



**JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY**  
*Setting Trends in Higher Education, Research and Innovation*

**SCHOOL OF HUMAN RESOURCE AND DEVELOPMENT**

**DEPARTMENT OF SOCIAL SCIENCES AND HUMANITIES**

**UNIT CODE: HSC 4104**

**UNIT NAME: PUBLIC RELATIONS THEORY, PRACTICE AND MANAGEMENT**

**PRESENTED BY: MURIUKI ROBERT G. M.**

**REG No : HD 421-2328/2013**

**PRESENTED TO: Dr. M. KAMAU MWANGI**

**TASK: The use of “historical lenses” in navigating dynamic policy discourses with special emphasis on Kenya.**

**In partial fulfillment of the PhD in Mass Communication**

## Table of Contents

ABSTRACT.....	<b>Error! Bookmark not defined.</b>
THE COLONIAL PERIOD (1895-1963).....	3
POST INDEPENDENCE (1962-1978) - THE KENYATTA ERA .....	7
THE MOI ERA (1978-2002).....	12
THE KIBAKI ERA (2002-2012).....	14
THE CURRENT POSITION.....	17
CONCLUSION AND RECOMMENDATION.....	23
REFERENCES .....	24

## **Abstract**

This paper looks at the various media policy engagements in Kenya from the onset of colonialism, through the various administrations in the post-colonial era to the present. The purpose of the paper is to examine the circumstances that have informed the media policy changes through the period Kenya has been in existence as a modern nation. The paper draws mainly from primary sources including papers and published books on how media has been treated by successive administrations in Kenya. It has shown how the much sought media freedom has been continually elusive, and even after the promulgation of the new constitution which gave wide latitude for media operations, other roadblocks in the name of conglomeration, concentration and cross-media ownership have come into play to complicate the equation. The study concludes by underlining the importance of a free and unhindered media and recommends the way forward in the formation of an oversight body as the new constitution directs.

**Key words: paradigm, convergence, cross ownership, conglomeration**

## **THE COLONIAL PERIOD (1895-1963)**

The history of modern media can be traced to the onset of colonialism in Kenya. Britain took possession of the area that came to be known as Kenya after the 1884 Berlin conference on the scramble for and partitioning of Africa. Kenya became a British protectorate and later its colony by 1895.

The British government established direct rule on Kenya and subsequently encouraged its citizens to come and settle on the fertile and hitherto unexploited highlands. European farmers, missionaries, administrators arrived in Kenya in droves to form the white settler community.

According to Mshindi and Mbeke(2008), the history of media in Kenya is closely tied to the political and economic interests of the colonial government and the white settler community. The white settler press, they add, was a vehicle for disseminating government information to the citizenry and especially the white settler communities.

The colonial government had an authoritarian dominant perception of the press which they put under close supervision and control. It therefore follows that the media policy they adopted was to be autocratic. The earliest formal regulatory control with an impact on the freedom of movement and therefore expression was put in place in 1897. The Native Courts Commissioner gave the government powers to detain or restrict movement of anyone in the protectorate if it was felt such persons were a threat to the government in any way.

This action of the colonial government was informed by the authoritarian theory of the press. This theory developed in the late renaissance period posits that mass communication should support the state and government for society to advance and the state to attain its objectives. The

theory also declares that the state directs the citizenry, which is not considered competent and interested enough to make critical political decisions,

Other regulatory controls that were put in place in quick succession included the Vagrancy Regulations, The Outlying Districts Ordinance and The Native Passes Regulations or the Kipande law. As Muiro Ngugi rightly observes, all these regulations were capable of depriving a person of freedom of expression in all its manifestations: speech, press, religion, movement and association.

It should be noted that the Kenya colony was supposed to be governed by laws rooted in English Common Law which had a constitutional commitment to freedom of expression. This was however largely ignored in Kenya as the British were more concerned with the exploitation of the colony and to establish control over its subjects.

Another law to control the press was enacted in 1906. This was the Book and Newspaper Registration Ordinance that required proprietors of newspapers, printers, and publishers to be registered and to submit returns to the government. The proprietors were needed to give the title of the newspaper, their names and addresses and the average yearly circulation.

One wonders why the colonialists were so concerned with the control of the press given that the majority of the Africans were still illiterate and there was no apparent or immediate threat to them. The answer may be however found in the same authoritarian theory which says that the group that controls the society also controls the media, since media are recognized as vital instruments of social control.

With time the Africans had become uncomfortable and unsettled by the paternalistic colonial policies of displacement from their land, forced to labour on the same land and to pay taxes to

the colonialist. They were also discriminated against and segregated from the matters of their country. (Allen & Gagliardone 2011)

In the 1920s, the Africans started forming nationalist parties to address their grievances and injustices meted against them by the colonialists. Mshindi(2008) says they used independent or alternative press to instigate dialogue challenging paternalistic colonial policies such as displacement from land, forced labour and taxation, and racial segregation.

The colonists must have foreseen this as they had started very early to put in place the instruments of control for any such eventuality. The colonial subjects were barred under these laws from expressing grievances, however genuine, against the colonists, since it would lead to hostility against the settlers and threaten social order.

The media at this time operated under a climate of discrimination, intimidation as well as ignorance of laws and Western Liberalism in general (Muiru). Ghai and MC Auslan say that the colonial powers were applied discriminatively as they were only against Africans. The vernacular publications were also closely monitored with all vernacular papers and news-sheets subjected to exhaustive scrutiny by the criminal Investigation Department (CID) and subsequently by the special Branch.

The control of the media by the empire was not only confined to the print media: wireless and broadcasting were similarly controlled (Mshindi, 2008).The government rigorously controlled and censored radio programmes, using them as pro-colonial, anti-nationalist propaganda tools.

However, despite all those controls and regulations, the African press still flourished. This alarmed the colonial government for it felt it was 'losing the war for the hearts and minds of the native population'. The trend of vernacular press presented a grave menace to the future of the

colony, or so they thought. They said some vernacular newspapers were financed by “seditious-minded Indians” and were anti-European, were abusing the freedom of the press with deliberate distortion of facts in articles that had dangerous anti-European propaganda and that the unbridled press was having a serious impact on uneducated and politically immature Africans.

A committee to curb the freedom of the media was set up and it made many recommendations with presumption that it was acting to protect the people from themselves. As Muiru aptly puts it, protecting the people from themselves is often an excuse for unwarranted high-handedness. He says that, ironically, Governments fail to acknowledge their contribution in the circumstances that necessitate robust exercise of freedom of the kind that is often deemed to threaten order and stability.

The committees’ recommendation led to oppressive regulations and prescriptions that effectively killed the African press, according to media historians. This is because printers risked revocation of licenses or jail terms if they printed African –run news papers.

However, by 1960, it was becoming an undeniable fact that Kenya was headed for independence (Ogolla, 2011). The colonists, started therefore to loosen the grip they had on the media. For example they allowed the Nation newspaper to be registered. The newspaper came off the press and was then bought by the Aga Khan, head of the Ismailia community. The Kenya Broadcasting Corporation was also hurriedly formed to take over from the government controlled corporation for fear of the power of mass media in African hands (Ogolla 2011)

The colonial authorities, it can be seen, were operating under the positivist paradigm in much of their occupation of Kenya when dealing with the media. This had long been overtaken by the post-positivist paradigm proposed by the likes of Durkheim, Locke, St. Augustine and others.

Ironically, most of the oppressive regulations were inherited intact by the post-independence rulers and have vestiges in the current media regulations and laws, informing media policy to date.

## **POST INDEPENDENCE (1962-1978) - THE KENYATTA ERA**

Kenyatta assumed the reins of power at independence from the British in 1963. The populace was generally ecstatic about independence and this was accompanied by national political goodwill. The media played along as they did not want to be seen to be against an African government. So this period was characterized by serenity as the media celebrated the nationalists in the new government. The new slogan on everybody's mouth was the fight led by the government against three common national enemies: 'ignorance, poverty and disease'.

However, the honeymoon was not to last long. The country was politically fragmented; ideological differences among the leaders were glaring; there was discontent over distribution of resources; the white settlers were unhappy; tribalism was rife, there was crippling poverty, threatening diseases and widespread ignorance while the Northern Frontier District was clamouring for secession to the eastern neighbor-Somalia.

To deal with these and other headaches, Kenyatta needed a media that would help contain the situation and enable him rule in peace. Luckily for him, the transition from the colonial rule to independence was a mere change of guard (Muiru). Old structures of dominance and oppression were all intact. All the regulations, laws and ordinances on the media from the colonial rule had been retained, and the new government put them to good use to contain criticism and ensure political stability.



According to Adieno-Odhiambo(1987), Kenyatta's "ideology of order" had a significant influence on Kenya's repressed freedom of expression where Kenyatta introduced a nation-building project fueled by the theory that unless they were checked, competing cultural interests-religious, ethnic, and regional-would impede the country's development. Mshindi(2008) contends that the Kenyatta government controlled and co-opted the media for propaganda purposes.

The Kenyatta government on the colonial laws amongst them the Penal Code (1960) Chapter 63 section 40 made it treasonable for any person who owing allegiance to the Republic, in Kenya or elsewhere, encompasses, imagines, invents, devices or intends-

(i) the death, maiming or wounding, or the imprisonment or restraints of the president, or

(ii) the overthrow by unlawful means of the Government; and expresses, utters or declares any such encompassing, imaginations, inventions devices or intentions by publishing and printing or writing or by overt act or deed is guilty of offence of treason.

Section 52 of this law also gave the government power to prescribe publications if it considered it necessary to do so in the interests of public order or morals. The Penal Code prohibited the printing, making, importing, publishing, selling, supplying, distributing, reproducing, or possessing a prohibited publication. The law authorized any police or administrative officer to seize and detain any prohibited publication which the police may find in "circumstances which raise a reasonable presumption that an offence" under the Act has been or is intended to be committed.

A notable personage and architect of the laws on freedom of expression in Kenya is a former colonial administration prosecutor who became the first African Attorney General in the name of

Charles Njonjo. He rigorously defended the Kenyatta regime, quoting the most stringent sections of the code regularly, invoking section 40 (1), which made it a crime to even imagine the death of the president!

Another law inherited from colonialism gave the government power to ban the importation and the local publication of a foreign newspaper. To ban a newspaper, it only required the Minister for Home Affairs to see that the publication was supposed to be banned in the interests of defence, public safety, public order, public morality and public health

Section 56 of the Penal Code defined sedition as an intention: (a) to overthrow by unlawful means the government of Kenya as by law established; or (b) to bring into hatred or contempt or to excite disaffection against the person of the President or the Government of Kenya as by law established; or (c) to excite the inhabitants of Kenya to attempt to procure the alteration, otherwise by lawful means, of any matter or thing in Kenya as by law established, or (d) to bring into hatred or contempt or to excite disaffection against the administration of justice in Kenya; or (e) to rouse discontent or disaffection amongst the inhabitants of Kenya; (f) to promote feelings of ill-will or hostility between different sections or classes of the population of Kenya.

A seditious publication was defined as a publication containing any word, sign or visible presentation that expressed an intention of a seditious nature. Section 57 provided that any person who: (a) does or attempts to do, or makes any preparation to do, or conspires with any person to, any act with a seditious intention; or (b) utters any words with a seditious intention; or (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or (d) imports any seditious publication, is guilty of an offence and is liable to imprisonment for up to 10 years. Also, any person found in possession of a seditious publication was guilty of an

offence, and could either be jailed for the offense of sedition and his printing machine confiscated and barred from publishing newspapers.

The Official Secrets Act is another law that was used to curtail free expression, and in particular investigative journalism. Its intention was to prevent government secrets from falling into the hands of foreign spies, but it instead caught journalism in its web- it barred entry into any 'prohibited place' and forbade taking photos of such places. It forbade any employee or former employee of government from communicating any information obtained in the course of work and made it an offence for a person to receive such information or incite or attempt to procure another person to commit an offence under this law.

All these and the many other laws and regulations had effectively neutralized the media into a languorous state. Muiiru says the Kenyan press of the 1970's was distinguished for its avoidance of criticism of the executive and a propensity to appeal to the lowest common denominator. Quoting Lamb (1982) he observed that the Kenyan press "combined some intelligent editorial comment with a great deal of sex, crime and scandal" resulting in a "healthy circulation" and an "x-rated product"

When Kenyatta and Jaramogi Odinga-his vice president turned opposition leader-the presidency of the Kenyan state became defined by its use of "repressive [state] apparatuses rather than representative institutions as instruments of legitimizing it's rule" (Ajulu, 2000: 1). Kenyatta utilized state machinery, including the police and the judiciary, to alienate political rivals. Often the media were targeted or manipulated to achieve this end. Of significant influence on Kenya's repressed freedom of expression was Kenyatta's "ideology of order" (Adieno-Odhiambo, 1987).

The Kenyatta government co-opted and controlled the media for propaganda purposes (Mshindi, 2008). The factors that shaped the development of media during the Kenyatta era were largely driven by the ideology of order, the push for development, political contention, and ideological issues surrounding media ownership (Mbeke, 2008).

Kenyatta is also accused of having personally grabbed and accumulated huge chunks of land perpetrated by him for his benefit and members of his family. A Truth, Justice and Reconciliation Commission accuse Kenyatta of having taken one-sixth of European settlers' lands that were intended for settlement of landless Africans.

His regime was also rocked by several political assassinations of otherwise popular national figures seen as a threat to his regime. Pio Gama Pinto, was the first to go in 1965 followed four years later by the charismatic minister, Joseph Tom Mboya. JM Kariuki, a flamboyantly wealthy politician also fell in 1975.

This lends credence to the fact that it was imperative on the Kenyatta government to regulate and fiercely control the media which otherwise would have made life very difficult for it. Many of the ills that bedevil Kenya as a nation to this day have their origins to this regime: tribalism, nepotism, skewed distribution of national resources, and many others.

With all its misdeeds, the Kenyatta regime survived until his death in 1978. The media had looked the other way as Kenyatta had the constitution radically amended to expand his powers, consolidating executive power. He is also criticized for his authoritarian style, characterized by patronage, favoritism, tribalism and nepotism.

## **THE MOI ERA (1978-2002)**

President Daniel Arap Moi succeeded Kenyatta upon his death and his was a really troubled rise to the top. Moi was a minnow in the Kenyan political landscape. He had no strong familial, tribal, educational or business connections. His tribe the Tugen, was a minority of the larger Kalenjin Tribe. He had little post-primary education.

When he took over the reins of power, he was spurred on by the rest of the country relieved that power had been wrested from the feared Kiambu Mafia. Adar and Munyae say he was regarded to be the right candidate to steer the country towards a more accommodating human rights era, as his words and actions were interpreted by Kenyans as a dawn of a new era of adherence to democracy and human rights.

However signs of things to come emerged early in the Moi presidency. In 1980, the Minister for Information and Broadcasting announced that Kenya could no longer afford an unregulated press. “As a young developing country, we cannot afford the luxury of permissive reporting practiced by developed countries”

In 1982, officers from the Kenya Air Force attempted to take over power in a coup de tat. The coup was ruthlessly crashed by the royal Kenya army and Moi’s presidency restored. As a reaction to the coup, Moi took several drastic actions. He tightened his grip on power and started pursuing “imaginary enemies”, dissent was criminalized and critical publications banned. According to Adar and Munyae, the coup accelerated the process of control of the state and solidified Moi’s authoritarian rule.

On the media front, KANU bought off the struggling Nairobi Times and renamed it the Kenya Times and made it the party’s and government mouth piece, with subjective and biased

reporting. The Kenya broadcast Corporation, the Government owned and ran media organization was the only outlet for news and information. Its radio and TV churned only government- correct news. All the news had to start with the president's news and often times, the president's news was the only news.

Many Kenyans felt dissatisfied with the mainstream media as a result and turned to the emerging underground press such as *Pambana*, *Pambazuka* and *the Organ of December 12th Movement*. The owners of these publications were pushing for political liberalization which had severely been curtailed by the Moi regime. What followed was a severe crackdown on these publications and more tightening of media control.

Moi also sought to control the private media through proxies. He had indirect control of the two largest circulation dailies- the Nation and the Standard. He bought controlling shares in the Standard and asserted influence over it using his business relationship with the principal shareholder.

The government made full use of the police and its other arms to control the media. The dreaded special Branch-the political police-would take any article critical of the government as seditious. The authors of such articles would be taken to the infamous Nyayo and Nyati Houses torture chambers. After 'confessions' they would be taken to court, sometimes at night and handed down lengthy jail terms.

As if this was not enough, the government sought to gag the media through the judiciary by involving libel and defamation laws. Having moved a constitutional amendment and removed the security of tenure of judges, the judges had no option but to do the governments bidding.

Over the years, the courts awarded punitive awards against the media on libel and defamation charges. The People Daily paper, critical for the government was ordered to pay former cabinet minister Nicholas Biwott \$ 250,000 for a 1999 story on the Turkwell Hydroelectric Power Project, which his lawyers argued depicted him as a corrupt man.

Pressure from within and outside the country pushed the government to accept multi-partyism. This emboldened activists of all kinds. An abrasive alternative press emerged and confirmed the governments' worst fears on freedom of expression. An unprecedented kind of crusading, adversarial journalism emerged (Muiru)

The long and short of it however, is that the press under Moi, was under constant government attack. However, there were several attempts to free the media which did not completely lead to success.

### **THE KIBAKI ERA (2002-2012)**

Kibaki is credited of having presided over the promulgation of a new United States-style constitution in 2010. The new constitution introduced major changes that brought in rights and guarantees for media and access to information. In the new constitution, freedom of the press has no limitation save those contained in the text of the constitution: war propaganda, incitement to violence, hate speech and ethnic intimidation and violence. Further, the constitution disallows any form of government control over independent media and guarantees that published thoughts opinions and ideas may not be penalized, regardless of content.

Section 79(1) of the previous Kenyan constitution had provided for the limited right to freedom of expression but no corresponding media freedom (Maina, 2006). However, the reality of the media landscape in Kenya remains largely the same as prior to the new constitution, according

to Susman-Pena (2011). The new constitution, specifically guarantees for freedom of expression and association, access to information and media freedom (NCLR, 2010) but there is no court of last resort through which violations of media freedom can be heard. In addition, despite the clause allowing for free publication of ideas, legislation that criminalizes certain types of speech, such as defamation, remains.

Susman-Pena (2011) continues to lament that few constitution mandates have been implemented and there are no mechanisms to enforce them. She cites the criminalization of press infractions and governmental obstacles to access information as an example, which makes the reality of media landscape to remain largely the same as prior to the enactment of the new constitution.

According to the African Media Barometer Report on Kenya, the greatest threats to journalists and the press are libel and defamation prosecutions and suits (FES, 2009). The Defamation Act is widely used and criminalizes slander and libel of public figures. The prohibitions are ubiquitous, and include poorly defined terms such as “public figure” or “injured reputation,” which allows for wide and varying interpretation and arbitrary application (FES, 2009). Further, the Act provides for limitless and duplicative penalties. Large fines are often levied at journalists accompanied by prison sentences, sometimes years after the alleged offense. Other acts criminalizing, or otherwise limiting a free press; include the Public Order Act and the Penal Code (Chapter 63), which criminalize speech deemed to threaten public order and the expression of “disaffection” with public figures.

Despite the lack of legislation requiring a right to access, the Kibaki government took steps toward government transparency, launching an open government website—[www.opendata.go.ke](http://www.opendata.go.ke)—through which citizens can access public sector information without



charge. The goal, according to the site's home page, is to provide data that is free, both technically and legally accessible (easy to find on-line), and is in a digital format that is easy to use and modify. The data is also open to anyone and is reusable and redistributable. (Susan-Pena, 2011)

But although Kibaki's was an era that seemed to have a measure of tolerance towards the media and the promotion of freedom of expression, there were a number of documented incidences of serious press repression. In 2005, First Lady Lucy Kibaki stormed the premises of an independent newspaper, the Daily Nation, with her security personnel. As reported by the Standard, an independent newspaper, she stayed in the newsroom for five hours, confiscating notebooks, mobile phones, tape recorders cameras and other equipment, claiming that the press lied to the public about her and her husband. She slapped a cameraman on her departure (Susman-Pena, 2011).

In March 2006, Kibaki security personnel raided the offices of the Standard after it published stories alleging mass corruption and revealing a multimillion dollar scandal. The police beat journalists, burning newspapers, and dismantled and destroyed equipment. The action "shocked many Kenyans and alarmed Western donors" (Pan-African News Wire, 2008).

During the 2007 election period and post-election violence of 2007, Kibaki instituted a 24-hour media blackout. According to Tom Rhodes, East Africa consultant for the Committee to Protect Journalists (CPJ), a non-profit organization working to promote free press worldwide, a number of named journalists working at the Nation Media Group and Standard Group media houses have received death threats and been victims of abuse (IFEx, 2009).

In 2009 Francis Nyaruri, a reporter for the private weekly Citizen, was murdered in western Nyanza province. Nyaruri's mutilated body was found in Koderia Forest two weeks after he went missing. Nyaruri had written a number of stories accusing high-ranking police officers of corruption (CPJ, 2009). A CPJ review of law enforcement documents and interviews found credible evidence that senior officials consciously obstructed the investigation into Nyaruri's murder. In a June 2009 letter, Attorney General Amos Wako wrote, "There is strong suspicion that police officers could have executed the deceased" (Rhodes, 2012).

## **THE CURRENT POSITION**

The media in Kenya are today thriving, sophisticated and innovative. Kenyans can now express themselves without fear of arrest or interference and they enjoy more freedom of expression than at any other time of their history. The media in Kenya have been increasingly assertive and self-confident, operating with a freedom that is the envy of many in Africa and beyond. They can critic and examine any branch of government, any institution or personality and even the president in his official or private capacity.

Muiru Ngugi in his article, *From Fetters to Freedom*, attributes this relatively expansive freedom to 'the historical contests between the modern Kenyan state-both colonial and postcolonial on the one hand, and anti-colonial nationalists, post independence liberals and contemporary democratizing elements, on the other'.

The 2010 Constitution also went a long way towards giving express guarantee to media freedom. Article 34 of the constitution reads:

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).

The state shall not-

exercise control over or interfere with any person engaged in broadcasting, the production of any publication or circulation of any publication or the dissemination of information by any medium; or penalize any person for any opinion or the content of any broadcast, publication or dissemination

Although this may sound libertarian, the same constitution under section (5) seems to correct that illusion. It states:

Parliament shall enact legislation that provides for the establishment of a body, which shall- be independent of control of government, political interests or commercial interests; reflect the interests of all sections of society; and set media standards and regulate and monitor compliance with those standards.

This returns the media to the realm of social responsibility and assuages the fears of those who may feel uncomfortable with a media operating in a laissez-faire state. The contention however has been on the composition of the body the constitution recommends.

Despite all these gains, there are still people who feel that free expression is still restricted in Kenya. Seasoned journalist Joe Kadhi argues that the government is still secretive and oppressive. What is not in contention however is that the country may never go back to the days of authoritarianism witnessed during the colonial and the immediate post-colonial period.

The other discernible concern in freedom of expression and media freedom in Kenya is media concentration. In his book, *Rich Media, Poor Democracy*, Robert McChesney(1999) blames corporate boardrooms of big media of not giving more choice and more diversity but having an

organized system characterized by a lack of competition, homogenization of opinion and formulaic programming.

Joining McChesney is media scholar, Mark Crispin Muller. Together they postulate that corporate bosses of conglomeration compromise journalism by producing a system of news that is high on sensationalism but low on information. This new corporate system, they argue, will be characterized by a rich media and an ever impoverished, poor democracy.

The media in Kenya have been moving towards monopoly, concentrating ownership in a few hands and producing duplicative and biased content. A few corporate organizations and individuals own most of the media houses across the country. Media owners are profiting from the convergence of ownership and have avidly (and so far successfully) opposed government (Allen & Gagliardone, 2011).

A few corporate organizations and individuals own most of the media houses in the country. Media owners are profiting from the convergence and have avidly opposed government proposals to curtail or limit cross ownership (Mbeke, Ugungu, and Okello-oriare, 2008). There is extensive cross-media ownership and media concentration within the market and a small, elite group dominates the newspaper, television and radio landscape. In 2008, a CIDA-conducted analysis of Kenya's media sector revealed media ownership consolidation patterns and linkages between the media and government elite (Mshindi, 2008).

Government-owned Kenya Broadcasting Corporation (KBC) runs the widest radio and Tv network in the country with more than 100 frequencies. KBC is the oldest and largest public service radio provider, with 17 regional radio stations, three commercial radio stations and three Tv broadcast services (Kenya Broadcasting Corporation, n.d.; Mshindi, 2008).

The Nation Media Group is the most dominant private media organization in Kenya, with outlets in radio, Tv, newspapers, magazines and publishing. It consists of Nation Newspapers Limited, Nation Carriers Limited, Nation Broadcasting Limited, and Nation Marketing and Publishing Company Limited. The holding company for the group, Nation Printers and Publishers Limited, is a publicly quoted company—holding base of nearly 10,000 members—on the Nairobi Stock Exchange. The founder and principal shareholder is the Aga Khan who holds 43 percent of the shares.

The Nation Media Group also operates Nation Television, Daily Nation, Easy FM, Q FM, and Nation Digital Division, an internet publisher. Additionally, through Nation Marketing and Publishing Limited, it distributes The Economist, Times, Newsweek and Fortune magazine (Mshindi, 2008). The Royal Media Services Limited is the second most dominant broadcasting house in Kenya, controlling Citizen Tv, a national Tv network; and 11 FM stations across the country. Business magnate S.K Macharia is the principal investor at Royal Media Services Limited (Mshindi, 2008).

The Standard Group owns The Standard newspapers and Kenya Television Network, and distributes numerous regional and international publications through its corporately owned Publishers Distribution Services. The key shareholders at the Standard Group are former President Daniel Moi (36 percent), Moi's son Gideon (20 percent), and former Moi aide Joshua Kulei (16 percent) [Siasa Duni, 2009].

According to *The Press Freedom Index*, an annual ranking of countries compiled and published by '[Reporters Without Borders](#)', Kenya is ranked “partly free” based upon the organization's assessment of the countries' [press freedom](#) records in the previous year. It reflects the degree of

freedom that [journalists](#), news organizations, and [citizens](#) enjoy in each country, and the efforts made by the authorities to respect and ensure respect for this freedom.

In 2013, Kenya was ranked position 071 with an index of 27.80, an improvement from 2012, when it had been ranked position 084 with an index of 29.5. There were 179 countries ranked globally, with Eritrea at the tail-end position and Finland ranked the first- 001 with an index of 6.38. The freedom of expression and of the media in Kenya is still not guaranteed. Speaking on World Press Freedom Day on 3<sup>rd</sup> May 2013, Macharia Gaitho, the chairman of the Editors Guild said the same legal restrictions that the press faced in Kenya in 1986 remains to date. He said that the only difference is that they are not being applied with as much vigour as they were those days.

President Kenyatta had assured media of press freedom in its watchdog role as guaranteed in the Constitution. In a meeting with editors at State House on 2<sup>nd</sup> August 2013, the president had this to say:

*“We are not interested in government control and propaganda. Our commitment is to better ensure how the media can more effectively support our democracy by promoting prudent governance. What we want is openness and transparency that offers benefits to Kenyans. A free media is at the heart of true democracy. I am happy that in Kenya, we don’t even have a debate about free media anymore.”*

The President who was meeting editors for the first time said his government would accept criticism from the media but added it would be important if journalists focused on issues that were of public interest. He said what is needed is openness and transparency that offers benefits

to Kenyans adding that a free media is at the heart of true democracy. He expressed happiness that in Kenya, we don't even have a debate about free media anymore.

However, while the President said the relationship would "not be adversarial", editors already had a bone to pick over the contents of the new Media Bill 2013. According to the Editor's Guild, the removal of the Media Council of Kenya Complaints Commission, granting of powers to Information Cabinet Secretary over the Council's membership and the removal of media accreditation would jeopardize media freedom as enjoyed today.

## CONCLUSION AND RECOMMENDATION

Freedom of expression has come along long way in our country. As we have seen, the successive administrative authorities have been very uncomfortable with media freedom and have used various tactics to forestall and curtail it. Even where there is a declared policy that encourages media freedom, the reality on the ground is usually radically different.

As Mfumbusi Benjamin puts it in his article ‘The Long Walk to Media Freedom’, leaders only wax lyrical about media freedom but the reality is of constrictive media laws that stifle that freedom. Although Kenya is now a relatively free country going by the constitutional guarantee of media freedom and freedom of expression in general, only eternal vigilance can guarantee sustained freedom.

Kibwana (1990), says that constitutional intentions are not enough; governments must enable citizens to enjoy that freedom. This it can do, he continues, by ensuring universal literacy, access to media and equitable distribution of public resources such as frequencies. A fully functioning democratic government can only exist with the contribution of a well regulated free and independent media, executing its mandate without infringing upon the rights of others unless on very good, justifiable causes.

This paper recommends that the hard-won freedom of expression be jealously guarded from all forces that may be out to interfere with for their selfish gains. To satisfy the demands of the constitution, a statutory body put in place should only include media professionals drawn from media and other related institutions. The body should be protected against political, economic or any other undue influence as provided for by Clause 9 of the Declaration of Principles of Expression in Africa.



## REFERENCES

1. Abuoga, J.B and Mutere, A, (1988) *The History of the Press in Kenya* Nairobi: The African Council on Communication Education.
2. Ajulu, R. (2000). *Kenya: The road to democracy*. Nairobi: Review of African Political Economy.
3. Allen & Gagliardone (2011).*The Media MapProject. Project Case Study Snapshot to ICT and Media*
4. Atieno-Odhiambo, E.S. (1988). Democracy and the ideology of order in Kenya. In: W.O. Oyugi, E.S. Atieno-Odhiambo, M. Chege & A.K. Gitonga (Eds.). *Democratic theory and practice in Africa*. Portsmouth, NH: Heinemann.
5. Beckman, B. (2008). Whose democracy? Bourgeois versus popular democracy. *Review of African Political Economy*.
6. *Annual Progress Report 2011-2012: Economic Recovery Strategy*.
7. Books and Newspapers Act, Cap 111 of the Laws of Kenya.
8. Canadian International Development Agency's (2010) *Kenya Media Sector Analysis*
9. Commission of Inquiry (2008) *Post Election Violence Report*.
10. Communications Commission of Kenya, (2007). *Annual Report 2006-200*
11. Ed Caleb Atemi: The Long Walk to Media Freedom: From fetters to Freedom: Media Regulation in Kenya. [www.mediacournal.co.ke](http://www.mediacournal.co.ke)
12. Jonathan, C. (2012) Status of Media in Kenya in FES and AWCFS's Report Card: Media Coverage of the 2005 Referendum.
13. Ibelema, C. (2008) Reporting Politics and Public Affairs. The African Council for Communication Education: Nairobi 2008
14. International Commission of Jurists Kenya: (2008) *Judicial Independence, corruption and reforms* November 11, 2008
15. Kenya National Commission on Human Rights (2012)

16. Makali, D. (Ed). (2004). *Media Law and Practice: The Kenyan Jurisprudence*. Nairobi: Phoenix Publishers.
17. Mohamed, Y. H. *Administration and National Security. The Kenyan Constitution: Nairobi Dated the 3rd August, 2012.*
18. Mshindi, T. (2008). *Freedom of Expression in Kenya: Historical Perspective*. Nairobi: African Research Foundation
19. Mwaura, P (October 20,(2012) FAIR PLAY Saturday Nation ( *Let's focus on media access, not ownership*)
20. Ogola, A. (2011). *The place of the Kenyan Media*. Nairobi: African Research Institute foundation.
21. Okoth-Owiro. (1994). *Law and the Mass Media in Kenya*. Nairobi.
22. Omwanda, L. O. 1990 -1991. "Sources of Authoritarianism in the African News Media." *Caejac Journal*.
23. Oriare, P (2010) *Mass Media in Kenya: Systems and Practice.*, Jomo Kenyatta Foundation.
24. Oriare, P. Okello, R. Ugangu, W. (2010) *The Media We Want*, Nairobi, Friedrich Ebert Stiftung
25. The Media Act, (2007) *The Kenya Gazette Supplement, Acts, 2007*. Government Printer, Nairobi.
26. The Media Council of Kenya, *Code of Conduct and Practice of Journalism in Kenya (2nd Ed)* Nairobi: The Media Council of Kenya