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Freedom Of The Press - Kenya (2011)

Status: Partly Free
Legal Environment: 19
Political Environment: 18
Economic Environment: 17
Total Score: 54

Kenyan media have continued to live up to their traditional reputation for vibrant and critical reporting, and the environment for media freedom improved during 2010. In August, Kenya enacted a new constitution that has been widely praised for extending freedoms of the press and expression. Article 33 specifically guarantees the freedom to seek, receive, and impart ideas or information. 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 old constitution. The new charter has also been praised for prohibiting state control over or interference with private media owners, distributors, producers, or their agents, and for requiring state-owned media to be impartial and adhere to the fairness doctrine at all times.

Libel and defamation cases, in which the burden of proof rests with the accused, are occasionally brought against journalists. National security laws such as the Law on Sedition are also used to suppress critical coverage. In mid-2010, journalist Joel Eshikumo was released after serving an eight-month prison sentence for criminal defamation, and other cases against reporters remained pending at year's end. In January, the government announced new broadcasting regulations, effective immediately, that included censorship of content, a ban on ownership of different types of media, new rules detailing media coverage of elections, and a seven-year limit to media licenses. However, fears that these rules would be used to curtail media freedom had not occurred by year's end. 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 passing 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.

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. Because members of the council are nominated by media stakeholders and appointed by the Information Ministry, the independence of this regulatory body remains in doubt. A draft law on the Media Council was introduced in 2010 to amend the 2007 law. Although it maintains the use of statutory measures to regulate media ethics and standards, the 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 is responsible for broadcast media licensing and public broadcasting regulation. In compliance with the new constitution, a bill

was introduced to establish an independent regulatory and oversight body for the broadcasting sector, which would replace the existing commission. Neither the Media Council bill nor the Communications Commission bill had been passed by year's end.

Extrajudicial attacks on the media by state and nonstate actors remain rare by regional standards, but there are occasional reports of official harassment or targeted killings of journalists. In December 2010, the Committee to Protect Journalists reported that Sam Owida, a reporter with the privately owned *Daily Nation*, had received threatening telephone calls for investigating the murder of Francis Nyaruri, another journalist who was found beheaded in January 2009 after he published stories on police corruption in the private *Weekly Citizen*. The principal magistrate in the murder case disqualified himself from the trial of the two suspected killers in October. Some journalists practice self-censorship on sensitive topics. In March 2010, the International Criminal Court (ICC) opened an investigation into Kenya's 2007 postelection violence. Among the six suspects believed to be responsible for crimes against humanity was Joshua Arap Sang, who allegedly used his radio show on Kass FM to organize crimes against supporters of the incumbent president's Party of National Unity.

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 five daily newspapers, one business daily, and several regional weekly newspapers. In addition, a number of irregularly published independent tabloids are highly critical of the government. While the number of private broadcast media outlets has risen steadily, the government-controlled Kenya Broadcasting Corporation (KBC) remains dominant outside major urban centers, and its coverage tends to favor the ruling party. 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.

There were no reports that the government restricted internet access. About 21 percent of Kenyans accessed the internet in 2010, and in recent years there has been a growth in online news publications as well as the use of social media sites. Due to lack of infrastructure and electricity, internet availability is still limited in rural areas, though expanding mobile-phone usage has increased access.