

Title	Freedom of the Press 2008 - Kenya
Publisher	Freedom House
Country	Kenya
Publication Date	29 April 2008
Cite as	Freedom House, <i>Freedom of the Press 2008 - Kenya</i> , 29 April 2008, available at: http://www.unhcr.org/refworld/docid/4871f611c.html [accessed 3 September 2012]
Disclaimer	This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.

Freedom of the Press 2008 - 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)

The Kenyan media typically has a reputation for vibrant, aggressive reporting. But in 2007, its independence was threatened by the government in a number of ways. The most odious of these were the decisions made by the government to create a statutory media council to regulate the media during the summer and its impulsive declaration that banned live broadcast news following the failed election in December.

Although the constitution does not explicitly guarantee press freedom, Kenyan media operations are still governed by the constitution's Section 79. While not providing for freedom of speech, Section 79 does guarantee citizens the broader right to freedom of expression. Nevertheless, the government routinely restricts this right by widely interpreting several laws, including the Official Secrets Act, the penal code, and criminal libel legislation. Although defamation remains criminalized in Kenyan law, in a 2005 defamation case the attorney general declared that the archaic law would no longer be used to suppress freedom of expression. However, in a March 2007 civil libel case, the editor of the independent newspaper, *The Independent*, was jailed for his inability to pay his US\$8,600 fine. Earlier, *The Independent* had published an article accusing the father of Martha Karua – the minister of justice and constitutional affairs and close friend of the presiding judge – of being involved in an abortion scandal. Kenya was still without Freedom of Information legislation at the end of the year, despite the fact that a Freedom of Information Bill was tabled in parliament in May.

The most significant change on the legal front in 2007 was the creation of a statutory media council. A self-regulatory voluntary media council has existed in Kenya since 2002 but pressure has since mounted for a statutory media council to replace it. A bill was introduced in parliament to that effect early in 2007. Bitter and acrimonious debate followed between government officials and media representatives. In August, the bill was passed with a last minute amendment that would require editors to disclose the identity of their sources if asked to do so in a court of law. Immediately, hundreds of journalists held a silent demonstration in Nairobi in protest. In response, Kibaki refused to sign the law with the new amendment and sent it back to parliament where the amendment was swiftly removed and the legislation passed. As it stands, the new law mandates a council of 15 members with the chair being appointed by the Minister of Information and Communications. It also limits who can be a reporter by defining a journalist as someone who "holds a diploma or a degree in mass communication from a

recognized institution of higher learning," and requiring all media practitioners to register with the council for accreditation.

While instances of harassment and intimidation of the media decreased from 2006, the situation markedly deteriorated during the December 27 general election and in its aftermath. Journalists who were unaccustomed to covering conflict were thrust into dangerous situations, many were on the receiving end of tear gas attacks, and those posted at the polling stations were often intimidated. Moreover, on December 30 – the same day that the electoral commission mistakenly announced that the incumbent Mwai Kibaki had won the presidential election – the internal security minister announced that all live television and radio broadcasts would be formally banned indefinitely. This had the effect of preventing up-to-date coverage of the rapidly changing events, and inhibiting the media's ability to question the electoral commission's verdict despite the growing evidence. At the end of the year, the situation for the media, not to mention the state of the country's democracy as a whole, was tenuous indeed.

Despite these events, the private media in Kenya remains vibrant, independent, and diverse. In fact, considering the limitations, much of the domestic media provided robust coverage of the post-election violence unfolding. Two private companies, The Standard Media Group and Nation Media Group are prominent influential media houses, running independent television networks and well-respected newspapers. The state-run television station, Kenya Broadcasting Corporation, started a new network, K24, in 2007 which exhibited signs of distinct pro-government bias. Radio is the most influential medium outside of Nairobi and there is a plethora of diverse stations around the country. Unfortunately, many such vernacular stations were accused of broadcasting ethnic hate speech in the wake of the election. International media is widely available in Kenya, including the British Broadcasting Corporation and Radio France Internationale.

The internet is a growing place for vibrant political debate for Kenyan citizens and the Diaspora. In fact, blogs were a crucial source for up to the minute information, images, and opinions following the ban on other live broadcasts. The percentage of Kenyans accessing the internet more than doubled in 2007 from 3 percent the previous year to 7.5 percent. This is expected to rise even further in coming years with the anticipated completion of an underwater fiber-optic cable from the middle east connecting Kenyans to a much faster internet at more affordable prices.

Copyright notice: © Freedom House, Inc. · All Rights Reserved
