

The Kenyan Media in the 1997 General Elections: A Look at the Watchdogs

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In his book, *I accuse the Press* (1992: 189-92), Philip Ochieng argues that freedom of expression and the freedom of the press are possible only in situations where as many people as possible in any given society take part in the creation, analysis, synthesis and dissemination of the ideas, especially through the media. Ochieng, a former editor of a number of newspapers in Kenya, Uganda and Tanzania, continues that it is only when a society reaches a level of culture, economics, technology, art and intellect to free enough members of the society from the daily chores of producing their own subsistence needs that it can devote efforts to engage in abstract thoughts that have nothing to do with subsistence production. Until then the production of the material needs should be the basis and target of all the ideas expressed. It is only then that Africans can produce sharper ideas and thus guarantee the freedom of expression itself in the secondary level of law, politics, ideology and human rights.

Ochieng's comments should be placed against the trend in Africa where since the 1980s an independent press has mushroomed. According to Kussendrager and Meulenberg (1996:13-4) this began in Senegal and Benin, spread throughout the continent and now, they claim, there are independent newspapers in almost every African country, even if governments in countries like Kenya, Nigeria, Zimbabwe and Zambia try to muzzle their journalists by intimidation or refined legal tactics. As opposed to Ochieng's view, others claim that the press should not wait for economic wellbeing but must blow the whistle on violators of human rights, on corruption and on unjust regimes (KHRC 1997). The Kenyan Union of Journalists and the Kenya Media Institute concluded on World Press Freedom Day in 1999 that freedom of the press in Kenya had improved in the past ten years. Yet they accused politicians of suppressing the press and undermining the 'hard-won gains of the struggle for democracy and human rights' (*Daily Nation* 3/5/99).

In the following analysis, an overview will be presented of the Kenyan media as it stands today. Ownership, policies and the role of the media in the process of democracy building will be looked at. The performance of the press

during the Kenya 1997 elections in particular will be reviewed in detail. Our central question will be: How did the watchdogs play their role? We will examine how the press covered the elections in the framework of the changing legal and power base of the Kenyan media. For a clear understanding of the latter, we will start with sketching the Kenyan media landscape as it developed during this century.

History and landscape of the Kenyan media until 1992

In 1902 A.M. Jevanjee started Kenya's first newspaper, the *African Standard* (a monthly) in the then British headquarters for East Africa, the town of Mombasa. Within six years, the embarrassment of critical statements by his British editor made him sell the paper to the more white settler-friendly Anderson and Mayer, who changed the name to the *East African Standard*. The daily is still alive and is Kenya's second largest selling newspaper (about 55,000 copies) in the hands of influential Kenyans who are close to Kenya African National Union (KANU), the ruling party. They bought the newspaper in 1996 from the Lonrho conglomerate.

Kenya's leading newspaper today is the *Daily Nation*. Started in 1960 with the help of 'Fleet Street journalists', and financed by the Aga Khan¹, the paper now leads with 185,000 copies sold everyday. To this group also belongs the *Taifa Leo*, a Kiswahili daily started in 1958. The *Kenya Times* became Kenya's third largest newspaper (10,000 copies). Started as the *Nairobi Times* in 1977 as a weekly, it was bought in 1983 by KANU from Hilary Ng'weno. The Kenya Times Media Trust, the current publisher, also publishes *The Herald* pamphlet. The former *Nairobi Times* owner, Hilary Ng'weno, has been a major player in the Kenyan media landscape. In 1975 he founded the *Weekly Review*. For a long time, it was Kenya's only weekly magazine addressing economic and political issues. The magazine stopped appearing in May 1999 due to financial problems. In the mid-1980s it sold 25,000 copies. In the end, this had dropped to a meagre 5,000. By the end of 1978, Ng'weno urged Kenya's newspapers to dispense with foreign ownership as this would limit editors and reporters in their freedom of speech and choice for covering local news. How 'journalistic freedom' would be ensured, though, was a question not addressed.

Actually, before 1992, those who dared to air too critical a voice on local issues were soon silenced. *Beyond*, a National Council of Churches of Kenya (NCKK) publication, was banned for exposing fraud in the 1988 elections. Its editor was jailed for failure to remit returns to the registrar of books and newspapers. The *Financial Review* published since the middle of 1986, initially as a sister publication to the *Weekly Review*, but later bought by its managing editor Peter Kareithi, one of the founders of the Kenya Human Rights

Commission, was also banned in 1989 after it revealed fraud by powerful government officials. Kareithi was forced into exile (KHRC 1997:3). A number of publications have faced legal suits, confiscation of issues, bans, harassment or detention of its journalists and editors. These included *Target* and its Kiswahili sister *Lengo*, run in the 1970s by the Anglican Church, notably the late Bishop Henry Okullu; *Jitegemea* and *The Watchman*, Kikuyu Christian publications; and *The Nairobi Law Monthly*, started in 1987 by lawyer and member of parliament Gitobu Imanyara. His magazine led the fight for multi-party democracy in 1990. Another one is *Society* of Pius Nyamora, started January 1992. While praised abroad and among human rights, pro-democracy and press freedom organisations, in a British Broadcasting Corporation (BBC) interview in Zimbabwe President Moi stated, 'I will say this: if you read *The Nairobi Law Monthly* or *Society*, you will ask yourself what government, even in Britain itself, would allow such publications to exist' (*The Nairobi Law Monthly* January 1995).

To prevent a similar fate as the papers mentioned above, other media groups chose the safer option of self-censorship. The early 1980s saw the country caught in political rivalry that ended in a coup attempt and witnessed a growing tension between the press and the authorities. Even the mainstream press, despite its self-censorship, was at times attacked by leaders who felt they were not respected, misrepresented or totally ignored. In the latter half of the 1980s, criticism was mainly targeted at the foreign (mostly British) press allegedly for misinforming the world about events in Kenya, even leading to the deportation of a British journalist in December 1988.

The Kenyan broadcasting scene is even less independent. The country's two broadcasting stations, the Kenya Broadcasting Corporation (KBC) and the Kenya Television Network (KTN) are owned by the government and KANU (until 1998) respectively. In February 1989, the Kenya Broadcasting Corporation Act came into effect, creating a broadcasting authority that replaced the Voice of Kenya (VoK) which had hitherto operated under the Kenya Broadcasting Corporation (Nationalisation) Act of 1967. VoK was a product of the nationalisation of the colonial Kenya Broadcasting Service (KBS), and operated as a government department under the Ministry of Information and Broadcasting. The 1989 Act made KBC largely a commercial enterprise but with certain powers in law derived primarily from its link with the political establishment. This relationship was illustrated by the opening signal tune for the station's radio news bulletins, which was an adaptation of KANU *Yajenga Nchi* (KANU is building the nation), the party's anthem. This preceded almost all news bulletins. The content of these programmes underlined the tight connection between the party and the station. In the pre-1992 days, presidential events took as much as 15 minutes in a 25-minute bulletin. The clips for the

presidential news came directly from the State House-based Presidential Press Unit (these days known as the Presidential Press Service), and the editors at Broadcasting House were obliged to run it in its entirety.² Afterwards came a chronology of ministers' utterances and a dreary account of routine work by administration officials.

The second broadcaster and first private station, the Kenya Television Network (KTN), came into operation only in April 1990. It was launched by the Kenya Times Media Trust, which had been established in 1987 by KANU and Robert Maxwell. Yet until now it has not been fully clear who really owned the company during this time.³ KTN was portrayed to be independent but was obviously sympathetic to the ruling party.

According to David Makali, head of the Nairobi-based Media Institute, 'Liberalisation of the airwaves in Kenya started when the country's leadership realised that broadcasting stations were being established in the region to compete with Radio Uganda and Radio Tanzania' (*Media Review* May 1999: 13). Television is a potentially influential medium especially for most developing countries where low literacy levels make the broadcast media, and radio in particular, rather than the press, the most accessible source of information. Some 80 per cent of the Kenyan population listens to radio according to a KBC survey. Moreover, it has been estimated that only about 3 per cent of Kenya's 30 million people can afford to buy a newspaper daily, with the percentage of those who can afford periodicals dwindling even further (*Media Review* May 1999:37). During the 1980s a number of radio stations such as BBC, Radio Cologne, Radio Deutsche Welle, Voice of America, and nearer home Radio Tanzania Dar es Salaam became the respected sources of news alternatives for a growing number of Kenyan listeners.

The impact of the 1992 'liberalisation' of the Kenyan media

On the threshold of the return to multi-party politics in 1991, 20 publications stood officially banned (KHRC 1997:4). Yet in the run up to the first multi-party elections in 1992, Kenya witnessed an unprecedented explosion of press freedom. A proliferation of opposition magazines and newspapers were suddenly publishing reports about sensitive issues that were unthinkable only a year earlier (see Waruru 1996: 26). Politicians almost alone funded a large number of the new pamphlets, newspapers and weeklies. When the novelty of an open press wore off after the elections, however, sales began to drop. This same phenomenon could be witnessed during the 1997 elections. Lack of advertisers and a loss of interest in politics in the end meant the disappearance of most of these publications.

Among the most popular and lasting newspapers, however, is *The People*. This weekly tabloid first appeared on 14 February 1993. Initial copies were confiscated by the police. The magazine is owned by 1992 opposition presidential contender Kenneth Matiba, a wealthy businessman, who stood and lost in 1992 and refused to vie for the presidency in 1997, claiming that the elections were pre-rigged. He called upon voters to burn their voter's cards. By 1 December 1998, *The People* turned itself into a daily newspaper, *The People Daily*, a move the owners had been announcing as early as mid-1994. The daily appearance (an impressive 100,000 copies) will certainly have worried the ruling party KANU as *The People* practise investigative journalism and reveal regularly stories about fraud, corruption and the behind-the-scenes power struggles at State House. The main question will be whether daily reporting will allow the paper to keep up this standard. In this line, biweekly, *The Star*, became a popular player in the field of 'revealing' stories at the time of the elections. Said to be a Kibaki-friendly paper, *The Star* was especially favoured among the Kikuyu of Central Province where Kibaki comes from. *The Star* collapsed when the editor, Magayu Magayu, was accused of stealing funds and its main financier passed away.

Pamphlets are a new feature on Kenya's press scene. In line with the London-based *Africa Confidential*, Kenya witnessed the appearance of *Kenya Confidential*, a weekly. It is printed on the same kind of paper, has the same layout, including the pointers on the backside of its eight pages of A4-size. It presents itself as a 'political and economic awareness newsletter'. It is thought to be financed by people close to the Democratic Party of Mwai Kibaki.⁴ Another paper in this line is *The Dispatch*. In its subtitle it calls itself 'The Conscience of the Nation'. It is published by Seronga Communication Services and was started in January 1998. In August 1998 it turned itself from an eight-paged pamphlet into a 16-page weekly. It now also addresses sports, leisure and arts. Yet it soon had to return to the eight-page pamphlet outfit.

The most poorly edited of all publications to emerge on the local scene, according to, among others, the Media Institute, is *The Weekly Sun* (see for example, *Expression Today*, July 1998:8). It is an eight-page pamphlet-like paper thought to belong to MP and Assistant Minister Gumo, a KANU hawk of renown.⁵ A majority of the stories published in *The Weekly Sun* are baseless and aimed at maligning certain individuals. Allegations are made that the paper is not just used to hurt the opposition, but is also instrumental in the infighting going on within KANU. To make matters more complicated, it also involves leading Asian businessmen, because some power barons are in discord over business deals that went sour. At one time, it released two editions (No. 5 of 18 July and 20 July 1998 respectively) to please both camps (see *The Dispatch* 27/07/98:16). *Dunia* and *Exposure* are a similar kind of tabloid and pamphlet-

like papers, airing pro-government views. *Dunia* was started after President Moi complained that the ruling party did not have a paper like *Kenya Confidential* or *The Star*. By the middle of 1999, some of these pamphlets were still operative.⁶

Just before the 1992 elections *The Weekly Review* got a serious competitor. In October 1992, the *Economic Review* appeared on the streets of Nairobi. Its founding fathers were former *Daily Nation* business editors Peter Warutere and Nixon Kariithi. From the start, it dealt with economic as well as political issues. It addressed Kenyan, African and other international issues. It soon became a major competitor to the *Weekly Review*. The *Economic Review* gained more popularity when the *Weekly Review* seemed to have lost its teeth in addressing issues regarding corruption. Initially, the magazine influenced the decisions of foreign countries on Kenya, which earned the *Weekly Review* constant attacks from government offices (*Media Review* May 1999:7). By the late 1980s, however, the *Weekly Review* had turned itself into KANU's mouthpiece. It became the eccentric apologist of the system and propagated profoundly pro-government views.

The much-praised *Economic Review* magazine, however, disappeared from the streets shortly after the 1997 elections. In April 1998, it ran into trouble with the Kenya Revenue Authority, the body in charge of tax collection and at that time headed by Hilary Ng'weno, which charged the *Economic Review* a crushing Ksh10 million. The paper could not meet its financial obligations such as staff salaries after its accounts were frozen. It was bought by an Asian businessman linked to the KANU establishment. He said the journal was too political and wanted to turn it into a more economic-oriented magazine. However, the magazine never re-appeared under the same name. By December 1998 *The Analyst* rose from the ashes of the *Economic Review*, i.e., having the same editor, Macharia Gaitho. It appears monthly, is more business-oriented and at Ksh 200 a copy is too costly for most Kenyans.

A more critical stand is taken by weekly magazines such as *The Post on Sunday* and *Finance*. The publications have attracted mixed reactions from media analysts and practitioners. Critics argue that the publications have crossed the limits of ethical journalism by publishing wanton claims without proof. But many observers approved of their role in keeping the government on its toes and exposing the excesses that the mainstream conservative media will not dare touch.

Finance, started in March 1984, is owned by Njehu Gatabaki, a member of parliament, while *The Post* appeared only in 1997 after Tony Gachoka broke away from *Finance* to start *The Post on Sunday*.⁷ Shortly after the 1997 elections were over, these magazines ran into trouble with the government. In a press release dated 10 July 1998, Registrar General Omondi Mbago said his office

had rejected applications for the registration by three publications, *The Star*, *The Post on Sunday* and *Finance*. The statement did not give any reasons or cite the legal basis for rejection other than to quote an entire Act. The following day, the mainstream press splashed stories with screaming headlines purporting that the three publications had been banned. The wave of harassment started at a time when a number of key personalities in power were out of the country. The three magazines protested and stated that Kenyan law did not give the Registrar General powers to ban any publication. *The Star* published as scheduled on 14 July 1998, simultaneously with a suit filed in the High Court. The court granted an interim injunction setting aside the registrar's confusing order until its legality was disposed of. The registrar's action came in the wake of failure by various litigants to close the publications. Over a dozen libel suits had been filed against the three magazines and *The Star* and *The Post on Sunday* had been dogged by a myriad court injunctions since its inception in December 1997.

The Dispatch was spared the ban.⁸ In its editorial, *The Dispatch* condemned the illegitimation of *Kenya Confidential* and the banning of *Finance*, *The Post on Sunday* and *The Star*. It reasoned that in a free market, the simple rule of demand and supply had shown that the four papers were able to sustain themselves without advertising. There is simply a need for bold reporting, the exposition of corruption and hypocrisy among government officials and Kenyan society at large (*The Dispatch* 20-26/07/98:2).

Like the press, the broadcasting media also showed a rise in numbers after the 1991 return to a multi-party political system. However, in February 1995, Aurelia Brazeal, the American ambassador to Kenya, stated that her country was in favour of the enactment of a law by the Kenyan parliament freeing the airwaves before June 1995. However, despite promises to liberalise the airwaves, the government continued to exercise a monopolistic control over the broadcast media. This is clear when one analyses the ownership and programme content of the new channels. For example, KBC started music channels Metro 1 (Western music) and Metro East FM (Asian music) for Nairobi only.

The first commercial entry in the broadcast media was Capital FM, owned by Magnet Media Service, which broadcasts a menu of almost solely foreign music within the capital's confines.⁹ Royal Media Services has been licensed to run a Nairobi-based radio station called Citizen FM, which went on air by April 1999, and also first and foremost broadcasts music. A glimpse of freshness is its current affairs programme *Yalioendeka*. With powerful frequencies, Citizen FM is only second to the KBC in its reach. It is estimated that the station could reach 70 per cent of Kenya's population (*Media Review* May 1999). Ownership is once again vested in the hands of ruling party affiliates.¹⁰

The BBC has been licensed to broadcast on an FM frequency throughout Kenya, but there is no thorough local news content available on this station.

Similar shortcomings are manifest in the area of television. KTN is now owned by The Standard Ltd, which in turn is owned by Mark Too a close ally of Moi. The deal was signed in December 1997. Again it was not clear who were the original owners of KTN, yet is thought to include KANU personalities, including President Moi himself, Nicholas Biwott, and Abraham Kiptanui (see KHRC 1997:28). KTN is still facing a Ksh 117 million civil suit filed by founder chairman Jared Kangwana. It lost its star reporter Linus Kakai, who won the CNN Africa-Journalist-of-the-Year Award in 1998, to the South African Broadcasting Corporation to become their East African bureau chief (*Media Review* May 1991:4).

TV channel Stellavision (STV) owned by Hilary Ng'weno's Stellagraphic Ltd solely carries foreign material content (e.g soaps such as *The Bold and the Beautiful*). It is the local partner of Sky Television of England. In early 1999 the company entered into a partnership with the Mauritius-based African Broadcasting Network for a 26 per cent stake and management. That might save STV falling into the fangs of the well-known 'vendors' from State House (*Media Review* May 1999: 7). South Africa's M-Net satellite package is commercially oriented, carries no local content and is relatively expensive. On 1 May 1999 Royal Media Services' Citizen Television started, amid evidence that they were still trying to overcome starters' problems. The station mainly broadcasts cartoons, old movies and CNN programmes. It is still a far cry from what its owners promised. Yet, the station has so far not shown itself supportive of the government or KANU. It seems to be mostly Kikuyu-oriented and as such the pro-government owners might show their full agenda, if allowed to do so, towards the 2002 general elections.

Broadcast companies which have been issued with frequencies but are not yet on air include Kitambo Communications Ltd. and Cable TV, owned by the Cable Television Network. Nicholas Biwott, the minister for Trade and Tourism, again, is named as one of the owners. The East African Television Network (EATN) was also allowed a frequency that was, however, withdrawn following the purchase of a majority share by the Nation Group. The ensuing heated debate on this withdrawal resulted in the Nation Group being given a television licence in its own right. Still, court battles had to be fought to implement the licence to its full potential as the Nation Group licence was restricted to Nairobi only. By early 1999, there was still a case in court challenging the authorities for denying a countrywide licence. Events so far show that until this move, the opening up of the airwaves has been an issue of increasing the number of stations on air under ownership deemed supportive of the ruling party. Those who are on air are aware of their limits. The government's allergy to criticism

means that unless laws guaranteeing press freedom are legislated, there will continue to be adverse court orders issued against critical publications.

In addition to growth in the number of publications and broadcast stations, a qualitative change in content is evident, particularly in the print media. The existing daily newspapers have become somewhat bolder in their hard news coverage and editorial news analyses of Kenya's political and economic environment. Also cartoonists nowadays dare to draw pictures which were unthinkable a decade ago. During 1997 journalists could be seen arguing with state security officers during unlicensed reform rallies stating they were simply doing their job and wanted to continue doing so. However, the Kenyan press has yet to convince itself that it can truly be free. At KTN, editors are careful not to overstep the boundaries that KANU expects the station to operate within. Individual journalists who have broken this code of silence have been ruthlessly dealt with. So far, several have been sacked for airing items apparently sympathetic to the opposition.¹¹ This trend of self-censorship is induced by what the Kenyan Union of Journalists (KUJ) termed a system of reward and punishment: 'Many editors in the mainstream press own plots and other properties as a reward for their favourable coverage of politicians. Corruption in our newsrooms has reached alarming rates. Media owners who have also been compromised are another reason newspapers ignore certain news' (KHRC 1997:24).

Another interesting change is the rise of independent content providers filling the gap left by the state-controlled Kenya News Agency (KNA). These content providers include local information and communication businesses and NGOs such as the African Women and Child Information Network (ACWIN), with a focus on gender reporting; IRIS (Interlink Rural Information Services) which mainly reports on development issues in the rural areas. Also the formation of new, local, freedom of expression NGOs, such as the Media Institute and the Network for the Defence of Independent Media in Africa (NDIMA) testify to the increased willingness of the profession to address state hindrances to journalistic practice by organising, in solidarity, the legal defence of journalists facing state charges for merely carrying out their work.

In spite of these improvements in press freedom, Kenyan journalists are still facing government hostility in times of political anxiety. For example, on 18 March 1994 two journalists were charged with subversion for reporting that nine people were killed and hundreds replaced in ethnic clashes in the Molo area. In June 1994 *The People* newspaper was fined Ksh.1.7 million after being found guilty of contempt of court. An editor and reporter were for some time jailed for failing to apologise and pay fines. That same year the *Daily Nation* complained about political harassment of its Kisumu correspondent (*Media Review* May 1999: 124). Also at this time hitting at foreign journalists, especially Americans mainly, was intensified once again.

Apparently, the increased bravery employed by journalists enraged the ruling elite and increased in the number of libel suits against the media and banning of journalists from public meetings.

Characteristics and legal aspects of the Kenyan media

According to the Institute for Economic Affairs (1998: 38-40), the following are the weaknesses of the Kenyan media:

- (a) limited press coverage (lack of correspondents and high levels of illiteracy among the public);
- (b) limited scope of languages (*Taiifa Leo* is the only Kiswahili daily);
- (c) limited variance in the political-economic orientation of the dailies;
- (d) limited diversity in broadcasting content (mainly foreign music);
- (e) insecure financial position of Kenyan languages papers;
- (f) harassment of journalists (especially photographers);
- (g) partial liberalisation of the broadcasting sector (KBC is a ruling party broadcaster);
- (h) cumbersome licensing procedures (as many as 39 radio and 103 television and satellite broadcast license applications are pending at the Ministry of Information and Broadcasting);
- (i) lack of diversity of media ownership; and
- (j) urban bias in media content

The strengthening of a democratic society is fostered by the existence of an informed citizenry. The freedoms of expression and information and the right to communicate must, therefore, underlie all regulatory and policy proposals for society in general and the media in particular.

In 1995 the government mandated a task force on press laws to develop a new legal and policy regime for all forms of media in line with the government's expressed commitment to and civil agitation for full media pluralism. A Press Council Bill was proposed which provided for the formation of a council to oversee the registration of journalists. The Kenya Union of Journalists (KUJ), among others, criticised another bill drafted by the task force i.e., the Kenya Media Commission (draft) Bill. This bill provided for the jailing of journalists who flout a government mandated code of conduct.

Also the recommendation that the president should be the appointing authority of the proposed Kenya Media Commission was generally objected, too. It was stated that parliament would be a better body to appoint members of the commission. The membership of a Media Commission should be from the major stakeholders in the industry and consist of persons of known ability and integrity, the Media Owners Association has said (see *Daily Nation* 27/11/97). The bill was shelved by President Moi after protests by local

journalists, politicians, NGOs and foreign diplomatic missions. Also, questions were raised regarding the sincerity of the government as the task force's work had been pre-empted three times by the Attorney General's office by the latter's release of the press bills in 1996, the Kenya Communications Bills of 1997 and 1998.

The Institute for Economic Affairs (1998: 42-55) recently called for a number of legislative repeals, reforms and innovations.

In the short term:

1. The fundamental right to freedoms of expression, information and communication should be guaranteed constitutionally.
2. Specific legislation should be enacted to support the freedom of information, i.e., easier access to public and privately held information deemed to be of public interest.

In the medium term:

1. Establish an independent statutory media council run by elected representatives of various stakeholder groups within the media sector to deal with registration, complaints, and code of conduct.
2. Conduct a review of all content-neutral legislation to simplify processes of establishing and running the print media.
3. Formulate and enact a regulatory framework to ensure the equitable, efficient and development-oriented allocation and management of frequencies for both commercial and non-profit community broadcasters, according to plans submitted, to start broadcasting on a short term and with clear goals which meet national information and communication needs and ensuring media pluralism.
4. Reform the public radio and television-broadcasting sector to make it more responsible and accountable to ensure that the country is reached with independent news reporting. Independent, community-based, participatory press and broadcasters need to be created.
5. Reform the Kenya Posts and Telecommunications Act. This act is an impediment to the objectives laid out above. It grants the minister of internal security the power to interfere with transmission.
6. Amend the second draft of the proposed Kenya Communications Bill, 1998, to do away with a complicated five-step licensing procedure, lacking criteria on issuing such licenses and transparency.
7. Establish an independent public broadcasting authority.
8. Review the role of the Ministry of Information and Broadcasting KBC should become an independent public broadcaster and the KNA autonomous, but privatised.

In retrospect, although press freedom has improved, regulatory and policy efforts on the media in Kenya to date should still be characterised as restrictive:

witness the foiled Kenya Mass Media Commission Bill, 1995, and the Press Council of Kenya Bill, 1995.¹² Underlying these press bills was the assumption that more regulation was better than less, to control rather than facilitate the developing profession and media content. Laws relating to the establishment of media are multi-fold and pose impediments to potential new owners. Also, a broad range of laws was applied to control day-to-day management of the media, e.g. failure to make import duty payments are used to punish publishers. Even more important are the content-based laws on subversion, treason, criminal libel and alarming publications and reports. Finally, civil laws, such as contempt of court, defamation and ordinary libel, are increasingly used to limit the freedoms of expression and information. Against this general background, how did the Kenyan press play its role in the 1997 general elections?

Role of the media in the process of democratisation: the 1997 Kenyan elections

Studies of the media in election coverage have found two patterns of fundamental importance. Alger (1990) established that journalists covering elections concern themselves with two distinct election events: first, they are concerned with the 'game of strategy'. The second concern of election journalists is what could be termed as the 'substance of elections'.

Most journalists covering the 1997 Kenyan elections were more interested in the 'game of strategy' rather than the 'substance of elections'. They found the first one to be of greater interest to both editors and the readers because it concerned itself with election. It is called 'game of strategy' because, like in any other game, it has a winner as well as a loser. The exciting story of how the race was taking place and how one contestant was struggling to take over the leadership from another was always of great interest to Kenyan readers, viewers and listeners. People enjoy competition and they take chances in backing winners or losers. Many journalism scholars have compared election competition with horse racing and the excitement of the two is more or less the same.

When journalists get carried away with the competition element of the elections they tend to forget a much more important aspect of the process which concerns the 'issues' involved. According to Alger (1990), 70 per cent of all the news of elections is about the 'game' rather than the 'issues'. The coverage of at least four elections (1974, 1979, 1983 and 1988) in the country and the stories which were then used on the front pages of the time were more or less based on the 'game of strategy' rather than the 'substance of elections'. In the 1997 elections, however, both these two patterns played an important

role in the coverage of the event bearing in mind the fact that voters were more educated and enlightened than at any other time in Kenya's political history. To examine what the coverage of the elections was like, it is important to separate the two aspects and look at them in greater details.

The game of strategy

During the 1997 elections journalists in Kenya tended to pay greater attention to: (a) the candidate's style and (b) the candidate's image. They wrote long articles about the various styles adapted by candidates to win parliamentary and civic seats. The styles varied from addressing public rallies to meeting the voters in various places which included church organised gatherings and even funeral ceremonies.

Long stories were also written about candidates' images including the important positions they held in society. By and large the 1997 elections, whether they were contests between political parties or within political parties, were normally centred around personalities, and the press, on the basis of their style and image, highlighted the rivalry between them. When the coverage was based on the 'game of strategy' alone, however, voters were not given the opportunity to understand what various candidates had to offer if and when they ended up as representatives of the people.

The situation was made worse by the so-called youth wingers of all the political parties who went round the constituencies advertising the images of various candidates through songs and sometimes offering bribes. When all this happened, reporters covering the elections were, more or less, only concerned with the strategy and logistics of winning elections and so all they wrote about was what Alger (1990) would call 'appearance and hoopla'. In other words, the reporters were only concerned about how much popularity various candidates were gathering as they conducted their campaigns.

Substance of elections

Given the fact that the Kenyan voters who happened to be both regular newspaper readers and customary TV viewers or constant radio listeners were among the elite in our society, the 1997 elections coverage became more demanding than the provision of stories based on mere 'games of strategy'. These were the people who wanted to know from the media a little bit of background information about the candidates such as their qualifications and their leadership abilities.

Journalists interested in the substance of elections became serious writers who provided their readers with backgrounders, news analysis and commentaries about policies of political parties and what was contained in their manifestos. The 'race horse' drama of who was winning the elections

and who was losing was brought about in their reports in the form of letting the people know what they stood to gain or lose by their choice. This kind of analytical coverage of elections in 1997 tended to be the exception rather than the rule and was mainly confined to a handful of the up-market media such as the *East African* and to a lesser extent the *Sunday Nation*.

Although not uncharacteristic of other election writers, what was most noticeable among Kenyan journalists in 1997 was their preference to concentrate on issues concerning disagreements among the candidates so that the stories they wrote tended to be rather sensational. This was in keeping with the journalists' desire to highlight issues concerning conflict as human-interest stories. Another aspect of concern for reporters interested in the substance of elections was the candidates' traits and record. In a minority of cases, serious journalists reviewed all the candidates' past positive and negative contributions to the society and predicted what was likely to happen when the electorate gave them positions of responsibility.

This kind of analysis was not done adequately in the 1997 elections; yet it was clear that, if used effectively, it could rid Kenya of the culture of electing candidates whose only qualification was the tribe they belonged to or the support they got from bigger godfathers. It was the kind of journalism that would have made sure candidates were elected on merit rather than other parochial considerations, including membership of a clan or accumulation of vast wealth. The notion that journalists would always highlight human interest issues caused by odd incidents was proved right in 1997 elections coverage when even the most serious among them pegged their otherwise unprejudiced analysis to petty incidents of conflict, adventure and self interest.

This meant that no matter how much journalists wanted to dwell with the 'substance of elections' in 1997, the factors and orientations of news production pushed them to see policy statements as quickly losing their 'newsworthiness' whereas campaign missteps and the bizarre events of the electoral process were 'fresh occurrences', which adequately answered the journalist news value requirement of timeliness. Unfortunately, once a candidate made his position on an issue known, further statements concerning that issue declined in news value sense. Therefore, journalists covering the 1997 elections had to have a good nose for news to produce a good story after sitting through innumerable repetitions of speeches by the same people talking about the same issues in different parts of constituencies.

One area that totally failed in Kenyan journalism during the coverage of the 1997 elections was the little attempt made by the practitioners to get exclusive stories from candidates on significant policy issues that would have led to real assistance to the voters by laying bare at least two aspects of the candidates:

- (a) Whether they had adequate knowledge about the matters highlighted in their manifestos; and
- (b) Whether their general proposals on such important issues as the country's budget were actually reasonable and not mere election wishful thinking.

Despite the fact that Kenya's economic, social, political problems were so well known, serious journalists did little to pose relevant questions to all the candidates from all the parties in order to give those candidates an opportunity to tell the people what actions would be taken to solve these problems once elected to parliament or to the local authorities. These issues should have been at the centre of the campaigns with constant efforts to get answers on solutions from candidates of all parties. What the public got from the media was mostly the game. Kenyan voters would also have benefited a lot if newspapers had started a trend of running a special series of articles on the major party candidates, including synopses of background, education, career, qualities as public figures and a fair amount of material on policy positions. This way, the media would have played an important role in agenda setting.

Patterson's belief that the media could be instrumental in the formation of images was clearly seen in the coverage of the 1997 elections in Kenya.¹³ By writing in-depth profiles of certain well chosen leaders and their tribalistic power structure, the Kenyan press (*Daily Nation*, *East African Standard* and *Kenya Times*) and almost all the magazines helped to create favourable images of the selected politicians who by and large were party leaders. The fact that many of the party leaders held the top positions in their political organisations, without even being elected legitimately, did not seem to bother the journalists.

If newspapers succeeded in conveying the fullness of the images of candidates, television made an even more effective attempt in giving the voter a proper impression about certain favoured candidates' personalities and leadership capacity. The KANU-controlled TV stations (both KBC and KTN) selectively covered certain campaign events with the aim of promoting the political image of President Moi and his closest KANU contestants.

The notion by Arterton¹⁴ that interpretations placed upon campaign events could frequently be more important than the events themselves became true in the coverage by TV of the 1997 election campaigns. In other words, the political contests were shaped primarily by the perceptual environment within which candidates conducted their campaigns. This was particularly common in the early nomination stages when perceptions about party leaders outweighed reality in terms of their political impact.

TV journalists communicated these perceptions to voters and party activists and their main job was to make the viewers, who were the voters, believe that campaigns by Moi and his party were succeeding. The perception by TV journalists put President Moi as the front runner and candidates like Koigi wa

Wamwere among the last ones. One of the most important interpretations made by Kenyan journalists during campaign time was to predict the winners. In some developed countries this is done by the use of survey projections. Competition between the networks and the use of various survey sampling techniques have made media men in these countries announce election winners well before the polls have closed in some parts of the country.

During the 1997 general elections in Kenya, a number of print media and other institutions tried to conduct some kind of polls. None was actually right, which meant that the kind of polls they conducted were either faulty or things changed drastically after their predictions. The ability to highlight issues and to force politicians to respond to them is more powerful than trying to predict the winner or loser of any election. Journalists could and should challenge politicians to air their views on foreign policy, housing, health, education, employment, agriculture, environment and the gender issue in an intellectual, demandingly rigorous format and make them address the topics in a way they might not in a mere campaign speech.

A number of journalists were trained by one of the authors, among others. Journalists were advised to make a thorough examination of the constitution and encourage public debate about its amendments in order to create a conducive atmosphere that would allow free and fair elections. Reporters in 1997 were, therefore, particularly asked to look for instances where the law was used during the campaign period to extinguish, suppress or dilute the individual's free enjoyment of these rights. Four freedoms were particularly important for the journalists to bear in mind while observing the elections. These were freedom of conscience; freedom of expression; freedom of movement; and freedom of assembly and association. Also journalists were instructed to critically examine the shape and structure as well as the behaviour of the electoral commission as the country prepared for the 1997 elections.

According to Tom Maliti, no democratic government in the world would ever want to go to an election with the kind of record the Moi administration had when it was preparing for the 1997 general elections.¹⁵ Yet, it managed to remain in power despite claims of rigging and the absence of a level playing field. To what extent, one may ask, did the media in Kenya help educate the voters on their electoral rights and how far did they succeed in bringing to light issues that helped the voters cast their votes wisely?

Journalists and constitutional changes

The preparations for the 1997 general elections began with a national debate on the need to change the constitution in order to make future elections in Kenya free and fair. The debate was initiated by various institutions within the civil society led by the National Convention Assembly and its executive wing,

the National Convention Executive Council (NCEC) (see Chapter 2). The argument put forward by constitutional reformists was that the 1992 elections were conducted on a playing field which tended to favour President Moi's ruling party KANU. Without a level playing field, it was argued that the national elections in 1997 would end up as an exercise in futility that would only hoodwink the people and deny them their democratic right to elect leaders and parties of their choice.

If there was any time when Kenyan journalism neared excellence in its interpretative presentation of events, then it was in the reporting of the NCEC demands and the conditions set by the people for constitutional reform. NCEC representative Prof. Kibwana's press conferences were not only well attended, but they were also well covered by both the national and the alternative press. His own organisation, Centre for Law and Research International (CLARION) came up with a publication, *The Citizen*, which set new standards of analytical journalism in Kenya. Never before has the work of so few journalists been so useful in mobilising so many in the struggle for true democracy in Kenya.

Obviously, the proponents of constitutional reform met with vehement opposition from Moi's government and his party which accused Prof. Kibwana and his supporters of attempting to grab political power unconstitutionally. Moi's stand was also backed by his supporters in the media circles who made futile attempts to dampen NCEC's demands. Despite the suggestions made by the enlightened members of civil society, President Moi's government took great advantage of the unchanged constitution to tilt the playing field in favour of the ruling party long before the date for the new elections was known. In 1996, for example, the KANU-controlled electoral commission started reviewing constituency boundaries and ended up with creating 22 new ones. This aspect did not get the kind of publicity NCEC's strike threats captured. It was obvious that strikes made better headlines as human-interest stories than constituency boundary changes. Once again journalists abdicated their watchdog role at the altar of headline-catching stories without being guided by consequences as an important news value.

As the democratic forces led by NCEC were championing meaningful constitutional reforms, KANU managed to get some members of parliament from the opposition to work together with the Inter-Parties Parliamentary Group (IPPG) and produce some changes in the constitution. Since the IPPG had the blessings of both KANU and President Moi, the KBC gave its deliberations maximum positive publicity and any suggestions made by the NCEC received condemnation by both the KBC radio and television. When the KANU-IPPG campaign to popularise the constitutional changes suggested by the group was in full swing the attorney general published two bills: the Constitution of Kenya Review Commission Bill and the Kenya Statute Law Repeal and (Miscellaneous) Amendment Bill.

The IPPG suggestions, which were eventually adopted by parliament, were not entirely undemocratic. Certain progressive changes were made by the IPPG which had also managed to get support of the private national print media including the *Daily Nation* and the *East African Standard*. The IPPG also managed to get the backing of some powerful international organisations, including the United States Agency for International Development (USAID). Locally, it had the support of the Centre for Governance and Democracy which produced widely circulated pamphlets telling the voters the advantages of the changes introduced by the IPPG.

Maybe the greatest achievement of the IPPG proposals was to make it illegal for all civil servants, including those in provincial administration, to engage in the functions of any political party. The sub-chiefs, chiefs, district officers, district commissioners and provincial commissioners, who previously openly campaigned for KANU, were banned by the new laws from acting as agents or supporters of any political party which meant that civil servants were not allowed to express public support for any party or any candidate; were not allowed to preside over campaigns and other political meetings; were not allowed to participate in nomination exercises of any political party; and were also not allowed to give preferential treatment to any candidate, party or supporters. The new law required that all candidates should be served equally and it received massive support of the media. By 1999, after President Moi had directed that the constitutional review should be brought back to parliament and away from civil society, the same media showed their hypocritical stand. For example, the *Daily Nation's* columnists stated that 'Moi never had the intention to have the constitution changed' and, 'Moi all along intended to perpetuate his rule beyond 2003' and phrases along those lines. When the NCEC uttered these words in 1997, the *Daily Nation* 'made them veritable lepers in their own land while preaching the virtues of IPPG, which, . . . marked the "dawn of a new era in Kenyan politics", no less.' (*Expression Today* May-June 1999: 3).¹⁶

The press did not take this criticism seriously when, in November 1999, the NCEC launched 'A vision for national renewal', a 37-page booklet containing suggestions to break the constitutional deadlock by implementing six steps to democratic renewal. In the proposal, it suggested (step 2) the formation of a transitional caretaker 'government of national unity' of all stakeholders, including KANU, opposition political parties, religious organisations, NGOs, the private sector and the armed forces. At the launching gathering, attended by one of the authors, the booklet was presented and discussed. The next day the *Daily Nation* headline screamed that the NCEC wanted the military to join a reform government (*Daily Nation* 05/11/99). The *East African Standard* likewise solely focused on the military involvement.

Also, in their editorials the papers tried to finish the NCEC initiative by highlighting only the military inclusion proposal. As a result, a bizarre circus was set in motion by cabinet ministers and MPs from both sides of the floor all hastily seeking the limelight as they condemned the NCEC for trying to repudiate the legally elected government of President Moi. They also accused the NCEC of forming a parallel government and wanted its officials to be charged with treason. At best, the NCEC proposals were naive, dangerous, unfortunate or impractical (see *Daily Nation* 06/11/99). The Kenyan press once again seriously misbehaved and deserved to be accused of misleading the public or worse.

The Media Watch project

Throughout the campaign period from about August to December of 1997, both the international and Kenyan human rights organisations were keen to see how the media could influence the electoral process. Backed by Article 19, the Kenya Human Rights Commission produced a special publication, *Media Watch*, which specifically focused on the 1997 elections. The project sought to take advantage of the pre-election mood and energy to 'invigorate the nation with an on-going campaign for a level playing field' (KHRC and Article 19, 1997).

Although the publishers of *Media Watch* were concerned with raising public awareness to generate national support and activism for constitutional reforms and to ensure that the elections took place on a level playing field, the main objective of the publication was to monitor the state-owned Kenya Broadcasting Corporation (KBC) radio and television. This was an effort to document and release timely, accurate, and reliable data together with analysis on the coverage of news, commentaries, and press conferences. The data was widely distributed locally and internationally in monthly reports, with a view to pressurising KBC to maintain impartial and independent broadcasts.¹⁷

Using 15 media monitors who worked in four-hour daily shifts, the project managed to monitor 16 hours of broadcasts daily from 7 am to 10 pm. The broadcasts on KBC's radio and television covered both the national service in Kiswahili and the English services.

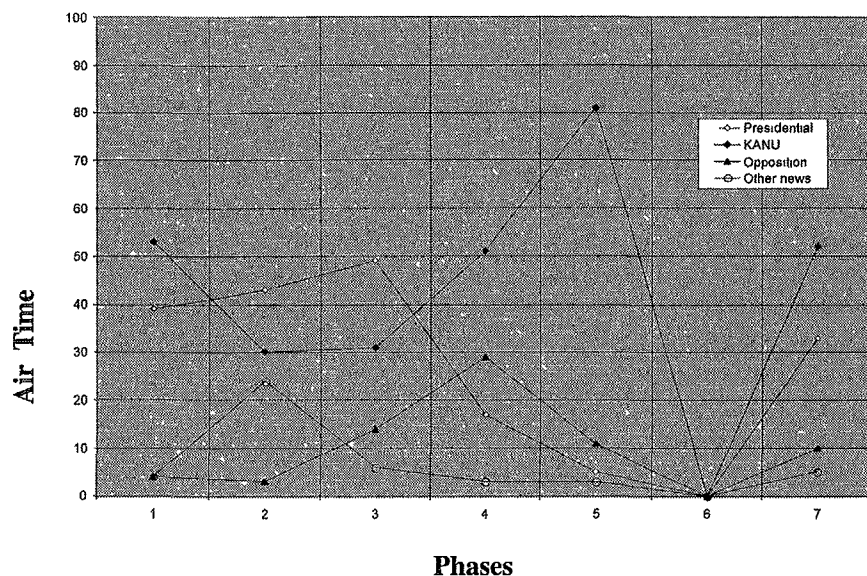
Among the most important observations made at the beginning of campaigning was the fact that the KANU government wanted to maintain its monopoly on broadcasts during the crucial period. The team observed that critical and independent individuals or establishments that had applied for licences to operate either radio or television stations found it difficult to have their applications reviewed. Secondly, they noted that the government had used its control by selectively granting to pro-KANU licences but denying licenses to opposition applicants. Thirdly, even when licences were issued to

the opposition, they typically contained restrictions that prohibited the licence holder covering news.

Given the fact that the majority of Kenyans depended almost entirely on the KBC, the 1997 election campaigns started with that corporation as the most accessible source of information. This meant that whoever controlled KBC had the unchallenged power to reach the people of Kenya with whatever message he wanted. From the very beginning KBC openly supported KANU and hit at the opposition. If the authorities had good reasons for not licensing private radio and television stations, then the journalists did not provoke the government enough to reveal that reason. The issuance of broadcasting licences to private institutions was viewed by journalists as a private campaign by individual applicants and, therefore, not good enough a subject for a national debate. Likewise, the KBC monopoly during the 1997 elections was never discussed by journalists as a national issue.

Despite the IPPG reforms the *Media Watch* reports of August 1997 indicated that the KBC coverage of 'meet-the-people' tours was biased in favour of KANU. Most of the airtime went to presidential ceremonies and KANU events. The opposition received 3 per cent and 4 per cent radio and TV news airtime, respectively, while KANU and presidential public events combined received 91 per cent and 83 per cent, respectively. Also, news commentaries were geared at endearing KANU and the President to the public. The *Media Watch* August report showed that KBC ignored certain stories of critical national importance while misreporting others. The KBC, for example, made no mention of the nationwide pro-reform strikes. The independent media did. Thus, on 7 August, the KBC stated that workers in Nairobi had ignored the strike and that 'most business premises except banks remained closed' in the city's central areas, and in Kisumu, Nyeri, Nyahururu, Murang'a, and Thika out of 'fear of looting'.

Figure 9.1: KBC airtime devoted to the president, KANU, the opposition and other news items



Source: KHRC & Article 19 (1998)

Phase 1: The pre-IPPG agreement phase (7 July-29 August)

Phase 2: The IPPG negotiation phase (30 August - 12 September)

Phase 3: The IPPG implementation phase (13 September - 2 December)

Phase 4: The nomination phase (3-9 December)

Phase 5: The campaign period (10-28 December)

Phase 6: The polling period (29-31 December)

Phase 7: The post-polling period (1 January - 3 February)

Figure 9.1 provides an overview of the recorded airtime devoted to the president, KANU, the opposition and other news items in seven political phases related to the 1997 general elections that Kenya went through. The *Media Watch* recording exercise shows that in spite of the IPPG agreement calling for a balanced and as much as possible impartial coverage of the players in the election period, the KBC continued to bias its reporting to the benefit of KANU and President Moi. The initial improvements recorded in phase 3 and continued in phase 4 were soon lost with the onset of the official campaigning period (phase 5). KBC again acted as a mouth-piece of the ruling party. It tried to improve its behaviour during the actual polling days (phase 6). According to

Media Watch this was due the fact that during these days the fate of the elections was in the hands of the voters. Thus KBC could afford to be completely impartial, except for some few omissions that would have potentially been negative for President Moi and the ruling party. But in the post-polling phase the curve rose again rapidly to its pre-IPPG levels in favour of KANU and Moi (see KHRC & Article 19 1998:25).

Ethics, accusations, impartiality and corruption in election journalism

No matter what the critics of President Moi's regime say about the freedom of expression in Kenya, the 1997 general election campaign was accompanied by the emergence of an increasing number of all sorts of political periodicals airing all manner of political opinions which made Nairobi one of the most free cities in Africa at least in the print media. However, since 1991 when Kenya adopted a multi-party political system, the government has had an inconsistent relationship with the press. Last year, Kenya's rating fell from 'partially free' to 'not free' according to the Freedom House, a New York-based organisation that evaluates social, political, and economic rights in all countries.

At a conference for African editors in South Africa in May 1996, Dr Doyin Abiola, managing director of Concord Press of Nigeria Ltd, stated that a free press is characterised as the 'last bastion of hope'. Abiola argued that 'it is, perhaps, more desirable now than ever to have a press with an open agenda, seeking to do the greatest good for the greatest number; a press that is untiring in looking for feasible alternatives; a press dedicated to providing a true market place of ideas. . . . To put it another way, a press which is daring enough to be a people-oriented medium with unalloyed faith in the ordinary people; a press that is not a cohort with any government or business elite; a press without a vested interest in the status quo' (*Nairobi Law Monthly* Nov. 1996: 34-35).

Some questioners have asked whether the press in Kenya is playing this role. For example, Pheroze Nowrojee, a Kenyan lawyer and constitutional reform activist, accuses the press of helping to distort post-election reality. By questioning the steps made in the reform process as it develops in Kenya these days, steps that upon close scrutiny seem to be directed mainly by a handful of powerful individuals, he points out that the press needs to ask itself whether it is a participant in 'this process of manipulated amnesia and disempowerment? Is the media a conscious or unconscious vehicle of this forgetting and uncaring process?' (*Expression Today* July 1998: 32). Instead, Nowrojee continues,

Kenyans must first look at their problems frankly and openly. We must harness the real demand for peace we see. But we must also be prepared to face our real fears. We must examine our ethnic differences and distrust. . . . We need a Government of National Unity in substance. . . . Those in power now must resist that temptation to tailor the changes to personal

benefit. And the media must realize that forgetting all the time amounts in the end to participating in the distortion of reality?' (*Expression Today* July 1998: 32).

If the alternative press in Kenya appeared to be rather weak on the ethical requirements of impartiality during the campaigns, they are even weaker on the principle of fair play. Hardly ever were readers of the alternative publications, which made scathing attacks against KANU leaders, given the opinion of the people they pounded upon. Yet professional ethics demand that that voice should be heard too. Ethically, any accusation made by a newspaper outside a court of law should have been balanced by opinions of those being accused. The alternative press in Kenya was full of serious accusations of leaders in the government and the ruling party KANU. Very often the accusations were legitimate since the papers publishing them were only playing their watchdog role of the Fourth Estate. However, the manner in which the stories were presented to the people was unprofessional as it failed to observe the important ethical requirement of fair play. Stories accusing the government of all manner of things would have sounded more authentic if the accusations were balanced by comments of the accused, even if that comment was simply saying 'no comment!'

It was easy for journalists in the alternative press to be biased during the election time, because they rubbed shoulders more often with opinionated politicians. It was also possible many of them did not even know that being publicly biased was being unprofessional. The thrill of chasing an exposé on a major corrupt practice within the government easily blinded them to the fact that as professionals they had to always make an attempt to see the other side of the coin.

In Kenya, the survival of the alternative press during the 1997 general elections appeared to depend heavily on exposés obtained from freelance writers who were not necessarily reliable news gatherers. Numerous were the times when the use of stories from such reporters landed an editor in serious legal problems, yet when all is said and done it was only natural for the independent newspapers to have a professionally healthy hunger for exposés. That hunger was always nurtured by the use of stories which did not withstand the scrutiny of editors in search of authenticity.

A close examination of the Kenyan press (both mainstream and the alternative) during the 1997 general elections revealed that falsehoods could and did slip through editors' fingers, thus making it difficult to erect an airtight defence against lying reporters. The need for editors to check and check all the facts before they published them seemed to have been considerably relaxed during the 1997 campaign.

Both the alternative and the mainstream press in Kenya had little problem with decency which is an important pillar of journalistic ethics. Indecent presentation of stories of prurient nature exposing extramarital activities of certain candidates was used in Kenya during the 1992 general elections. In an infamous daily pull-out in the *Kenya Times* known as *KANU Briefs*, pseudo journalists produced stories hitting below the belt against opposition candidates. The practice of writing indecent articles against candidates did not show its ugly head so much in the 1997 general elections.

Although journalism in Kenya is among the most admirable in Africa, it faced a serious problem of inaccurate reporting during the 1997 general elections. Accuracy became a major professional concern among editors during the campaign period owing to the short supply of reliable news and sources even among official circles. Yet, a lot of what was published in Kenyan newspapers at the time was second-hand information. MacDougall (1968) admits that most news gathered by reporters is second-hand, but warns journalists to remember that news sources are unquestionably responsible for as many if not more news story errors than reporters. He even suggests that mistakes made by those giving out news may be intentional.

The reporters' weapons against inaccuracy, as a result of news sources' inability or unwillingness to give reliable information, are verification and honesty of purpose. If a reporter approaches the task of both reporting and writing his story without prejudice, whatever error he makes at least will be unintentional. Fairness and caution both require that when two persons interviewed differ greatly as to the truth, the statement of both should be included in the news story. However, Kenyan journalists trying to reach accuracy during the 1997 campaign were often dealing with people capable of making public statements and totally denying ever making them when they were in political or legal hot soup the next day.

A good example came from the then FORD-Asili chairman Kenneth Matiba who told journalists that he had resigned his Kiharu parliamentary seat and promised to communicate his resignation to the speaker of the National Assembly the next day (*East African Standard* 31/05/97). But the next day Matiba disowned the story scapegoating the journalists who had written it. Reporters in Kenya had to be extra careful because they were not only dealing with inaccurate, misleading and sometimes outright lying sources of information but with extremely ruthless laws that dealt cruelly with journalists who published falsehoods. The only answer for the true professionals was to be truly responsible journalists ready to publish the truth and be damned for it. This leads to the next most important pillar of journalistic ethics: responsibility.

Whenever the Kenyan despotic leaders talk about 'responsible' journalism or press they mean the journalism and press they have in their pockets and,

therefore, under their total control. Their repeated calls for 'responsible journalism' are usually louder at election time and the 1997 period was no exception. A number of newspapers, magazines and all the radio and television stations in Kenya are usually systematically manipulated by various interested parties to influence voters' opinion during election time. A good number of them were subjected to that predicament during the 1997 elections. Little did some of the editors concerned seem to realise that they were actually being used to perpetuate the misrule of dictatorship. Journalism scholars felt that Kenyan practitioners had, therefore, a much harder obligation of upholding journalistic principles of responsibility at the risk of not only being labelled traitors by the dictators but of endangering their jobs and, in some cases, even their lives during the 1997 election time.

One famous Kenyan journalist, Kwendo Opanga, a former political commentator of the *Sunday Nation*, in his column 'The week that was' of 28 September 1996 wrote: 'Kenya's newspeople now have to decide whether they will be society's headlamps or its mirror. . . If newspeople want to be mirrors of society, they will be corrupt. If, however, they want to be headlamps, then they must shun corruption.' In July 1998 Opanga resigned from the *Daily Nation* after allegations were made by the *Kenya Times* and *The Weekly Sun* of him taking bribes from KANU in 1992. Apparently, the action against Opanga was started after he suggested in a recent commentary that Kipruto arap Kirwa, a junior in the KANU ranks, was more competent than Moi. Opanga admitted he had worked for KANU as a consultant. He was under pressure to help the party and made the mistake of attending some meetings of a KANU 'Think Tank' and accepting some money offered before quitting the job. Opanga later on became managing editor of the *Sunday Standard* in December 1998. KANU had successfully forfeited a popular journalist known and trusted by the ordinary Kenyans for his independent opinions and for making critical remarks towards the ruling party and the Kenyan government.

George Krimsky in *Finance*, 9 August 1998, questioned the relevance of all this to the emerging democracies around the world. Certainly, the Western experience, for all its messiness, provides a useful precedent, if not always a model. For example, when one talks about an independent media, it is necessary to include financial independence as a prerequisite, in addition to political independence. The Western revenue-earning model of heavy reliance on advertising is highly suspect in many former Communist countries but one has to weigh the alternatives. Are government and party subsidies less imprisoning? If journalists are fearful of contamination by advertisers' pressure, they can build internal walls between news and business functions, similar to those that Western newspapers erected earlier in this century. If they are fearful of political contamination of the information gathering process, they can build

another wall separating the newsroom from the editorial department – another important concept in modern Western journalism. The problem in many new democracies is that journalists who once had to toe the single-party line equate independence with opposition. Because they speak out against the government, they say they are independent. But haven't they just traded one affiliation for another?

There is little room for unvarnished truth in a partisan press. Is objectivity a luxury in societies that have only recently begun to enjoy the freedom to voice their opinions? The watchdog role of the press can only appear as mean-spirited. How do the government and public protect themselves from its excesses? In the West, it is done in a variety of ways. One, for example, is the use of the 'ombudsman'. In this case, news organisations employ an in-house critic to hear public complaints and either publish or broadcast their judgements. Another one is the creation of citizens' councils, which sit to hear public complaints about the press and then issue verdicts which, although not carrying the force of law, are aired widely. Last, and most effective, is libel law.

There is still a need today, perhaps more than ever, for distinguishing sense from nonsense, for sifting the important from the trivial and, yes, for telling the truth. Those goals still constitute the best mandate for a free press in a democracy. Kenya still has a long way to go in both respects. It will be a road with ups and downs as the Kenya Union of Journalists observed recently. When the elections were over, a rise in cases of open violence against journalists by state agents and gangs on the payroll of powerful individuals was witnessed. For example, in July 1998 Patrick Mayayo, a *Daily Nation* reporter, broke a story on kickbacks in the customs department that led to the arrest of high-ranking officials. He later on received threats and was followed. On 8 November 1998 Bernard Liru, a correspondent with the *East African Standard*, died from injuries sustained in a suspicious automobile crash after he published a report on graft and malfeasance involving the Mumias Sugar Company. On 15 February 1999, *Expression Today* executive editor David Makali was seized at the Stanley Hotel in Nairobi by a gang of 12 unidentified men who beat and tortured him before abandoning him in Karura forest in Nairobi's outskirts. Makali had shortly before published a report in the February issue which gave details of the involvement of prominent politicians and businessmen in a major drug network in Kenya.

Attacking journalists is one way to silence the press, but more effective is the winding up of the hardware, i.e., the printing industry. The setting ablaze of printing press and magazine offices are part of the intimidation of press freedom in Kenya. For example, on 28 April 1995 a police squad disabled Colourprint Ltd, which prints *Finance* magazine and *The People*, and arrested its director (*Media Review* May 1999:125). Once again, on 4 May 1998, Colourprint Ltd was attacked by a gang of seven arsonists who destroyed

property worth over Ksh. 20 million. Another premise of the company had been attacked shortly before the general elections. The company also prints leaflets, posters and magazines that the government views with suspicion (see *Daily Nation* 05/05/98). Finally, there is a need to address informal repression within the media, in the form of proprietorial interference, corruption and a deteriorating working environment for journalists (see *Daily Nation* 03/05/99). For this reason the press should by all means try to overcome the obstacles mentioned by Philip Ochieng. Kenya's reality does not allow the postponement of a high standard press until material wellbeing has been uplifted.

Conclusion

A close look at how journalists performed their duty during the 1997 elections reveals many ethical and professional transgressions which were not only confined to the largely inexperienced alternative press, but also the accomplished mainstream press in Kenya. There was considerable evidence that in the 1997 Kenyan elections, editors and media proprietors determined the important issues that formulated the main agenda of the polls namely ethnic loyalty. In other words, the media did set some form of agenda in Kenya before, during and after the elections. Whether the media were distinctly professional in selecting the national topic to highlight is another matter altogether. Their Fourth Estate role was obviously minimised by their parochial approach to issues. It is also obvious that during the 1997 elections journalists in Kenya faced a professional problem, which was developing into an art form: the perennial dilemma over getting too close to the people in politics who made news. When too close a relationship was struck up between the two parties it became rather difficult to play the Fourth Estate role.

The other lesson learnt from the coverage of the 1997 elections was the fact that whenever a journalist succumbed to tribal loyalty, life became extremely difficult for the legitimate seekers of truth. The upkeep of professional ethics for journalists was essential if they were to embark on the road to real democracy; but to do so more effectively would have entailed a greater concern with what was happening in their own back yard where bribes exchanged hands with impunity.

With corruption in journalism swept under the carpet, exposure of other forms of dishonesty within society during the elections had to be done with considerable care lest it boomeranged. Maybe the most important lesson learned during the 1997 elections was the importance of journalists getting involved in unearthing the truth about candidates and their parties, their policies and capabilities, right from the very beginning of the electoral process for the delectation, or otherwise, of the voter. It was important for journalists to realise

that the battle ground in the electoral exercise was not only between parties but also within the parties themselves.

Out of the 1997 elections came the realisation that the role played by the watchdogs of the watchdogs contributed to the adherence to professionalism in at least as far as the print media was concerned. When they knew their work was being closely scrutinised by experts, journalists always performed better even though that made the undertaking akin to walking on eggshells for fear of earning the wrath of the likes of KHRC and the Article 19 Media Watch project. This exercise showed clearly the partiality of the Kenya Broadcast Corporation during the 1997 elections in Kenya. These organisations should also play their part in the much needed reform of the media landscape in Kenya.

The role of the press in the coverage of free and fair elections required journalists to be courageous enough to expose evils, which probably made those journalists popular with the entire community. Internal despotism in political parties, for example, was popular with tribalists, but in some journalistic quarters it aroused dismay and the writers, few as they were, openly emerged as principal spokesmen and women for the dismayed.

For a long time journalists believed that no one else should examine the manner in which they observed their own ethics. Many believed that rules restricting their behaviour as journalists amounted to control. They thought the non-existence of such rules was good and even noble in its goals. After seeing how some of them violated their own ethics in the 1997 election coverage, many would agree that there was a need to expose corruption within the profession. Non-existence of any guidelines for writers may be good for them, but what is good for Kenyan journalists during elections might turn out to be disastrous for the readers and voters. Hence, another lesson learnt is the need for strict methods to ensure journalists would be ethically upright throughout campaign periods.

It must be accepted that during the 1997 elections there were many editors in the country who operated in newsrooms as political commissars for various parties or tribal unions. Their biased presentation of news made the readers' trust in their credibility badly shattered. Looked at in this manner, the 1997 elections made many journalists lose their credibility as people's watchdogs and, for them to regain public trust, they must in future prove to be morally and professionally more upright than the politicians. That way their credentials as people's watchdogs and occupants of the Fourth Estate will always be reassured.

Notes

1. The Aga Khan is the inherited title of the leader of the Shiite sect of the Ismaili Muslims who can be found mainly in Pakistan, India, Yemen, Iran and Eastern Africa. The current Aga Khan IV was born in 1936 in Geneva. His real name is Karim Al Hussaini Shah. He inherited the title from his grandfather and was educated in Switzerland and at Harvard University.
2. Very often regular programmes were postponed to allow live telecasts of the president at the Nairobi International Show or at the University of Nairobi graduation ceremony. Few things epitomised the folly of the preoccupation with the person, rather than the event, as the determinant of an item's value than KBC's treatment of Nelson Mandela's release from prison. The world had waited with bated breath for days on end to see how Mandela would look after 27 years behind bars, years when no photographs of the man had been seen by the outside world. So what was KBC TV's lead item in their news bulletin that day? President Moi at church, the perennial opening item, with nothing more happening than the singing of hymns and the sermon from a regular preacher. And that historic moment of Mandela walking out of prison was delayed in Kenya for 10 minutes (KHRC and Article 19 1998:15)
3. Among the previous directors of KTN were Mwakai Sio, who was also chairman of Transnational Bank, Wilson Kibet (also chairman of *Kenya Times*), Philip Murgor (former KTN chairman), Sham Solei (deputy general manager of Transnational Bank) and Charles Field-Marsham (son-in-law of Cabinet Minister Nicholas Biwott). In 1993 Minister Kamotho said it was owned by KANU. At the time Jared Kangwana, initial investor in KTN, one-time chairman of Transnational Bank and Kenya Times Media Trust, and owner of The Mall, a shopping centre in Nairobi's Westlands suburb, was removed from the station. By early 1996 Kangwana filed a case against KTN claiming Ksh. 212 million. Sidney Quantai appointed KTN's editor-in-chief, later fired for reporting on issues not welcomed by KANU, at one time stated it was private individuals owning KTN. *The Star* also concludes its investigations that KANU never owned KTN (see *The Star* 12-15/12/97:20)
4. The late David Munene Kairu, a close friend to Mwai Kibaki, who passed away soon after winning the elections for parliament in Kieni constituency, is said to be the financier of both *Kenya Confidential* and *The Star*.
5. The international observers indicated that according to their observations, Gumo is believed to have fraudulently acquired his seat in parliament for the Westlands constituency in the Kenya 1997 elections (see also Chapter 14). *The Weekly Sun* is published by Scallatti Communications Services in Mombasa.
6. It is believed that the power struggle over the vice-presidency was the main reason why politicians continued to support some of the pamphlets. These publications have increased in number with a new one called *The Weekly Citizen* coming out regularly and always supporting Simeon Nyachae, the ex-minister for Finance, who resigned from the government in March 1999 after being demoted to the Ministry of Trade and Industry. The other new pamphlet-like publication is *The Metropolitan*, which campaigned (unsuccessfully) against the appointment of Prof. George Saitoti as the new vice-president. The paper is generally against the Kikuyu and appears to support Musalia Mudavadi. Minister Kalonzo Musyoka, another potential candidate, is said to be linked to *The Kenyan* magazine that stopped appearing after only four issues when Musyoka's bid for the VP post seemed without hope after the reappointment of Saitoti (*Media Review* May 1999:6). There is a big racket concerning the publications of the pamphlets. Journalists producing them are literally for sale and can be bought by individual politicians to attack

- their enemies in the most dangerous manner without caring about the truth, professional ethics or laws of libel.
7. The example of Gachoka is interesting in that it shows the interconnections between media, business, politics and harassment rather clearly. The Gachoka family owns a 110-acre farm in Thika. While Tony Gachoka was having a fight with an influential billionaire banker the farm was unprocedurally transferred in broad daylight and yet neither the Ministry of Lands nor the police could unearth the truth. Tony Gachoka went to see President Moi to solve the problem and this enraged Gatabaki, his former employer at *Finance* (see *Daily Nation* 14/12/97). Rumours are that one of the financiers of *The Post on Sunday* is one of the five sons of Moi who wants to politically kill his brother Gideon Moi.
8. Some speculated that the four publications were banned because of propagating a tribal agenda (i.e., in favour of the Kikuyu community), whereas *The Dispatch* is not. This does not mean that *The Dispatch* is free from harassment. On 21 April 1998, *The Dispatch* editor Maneno Mwikwabe was charged with 'publishing an alarming report' after he published a report about a mysterious disease outbreak and 'restlessness' in the army following reports of a government plan to stage manage a coup (see *Expression Today* July 1998: 34). Also people claiming to be policemen were confiscating *The Dispatch* while others resold the copies to the vendors at Ksh. 5 each). According to the editor, this was worse than banning since it was costing the investors in *The Dispatch* money in production and salaries while earnings were taken by thugs (see *The Dispatch* 27/07/98:2).
9. Magnet Media Services received its licence a month before it was incorporated as a company. Mark Too, a key Moi ally, belongs to the group of owners.
10. The case of Royal Media Services is instructive. Royal Media first applied for a licence for radio and TV in 1992. Its proprietor, S.K. Macharia, was then regarded as an opposition sympathiser and an opponent of the government, having pleaded many cases against the state on business related matters. When the Ministry of Information and Broadcasting did not respond to Royal Media's application in a reasonable time, Macharia went to court seeking to force the government to make a decision. At one time he even sought Minister Makau to be sent to jail for contempt of court. In 1996, Macharia re-emerged in public life as the chairman of a shadowy group of Kikuyu elite, senior civil servants, and businessmen who were organising strategies of luring the Kikuyu people to KANU under the patronage of Education Minister Joseph Kamotho. As chairman of this group, which is now known as the Central Province Development Support Group (CPDSG), Macharia has taken a high profile convening of meetings supporters and fund-raisers for KANU. On 29 April 1997, minister Makau announced that Royal Media Services had been granted a licence to operate a radio and television station (KHRC 1997:27).
11. For instance, Rose Lukalo was fired after airing the launch of the Democratic Party in 1992. Vitalis Musebe and Isaiya Kabira, head of news and deputy head of news respectively were suspended for covering the 7 July 1997 indiscriminate police brutality in Nairobi and other parts of the country. The two were accused of giving the government bad publicity. Before they were suspended they were grilled at State House, at a meeting attended by ministers Saitoti and Kamotho among others (*Daily Nation* 10/07/97; KHRC 1997:24).
12. In January 1996, news about the two proposed media bills leaked out. The bills sought to restrict the practice of journalism through requirements that journalists be licensed and have formal training in journalism to qualify for the licence. They established mechanisms for registration and de-registration of newspapers by government appointees without recourse to an appellate authority in case of de-registration. After fierce opposition, they were hastily shelved by the Attorney General.

- 13 Thomas E. Patterson is a professor of Political Science at Syracuse University and in his *The Mass Media Election* (New York: Praeger, 1980) he talks about creating winner and loser images, something which actually happened in Kenya's 1997 general elections
- 14 F. Christopher Arterton has served as a policy maker for various American candidates and is the author of *Race for the Presidency: The Media and the Nomination Process* edited by James David Barber Englewood Cliffs, NJ: Prentice-Hall, 1978).
15. In an article published in the December/January double issue of *Executive Magazine*, journalist Maliti suggested Moi's administration was seeking the people's mandate to remain in power when it had the worst record of economic mismanagement and political unpopularity.
16. In mid-1999, after a one-year stalemate in the constitutional review process, *Expression Today* (May-June 1999: 1) admitted that the 'independent' press had failed in providing information on the constitutional review process to the public. 'Our failing in this particular duty was illustrated by a recent proposal by President Moi that the entire constitutional review be left to parliament. In its skewed view of objectivity the Press simply reported the proposal as it was, without making any intellectual response to it in the reports.'
17. The joint effort between the KHRC and Article 19 monitored and documented KBC coverage of news, news commentaries, documentaries and press conferences for about nine months leading up to the 1997 general election. The initiative successfully assessed the impartiality and independence of KBC coverage of various political parties.

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