

## FREEDOM OF THE PRESS

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# Kenya

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In 2011, the Kenyan media continued to live up to its traditional reputation for vibrant and critical reporting, despite cases of threats and intimidation against individual reporters in regions outside the capital, Nairobi. Improvements in the legal framework for media freedom were strengthened during the year. Articles 33 and 34 of the 2010 constitution have been widely praised for expanding freedoms of expression and the press, and specifically prohibiting the state from interfering with the editorial independence of individual journalists as well as both state-owned and private media outlets. The new constitution also guarantees the right of access to state information, and requires state-owned media to be impartial at all times. While there are potential curbs on the enjoyment of these freedoms with regard to incitement, hate speech, antigovernment propaganda in times of war, and privacy, they are not as severe as those in the previous constitution.

Libel and defamation cases, which can be tried under either criminal or civil law and in which the burden of proof rests with the accused, were brought against journalists in 2011. In one high-profile defamation lawsuit, Deputy Prime Minister Uhuru Kenyatta sued the private Kenya Television Network (KTN) in March for airing a 2008 interview with Prime Minister Raila Odinga in which he claimed that Kenyatta had links with an outlawed ethnic militia, the Mungiki. In July, a High Court judge ordered KTN to pay Kenyatta 7 million shillings (\$77,250). Also in March, parliament member William Kabogo sought an injunction against KTN and the *Standard* to prevent them from publishing or broadcasting allegedly libelous reports about his links to the coastal illegal drug trade; the High Court ruled in favor of the injunction in September. Police Commissioner Mathew Iteere sued KTN for libel in November for a report implicating him in a major drug deal in the coastal city of Mombasa. Kenyan courts maintained independence in several other cases involving the media, including the June acquittal of journalist Bernard Okebe of blackmail charges filed by Lawrence Njoroge, a police chief in western Kenya, in 2008. The court ruled that Njoroge had presented insufficient evidence to support his claims. The police chief is also a prime suspect in the 2009 murder of *Weekly Citizen* journalist Francis Nyaruri.

The Information Ministry's draft freedom of information bill, published in 2007, has yet to be presented to parliament, but access to information has improved with the passage of the new constitution. New rights guaranteed to the media effectively weaken secrecy laws such as the Official Secrets Act, which prevented the release of information on national security grounds. Fears that Kenya's October military incursion into Somalia would lead to state censorship did not materialize, although independent media experts reported that many media houses resorted to self-censorship regarding the conflict.

The Media Council of Kenya, established by the 2007 Media Act, regulates the conduct and discipline of journalists, but is hampered by a lack of funds. A draft Media Bill was introduced in 2010 to amend the 2007 act. Although it maintains the use of statutory measures to regulate media ethics and standards, the

## 2012 SCORES

### PRESS STATUS

**Partly Free**

### PRESS FREEDOM SCORE

**52**

### LEGAL ENVIRONMENT

**16**

### POLITICAL ENVIRONMENT

**19**

### ECONOMIC ENVIRONMENT

**17**

draft bill would provide greater independence to the council and institute a Code of Ethics that is consistent with international standards. The Communications Commission of Kenya (CCK) is responsible for broadcast media licensing and public broadcasting regulation. It also oversees and regulates the telecommunications sector, including licensing internet service providers (ISPs). In compliance with the new constitution, a bill was introduced in 2010 to establish an independent regulatory and oversight body for the broadcasting sector, which would replace the existing commission. Neither the Media Bill nor the legislation to create a new regulatory commission had been passed by year's end.

Several extrajudicial threats and attacks against the media by state and nonstate actors occurred in 2011, particularly in the western and eastern regions of the country. In September, unknown assailants raided the offices of the investigative magazine *Nairobi Law Monthly* and stole computers and hard disks containing critical information for the October issue. Publisher Ahmednasir Abdullahi told reporters that he suspected government involvement in the raid. The staff managed to release the October edition despite the stolen property. Two KTN investigative reporters, Mohamed Ali and Dennis Onsarigo, faced threats to their lives after investigating cases of drug smuggling along coastal Kenya in May for a series of reports aired during the year. And in December, an anonymous caller with suspected links to a local official in Bungoma, in western Kenya, made repeated death threats to KTN reporter Robert Wanyonyi for his story on a theft at a coffee factory and resulting violence between villagers and local police. Wanyonyi was forced to leave the area with his family after being followed by police with suspected links to the Bungoma official, as well as further anonymous phone threats.

Journalists of Somali-Kenyan origin received the bulk of threats in 2011, often being targeted by Islamic militias based in neighboring Somalia as supporters of the Kenyan government. Threats became particularly acute for some of these journalists after the Kenyan army invaded southern Somalia in October in a bid to secure its borders from attacks by the Somali Islamic militia Al-Shabaab. For example, individuals with suspected links to Al-Shabaab issued threats through phone calls and e-mails, and physically attacked relatives of the *Nairobi Star's* award-winning journalist Fatuma Noor in late October, after they accused the reporter of assisting the Kenyan police in the arrest of some of their members. Also, journalists who investigated the 2007–08 postelection violence were threatened by supporters of politicians currently facing indictments by the International Criminal Court (ICC) for their role in instigating the crisis. Two correspondents from the western city of Eldoret, Walter Barasa of the *People* and Mathews Ndanyi of the *Star*, were compelled to leave the city late in the year after repeated threats and accusations by locals that they were informants for the ICC.

Kenya's leading media outlets, especially in the print sector, are often critical of politicians and government actions. They remain pluralistic, rigorous, and bold in their reporting, although they also frequently pander to the interests of major advertisers. There are four daily newspapers, one business daily, and several regional weekly newspapers. In addition, several irregularly published independent tabloids are highly critical of the government. While the number of private broadcast media outlets has risen steadily, the state-controlled Kenya Broadcasting Corporation (KBC) remains dominant outside major urban centers, and its coverage tends to favor the government. Two private companies, the Standard Media Group and the Nation Media Group, run independent television networks and respected newspapers. There has been a significant expansion of FM radio, particularly ethnic stations, and their call-in shows have fostered increasing public participation as well as commentary that is unfavorable to the government. However, community broadcasting is underdeveloped. International news media, including the British Broadcasting Corporation and Radio France Internationale, are widely available in Kenya. The use of bribery by political actors to influence news coverage remains a concern, as does the allocation or withdrawal of advertising to control content.

About 28 percent of Kenyans accessed the internet in 2011, and in recent years there has been a growth in online news publications as well as the use of social media sites. There were no reports that the government restricted

internet access. Due to lack of infrastructure and electricity, internet availability is still limited in rural areas, though expanding mobile-phone usage has increased access. In July, the government launched a website, Kenya Open Data, which made large amounts of official information, including the national census, available to the public for the first time.

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