



Freedom of the Press 2015 - Kenya

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2015 Scores

Press Status: 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

Despite robust constitutional protections for freedom of expression, Kenyan legislators passed security legislation in late 2014 that threatened to curtail media coverage of terrorist attacks and security operations in the country. Throughout the year, the authorities intimidated the press in order to stifle reporting on the worsening security situation.

Legal Environment

Kenya's 2010 constitution was 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 and both state-owned and private media outlets. The constitution also binds Kenya to a series of international and regional legal instruments governing free expression, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' 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 charter.

In reaction to a series of terrorist attacks in late 2014, Parliament passed and the president signed an expansive security law in December. Through a series of amendments to existing laws, the legislation would impose penalties of up to three years in prison and 5 million shillings (\$57,000) in fines for the unauthorized dissemination of information that undermines counterterrorism investigations or operations, or of photographs showing the victims of terrorist attacks. Similar punishments are prescribed for media houses that publish or broadcast material "likely to cause fear or alarm to the public." Other provisions in the law would grant broad surveillance powers to Kenyan security forces. A court challenge of the new legislation's constitutionality was pending at the end of 2014.

Just days before the security bill was published, the Qatar-based broadcaster Al-Jazeera released a documentary implicating the Kenyan security forces in extrajudicial killings. The government

denied the claims and instructed the relevant authorities to begin investigations into whether charges could be brought against those involved in the documentary.

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. The tribunal is authorized to withdraw media accreditation and seize any property or other assets to cover fiscal penalties. Individual journalists face fines of up to 500,000 shillings, and media companies up to 20 million shillings, if they are found in breach of a government-dictated code of conduct drafted by legislators. Another entity created by the new laws, the Communications Authority of Kenya, replaced the Communications Commission of Kenya as the broadcast and online media regulator, responsible for tasks including licensing and frequency allocation. That provision of the KICA was widely criticized for giving the communications secretary and the president the power to appoint the authority's board and chairperson without stakeholder input. Both laws were still under judicial review at the end of 2014.

Although rarely used, several anachronistic laws remained on the books in 2014. 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 majority of libel and defamation cases are tried under civil law, but defamation is still a criminal offense under the penal code. Observers argue that the mere possibility of criminal defamation charges is often used to intimidate journalists.

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

In August 2014, Parliament introduced the Parliamentary Powers and Privileges Bill, which would require the press to seek permission from the speaker to cover parliamentary proceedings. It prescribed up to two years in prison and fines of 500,000 shillings for journalists who publish anything deemed defamatory toward Parliament, its committees, or its proceedings. The bill had yet to be enacted at year's end.

Political Environment

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, especially at the editorial level. Political pressure coupled with threats and intimidation has encouraged self-censorship on sensitive topics such as security operations and major political events. In July 2014, Kenyan broadcasters collectively decided not to cover a nationwide opposition rally held to voice concerns over Kenya's security situation. They cited fears of divisive rhetoric or calls to violence for the decision. In September, the inspector general of police issued a directive banning all county and divisional police commanders from speaking to the press, leaving only the Nairobi-based police spokesperson as a point of contact for journalists.

Journalists were threatened, intimidated, or beaten in at least 19 different incidents across the country in 2014, with police and government officials accounting for nearly all of the perpetrators. This total represented a slight improvement over the previous year. In May, Lynda Ngoolo, a journalist for the private daily *Star*, went into hiding after receiving police threats over a story urging authorities to investigate claims that terrorists were using a home in Mwingi Town as a safe

house. In October, police briefly detained Justus Ochieng, another *Star* reporter, in connection with a series of stories alleging criminal activity by police officers in Kisumu.

Several journalists in recent years have reported harassment and threats linked to their coverage of the International Criminal Court (ICC) case against three high-profile suspects – including the president and deputy president – who were accused of crimes against humanity in relation to the postelection violence of 2007-08.

At least one foreign journalist from Somalia was detained in Kenya, where terrorism concerns have increased pressure on the large ethnic Somali and Somalian refugee communities. Ibrahim Said Salah, editor of the Puntland news website Allcarmo.com, was arrested for questioning in September 2014 and reportedly remained in detention at year's end.

Economic Environment

There are four daily newspapers, one business daily, several regional weekly newspapers, and now one free daily tabloid in Kenya. Six private television broadcasters and one state broadcaster operate alongside a myriad of private and community radio stations. There has been a significant expansion of FM radio outlets 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, as are newer international media players such as the Chinese government's China Central Television.

About 43 percent of Kenyans accessed the internet in 2014. Kenya is the leader in usage in East Africa and boasts a thriving online community, including a number of prominent, critical blogs. Due to lack of infrastructure and electricity, internet connectivity is still limited in rural areas, though expanding mobile-phone usage has increased access.

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