The Media and Election-Related Violence in Africa: Lessons from Kenya

By Sharon Anyango Odhiambo, Southern Voices Network for Peacebuilding Scholar
May 2017

The media plays a crucial role during elections by informing the public and acting as a watchdog, but in some instances it has been accused of fueling election-related violence through its reporting. Violence related to elections is increasingly a problem around the world, including in many African countries. Violence erupted in the aftermath of Kenya's 2007 general elections, when, after a three-day wait, incumbent President Mwai Kibaki was declared the winner and sworn in hours later. The opposition alleged rigging, and international and domestic observers confirmed instances of electoral malpractice on both sides.[1] Ethnic violence in various parts of the country resulted in at least 1,100 killed, 300,000 displaced, and 2,500 sexually assaulted, while economic growth dropped from 7.1 percent in 2007 to 2.5 percent in 2008.

The media was faulted for reporting poorly and for amplifying hate speech that inflamed tensions and led to retaliatory attacks. Major TV stations broadcast provisional presidential results that were unconfirmed and often contradicted results from other stations. They also aired inciting messages from politicians. Joshua Arap Sang, then a radio presenter with the vernacular radio station Kass FM, was charged at the International Criminal Court. He was accused of using his show "Lee Nee Eme" ("What Is Happening in the World") to advertise meeting points where planned retaliatory attacks would be held and for broadcasting false information about alleged murders of people from the Kalenjin community by people from the Kikuyu community in order to inflame tensions. His case was later terminated as the prosecutor cited witness interference and the politicization of the judicial process.[2]

In 2008, the Kriegler and Waki commissions were formed to investigate the conduct of the election and the causes of the violence. The implementation of the recommendations of these two commissions led to constitutional reform and Kenya's more peaceful elections in 2013. The most important reform was the adoption of a new constitution which provided a clear framework on how the state and institutions operate. Media reforms included extensive training for reporters on the journalism code of conduct, an embrace of peace journalism by many, and the development of new election reporting guidelines by the Media Council of Kenya (MCK).

Censorship, strict laws, and political interference are still major threats to media freedom and the watchdog role of the media during elections. Journalists Dennis Galava[3] and Godfrey Mwampembwa Gado[4] were fired in 2016 due to alleged political interference. Efforts to control hate speech during Kenya's electoral period are made more difficult by the Judiciary's slow pace of prosecution, and by social media. As the 2017 elections approach, it is clear that journalists still need training on effective and in-depth election reporting. Dealing with these issues and encouraging a media that reports freely and neutrally during elections without fueling violence will require reforms and support from media organizations, the Kenyan government, and the international community.

Policy Options and Recommendations

The Government of Kenya

a. Amend restrictive media laws: The Kenya Information and Communications Act (KICA) 2013 allows the government—through the Communications and Multimedia Appeals Tribunal—to hear appeals initially handled by the MCK, potentially allowing rulings the government views as unfavorable to be overturned. The tribunal can fine journalists up to the equivalent of about USD $5,000 and media houses almost USD $195,000 for breaches of the code of conduct.[5] This shifts power from the MCK, which is an independent statutory body, to the government.[6] Such laws threaten media independence and promote self-censorship, and may lead to less coverage of election irregularities. The media can instead work with the legislature and relevant ministries to amend laws to support rather than hamper journalists, and sensitize lawmakers on the important role of an independent press.

b. Allow bloggers to self-regulate: Bloggers have a unique independence and play an important role in informing the public about issues which the mainstream media may not cover. There have been attempts to regulate bloggers under the MCK. Section 29 of the KICA (discussed above) penalized the "misuse of [a] licensed telecommunication device," and was used frequently to arrest bloggers; the High Court has since struck down that section.[7] Article 33(2) of the Constitution already provides sufficient regulation of blogging, by clearly stating that freedom of expression does not extend to propaganda for war, violence, and hate speech. Defamation laws also protect the rights and reputation of others.

c. Ensure timely and fair prosecution of hate speech cases: The National Cohesion and Integration Commission (NCIC) was formed to promote ethnic tolerance and investigate and forward cases of hate speech to the Director of Public Prosecutions (DPP). The police and the NCIC have complained about the Judiciary's slow pace of prosecution. Hate speech needs to be met with stiff penalties, and the judiciary would benefit from developing and adhering to a timeline that ensures the prompt determination of cases.

The Media Council of Kenya

a. Increase training for journalists to enhance professionalism: Better election reporting promotes peaceful elections, as it helps give the polls credibility and avoids misinformation that can inflame tensions. The MCK can increase the number of trainings it holds on peace journalism and election reporting. The MCK can also partner with election observers to provide in-depth training to help journalists better interpret polling results and election hitches like the failure of biometric voter registration kits in 2013.

b. Expand training to engage the public: With the rise of citizen journalism, where anyone can act as a journalist and share information online, the MCK needs to expand its training to interested members of the public and promote social media literacy. Currently training is limited to accredited journalists; expanding it will improve the quality of information citizen journalists post online.

c. Work with the Commission of Higher Education to accredit journalism institutions and improve their capacity: To promote professionalism, the MCK developed a uniform syllabus for journalism students at middle-level colleges. This is a good step, but university-level syllabi need to be reviewed to ensure they articulate with industry requirements. Teaching staff capacity needs to be assessed and a regular timeline for inspections developed to integrate the changing dynamics of reporting during elections into syllabi.

Newsrooms

a.   Work with the police to ensure safety of journalists during elections: The MCK launched a "Safety and Protection of Journalists" project, which includes a protocol to guide journalists on remaining safe while on duty. Prior to the 2017 elections, the police have been accused of attacking journalists and in some instances confiscating equipment.[8] The Independent Policing Oversight Authority (IPOA), a civilian police oversight institution, can investigate the matter and protect journalists reporting on elections.

The International Community

a.   Increase support for training to local media houses: International organizations can increase the training support they provide to journalists on election coverage. The United Nations Development Program (UNDP), Ford Foundation, and Internews are among the organizations that work with and train local media. Training needs to be provided continuously, not only around elections, in order to maintain capacity and so that journalists are also able to report responsibly during conflicts.

b.   Support exchange programs between journalists: Kenyan journalists can interface with journalists from other countries who have covered contentious elections or election-related violence. These journalists can share their experiences and best practices on how to report responsibly and maintain neutrality. At the moment such programs do not exist.

For an in-depth analysis of the media and election violence in Kenya, see the accompanying Southern Voices Network for Peacebuilding Research Paper No. 17 by Sharon Anyango Odhiambo.

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1   "Kenya's dubious elections," *BBC News,* January 8, 2008. http://news.bbc.co.uk/2/hi/africa/7175694.stm

2   "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding Trial Chamber's decision to vacate charges against Messrs William Samoei Ruto and Joshua Arap Sang without prejudice to their prosecution in the future," The Office of the Prosecutor of the International Criminal Court, April 6, 2016. https://www.icc-cpi.int/Pages/item.aspx?name=otp-stat-160406

3   Simon Allison, "Blow to Kenya's media after editor sacked for criticising president," *The Guardian* (UK), January 27, 2016.

4   Kerry Paterson and Murithi Mutiga, "Gado blames government pressure as cartoonist's contract at Kenya's Nation ends," *Committee to Protect Journalists*, March 17, 2016. https://cpj.org/blog/2016/03/gado-blames-government-pressure-as-cartoonists-con.php

5   *The impact of Kenya's legal and institutional frameworks on media freedom* (London: Article 19, 2014). https://www.article19.org/data/files/medialibrary/37750/Kenya_research_report_A5_ALL_v2.pdf

6   Sue Valentine and Tom Rhodes, "Media contend with lawsuits, restrictive bills, legal limbo" in *Broken promises: How Kenya is failing to uphold its commitment to a free press* (New York: Committee to Protect Journalists, July 2015). https://cpj.org/reports/2015/07/broken-promises-kenya-free-press-media-contend-with-lawsuits-restrictive-bills-legal-limbo.php

7   "Law on misuse of telecommunication devices declared illegal," *The Standard,* April 20, 2016.

8   "Kenya: Increasing violence against journalists ahead of elections," *Article 19* (press release), January 22, 2013. https://www.article19.org/resources.php/resource/3586/en/kenya:-increasing-violence-against-journalists-ahead-of-elections

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