



# Freedom of the Press 2013 - Kenya

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## 2013 Scores

**Press Status:** Partly Free

**Press Freedom Score:** 53

**Legal Environment:** 16

**Political Environment:** 20

**Economic Environment:** 17

In 2012, the Kenyan media continued to live up to their traditional reputation for vibrant and critical reporting, despite cases of threats and intimidation outside the capital, Nairobi. Articles 33 and 34 of the 2010 constitution have been widely praised for expanding freedoms of expression and of the press, specifically by prohibiting the state from interfering with the editorial independence of individual journalists as well as both state-owned and private media outlets. The constitution binds Kenya to a series of international and regional legal instruments regarding free expression, including the Universal Declaration of Human Rights and the African Charter on Human and People's Rights. While the constitution does contain potential curbs on press freedom with regard to privacy, incitement, hate speech, and antigovernment propaganda in times of war, they are not as severe as those in the previous constitution.

Despite the adoption of the 2010 constitution, several anachronistic laws that curtail press freedom remain on the books. The 1967 Preservation of Public Security Act gives the president sweeping powers to censor, control, or prohibit information that is deemed a security risk. The penal code criminalizes defamation, although the majority of libel and defamation cases are tried under civil law. Overall, the use of court injunctions and legal suits to silence the press decreased in 2012. In one case filed during the year, Deputy Prime Minister Uhuru Kenyatta sued the *Star* newspaper for defamation in February over an article that compared his potential victory in the upcoming presidential election to the rise of Nazi leader Adolf Hitler in Germany. The case remained pending at the end of 2012.

The Information Ministry's 2007 draft freedom of information bill has yet to be presented to the parliament, but access to information improved with the passage of the 2010 constitution. New rights guaranteed to the media effectively weakened laws such as the Official Secrets Act, which prevented the release of information on national security grounds.

The 2007 Kenya Media Act established a statutory media regulatory body, the Media Council of Kenya. The council is set up to ensure that neither the government nor media owners enjoy full

control over the body, although some journalists and media personalities have expressed doubts about the impartiality of any state-funded regulator.

The Communications Commission of Kenya (CCK) is responsible for broadcast media licensing and regulation. It also oversees and regulates the telecommunications sector, including the licensing of 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. The legislation had not passed by year's end.

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 and influential politicians. As the March 2013 general elections – the first since disputed polls in 2007 led to deadly ethnic and political violence – drew closer, indications that media owners were aligning themselves with certain political personalities became apparent. The concentration of media ownership in a small number of hands, often with strong political affiliations, contributed to this partisan reporting trend. Many local journalists admitted that their election coverage required self-censorship to accommodate the interests of their respective media houses. The government launched an initiative in 2012 to counter hate speech and incitement of ethnic violence as part of the preelection preparations.

At least 28 journalists were threatened or attacked during the year, largely by local officials and police in connection with coverage of corruption. Nearly half of all cases were reported in the western region of the country. In February, *Standard* reporter Sammy Jakaa received death threats via mobile-telephone text message after exposing graft by Kenyan security agents in the Ugandan-Kenyan border town of Malaba. In March, two journalists, Lucas Ngasike from the *Standard* and Rashid Ekeno from its sister broadcaster KTN, received death threats for exposing a food-aid scandal perpetrated by local officials in the western, drought-ridden Turkana district. In September, guards at the Machakos courthouse assaulted cameraman Jonathan Mutiso of the state-controlled Kenya Broadcasting Corporation (KBC) for filming their attack on an escaped suspect. Mutiso was forced to erase his footage.

Ethnic Somali journalists faced continued threats and intimidation in 2012 emanating from Islamist militias based in neighboring Somalia as well as Kenyan security agents. Both sides accused the journalists of supporting their opponents. Text and e-mail threats became particularly acute for some of these journalists after the Kenyan army invaded the town of Kismayo in southern Somalia in late September 2011 as part of a campaign to secure Kenya's borders from attacks by the Somalian Islamist militia Al-Shabaab.

There are four daily newspapers, one business daily, and several regional weekly newspapers. In addition, a number of independent tabloids that are highly critical of the government publish irregularly. The KBC remains dominant outside major urban centers, and its coverage tends to favor the government. There are six private television broadcasters along with a myriad of private and community radio stations. There has been a significant expansion of FM radio in recent years, particularly ethnic stations, and their call-in shows have fostered increasing public participation as well as commentary that is critical of the government. Two private companies, the Standard Media Group and the Nation Media Group, run independent television networks and respected newspapers. International news media, including the British Broadcasting Corporation and Radio France Internationale, are widely available in Kenya, along with new international media investors such as the Chinese government's China Central Television (CCTV).

About 32 percent of Kenyans accessed the internet in 2012. Kenya is the leader in usage in East Africa, with more than twice as many users as any other country. Due to lack of infrastructure and electricity, internet availability is still limited in rural areas, though expanding mobile-phone usage has increased access.

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