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Freedom of the Press 2009 - Kenya

Status: Partly Free

Legal Environment: 21 (of 30)

Political Environment: 21 (of 40)

Economic Environment: 18 (of 30)

Total Score: 60 (of 100)

(Lower scores = freer)

Covers events that took place between January 1, 2008, and December 31, 2008.

Kenya has generally enjoyed a reputation as a regional leader in free expression. However, the media faced a difficult period following the postelection violence in early 2008, including a wave of threats and self-censorship. Kenya's constitution does not explicitly guarantee press freedom, though Section 79 protects an individual's right to freedom of expression. Nevertheless, the government routinely restricts this right by broadly interpreting several laws, including the Official Secrets Act, the penal code, and criminal libel legislation. Although defamation remains criminalized in Kenyan law, the attorney general declared in a 2005 defamation case that the archaic law would no longer be used to suppress freedom of expression, and unlike in 2007, there were no reports of criminal libel laws being used to threaten journalists in 2008. In December, the parliament passed amendments to the Communications Act that permit intrusive government regulation of the media and allow the information minister to assert undue political influence on the media licensing body, the Communications Commission of Kenya. The law also gives the commission broad authority to regulate broadcast content and scheduling. On December 30, President Mwai Kibaki signed the bill into law.

Until the rival candidates in the disputed December 2007 presidential election formed a coalition government in March, several cases of intimidation of journalists by officials and security forces were reported. During the postelection violence, community radio stations were accused of stoking ethnic hatred. A ban on radio and television news broadcasts lasted from December 30, 2007, until February 4, 2008. Two journalists were injured in the period around the election: in January, photographers Hezron Njorge of *The Nation* and Robert Gicheru of *The Standard* were shot while covering riots in the Kibera slums of Nairobi. Although some commentators alleged that journalists engaged in excessive self-censorship during this period, David Makali of the Media Institute argued that despite some instances in which media "played into the ethnic divisions that characterized the campaign," many journalists held their ground under pressure and continued to provide a range of balanced views. By mid-2008, outlets seemed to have regained their full vibrancy and critical reporting. In May, New Zealand-born photographer Trent Keegan was murdered in unclear circumstances. Several journalists and civil society activists, including the morning crew of the radio station Kiss FM, were

arrested in Nairobi on December 12 at a demonstration protesting the passage of the Communications Act amendments.

Although the number of private media outlets has risen steadily, the government-controlled public broadcaster, Kenya Broadcasting Corporation (KBC), remains dominant outside the major urban centers, and its coverage tends to favor the ruling party. Nonetheless, private media outlets are generally outspoken and critical of government policies, and considering the limitations, much of the domestic media provided robust coverage of the postelection violence in 2008. Two private companies, the Standard Media Group and the Nation Media Group, are influential media houses, running 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. Unfortunately, many of these vernacular stations were accused of broadcasting ethnic hate speech in the wake of the election. The Media Council of Kenya, an independent regulatory body, cited the prevalence of politicians who doubled as radio station owners as a contributing factor in increased tensions. International news media, including the British Broadcasting Corporation and Radio France Internationale, are widely available in Kenya. There are no reports that the government restricted internet access, but the authorities did reportedly monitor the internet during the postelection period, as it was used to disseminate both information and hate messages. The percentage of Kenyans accessing the internet is estimated at 7.9 percent, but the figure is expected to rise with the completion of new undersea cables in 2009.

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