than three commissioners to hear the matter.

How much does it cost?

The Complaints process is free. However, minimal costs to cover photocopying and communication may be charged.

Does one need a lawyer to help make a complaint?

No, but it is at the complainant's discretion to decide whether they would like a lawyer present or not.

How long will it take to deal with a complaint?

The initial stage of processing a complaint takes less than 14 days. Thereafter, hearing and deliberation are subject to the nature and complexity of the complaint.

Does the Media Council of Kenya handle complaints against internet publications?

Media Council of Kenya handles complaints against internet publications published by media houses registered in Kenya

What verdicts may the Commission issue?

- The Commission may:
- Dismiss a complaint if it lacks merit.
 - Order a media house to publish an apology and correction or both.
 - Issue a public reprimand of the journalist or media enterprise involved.
 - Order return, repair, or replacement of any equipment.
 - Make any directive and declaration on freedom of expression.
 - Give any other order or directive as it deems necessary.
 - Can one appeal against a verdict of the Commission?
 - Yes. Such a person may appeal to the Council within 14 days from the date the decision was made.
 - If not satisfied with the Council's decision, such a person may within 21 days from the date of the decision appeal to the High Court.

THE CODE OF CONDUCT FOR THE PRACTICE OF JOURNALISM (2ND SCHEDULE OF THE MEDIA ACT 2007)

1. Accuracy and Fairness

- (a) The fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest. All sides of the story shall be mentioned in wherever possible. Comments should be obtained from anyone who is mentioned in an unfavorable context.
- (b) Whenever it is recognized that an inaccurate, misleading or distorted story has been published or broadcasted, it should be corrected promptly. Corrections should present the correct information and should not restate the error except when clarity demands.

(c) An apology shall be published or broadcast whenever appropriate in such manner as the Council may specify.

(d) When stories fall short on accuracy and fairness, they should not be published. Journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact.

(e) In general, provocative and alarming headlines should be avoided. Headings should reflect and justify the matter printed under them. Headings containing allegations made in statements should either identify the body or the source making them or at least carry quotation marks.

(f) Journalists should present news fairly and impartially, placing primary value on significance and relevance.

(g) Journalists should treat all subjects of news coverage with respect and dignity, showing particular compassion to victims of crime or tragedy.

(h) Journalists should seek to understand the diversity of their community and inform the public without bias or stereotype and present a diversity of expressions, opinions, and ideas in context.

(i) Journalists and other media practitioners should present analytical reporting based on professional perspective, not personal bias.

2. Independence

Journalists should defend the independence of all journalists from those seeking influence or control over news content. They should—

(a) Gather and report news without fear or favour, and vigorously resist undue influence from any outside forces, including advertisers, sources, story subjects, powerful individuals and special interest groups.

(b) Resist those who would buy or politically influence news content or who would seek to intimidate those who gather and disseminate news.

(c) Determine news content solely through editorial judgment and not the result of outside influence.

(d) Resist any self-interest or peer pressure that might erode journalistic duty and service to the public.

(e) Recognize that sponsorship of the news should not be used in any way to determine, restrict or manipulate content.

3. Integrity

Journalists should present news with integrity and decency; avoiding real or perceived conflicts of interest, and respect the dignity and intelligence of the audience as well as the subjects of news. They should—

(a) Identify sources whenever possible. Confidential sources should be used only when it is clearly in public interest to gather or convey important information or when a person providing information might be harmed;

(b) Clearly label opinion and commentary

(c) Use technological tools with skill and thoughtfulness, avoiding techniques that skew facts, distort reality, or sensationalize events;

(d) Use surreptitious news gathering techniques including hidden cameras or microphones, only if there is no other way of obtaining stories of significant public importance, and if the techniques explained to the audience.

Journalists should not—

(a) Pay news sources that have vested interest in a story;

(b) Accept gifts, favours or compensation from those who might seek to influence coverage;

(c) Engage in activities that may compromise their integrity or independence.

4. Accountability

Journalists and all media practitioners should recognize that they are accountable for their actions to the public, the profession and themselves. They should—

(a) Actively encourage adherence to these standards by all journalists and media practitioners;

(b) Respond to public concerns, investigate complaints and correct errors promptly;

(c) Recognize that they are duty-bound to conduct themselves ethically.

5. Opportunity to Reply

A fair opportunity to reply to inaccuracies should be given to individuals or organizations when reasonably called for. If the request to correct inaccuracies in a story is in the form of a letter, the editor has the discretion to publish it in full or in its abridged and edited version, particularly when it is too long, but the remainder should be an effective reply to the allegations.

6. Unnamed Sources

Unnamed sources should not be used unless the pursuit of the truth will best be served by not naming the source that should be known by the editor and reporter. When material is used in a report from sources other than the reporter's, these sources should be indicated in the story.

7. Confidentiality

In general, journalists have a professional obligation to protect confidential sources of information.

8. Misrepresentation

Journalists should generally identify themselves and not obtain or seek to obtain information or pictures through misrepresentation or subterfuge. Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

9. Obscenity, Taste and Tone in Reporting

(a) In general, journalists should avoid publishing obscene, vulgar or offensive material unless such material contains a news value which is necessary in the public interest.

(b) In the same vein, publication of photographs showing mutilated bodies, bloody incidents and abhorrent scenes should be avoided unless the publication or broadcast of such photographs will serve the public interest.

10. Paying for News and Articles

When money is paid for information, serious questions can be raised about the credibility of that information and the motives of the buyer and the seller. Therefore, in principle, of that information and the motives of the buyer and the seller. Therefore, in principle, journalists should not receive any money as an incentive to publish any information.

11. Covering Ethnic, Religious and Sectarian Conflict

(a) News, views or comments on ethnic, religious or sectarian dispute should be published and broadcast after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to national harmony, unity and peace.

(b) Provocative and alarming headlines should be avoided.

(c) News reports or commentaries should not be written or recorded in a manner likely to inflame the passions, aggravate the tension or accentuate the strained relations between the communities concerned. Equally so, articles or broadcasts with the potential to exacerbate communal trouble should be avoided.

12. Recording Interviews and Telephone Conversations

(a) Except in justifiable cases, journalists should not tape or record anyone without the person's knowledge. An exception may be made only if the recording is necessary to protect the journalist in a legal action or for some other compelling reason. In this context these standards also apply to electronic media.

(b) Before recording a telephone conversation for broadcast, or broadcasting a telephone conversation live, a station should inform any party to the call of its intention to broadcast the conversation. This, however, does not apply to conversation whose broadcast can reasonably be presumed, for example, telephone calls to programmes where the station customarily broadcasts calls.

13. Privacy

(a) The public's right to know should be weighed against the privacy rights of people in the news.

(b) Journalists should stick to the issues.

(c) Intrusion and inquiries into an individual's private life without the person's consent are not generally acceptable unless public interest is involved. Public interest is not generally acceptable unless public interest is involved. Things should be legitimate and not merely prurient or morbid curiosity. Things should be legitimate and not merely prurient or morbid curiosity. Things should be legitimate and not merely prurient or morbid curiosity.

14. Intrusion into Grief and Shock

(a) In cases involving personal grief or shock, inquiries should be made with sensitivity and discretion.

(b) In hospitals, journalists should identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.

15. Sex Discrimination

Women and men should be treated equally as news subjects and news sources.

16. Financial Journalism

(a) Journalists should not use financial information they receive in advance for their own benefit, and should not pass the information to others.

(b) Journalists should not write or broadcast about shares, securities and other market instruments in whose performance they know they or their close families have significant financial interest, without disclosing the interest to the editor.

(c) Journalists should not buy or sell, directly or through nominees or agents, shares or securities and other market.

17. Letters to the Editor

An editor who decides to open a column on controversial subject is not obliged to publish all the letters received in regard to that subject. The editor may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, the editor should make an honest attempt to ensure that what is published is not one-sided but presents a fair balance between the pros and the cons of the principal issue. The editor shall have the discretion to decide at which point to end the debate in the event of a *pace jam* upon response by two or more parties on a controversial subject.

18. Protection of Children

Children should not be identified in cases concerning sexual offences, whether as victims, witnesses or defendants. Except in matters of public interest, for example, cases of child abuse or abandonment, journalists should not normally interview or photograph children on subjects involving their personal welfare in the absence, or without the consent, of a parent or other adult who is responsible for the children. Children should not be approached or photographed while at school and other formal institutions without the permission of school authorities. In adhering to this principle, a journalist should always take into account specific cases of children in difficult circumstances.

19. Victims of Sexual Offences

The media should not identify victims of sexual assault or publish material likely to contribute to such identification. Such publications do not serve any legitimate journalistic public need and may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, and religious order and to the institutions to which they belong.

20. Use of Pictures and Names

As a general rule, the media should apply caution in the use of pictures and names and should avoid publication when there is a possibility of harming the persons concerned. Manipulation of pictures in a manner that distorts reality should be avoided. Pictures of grief, disaster and those that embarrass and promote shame should be discouraged.

21. Innocent Relatives and Friends

The media should generally avoid identifying relatives or friends of persons convicted or accused of crime unless the relevance to them is necessary for the full, fair and accurate reporting of the crime or legal proceedings.

22. Acts of Violence

The media should avoid presenting acts of violence, armed robberies, banditry and terrorist activities in a manner that glorifies such anti-social conduct. Also newspapers should not allow their columns to be used for writings which tend to encourage or glorify social evils, warlike activities, ethnic, racial or religious hostilities.

23. Editor's Responsibilities

The editor shall assume the responsibility for all content, including advertisements, published in a newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

24. Advertisements

The editor should not allow any advertisement which is contrary to any aspect of this Code of Conduct. In this regard, and to the extent applicable, the editor should be guided by the Advertiser's Code of Conduct.

25. Hate Speech

Quoting persons making derogatory remarks based on ethnicity, race, creed, colour and sex shall be avoided. Racial or negative ethnic terms should be avoided. Careful account should be taken of the possible effect upon the ethnic or racial group concerned, and on the population as a whole, and of the changes in public attitudes as to what is and what is not acceptable when using such terms.

Ocampo is welcome for probe, say ministers

ICC move will prove my innocence, says Balala as ex-MP also seeks to clear name



PAGE 15

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NAIROBI, APRIL 4, 2010

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CONSTITUTION

IT'S A BOLD NEW KENYA

The draft law promises a more open and just society where national resources will be shared equitably and the leadership held to account

SPECIAL REPORT ON PAGE 4&5



■ PRESIDENTIAL POWERS
The President's powers will be severely curtailed. Most state appointments including ministers, Attorney General, Chief Justice and ambassadors will be vetted by Parliament.

■ BLOATED CABINET
There will be a minimum of 14 ministers and a maximum of 24. There will be no assistant ministers under the new constitutional order. MPs will not be appointed to the Cabinet.



■ LAND REFORMS
Land will be used equitably and efficiently. Land barons who own large tracts of underutilised land will either have to give it up or pay stiff taxes for idle land.

■ MEDIA FREEDOM
Attempts to control the media will hit a wall, as the proposed law expressly forbids any role of the State in media regulation.



■ EXIT PRIME MINISTER AND THE PROVINCES

There will be no office of Prime minister under the new order. Provinces will also go, to be replaced by counties which will bring services closer to wananchi.

■ WOMEN POWER

Women will be big winners under the new constitutional order. No commission, state agency or legislative body may have more than two thirds of members drawn from the same gender.

■ ARRESTING CORRUPTION

State officers will not be allowed to operate accounts abroad, a move that will seal a loophole that has been exploited by corrupt public officials for five decades.

■ STOPPING MR MONEYBAGS

The Electoral Commission will monitor amounts spent during campaigns, posing a challenge for wealthy politicians seeking to buy their way into public office.

■ JUSTICE FOR ALL

The Attorney General will no longer have powers to unilaterally end cases after deals cut at state law office.

ENERGY



Mr Eddy Njoroge Mr Kaburu Mwirichia

Power bills remain high despite rains

Kenya will continue to pay high electricity bills despite the current rains which have seen generating company KenGen end two contracts for expensive energy from Emergency Power Producers (EPPs) since December. Energy Regulatory Commission director-general Kaburu Mwirichia said that although KenGen had retired 100mw from EPPs — the last being 60mw on Wednesday — the country still relied on Independent Power Producers to bridge the deficit caused by shortfalls from KenGen's hydro-electric power plants.

"For instance, Masinga dam is yet to start generating because it is only 40 per cent full," Mr Mwirichia noted. It also emerged that more than 50 per cent of the money Kenyans pay for electricity goes to foreigners and politically-correct individuals who own the IPPs.

Interviews with top officials in the energy sector revealed that IPPs and emergency power plants were owned by foreigners and have in the past eight months reaped Sh6.2 billion from Kenya.

But KenGen managing director Eddy Njoroge said power bills will come down significantly when the country starts generating more geothermal power.

Full report on Page 25.



NEWS 2-9, BACK | SPECIAL REPORT 10-11 | OPINION 12-13 | REVIEW 15-25 | BUSINESS 26-30 | SPORT 38-43

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ANNEX E: THE STANDARD

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Shillings & Sense: Taming costs of joining high school, p22

FILE COMPLIMENTARY COPY
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Monday
 THE PERFECT WAY TO START THE WEEK

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 New dawn: Enter the age of 3-D TV, p25

Why the elite need to give birth more, p4

<< In God's name: False pastors who prey on vulnerable people, p8-9




Monday, January 11, 2010

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THE STANDARD
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In The News
Another building collapses in Kiambu
 FEATURES, P5



Muslim preacher al-Faisal is back
 NEWS, P7

The other side of Mau politics

By JIBRI ADAN

In 2002 it was Project Uhuru. In 2007 Moi and Kibaki betrayal of Raila. Today Mau politics is mapping out the road to 2012

President Kibaki and Prime minister Raila Odinga will on Friday each take a spade and plant a tree in Mau Forest, crowning a new political chapter in Kenya. The event will literally turn a new page in which the post-Mau falling out among politicians as well as birth of new alliances could have

CONTINUED ON PAGE 6



Government renews assaults on Kenya's media

By MASEME MACHUKA

The country's robust media environment was sullen over the weekend as gains on media freedom dimmed after the gazettement of new laws meant to regulate broadcasting.

It has emerged that the State launched the fresh assault on the media without consultations with critical stakeholders. Lawyers, media stakeholders and the public have termed the draconian regulations unlawful and insisted should be repealed. The Permanent Secretary in the Ministry of Information and Communications Bitange Ndemo said the Kenya Communications (Broadcasting) Regulations 2009 took effect from January 1 this year. Senior counsel Paul Muite said the laws are unconstitutional and

CONTINUED ON PAGE 7

OTHER STORIES INSIDE
 Prisoners to get weekend off days, P.4
 Sigh of relief as Nakuru council injects Sh750m to relocate offensive dumpsite P.12
 Africa needs Sh30b boost for anti-poverty projects P.20
 At least 37 injured as African migrants riot in Italian town P.28

ANNEX F: AN ARTICLE ANALYSED

SATURDAY NATION
November 27, 2010

GUEST COLUMN | Peter Oriare

New constitution holds lots of promise for the vibrant Kenyan media

The mainstream Kenyan media has had a reputation of being vibrant and assertive. They contributed significantly to the widening of the democratic space in Kenya that led to introduction of multiparty politics in 1992 and regime change in 2002.

The new Constitution is what a vibrant media like the ones we have in Kenya needs. The preamble to the new Constitution recognises the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. The new Constitution is media-friendly and will surely act as a catalyst for additional investment and advancement in the media sector.

The government shall have to put laws that monitor and regulate the negative influence of multinational mass communication structures, strategies and practices that negate Kenyan ethnic languages and cultures. This new provision will reduce the amount of foreign content on local broadcasting stations and provide impetus for development of local content. Media will have to invest in appropriate technologies, personnel and programmes to make this possible.

Article 11 on culture will dramatically influence media in Kenya. It provides that the state shall promote all forms of national and cultural expressions through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage. The Government of Kenya already supports public broadcasting through the Kenya Broadcasting Corporation, Parliament, the Kenya Institute of Education and various community media through the



President Kibaki displays the official new Constitution on its promulgation.

Communication Commission of Kenya.

However, this provision goes beyond these narrow approaches. It opens the window for government to apply the democratic socialist theory of the Press that allows the practice of State intervention to achieve communication goals. It would allow the government to give indirect economic and financial support to media to achieve national and cultural information goals.

Already, under CCK, the government operates the Universal Service Access Fund to promote access to communication information and technology.

Fundamentally important is the provision in Article 33 that guarantees the right to freedom of expression. Specifically, it guarantees freedom to seek, receive or impart information or ideals

as well as freedom of artistic creativity.

However, individual's freedom of expression shall be limited by Article 31 that states that every person has a right to privacy. This means that individuals have the right not to reveal information relating to them, family or private affairs.

The new Constitution goes even further to prohibit the State from controlling or interfering with mass media owners, distributors, producers and their agents. The implication is that the government shall not make legislation of any kind that seeks to unduly control or interfere with mass media business and management. Gone is the era when the Ministry of Information and Communication and regulators like CCK would unilaterally impose draconian laws on the mass media.

The State-owned media shall also be required to be impartial and adhere to the fairness doctrine at all times. The new Constitution requires State media managers to desist from being prejudiced in their presentation. It requires them to present divergent views and dissenting opinions fairly and in a balanced manner.

The new Constitution provides a favourable climate for attracting both local and direct foreign investment in mass communication and media sectors. Foreign investors were previously cautious because of bad laws and a history of political repression in Kenya. Of course, a worrying trend is that concentration of media ownership in the hands of a few politicians continues in Kenya.

Dr Oriare teaches at the University of Nairobi's School of Journalism and Mass Communication.

ANNEX G: QUESTIONNAIRE



JOURNALISM IN THE STRUGGLE FOR DEMOCRACY IN KENYA

I. Introduction

Many changes have been noticed in Kenyan politics. Several groups, churches, journalists International Community and courageous citizens have contributed in the long struggle for democracy in Kenya.

The aim of this study is to investigate on the role of journalism in the struggle for democracy in Kenya.

II. Questions

1. According to you, is there democracy in Kenya?
- If no, why? If yes, why?
2. What do you think has been a major achievement in the struggle for democracy in Kenya?
3. In your opinion what are the main obstacles to democratization in Kenya?
4. Is Kenyan media contributing to Kenya's political developments?
5. Do you think Kenya has made progress to Press Freedom? Or rather, is media free to perform its role, as guaranteed by the new constitution?
6. According to you what do you think that should be done to have a democratic Kenya?
7. Any other comments and suggestions:

III. Name: -

Media group and role:-

Email address:-

After responding to the questions, please send me the attached document through the following email: **benvit83@gmail.com**

Thanks for your attention and precious time spent in answering the questions.

ANNEX H: MARYANNE GICOBÍ'S RESPONSES



JOURNALISM IN THE STRUGGLE FOR DEMOCRACY IN KENYA

I. Introduction

Many changes have been noticed in Kenyan politics. Several groups, churches, journalists International Community and courageous citizens have contributed in the long struggle for democracy in Kenya.

The aim of this study is to investigate on the role of journalism in the struggle for democracy in Kenya.

II. Questions

1. According to you, is there democracy in Kenya?

- If no, why? If yes, why?

Kenya is not fully democratic. But recommendable strides have been made over the past years since independence. Democracy in Kenya, I would give it a 5/10.

2. What do you think has been a major achievement in the struggle for democracy in Kenya?

Inclusion of the general public in policy making matters of the country. Such as the Public hearing on the budget making process.

3. In your opinion what are the main obstacles to democratization in Kenya?

The ever rising corruption cases and scandals in the country. This causes skewed distribution of resources further widening the gap between the rich and the poor. The low economic class citizens rarely have a say on the national matters.

4. Is Kenyan media contributing to Kenya's political developments?

Yes. The Kenyan media always brings political coverage and further looks deeply into politics and the ripple effects it has on the country's economy.

5. Do you think Kenya has made progress to Press Freedom? Or rather, is media free to perform its role, as guaranteed by the new constitution?

Little progress has made on the country's press freedom. There media bills being passed in parliament every now and then that inhibit the press freedom. Journalists are still being jailed for stories they have written

6. According to you what do you think that should be done to have a democratic Kenya?

Increase press freedom, change of old age policies, sack and prosecute corrupt individuals to reduce corruption levels.

7. Any other comments and suggestions:

The Kenyan media is doing a credible job. But it should strive to improve its independence from the state and powerful individuals.

III. Name: **Maryanne Gicobi**

Media group and role: **Trained economist and reporter, Nation Media.**

Email address: **maryanne.gicobi@gmail.com**

After responding to the questions, please send me the attached document through the following email: **benvit83@gmail.com**

Thanks for your attention and precious time spent in answering the questions.

ANNEX I: PEOPLE WHO RESPONDED TO THE QUESTIONNAIRE

1. Maryanne Gicobi

Media group and role: Trained economist and reporter, Nation Media.

2. Eric Kathenya

Media group and role: Former journalist, Nation Media

3. Wilfred Olal

Occupation: Activist

4. James Wambua

Media group and role: Nation media Group Business Sub Editor

5. Steve Mbogo

Media group and role: Managing editor Mt. Kenya Star Newspaper. (Media Owner)

6. Daniel Onyango Mkado

Media group and role: The Seed magazine, Chief Editor

7. Joseph Mukururi Wang'ang'a

Occupation: Civil Servant

8. Anniel Njoka

Media group and role: Nation Media Group, News Researcher