Journalists view the existing media policies, coupled with the tax burdens imposed on the media, as clear signals that Kenya's government has no interest in or respect for a free and flourishing press.

KENYA

OVERALL SCORE: **2.23**

KENYA

Although Kenya's media display certain strengths, widespread intimidation of the media persists. Last year's MSI described Kenyan journalists' fears that hard times were in front of them, with politicians apparently conspiring against the media. These concerns proved well-founded. President Kibaki approved changes to the media law that broadened the scope of official power to interfere with the media, under the guise of protecting national security. The Government of National Unity, brokered by regional leaders, remains in control, but the situation is very volatile—with indications that it may collapse in advance of the 2012 general-elections.

The profession lost another journalist this year under mysterious circumstances: *Citizen Weekly* news reporter Francis Nyaruri was murdered; his body was found tortured and beheaded. Disturbed by the government's reluctance to investigate and prosecute this and other cases, journalists are resorting to widespread self-censorship. Government investigations of crimes against media practitioners frequently appear half-hearted, and cases are often withdrawn before they are resolved. The judiciary serves as an accomplice, passing harsh judgments with high fines against media houses, forcing some to close down. Journalists view the existing media policies, coupled with the tax burdens imposed on the media, as clear signals that Kenya's government has no interest in or respect for a free and flourishing press.

The state continues to suppress press freedom, supported by a framework of oppressive media laws—some inherited from colonial governments. The government continues to enact new media laws, described by journalists as draconian, under the guise of media regulation. For example, the Communications Amendment Bill 2008 sparked swift protests from the media community after parliament passed it into law. The protests forced the government to withdraw the bill and order a review involving all stakeholders. Although consultations with stakeholders were held, journalists are waiting to see whether their views are reflected in the final document passed into law by parliament.

Despite all these problems, however, there are causes for optimism. There are no restrictions on the Internet, or on access to foreign or domestic news sources. Additionally, Kenyans enjoy a wide plurality of news sources and benefit from strong supporting institutions. Unity among media practitioners and various professional associations is growing. For example, media associations work with NGOs to deliver training programs for journalists. Such trainings aimed to equip journalists with skills to cover violent situations and uphold press ethics, in an attempt to avoid a repeat of what transpired during the post-elections violence—when some journalists took sides, produced biased reporting, and were labeled partisan as a result.

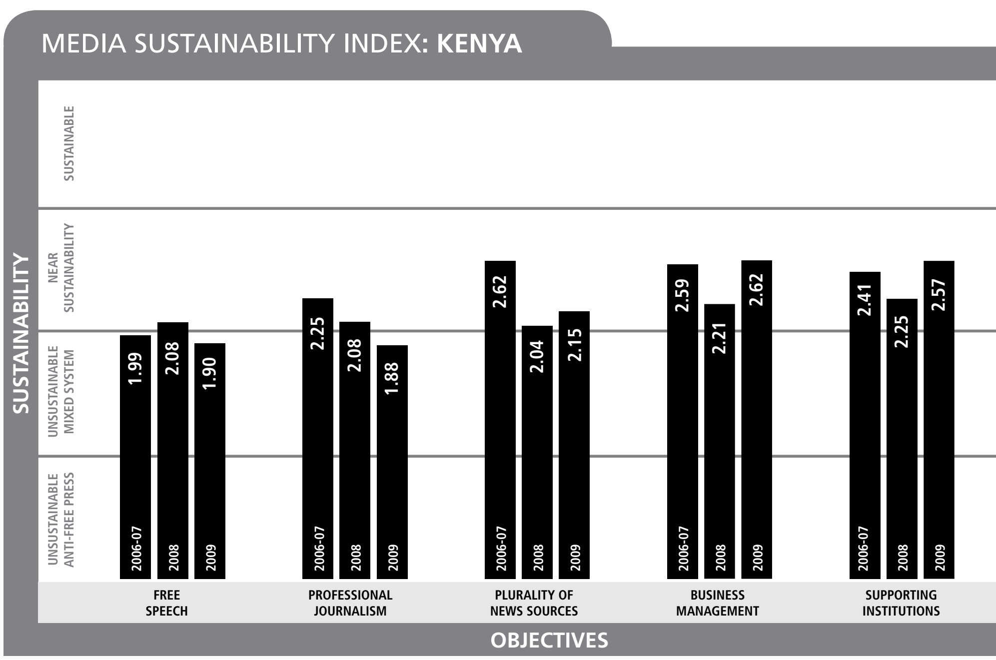
KENYA AT A GLANCE

GENERAL

- **Population:** 40,046,566 (July 2010 est., *CIA World Factbook*)
- **Capital city:** Nairobi
- **Ethnic groups** (% of population): Kikuyu 22%, Luhya 14%, Luo 13%, Kalenjin 12%, Kamba 11%, Kisii 6%, Meru 6%, other African 15%, non-African (Asian, European, and Arab) 1% (*CIA World Factbook*)
- **Religions** (% of population): Kikuyu 22%, Luhya 14%, Luo 13%, Kalenjin 12%, Kamba 11%, Kisii 6%, Meru 6%, other African 15%, non-African (Asian, European, and Arab) 1% (*CIA World Factbook*)
- **Languages:** English (official), Kiswahili (official), numerous indigenous languages (*CIA World Factbook*)
- **GNI (2009-Atlas):** $30.69 billion (World Bank Development Indicators, 2010)
- **GNI per capita (2009-PPP):** $1,570 (World Bank Development Indicators, 2010)
- **Literacy rate:** 85.1% (male 90.6%, female 71.7%) (2003 est., *CIA World Factbook*)
- **President or top authority:** President Mwai Kibaki (since December 30, 2002)

MEDIA-SPECIFIC

- **Number of active print outlets, radio stations, television stations:** Print: 7 daily newspapers, 4 weekly newspapers, 2 weekly magazines; Radio Stations: 63; Television Stations: 17
- **Newspaper circulation statistics:** Top three by circulation: *Daily Nation* (private, circulation 250,000), *Standard* (private, circulation 120,000) and *People* (private, circulation 45,000)
- **Broadcast ratings:** Top three radio stations: Citizen Radio (private), Classic (private), Kiss (private)
- **News agencies:** Kenya News Agency (state-owned)
- **Annual advertising revenue in media sector:** KES 17.4 billion (2007)
- **Internet usage:** 3.36 million (2008 est., *CIA World Factbook*)



Unsustainable, Anti-Free Press (0-1): Country does not meet or only minimally meets objectives. Government and laws actively hinder free media development, professionalism is low, and media-industry activity is minimal.

Unsustainable Mixed System (1-2): Country minimally meets objectives, with segments of the legal system and government opposed to a free media system. Evident progress in free-press advocacy, increased professionalism, and new media businesses may be too recent to judge sustainability.

Near Sustainability (2-3): Country has progressed in meeting multiple objectives, with legal norms, professionalism, and the business environment supportive of independent media. Advances have survived changes in government and have been codified in law and practice. However, more time may be needed to ensure that change is enduring and that increased professionalism and the media business environment are sustainable.

Sustainable (3-4): Country has media that are considered generally professional, free, and sustainable, or to be approaching these objectives. Systems supporting independent media have survived multiple governments, economic fluctuations, and changes in public opinion or social conventions.

OBJECTIVE 1: FREEDOM OF SPEECH

Kenya Objective Score: 1.90

The overall score for this indictor dipped slightly from last year's study as indicators 2 (broadcast licensing), 3 (market entry), and 6 (libel laws) dropped notably. Other indicator scores remained relatively static. Indicators 4 (crimes against journalists), 5 (legal independence of public broadcasting), and 6 all lagged behind the objective score by roughly half a point each, while indicators 8 (media access and use of foreign news) and 9 (free entry into the media profession) outperformed the objective score by more than a point and about three-quarters of a point respectively.

Some panelists believe that Kenya has very sound constitutional provisions to promote freedom of speech; however, the country allows a number of additional laws to remain on the books that betray or contradict provisions in the constitution favorable to the media. To illustrate, the panel members cited the Penal Code Act, the Official Secrets Act, libel laws, and others that they said contravene section 79 of the constitution, which provides for freedom of expression. "The spirit to promote free speech is there, but little can be achieved when we still have other negative laws in place. There also is no specific provision for free media, which I think is a serious problem," said Ibrahim Oruko, a journalist and treasurer of the Kenya Union of Journalists (KUJ). Oruko counts close to 66 pieces of legislation with an anti-media bent. Added Peter Moss, a Kenya Television Network reporter, "What happens on the ground violates the code of law and regulations."

The Kenyan government has shown its reluctance to enact the Freedom of Information Law, which would promote a healthier environment for the press. Instead, it has languished as a proposed bill since 2000. As a result, violations continue to occur under the state's watch, added another panelist. On the other hand, another panelist claimed that a good number of Kenyans have abused what freedoms of speech and the media exist, essentially forcing the government to adopt a harsher stance. Other panelists added that the media, especially the electronic media, have abused this freedom as well and presented biased material.

Regarding the Kenyan judiciary, the panel agreed that it has never been independent, especially when it comes to freedom of speech. The court's silence on free-speech violations vexes journalists, and in fact courts have also sometimes prevented the media from covering certain cases without providing sound reasons. Suspects arrested and taken to court on free-speech or other violations rarely expect they will receive fair treatment.

However, Moss shared his view that in general, the legal environment has improved over time, especially after the advance of multiparty government. Julius Mbeya, a program officer for CLARION (Centre for Law and Research Institute), also pointed to commendable progress in opening up the democratic space since the reintroduction of multiparty politics—but noted this progress has not always translated to support for the media, a view echoed by other panelists as well. Mbeya observed that the government has adopted a more authoritarian approach to the media in the past few years, but pressure from the media and civil-society groups has led to some improvements. Kihu Irimu, of Journalists for the Rights of Children, commented that the ruling elite tends to view the media as an enemy—but that the media bears some responsibility as well because it has failed, collectively, to take a common stand on key issues.

Panelists also noted that the government does not require registration to access the Internet, nor does it block or restrict any Internet features, allowing access to anyone who can afford the service. The cost, though, is deemed prohibitive for many, especially outside of the cities.

Two bodies are charged with broadcast media licensing: the Ministry of Information and Telecommunication and the Communications Commission of Kenya (CCK). The Ministry of Information issues the licenses, while the CCK allocates the frequency. All of this is subject to political patronage, added Oruko. The information minister is appointed by the president, who in turn appoints all the directors of CCK—not inspiring confidence in their independence, noted

LEGAL AND SOCIAL NORMS PROTECT AND PROMOTE FREE SPEECH AND ACCESS TO PUBLIC INFORMATION.

FREE-SPEECH INDICATORS:

- Legal and social protections of free speech exist and are enforced.
- Licensing of broadcast media is fair, competitive, and apolitical.
- Market entry and tax structure for media are fair and comparable to other industries.
- Crimes against journalists or media outlets are prosecuted vigorously, but occurrences of such crimes are rare.
- State or public media do not receive preferential legal treatment, and law guarantees editorial independence.
- Libel is a civil law issue; public officials are held to higher standards, and offended parties must prove falsity and malice.
- Public information is easily accessible; right of access to information is equally enforced for all media and journalists.
- Media outlets have unrestricted access to information; this is equally enforced for all media and journalists.
- Entry into the journalism profession is free, and government imposes no licensing, restrictions, or special rights for journalists.

Politicians obtain licenses with relative ease; for example, the deputy prime minister, Uhuru Kenyatta, took over K24 TV. His license was granted in a very short time, while others spend years in limbo waiting for their application to go through, said the panelists.

Agnes Ogula Ludaava, a lecturer at the Kenya Institute of Communication. David Matende, Chair of the KUJ, noted as well that licenses are very expensive, at KES 1 million ($11,300). Other panelists underlined the lack of transparent criteria in the process of issuing licenses and noted that even worse, CCK is funded by the state, which exercises full control over it. Politicians obtain licenses with relative ease; for example, the deputy prime minister, Uhuru Kenyatta, took over K24 TV. His license was granted in a very short time, while others spend years in limbo waiting for their application to go through, said the panelists.

Oruko commented that the application process is deliberately confusing. There are no benchmarks for applicants to comply with; either the ministry does not keep proper records of applicants, or the records are inaccessible to the public, as they are considered classified information. Allocation of frequencies is equally opaque, Oruko added.

According to the panel, the regime does not uphold guidelines of fair competition, demonstrating a clear preference for state media since the 2007 elections. Anybody can approach the Ministry of Information and Telecommunication for a license, but obstacles occur at the frequency assignment stage, given the political nature of CCK, noted the panelists. They referred to the experience of journalist Sarah Nkatha (also a panelist). She was granted a license to operate a community radio but was denied a frequency for two years, while some powerful media houses, drawing on their political connections, acquired many frequencies that sit unused. In addition, Daudi Ochami, Commissioner of the Media Council of Kenya, shared his concern that the Kenya Communications Act 2009, in addition to introducing cyber crimes, details new restrictions on content and licensing of the electronic media in Kenya.

The tax structure, the panel said, is also not fair to the media, considering that in other sectors, tax breaks are extended to all investors. Matende noted that taxes on newsprint and electronic equipment are quite steep. A bond of KES 1 million ($13,300) is required from anyone interested in starting a newspaper; coupled with heavy taxes on media production materials, the costs are out of reach for too many. The panelists suggested that taxation on the media industry should vary depending on a media house's size. In particular, small media houses should be granted tax breaks, in the panel's view, to allow them an opportunity to grow.

The panel reported rampant crimes against journalists, enabled by an atmosphere of impunity. "Murder, torture, arrests without proper charges, and intimidation have been the order of the day," summed up one panelist. The panelists are especially concerned by two recent murders of journalists. In 2009, Francis Nyaruri, a journalist for the weekly *Citizen Weekly*, was brutally murdered, and his body was later found beheaded. Matende noted that at the time of the MSI panel, the government had yet to start prosecuting his suspected killers—police officers. Oruko noted that Nyaruri was killed after his reporting detailing the corruption of police officers in his district. The panelists also brought up the still unsolved 2008 murder of a New Zealand-born photojournalist in Kenya.

These murders, along with many instances of harassment and intimidation, have had a chilling effect on journalists in Kenya. The panel noted that in all these incidents, the government fails to display any interest in investigating and prosecuting these cases, and the panel believes that the state may be behind some of these crimes. Sarah Nkatha, vice chair of the KUJ, noted that journalists are often harassed by police government agents who feel threatened by them. Oruko noted that media houses have proved incapable of protecting their journalists from threats by state actors, and this has essentially killed investigative journalism in Kenya.

However, crimes against journalists provoke public outcry, according to Oruko, and civil-society organizations stand up and protest the violations. However, the degree of publicity depends on the status of the journalist involved. Nyaruri's case drew international attention: the Committee to Protect Journalists, International PEN, and UNESCO penned letters or statements protesting the murder and urging the Kenyan authorities to investigate in full. Not all cases garner such publicity.

State media have never been editorially independent; they function as a government mouthpiece. State media managers are government-appointed, hence answerable to the state. The panel noted that while no specific laws explicitly favor state media over private, the existing policy environment gives state media the upper hand.

Libel can be civil or criminal, depending on those in power, noted the panel, and many journalists have been brought up on libel charges. Serious examples include the following: Mburu Mushokha, who was jailed; David Matende (also a panelist), who was initially charged with criminal libel in 2003 (although later the case was changed to civil libel); and Kamao Ngonza, of the *Standard*. As observed in last year's MSI, Kenya has a pattern of criminal charges for cases involving politicians and civil charges for cases involving others. The burden of proof in all cases, whether civil or criminal, lies with the media house and its reporter. Ochami commented also on the heavy fines imposed by courts in civil libel cases, delivered with the intent to cripple the media. As an example, panelists pointed to the former minister, Biwot, who sued *The People*—and its vendor, a bookshop—and reaped an award of KES 10 million ($130,000). One panelist concluded, "The current state of the judiciary is terrible; the Kenyan judiciary is rotten, and something urgent needs to be done to rectify this situation."

To date, it has not been easy for the government to punish web hosting companies on the content on their sites, but the introduction of a new law on cyber crimes, the Communications Act 2009, would allow the government to confiscate computers for web crimes.

The panel noted that journalists do not enjoy easy access to public information, and no law exists to back up access rights. Although there is also no law that prohibits journalists from accessing public information, the government cites other laws, like the Official Secrets Act, to deny the media public information. However, the panel added that journalists, with the help of civil-society organizations and the Kenya chapter of the International Commission of Juries, have begun advocating for the creation of a law aimed at easing access to public information for all Kenyan citizens.

According to the panel, there are no restrictions to access to international news sources, a freedom journalists take advantage of. However, the expense of Internet access may hinder some media professionals, especially freelance journalists, from fully tapping these news sources. The panelists noted that there are no laws that prevent the media from reprinting or rebroadcasting foreign news and other programs.

After the post-election violence last year—which the media stand accused of participating in—the government developed standards to regulate entry into the journalism profession. The new standards, outlined in the new Communications Act 2009, will only affect those who wish to join the profession going forward; they will now need a diploma or certificate from a recognized media training institution. Journalists without a degree, but already practicing by the time the Communications Act 2009 was enacted, are exempt from this provision and may continue working and being recognized as journalists. Nonetheless, according to the panelists, the government does not control entry into journalism institutions. Moss noted that while there is a need for more attention to the basics of journalistic ethics in the profession, talented people can learn how to become journalists without professional training.

Under the Communications Act 2009, the statutory Media Council lost its power to regulate the electronic media, while retaining regulatory powers over the print media. The Ministry of Information and Telecommunications now oversees accreditation of foreign journalists, and even local journalists have been asked to pay annual operation fees of KES 2000 ($27) to the Media Council in order to receive press cards. Journalists can access and cover most events without any problem or restrictions, but only those with official press cards are allowed to cover state functions.

OBJECTIVE 2: PROFESSIONAL JOURNALISM

Kenya Objective Score: 1.88

Panelists awarded a modestly lower score for this objective compared to last year. Most of the loss is attributable to three indicators receiving a worse score: indicator 1 (fair and well sourced reporting), indicator 4 (journalists cover key events), and indicator 8 (niche and investigative reporting). All the indicators scored close to the objective score, with the exception of indicator 7 (modern equipment), which beat the objective score by more than three-quarters of a point.

While the panel agreed that many Kenyan journalists conduct their work with professionalism, and try to turn out balanced work supported by facts, in some cases objectivity suffers. Oruko said that although technical experts are routinely consulted, reporters rarely verify and cross-check their facts. Nkatha commented that biases, whether political or tribal, frequently surface. Competition among different media houses, corruption, and incompetency are other factors that comprise objectivity and other journalistic principles. Irimu commented that many of the journalists do not consult experts while writing on serious matters, leading to the publication of inaccurate or misleading information. Moss sees a "cut-and-paste" mentality among some journalists. Ludaava commented that journalists are expected to perform professionally, yet there are no recruitment standards in place.

The existing code of ethics—a joint effort between the donor community and the media stakeholders—was developed in 2001 to provide a benchmark for free, independent, and responsible journalism. The Media Council later amended the code, and Otsieno Namwaya, editor of the Media Institute, noted that all major media houses have ratified the code.

Although Moss noted that with the Media Council's efforts the dignity and decency of journalism is improving, the panelists guessed that about 80–90 percent of the journalists in Kenya remain unaware of the ethical code's content. This has led to gross violations of the code by the media, including acceptance of bribes from sources—"brown envelope journalism"—and other ethical breaches. Many journalists feel driven to this practice to make ends meet, because of the poor pay in the profession. Oruko noted that the problem is so serious that the Nation Media Group launched an "Integrity Centre" to discourage gifts to its reporters; the Group provides contact information to report journalists demanding gifts for coverage.

Self-censorship is widely practiced in Kenya at all levels, from the reporters to the editors, and it is considered a major problem holding back professional growth. The panel agreed that the causes of self-censorship include journalists' fear of losing their jobs, opportunity for financial gain/corruption, editorial policies, business interests, and political pressure from owners and advertisers. Nkatha noted, "One cannot express an opinion freely without intimidation from the government agents… In the recent past, several journalists have been threatened for writing or touching on matters that the government did not expect to be made public." Furthermore, the panel reported that powerful businesses interfere with the editorial independence of media, setting conditions on stories that may be critical of their interests. Matende added, "Business journalists and editors are forced to censor themselves for fear that should they report objectively on certain corporate entities, those entities will not advertise in their media."

The media do not cover all key issues and events in the country. For example, issues related to security are restricted; if not covered carefully, these issues may cause problems for journalists. The panel agreed that the media display a bias toward coverage of political issues. This also goes back to media ownership issues, and, according to one panelist, in Kenya some media owners also have criminal interests—which makes it difficult to report on criminal offenses as well. Furthermore, according to Matende, although journalists strive to cover all important stories, the coverage is usually influenced by business interests.

Journalists are still poorly paid; pay levels continue to improve but still have a long way to go, especially for freelance journalists—the majority of journalists. Several panelists agreed that poor pay contributes to the high corruption levels seen in the media. However, Oruko disagreed, noting that even some highly paid journalists and editors have proved to be among the most corrupt people in the profession. The panel's main concern remains the disparity in salary levels between the reporters and the editors. Mbeya also underlined the problem of favoritism, with salary disparities between reporters and editors at the same level. A reporter working for the mainstream media earns between KES 20,000 and 30,000 ($250–$385) a month, yet a freelancer earns KES 2,000–4,000 ($25–$50) and editors earn KES 40,000–100,000 ($500–$1,300) a month. But Irimu said that journalists are still paid better than employees working in many other sectors.

The panel agreed that entertainment has encroached on news; Oruko commented that content is heavily skewed toward entertainment, noting that in FM stations, entertainment accounts for about 99.5 percent of content. As a result, according to the panel, Al-Jazeera has overtaken other local television outlets as a news source. Additionally, students listen more to entertainment than news, which has affected the standards in training.

Most media houses have acquired modern equipment for news gathering and distribution, which has promoted good-quality work; for example, most media outlets have moved from analog to digital broadcasting. Matende commented, "Most media houses have modern facilities; indeed, media owners have been accused by the KUJ, among others, of investing more in equipment than in people." However, community media, where it exists, and small media houses suffer from a lack of updated facilities, computers, digital, still, and video cameras, and recorders. Even media training institutions lack good training facilities, turning out ill-experienced graduates as a result. The lack of good facilities and equipment has affected the quality of journalism in the country, as well as the delivery time of newspapers to the readers. The panelists suggested that any offers of assistance in this regard might be channeled through the

JOURNALISM MEETS PROFESSIONAL STANDARDS OF QUALITY.

PROFESSIONAL JOURNALISM INDICATORS:

> Reporting is fair, objective, and well sourced.

> Journalists follow recognized and accepted ethical standards.

> Journalists and editors do not practice self-censorship.

> Journalists cover key events and issues.

> Pay levels for journalists and other media professionals are sufficiently high to discourage corruption.

> Entertainment programming does not eclipse news and information programming.

> Technical facilities and equipment for gathering, producing, and distributing news are modern and efficient.

> Quality niche reporting and programming exists (investigative, economics/business, local, political).

KUJ leadership, which represents the biggest number of journalists in Kenya.

Regarding niche reporting, the panelists noted that journalists have started appreciating the importance of specialization. Niche reporting is now more apparent in print media than electronic. Investigative journalism has not yet taken root and is considered highly dangerous. Nkatha said, however, that there are outlets, such as KTN and Nation Media, that play a vital role in exposing social problems and corruption in the country. Matende commented, though, "Good investigative journalists do not last in the newsrooms, because sooner or later, they step on sensitive toes and are either fired or forced to resign." Some efforts are being made to improve coverage of social issues, such as poverty, unemployment, and healthcare in the country. For example, through a Knight International Journalism Fellowship sponsored by the International Center for Journalists, one journalist saw a need to investigate the declining state of hospitals, and her investigative report helped drive the government to pledge funding to upgrade hospitals.

Some media houses have made the effort to encourage and train their journalists in specialized reporting. However, the panel noted that a lot of training in this direction is still needed. Oruko claimed that "the greatest hindrance to the development of niche reporting is the lack of effort by media houses to help journalists build capacity in key areas."

OBJECTIVE 3: PLURALITY OF NEWS

Kenya Objective Score: 2.15

The plurality of the Kenyan media scene expanded in the past year, and the score inched up compared to last year. Most of the improvement came from an increased score for indicator 2 (citizen access to media), which also outperformed the objective score by about three-quarters of a point. Even indicator 3 (objectivity of public media) showed a small increase in score, but it still fell short of the objective score by slightly more than half a point. Indicators 6 (transparency of media ownership) and 7 (coverage of minorities) also lagged behind, the latter by three-quarters of a point. Other indicators scored close to the objective score.

More people have invested in the media industry—opening up radio and television stations, as well as newspapers and magazines. Namwaya commented, "Since the mid-1990s, when Kenya had only one radio and television station, Kenya has experienced a phenomenal growth in the broadcasting subsector—now with over 10 television stations and close to 60 radio stations." However, Namwaya added that the multiplicity of broadcast options has not translated to a multiplicity of ideas and information, because the media are concentrated in the hands of the political and economic elite.

MULTIPLE NEWS SOURCES PROVIDE CITIZENS WITH RELIABLE AND OBJECTIVE NEWS.

PLURALITY OF NEWS SOURCES INDICATORS:

> A plurality of affordable public and private news sources (e.g., print, broadcast, Internet) exists.

> Citizens' access to domestic or international media is not restricted.

> State or public media reflect the views of the entire political spectrum, are nonpartisan, and serve the public interest.

> Independent news agencies gather and distribute news for print and broadcast media.

> Independent broadcast media produce their own news programs.

> Transparency of media ownership allows consumers to judge objectivity of news; media ownership is not concentrated in a few conglomerates.

> A broad spectrum of social interests are reflected and represented in the media, including minority-language information sources.

The panel agreed that both local and national issues are given fairly equal coverage in private print and broadcast media. However, poverty is widespread, and only a small percentage, about 15 percent, of the population can afford to buy private print editions. Furthermore, illiteracy is a serious problem that limits the accessibility of print media. As a result, Mbeya noted that only two newspapers circulate nationally—*Nation* and *The Standard.*

Urban Kenyans enjoy more access to media sources than their rural counterparts. People living in rural areas mainly depend on electronic media, especially radios, for news and information. The presence of community media is felt in a few regions, but Oruko noted that the culture of community media is not well-developed because of the government's failure to recognize the utility of such media and support it by providing a different licensing regime for such media.

Although the Internet is available in cities and towns, very few people use it for news purposes; it is primarily a communication tool. Furthermore, the cost deters many would-be users. Mbeya noted that Internet costs are about four times higher in rural areas than in Nairobi. In some rural areas lacking computers, electricity, or other basic infrastructure, Internet access seems especially far away. However, the government, through the Ministry of Information and Telecommunications, has plans to introduce "digital villages" to provide reasonably priced Internet access to rural citizens. Moss shared his impression, as well, that

Namwaya commented, "Since the mid-1990s, when Kenya had only one radio and television station, Kenya has experienced a phenomenal growth in the broadcasting subsector—now with over 10 television stations and close to 60 radio stations."

sources of news are becoming increasingly diversified, with blogs and SMS alerts being used.

The panel noted that there are no restrictions on access to both domestic and international media. Foreign media are available on the market; only the cost prevents more people from accessing these resources. Some Kenyans also tune in to foreign broadcast media, without encountering any interference from the government.

In Kenya there is no real public media; rather, state media are fully controlled by the government and serve as its mouthpiece. Noted Matende, "The Kenya Broadcasting Corporation [KBC] is a state broadcaster, though it styles itself as a public broadcaster. Its content is dominated by news about government and functionaries." Oruko commented that the editors of the state media know the cardinal rule is to serve the public interest, but they are nevertheless restrained by the need to avoiding clashing with government objectives. He added, "KBC used to promote educational and cultural programs, but that effort has tapered off, owing to financial constraints and the competition that has emerged in the last 10 years from private media." However, efforts to transform Kenya's state media into a true public media system, which would cover and reflect a wide spectrum of political views, are under discussion.

Ludaava reported that there is only one local news agency in Kenya, the Kenya News Agency. The Kenya News Agency, which is government-owned and adheres to government policies and regulations, was formed and protected by an act of parliament. This state-owned agency provides news to all media houses under a negotiated fee structure. According to the panelists, fees charged are fair and affordable in exchange for news in many forms—print, video, and audio. Panelists also agreed that different media houses in Kenya use the services of foreign or international news agencies, such as AP, AFP, Reuters, Xinhua, and the African Woman and Child Features Service—sometimes failing to credit sources. In accessing foreign services, the expense is the only limitation.

The panel agreed that there has been an effort to increase locally produced programs and to improve not just the quantity, but also the quality and content, driven by a concern that there is an over-reliance on foreign programs—especially on television. This movement is in line with a new law enacted to compel media houses to ensure that 40 percent of their programming is produced locally. Panelists believe the shift is underway; they are seeing some media houses beginning to reduce the number of foreign programs they use. This change is not just mandated from the top, though; it has been brought about in part by listeners and viewers who have communicated their preference for local programs over foreign material, essentially forcing media owners to make these changes.

Oruko said that media ownership, like licensing and frequency allocation, is not always transparent, and there is no law in place to facilitate disclosure. Despite this, Kenyan citizens who are interested in ascertaining the ownership of a given outlet can usually find out through unofficial channels or, if necessary, through a court order. Nkatha pointed out that it is not a secret that politicians own about 45 percent of electronic media outlets. This year's panel believes that media ownership is consolidated in a few hands—namely, the Nation Media Group, the Standard Media Group, Citizen Royal Media Group, and the Star Media Group. All these media houses own television and radio stations, a range of newspapers, and SMS media. The panelists have not seen any new major foreign investments in the media, although a foreigner owns a half share of the Nation, the biggest media house.

The panel agreed that there is no resistance to the inclusion of social issues in the media, yet Matende noted that minority groups hardly receive any coverage at all. As noted last year, there are no minority-language media outlets, but all Kenyans use Swahili as their national language. In terms of coverage of women's issues, the African Woman and Child Features Service is an example of a Nairobi-based media organization with a mission to enhance the acceptance of diversity and gender equality.

OBJECTIVE 4: BUSINESS MANAGEMENT

Kenya Objective Score: 2.62

The panelists gave a considerably higher score for this objective this year, with much of the increase coming from an improved evaluation of the advertising sector (indicator 3) and audience measurement (indicator 7). Indicator 5 (government subsidies for private media) also improved in score, but still fell more than a half point behind the objective score.

The panelists generally agreed that most media outlets and their supporting firms are managed as profit-making businesses, run efficiently by hired professionals—sometimes, however, placing profit motives ahead of journalistic quality. Some of the people hired to manage such businesses are local, but some experts are brought in from outside Kenya. Panelists noted that a common link between all high-performing media outlets is that they are guided by sound business plans. A number of media houses are listed on the Nairobi Stock Exchange, with shares floated in the market. Many present their annual audited accounts in local dailies.

However, the panel added that some small media houses have been mismanaged by owners who employ unqualified relatives. This also applies to community media outlets, which often lack the resources required to engage professionals to manage certain departments. Many of these outlets shut down. The panelists also expressed concern about the way public media uses state funds, noting the lack of transparency surrounding the accounts of the KBC.

Panelists believe that multiple sources of revenue sustain most media houses in Kenya. Noted Matende, "Advertising is the main source of income. Last year, media houses raked in KES 17 billion ($193,576,000) in advertising, although this year they will make less because of the economic crisis." Although advertising is the major source of revenue for any particular media house, there are a handful of smaller media houses that mainly depend on sale of copies. Other sources of revenue include commercial printing, sponsored programs on radio and television, and pull-out ads for print media. Community media obtain funds from NGOs and their community, but not enough to sustain them. Mbeya observed, "Community media are underdeveloped and suffer seriously from underfunding, while private media are doing extremely well. For example, Standard Group just posted over KES 400 million ($4,555,000) in profit."

INDEPENDENT MEDIA ARE WELL-MANAGED BUSINESSES, ALLOWING EDITORIAL INDEPENDENCE.

BUSINESS MANAGEMENT INDICATORS:

> Media outlets and supporting firms operate as efficient, professional, and profit-generating businesses.

> Media receive revenue from a multitude of sources.

> Advertising agencies and related industries support an advertising market.

> Advertising revenue as a percentage of total revenue is in line with accepted standards at commercial outlets.

> Independent media do not receive government subsidies.

> Market research is used to formulate strategic plans, enhance advertising revenue, and tailor products to the needs and interests of audiences.

> Broadcast ratings and circulation figures are reliably and independently produced.

Panelists noted that a common link between all high-performing media outlets is that they are guided by sound business plans.

The heavy reliance on advertising funds does appear to impact the quality of news. Moss registered concern that the reliance on advertisements waters down the content and the duration of newscasts in broadcast segments. The panel also noted that advertisers have, on many occasions, influenced editorial content, especially when they sense that negative information concerning their businesses might get out. This form of censorship cuts across all media.

Oruko said, "The advertising market is well-developed in Kenya, both systematically and technologically. In fact, advertising agencies are the lifeline of media houses…they are the nerve centers of media houses, and they are better supported than editorial staff." Some media houses work with advertising agencies to pull in advertising revenue, while others rely on internal advertising departments to handle such business. Most firms engaged in this business recruit professionals who generally carry out quality work. Advertising firms deal with media houses but also handle outdoor advertising (e.g., billboards), which constitutes an important share of their business. The BBC's profile of Kenya's media notes that Kenya's middle class provides a healthy base to support the advertising industry.[1] However, advertising is mainly funneled to media in larger cities and towns at the expense of media in rural areas.

Advertising consumes 20–25 percent of the programming time in broadcast media, while in print media the ratio is 40 percent content and 60 percent advertisements. The panel noted that, as advertising revenue is the major source of income sustaining media houses, it takes a large percentage of space and air time. The panelists agreed that, on many occasions, advertisers (or managers) have pressed editors to run more advertisements than stories, or to drop stories at the last minute and replace them with advertisements.

The government does not provide subsidies to private media houses, but panelists pointed to cases where the government funded media houses indirectly, through advertising,

[1] British Broadcasting Corporation: Kenya Country Profile; updated February 23, 2010. http://news.bbc.co.uk/2/hi/africa/country_profiles/1024563.stm (Accessed June 24, 2010.)

sponsoring radio/television programs, and commissioning pull-out advertisements for print media outlets. Matende commented that the government contributes 25 percent of all the advertising revenue, but it has announced a major cut in advertising for this financial year because of the shaky economy. By providing this indirect source of funding, and by threatening to retract such business if any critical reporting emerges, the government exerts undue influence over the content produced by these media houses. As a clear example of this reality, panelists mentioned the many job advertisements placed in the *Nation* by the Public Service Commission. Oruko also raised questions about the government's management of funds for public media, noting, "Due to its state of decay, there is evidence that the public media do not put to prudent use whatever they get from the government and revenue generated from ads." Mbeya also expressed concern that the use of public resources in public media has not been open to scrutiny; the public has no access to the KBC accounts.

Some media houses carry out market research and use the findings to strengthen their businesses. Oruko believes that many media houses have internal market research departments that play an advisory role for the editorial and business development departments. However, Mbeya noted that research is not adequately employed in rural areas, and the credibility of research organizations is, at times, wanting. Market research takes place in different forms, including call-ins, engaging professional companies, circulating questionnaires, and other survey methods.

According to Matende, many companies conduct research or carry out surveys, such as Synovate (formerly Steadman), which most panelists consider reliable. The panelists generally deem Synovate's figures accurate and scientific. But some media houses refuse to accept the results, the panelists noted. Broadcast ratings, in most cases, are produced independently.

OBJECTIVE 5: SUPPORTING INSTITUTIONS

Kenya Objective Score: 2.57

The score for this objective experienced a modest gain this year, with all indicators contributing to the improvement except for indicator 6 (sources of printing and newsprint), which scored somewhat lower than last year. All the indicators scored within a half-point of the objective score, except indicator 7 (free access to distribution channels), which scored slightly more than half a point higher.

The panel noted that several trade associations exist and represent the interests of their members—for example, lobbying for fair taxation. Such associations include the Media Owners Association of Kenya, the Federation of Kenya Employers, and many others. However, the panel agreed that although these associations exist, not all media owners and managers belong to them, and Oruko noted that they are not very well-developed and have a reputation for exclusivity. Namwaya shared his view that the Media Owners Association frequently and vigorously defends media interests, evident particularly in its reactions to the government's attempts to enact anti-media laws in 2007 and 2009. However, he said that the concern is that "media owners only come out to fight when the media's commercial interests are threatened; they are less interested in the actual maintenance of journalism standards, press freedom, and the welfare of journalists."

Kenya also has a number of professional associations related to the media industry. The panel emphasized that journalists are free to organize as they wish to protect their rights, but most of the existing associations are weak and need assistance for capacity building. While some of them work for the protection and promotion of media freedom and development, others exist in name only and have not proved useful to the advancement of the profession at all. National associations include KUJ, Kenya Journalists Association, Sports Editors Guild, and Association of Media Women of Kenya. There are also smaller associations, which represent particular sectors of the media, such as the Environment and Science Journalists Associations, Kenya Media Educators, Parliamentary Reporters Association, and many others. Mbeya commented that these associations suffer from a lack of resources, and some view them as weak and disjointed. As an example, he cited the 2009 World Press Freedom Day activities. He noted that civil-society organizations stepped

SUPPORTING INSTITUTIONS FUNCTION IN THE PROFESSIONAL INTERESTS OF INDEPENDENT MEDIA.

SUPPORTING INSTITUTIONS INDICATORS:

> Trade associations represent the interests of private media owners and provide member services.

> Professional associations work to protect journalists' rights.

> NGOs support free speech and independent media.

> Quality journalism degree programs that provide substantial practical experience exist.

> Short-term training and in-service training programs allow journalists to upgrade skills or acquire new skills.

> Sources of newsprint and printing facilities are in private hands, apolitical, and unrestricted.

> Channels of media distribution (kiosks, transmitters, Internet) are private, apolitical, and unrestricted.

out to support pro-media activities then, but the response of the media itself was disappointing. According to Matende, of the KUJ, his organization is the only labor association that represents ordinary journalists, not only in trade disputes, but also against harassment by the state or other groups. He also noted that over the years, media owners have attempted to undermine the KUJ by preventing their staff from joining (it is subscription-based). The union has taken up the matter with the Ministry of Labor and is awaiting results.

The major role of many of these associations is to lobby the government on press-freedom issues, defend journalists' rights, improve working conditions, and carry out trainings. Many of these associations have a membership application process, while some are much more informal. According to the panel, all of these associations are independent of the government, but they grow slowly because although members demand services, very few pay membership fees.

A good number of NGOs operate in Kenya and have been very helpful to the media, especially when it comes to press-freedom issues and general support for freedom of speech, noted the panel. NGOs have lent support in advocating for legal amendments and raising awareness about arrests of journalists; they have also consistently supported journalists in organizing the World Press Freedom Day celebrations. Some of the most active NGOs on the media front include the International Commission of Jurists, CLARION, Media Institute, Article 19-Kenya, and Amnesty International. Namwaya observed that some media outlets have viewed NGO activists with suspicion or contempt, and that NGOs complain that the media are only interested in their work or in granting them airtime when the government is clamping down on the media.

Regarding training opportunities, some panelists consider university media training programs fairly high-quality but agree on the need for a greater emphasis on gaining practical experience. Mbeya said that training institutions are too theoretical, with no practical training exercises. Universities offering degree courses in journalism include the University of Nairobi, Kenyatta University, Moi University, Daystar, and more. Matende said that there are many other institutions that offer diplomas in journalism and mass communication, but the quality is always an issue. Irimu is concerned that despite a couple of exceptions, most institutions need help to meet international standards of journalism training.
The panelists also noted that mushrooming media training institutions have affected overall training standards. Training opportunities abroad for Kenyans are scarce and highly competitive. However, the panel believes that journalists who have participated in exchanges usually return to Kenya but end up taking jobs outside the journalism profession.

The panel noted that short-term training programs exist, in addition to in-house training opportunities. Many journalists have benefited from such free courses, according to the panel.

The panel agreed that newsprint and printing facilities are held in private hands, but they showed concern that the government, on a number of occasions, increased the VAT on newsprint. The panel stated that all channels of media distribution are in private hands, including transmitters. Matende said also that Internet providers and cafés are held privately.

List of Panel Participants

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David Ochami, reporter; member, Media Council of Kenya, Mombasa

Judy Amunga, media lawyer, Nairobi City

Rosemary Okello, executive director, Africa Woman and Child Features, Nairobi

Anne Nderi, program officer, International Commission of Jury, Kenya Chapter, Nairobi City and Kisumu

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