

Weaponising the law: Threats to media freedom in Kenya

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Weaponising the Law: Threats to Media Freedom in Kenya

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This report was published by the **Thomson Reuters Foundation** and follows the global [Weaponizing the Law: Attacks on Media Freedom](#) report published in 2023 by providing a country-specific analysis of the Kenyan context.

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List of abbreviations

AI	Artificial Intelligence
BAKE	Bloggers Association of Kenya
CAJ	Commission on Administrative Justice
CAK	Communication Authority of Kenya
CJAK	Crime Journalists Association of Kenya
DCI	Directorate of Criminal Investigations
DIG	Deputy Inspector General of Police
FGD	Focus Group Discussion
GAA	Government Advertising Agency
HRDs	Human Rights Defenders
KBC	Kenya Broadcasting Corporation
KES	Kenyan Shillings
KFCB	Kenya Films and Classification Board
KICA	Kenya Information and Communications Act
KNCHR	Kenya National Commission on Human Rights
MCC	Media Complaints Commission
MCK	Media Council of Kenya
NCIA	National Cohesion and Integration Act
NCIC	National Cohesion and Integration Commission
NMG	Nation Media Group
NIS	National Intelligence Service
ODPC	Office of the Data Protection Commissioner
ODPP	Office of the Director of Public Prosecutions
PaAR	Participatory Action Research
POTA	Prevention of Terrorism Act
SLAPPs	Strategic Litigation Against Public Participation



Will Church

Director of Media Freedom,
Thomson Reuters Foundation

Foreword

In a global context marked by surging autocracy and escalating clampdowns on civic space, robust independent media is crucial to democratic resilience. But the last decade has seen a drastic deterioration in media freedom. Journalists who hold power to account have long faced threats, but in recent years, those who would silence them have evolved new weapons, in the form of systematic legal attacks that aim to deter scrutiny and suppress dissent.

At [Thomson Reuters Foundation](#), we leverage our unique combination of media and legal expertise, together with data intelligence, to inform, connect, and empower professionals and civil society to strengthen free, fair and informed societies. Boosting the resilience of independent media is a key pillar of this work.

In response to mounting legal threats, we provide [free legal services and resources](#) for independent media around the world, and in 2023 we published [Weaponizing the Law: Attacks on Media Freedom](#). That report mapped the most serious legal threats to journalists worldwide, highlighting how systematic “lawfare” stifles public interest reporting, with grave repercussions for both the media sector and the audiences they serve.

Building on that foundation, this report draws on the experience of journalists and media experts in Kenya to identify and explore the most pressing legal threats they face, and highlight ways to counter them. This is the first in a series of national-level reviews we intend to release, examining media freedom challenges in diverse contexts around the world. It was prepared in partnership with ALT Advisory, in association with Power Law Africa. It aims to equip stakeholders working to bolster media freedom in Kenya with insight and analysis that will empower them to defend and strengthen the media ecosystem at a time of intense pressure.

Legal threats reflect the broader threats that journalists and media outlets have long faced, from harassment and coercion to financial ruin or physical harm. But the increasingly systematic use of legal frameworks to pursue these tactics presents specific and growing challenges for media resilience. And these come from many directions: not only malign actors who deliberately weaponise the law, but also commercial or individual

interests whose priorities may conflict with media freedom best practices, and a general, broader apathy among segments of society toward the consequences of a weakened press. These converging forces compound the vulnerability of independent media.

In the Kenyan context, lawfare threats are grounded both in old laws – which predate the 2010 Constitution but remain on the statute books – and new laws, such as cybercrime and counterterrorism legislation – which allow for overly broad or ambiguous interpretation. Legal abuses range from spurious lawsuits intended to intimidate, to dubious legal cover for state surveillance.

There are other challenges too. While some laws are weaponised and abused, others are disregarded. In many instances, the legislative framework exists to protect journalists in Kenya, and enable them to report freely. However, in practice, enforcement is inconsistent and often weak. Examples range from widespread failures to respond to freedom of information requests to inadequate investigations into attacks on journalists, fostering a culture of impunity that emboldens perpetrators.

In Kenya, as elsewhere, the rise of citizen journalism and artificial intelligence (AI) create both opportunities and risks for media professionals, compounding the existing commercial and financial pressures which are already felt especially keenly by smaller outlets. The legal framework has not kept pace with the rapidly-evolving media landscape, and is ill-equipped to defend media sustainability in the digital era.

In order to take effective action to safeguard independent media, and its vital role in upholding democracy and fundamental rights, as well as fostering economic development and national security, media and civil society groups need first to understand the nature of the threats and risks they face. We hope that this report proves a useful tool in empowering stakeholders to pursue a collaborative and coordinated defence.



A word from our Regional Head, Elizabeth Onyango

Over the recent years we have witnessed progress and setbacks for journalists in Kenya and across Africa, but until now we have lacked a comprehensive overview of the legislative and operational failings that embolden coordinated attacks, and clear and actionable guidance on how the community can collaborate to effectively defend press freedom. The issues and real cases outlined in this report put forward a stark and indisputable assessment of the fragile media freedom landscape in Kenya; from telecommunication giants slapping investigative journalists with costly lawsuits in response to information requests, to defamation claims that led to the brutal murder of a blogger, to the unconstitutional ban of live media coverage of protests.

At Thomson Reuters Foundation's Africa Hub, we regularly collaborate with journalists, newsrooms, media freedom organisations, lawyers and civil society organisations to defend media freedom, promote responsible business practices and expand access to legal support. That means we hear first-hand of the legal, operational and financial challenges that tie up news outlets big and small, obstructing and deterring their coverage of matters of public interest. We also understand their needs to overcome these challenges and strive to address these through our work, both in Kenya and across the continent.

Kenya is a useful case study because of its strategic significance on the continent. It is often perceived to be representative of democratic progress within Africa, with strong constitutional protections and a vibrant media and civil society. But this research highlights a deteriorating space for media, and demonstrates the persistent and growing use of the law to stifle press freedom and control the flow of information to the public. Despite this, journalists' courageous commitment to their vital work shines through.

Across the continent, we are seeing similar patterns of legal weaponisation emerging, and there appear to be coordinated approaches towards silencing freedom of expression and speech. Reporting is restricted by censorship guidelines that narrow the scope of coverage, accreditations are stalled, revoked or rejected, media are surveilled and harassed by security forces, and nationwide internet blackouts are deployed at critical moments. Kenya experienced some of these forms of repression during the 2024 anti-Finance Bill protests and the 2025 Commemoration. With the 2027 elections looming, the ability of the press to freely and accurately report is

front of mind for Kenyan journalists, as over half of the participants surveyed in this research expressed a lack of confidence in the legal system's ability to protect those who cover sensitive or controversial topics.

The hope is that Kenya's experience offers lessons for building more resilient media ecosystems, and that greater reforms, protections and remedies can be enacted to safeguard press freedom and by extension, democracy - as set out in the recommendations within this report. To drive progress, there must first be an understanding of the problem we need to solve; that is why research like this is so important. Complex issues require coordinated and sustained collaboration among stakeholders across sectors and society. This commitment to evidence-based, multisectoral support is what underpins the Foundation's approach to defending press freedom: empowering journalists not just to survive legal attacks, but to challenge the frameworks that enable them.



Executive summary

This report presents a comprehensive analysis of the legal threats to media freedom in Kenya today. For the purposes of this report, weaponisation of the law is defined as the deliberate use or misuse of legal provisions and processes to intimidate, silence, or economically weaken media actors.

Despite robust constitutional safeguards for freedom of expression and of the media, as well as a vibrant media sector, Kenya continues to experience setbacks in the realisation of these rights, alongside improvements in some areas.

This report follows the global [Weaponizing the Law: Attacks on Media Freedom](#) report, published in 2023, by providing a country-specific analysis of the Kenyan context. Informed by an initial desktop review of relevant laws, regulations and court decisions, the research included an industry survey and focus group discussions, which identified six primary categories of legal threats:

- **the abuse of court processes**
- **regressive and disabling legislation**
- **weak implementation of media laws**
- **technology-facilitated harms**
- **impunity and safety of journalists**
- **the sustainability of the media industry.**

This report presents these threats thematically rather than in order of severity, reflecting the fact that they do not occur in isolation, but intersect with broader patterns of political influence, intimidation, and pressure from certain private actors. Together, they undermine independent journalism and weaken the long-term sustainability of the media sector.

Our survey found that 42% of media actors in Kenya have faced legal threats in response to their work, including litigation, arrest, and the shutting down of online platforms. A summary of these key threats is outlined below. Moreover, 65% of media professionals who responded to our survey highlighted legal protections as their top support need to ensure the sustainability of journalism in Kenya. Throughout the research and across the six categories of threats documented in this report, three cross-cutting themes have emerged:

1. Legal tools are increasingly used to punish, deter, or delegitimise critical journalism.
2. Institutional weaknesses, such as inconsistent implementation and limited enforcement, undermine the effectiveness of legal protections already on the books.
3. Rapid technological change is outpacing the law, leaving journalists exposed to new risks ranging from AI-driven market disruptions to technology-facilitated gender-based violence.

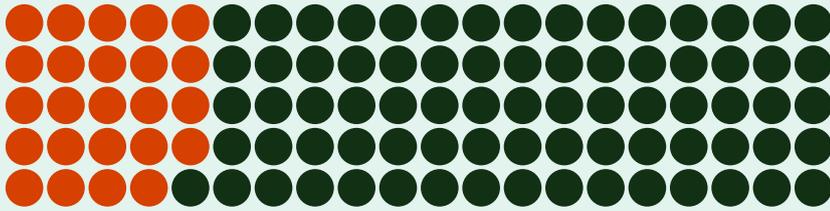
These issues are not unique to the Kenyan context; the solutions will lie in collaborative action that harnesses the expertise of a breadth of stakeholders across the media freedom ecosystem within the country and region.





Threat 1:

Abuse of court processes



24%

of surveyed participants identified the abuse of court processes as one of the biggest legal threats to journalism.

The abuse of court processes has emerged as a central mechanism through which the law is weaponised against journalists in Kenya. Civil and criminal legal proceedings are increasingly used not to seek justice, but to intimidate, exhaust, and silence media professionals, individuals active in civic engagement and human rights defenders (HRDs) who pursue public interest reporting or blow the whistle on matters such as corruption and the abuse of public office. Strategic Litigation Against Public Participation (SLAPP) suits, prior restraints on publication, and punitive defamation claims are deployed by both state and private actors to deter them from investigating, impose financial and psychological burdens, and encourage self-censorship. These practices undermine the media's constitutional role in promoting accountability and democratic debate.

Relatedly, defamation claims also remain a looming threat. Although the Kenyan High Court has declared the offence of criminal libel under the [Penal Code](#) unconstitutional, other provisions in the Penal Code continue to pose risks to media freedom by criminalising content deemed insulting, threatening or inciting. Excessively large civil awards for defamation also discourage journalists and editors from fully exercising their constitutional rights to free expression and media freedom.

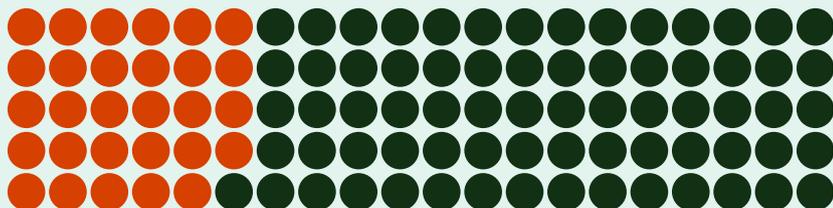
In some cases, the enforcement of cybercrime law has also served as a doorway to more grievous violations such as arbitrary arrests, torture and extrajudicial killings.

Key recommendations

- **SLAPP suits:** The Kenya Judiciary Academy, in partnership with media stakeholders, should train judges and magistrates to recognise and address SLAPP suits; media stakeholders and legal experts should support media actors through peer-learning litigation surgeries; and the judiciary should deter SLAPPs by enabling expedited hearings in public-interest cases and awarding costs against plaintiffs in meritless suits.
- **Defamation and insult:** The Attorney General should move Parliament to remove criminal defamation and insult offences from Kenyan law, and introduce judicial guidelines to prevent excessive civil damages. The Office of the Chief Justice should, working with the National Council for the Administration of Justice, create a legal aid and support mechanism to help journalists challenge punitive defamation awards.
- **Criminal proceedings:** Law enforcement oversight mechanisms and offices should hold law enforcement officers accountable, through disciplinary, civil, or criminal action under the Penal Code, when they misuse cybercrime laws to arrest or intimidate journalists; and reform prosecutorial policy to reduce frivolous or meritless prosecutions.



Threat 2: Regressive and disabling legislation



29%

of respondents identified cybercrime laws as one of the biggest legal threats to their work.

A growing body of legislation has created an enabling environment for the suppression of media freedom in Kenya. Laws governing cybercrime, counterterrorism, and hate speech are frequently drafted in vague or overly broad terms, enabling expansive interpretation by law enforcement and prosecutors. These provisions risk criminalising legitimate journalistic activities, including investigative reporting, interviews, live coverage, and commentary on matters of public interest.

Although such cases often fail to result in convictions, their use as tools of arrest, investigation, and intimidation has a chilling effect on public interest reporting, particularly on matters such as security operations, protests, and governance. Rather than narrowing these provisions to align with constitutional standards, recent legislative amendments have expanded the scope for abuse.

For example:

- The [Computer Misuse and Cybercrimes Act](#) is undermining media freedoms through provisions that criminalise defamation and establish poorly defined offences that have been used to threaten and silence journalists, bloggers and human rights defenders (HRDs).
- The [Prevention of Terrorism Act](#) risks conflating journalistic activities, such as interviews and live coverage, with terror-related offences such as incitement and dissemination of terror-related propaganda.

- The [National Cohesion and Integration Act](#) ambiguously defines offences related to hate speech and ethnic hatred in ways that can be understood as criminalising offensive or inflammatory expression, which can be misused to prevent legitimate journalistic activity.

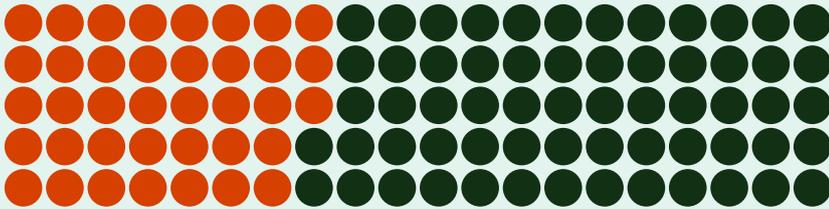
Key recommendations

- **Media and civil society should undertake advocacy and strategic litigation** to amend the offences of the Computer Misuse and Cybercrimes Act to align with the Constitution.
- **The Office of the Director of Public Prosecutions (ODPP) should establish sanctions for law enforcement officers** who abuse the offences under the Prevention of Terrorism Act to silence dissent and stifle media scrutiny.
- **The ODPP should eliminate ambiguity in the prosecution of offences related to hate speech and ethnic hatred** by developing guidelines that adhere to the six-part threshold test of the [Rabat Plan of Action](#).



Threat 3:

Weak implementation of media laws



38%

of respondents identified barriers to access to information as one of the biggest legal threats.

Despite strong constitutional guarantees and progressive legislation, weak and inconsistent implementation of media laws continues to undermine media freedom in practice. Journalists face persistent barriers when seeking access to information, as public institutions and private bodies frequently fail to make proactive disclosures or respond to lawful requests. Efforts to pass whistleblower legislation, to protect individuals who provide information to the media in the public interest, have repeatedly stalled. These failures directly impair investigative journalism and public accountability, particularly in relation to public finance, governance, and electoral processes.

Implementation gaps also affect community media, which play a critical role in serving marginalised and local communities. Legal provisions governing community broadcasting have not kept pace with changes in the media environment, including digital migration and new modes of content production. Inconsistent implementation renders existing protections ineffective and leaves community media vulnerable to shutdowns and funding restrictions.

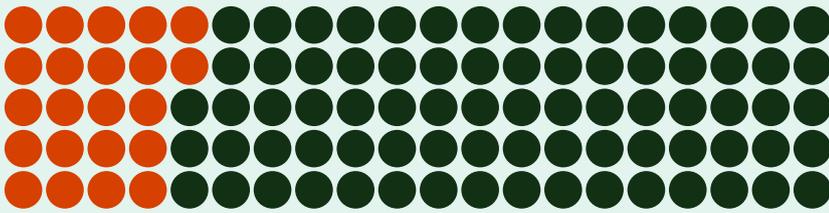
Key recommendations

- **The Commission on Administrative Justice (CAJ) should provide regular, detailed updates on the state of compliance** with the Access to Information Act by public and private actors and **enforce sanctions for non-compliance** with access to information requests.
- **Parliament should expedite the enactment of whistleblower legislation** to protect individuals who provide information to the media in the public interest.
- **The Government should review legal provisions related to community media** to adapt to the current media environment and introduce support measures such as tax incentives and tax breaks.



Threat 4:

Technology-facilitated harms



22%

of respondents identified cyberstalking and online harassment as a major threat, with women journalists particularly affected.

The increasing use and misuse of digital technologies has given rise to new and intensifying threats to media freedom and journalist safety. At one end of the scale, disinformation and misinformation pose a threat to the integrity of information, credibility of journalists and media outlets, and veracity of news reporting: indeed, 40% of survey respondents identified this as one of their primary concerns. More gravely, state interference in the digital and information ecosystem, including through media and internet shutdowns, unlawful surveillance, and the misuse of national security laws, has become a critical concern. These practices disrupt news gathering, compromise source confidentiality, and restrict public access to information, particularly during periods of political unrest.

At the same time, gaps in the legal framework have exposed journalists, particularly women journalists, to technology-facilitated gender-based violence, such as online harassment, cyberstalking, and gender-based abuse. These harms are compounded by the rapid integration of artificial intelligence (AI) into journalism, which raises unresolved questions around privacy, accountability, and intellectual property rights.

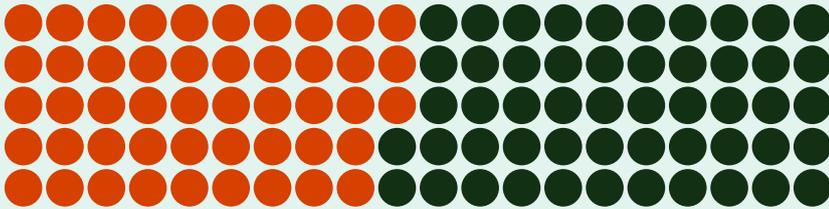
Key recommendations

- **Freedom of expression and media stakeholders should adopt legal and advocacy strategies** to challenge the actions of state agencies and telecommunication companies on the issue of internet and media shutdowns.
- **Enable journalists and media organisations to pursue litigation** to safeguard rights and seek accountability for illicit surveillance.
- **Media stakeholders to share information and educate the community** about surveillance tools used against them and tools available to protect themselves.
- **Government and Parliament to review and strengthen the law** to adapt to the current reality of technology-facilitated gender-based violence, including through preventing technology-facilitated harm and enabling journalists to secure redress.



Threat 5:

Impunity and safety of journalists



48%

of respondents identified journalist safety as one of the biggest threats.

Journalists across the country continue to operate in environments marked by insecurity, precarity, and institutional neglect. A failure to consistently enforce existing legal protections has fostered a culture of impunity that jeopardises journalists' ability to broadcast and publish news and opinion in safety, as evidenced by cases of threats, physical assaults, harassment, and even killings.

Over half of survey participants expressed a lack of confidence in the legal system's ability to protect journalists who cover sensitive or controversial topics. The government continues to use or threaten financial consequences disguised in legal terms to punish media houses that provide news and editorial coverage deemed critical. Survey participants explained that this culture of impunity has driven journalists to self-censorship, limiting their ability to research and publish investigative stories.

Key recommendations

- **Law enforcement should investigate and prosecute crimes against journalists.**
- **Media industry and human rights defenders should increase public awareness campaigns to challenge impunity for crimes against journalists.**



Threat 6:

Sustainability of the media industry

The law has not kept pace with the financial and commercial pressures facing the media sector. Working conditions for journalists remain seriously challenging, with the prospect of involuntary job loss or contract termination without compensation; delayed or non-payment of salaries, wages, or freelance fees; lack of formal employment contracts; and unclear or exploitative terms of employment or engagement.

At the same time, the practices of tech companies, compounded by the rapid rise of AI, have introduced new challenges that are depriving media houses of advertising revenue, leaving them vulnerable to financial pressures, posing security risks, and introducing unfair competition and intellectual property concerns. The existing legal frameworks do not yet adequately address these new challenges, leading to further failures to protect journalists and their work.

Taken together, these findings show that the legal environment facing journalists in Kenya is complex, fast-evolving, and increasingly shaped by both structural pressures and deliberate attempts to constrain independent reporting. They also reveal a media sector that continues to resist these pressures through litigation, solidarity, and ongoing public interest reporting. Survey responses underscore this dual reality: while legal, commercial and security threats persist, journalists remain committed to their work and clear about the forms of support that would strengthen the sector.

Key recommendations

- **Media actors, including government and media owners, should work with journalist unions and associations to establish a framework for standardising equitable employment terms and safety protocols for journalists**, in conformity with legal guarantees for fair labour practices.
- **The Government Advertising Agency should establish accountable and transparent guidelines** to inform procurement of public advertising and prevent the weaponisation of this revenue against media houses.
- **The government should conduct a legal review** to ensure that relevant laws protect intellectual property rights and hold AI platform owners accountable.
- **Media stakeholders should disseminate existing guidelines** on the ethical use of AI in journalism to enhance awareness among journalists and other media stakeholders.

Introduction

The media plays a vital role in shaping public debate and influencing social, economic, and political life. Kenyans depend on both traditional media and social media for news and entertainment. Recent research shows several notable shifts in the country's media landscape. According to the 2024 State of Media survey by the Media Council of Kenya (MCK), social media has become the main news source for most Kenyans (37%), followed by television (31%) and radio (26%).¹ Newspaper readership has continued to fall (20%), as many young people now favour online platforms as a key source of news.² However, data shows that the number of Kenyans who trust the media is increasing, with television and radio remaining the most trusted platforms due to their coverage of important issues and long-standing history of reporting.³

Safeguarding journalism is therefore vital to protecting democracy and enhancing national discourse. Commissioned by the Thomson Reuters Foundation (TRF) and prepared by ALT Advisory in association with Power Law Africa, this report explores the legal threats that journalists face in Kenya, how these threats intersect with broader structural and socio-political challenges, and how they may be remedied. Drawing on desk research, expert interviews, and consultations with journalists nationwide, it identifies six overarching legal threats to media freedom, including abuse of court processes, regressive and disabling legislation, weak implementation of media laws, technology-facilitated harms, impunity and the safety of journalists, and the sustainability of the media industry. It finds that 42% of media actors have faced legal threats in response to their work, including litigation, arrest, and the shutting down of online platforms.



REUTERS/Noor Khamis

¹ Media Council of Kenya "State of the Media Report 2024" (2024) (Accessible [here](#)).

² Id.

³ Id.

Country profile

Kenya, a diverse country of more than 57 million people, is a constitutional democracy underpinned by the 2010 Constitution. This Constitution emerged after more than two decades of public pressure for reform and followed the crisis of the 2007 Presidential election, which led to widespread violence, more than 1,100 deaths, and the displacement of over 600,000 people. A mediated settlement ended the unrest and paved the way for the new Constitution and a series of institutional reforms intended to strengthen transparency and accountability in governance.

Since then, Kenya has become a “midway democracy”⁴: it has strong institutions, laws, and constitutional protections, yet inconsistencies frequently arise in how these frameworks are applied. Media freedom is one of the areas where these contradictions are most visible. At the same time, public attitudes reflect both support for democratic principles and a mixed experience of how they are realised in practice. According to Afrobarometer’s 2024 Country Democracy Scorecard, 74% of Kenyans preferred democracy to any other kind of government, and a similar percentage felt they enjoyed freedom of expression.⁴

Constitution guarantees every person the right to freedom of expression, including the freedom to seek, receive and impart information. Article 34 provides for the freedom and independence of electronic, print and all other types of media. It prohibits the State from controlling or interfering with news broadcasters or news publishers. Further, the State may not penalise a person for broadcast or published content. Article 35 of the Constitution guarantees citizens the right of access to information held by the State. Citizens also have the right to access information, held by any person, which they require to exercise or protect fundamental rights and freedoms.

The Constitution establishes limitations on freedom of expression and media freedom, which generally conform to the standards established under international law.⁵ Under Article 33(2), freedom of expression and media

freedom do not include propaganda for war, incitement to violence, hate speech, or advocacy of ethnic or discrimination-based hatred. In addition, Article 33(3) obligates a person, in the exercise of freedom of expression, to respect the rights and reputations of others. These freedoms may also be limited under the three-part tests of legality, necessity and proportionality under Article 24 of the Constitution.

Over time, the State has passed a range of enabling legislation on freedom of expression and freedom of the media. However, some colonial-era laws which predate the Constitution are still in force, with the potential to undermine media freedom if they are applied. As this report proceeds to show, the government has enforced many of these laws in ways that have curtailed freedom of expression and media freedom, despite its international and domestic commitments. These international commitments are robust. For example, in 2020, during its engagements with the Human Rights Council under the Universal Periodic Review mechanism, the government affirmed it would uphold the right to freedom of expression, including for media organisations, in accordance with Article 19 of the International Covenant on Civil and Political Rights (ICCPR).⁶ At the domestic level, the government committed to promoting the use of social media in accordance with the protection of the right to freedom of expression guaranteed in the Constitution.⁷



⁴ Afrobarometer “Kenya: Country Democracy Scorecard” (17 July 2024) (Accessible [here](#)).

⁵ Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

⁶ Human Rights Council Report of the Working Group on the Universal Periodic Review, UN Doc A/HRC/44/ (2020) at paras 142 and 154. In its 2025 report under the Universal Periodic Review mechanism, the government did not report on the implementation of its specific commitments on freedom of expression and media freedom. See United Nations national report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21: Kenya (2025) A/HRC/WG.6/49/KEN/1.

⁷ Ministry of Information, Communications and Technology *National Information, Communications and Technology Policy* (November 2019) (Accessible [here](#)).

Kenya's legal and institutional framework for the protection of media freedom and regulation of the media

The Constitution (2010)

- Article 31: The right to privacy which, amongst other things, prohibits the unnecessary infringement of one's communications.
- Article 33: Provides for freedom of expression (including seeking, receiving or providing information or ideas), and its limitations (such as hate speech, incitement, constitutionally barred discrimination and propaganda for war).
- Article 34: Provides for freedom of the media.
- Article 35: Provides for the right to access information.

Key statutes

- Media Council Act, Cap 411B: Establishes the Media Council of Kenya to set standards in accordance with Article 34 of the Constitution and to regulate and monitor compliance with these standards. This includes a Complaints Commission to address disputes as well as the Code of Conduct for Media Practice 2025 (2nd Schedule).
- Kenya Information and Communications Act, Cap 411A (KICA): Establishes the Communications Authority of Kenya (CAK) and facilitates the development of the communications and information sector.
- Computer Misuse and Cybercrimes Act, Cap 79C: Enacts offences relating to computer systems, provides for the powers to prevent, investigate and prosecute offences and enable international cooperation.
- Access to Information Act, Cap 7M: Operationalises Article 35 of the Constitution and provides oversight authority to the Commission on Administrative Justice (CAJ).
- Data Protection Act, Cap 411C: Regulates the processing of personal data, and provides for the rights of data subjects and obligations of data controllers and processors.

Regulatory mechanisms

- Communications Authority of Kenya: Established to licence and regulate postal, information and communication services in accordance with KICA.
- Media Council of Kenya (MCK): Established to promote and protect the freedom and independence of the media as well as develop standards for journalists, media practitioners and media enterprises.
- Media Complaints Commission (MCC): Established to adjudicate over media-related disputes between the media and the government, the media and the public, and within the media itself. Also required to enforce standards as provided for within the Code of Conduct for Media Practice 2025.
- Kenya Films and Classification Board (KFCB): Regulates the creation, broadcasting, possession, distribution and exhibition of films.

Protection mechanisms

- Judiciary: Interprets the Constitution and the laws of Kenya, protects fundamental rights and freedoms, and provides redress when violations occur.
- Kenya National Commission on Human Rights (KNCHR): The national human rights institution mandated as the lead agency in the promotion and protection of human rights.
- Commission on Administrative Justice (CAJ): Oversees and enforces the implementation of the Access to Information Act.
- Office of the Data Protection Commissioner (ODPC): Oversees the implementation and enforcement of the Data Protection Act.

Kenya has a robust and competitive media market, with the [Communications Authority of Kenya](#) documenting 253 TV and 265 FM radio stations by March 2025.⁸ However, in 2025, Freedom House categorised Kenya as only “partly free”, citing a media landscape whose independence is stifled by restrictive laws and harassment by security officers.⁹ Kenya was also ranked 117th globally in Reporters Without Borders’ 2025 Press Freedom Index,¹⁰ a deterioration from its 2024 position of 102nd. The CIVICUS Monitor classifies Kenya as “repressed,” based on responses to public protests

that have seen security officers engage in abductions and violence, leading to the deaths of some protesters.¹¹ Other identified difficulties for the media sector include financial challenges, which have undermined the ability of media houses to uphold journalistic standards and editorial independence, as well as the rise of misinformation and disinformation associated with digital media.¹²

The case of citizen journalism

The rise of citizen journalism — the act by an individual or group of reporting, analysing or disseminating news and information using any media platform and technology — has been a uniquely important factor in the media landscape in Kenya.¹³ Bloggers, as well as human rights activists and organisations, increasingly use digital media platforms to report, disseminate information, and analyse a variety of public interest issues in a manner that either augments or rivals mainstream media channels. This has particularly been the case on matters such as government corruption, police brutality and significant events such as public protests.

Positively, citizen journalism has amplified local stories that may not otherwise have been disseminated by mainstream media outlets. It has also sustained debate on public interest issues long after mainstream headlines have moved on to other stories. However, citizen journalism has also triggered state backlash and created risks that affect the broader media sector. As later sections of this report show, cybersecurity, anti-terrorism, and hate speech laws have been used against citizen journalists in ways that produce far-reaching consequences for the media sector as a whole.

In addition, many who identify as citizen journalists do not ascribe to the codes of conduct and ethical standards that conventional journalists are required to follow. Citizen journalists often expose themselves to attacks on the credibility of their reporting because they lack the institutional safeguards and verification standards that protect professional journalism. This results in threats, by association, to the future of journalism as a profession, with increased accusations of misinformation and disinformation against citizen journalists alongside professional publications.

⁸ Communications Authority of Kenya “Third Quarter Broadcasting Services Report Financial Year 2024/2025” (Accessible [here](#)).

⁹ Freedom House “Freedom in the World 2025: Kenya” (Accessible [here](#)).

¹⁰ Reporters Without Borders (RSF), ‘Kenya,’ (2025) (Accessible [here](#)).

¹¹ CIVICUS “The CIVICUS Monitor downgrades Kenya’s civic space to ‘Repressed’ amid a crackdown on nationwide protests” (4 December 2024) (Accessible [here](#)).

¹² Nyabuga “Media under pressure: The trouble with press freedom in Kenya” *Friedrich Naumann Foundation for Freedom* (2023) (Accessible [here](#)) at 1-15.

¹³ Moeller “Media Literacy: Citizen Journalists” *Center for International Media Assistance* (2009) (Accessible [here](#)).

In terms of industry self-regulation in Kenya, the Media Complaints Commission (MCC) is the primary statutory body, established to mediate and adjudicate complaints relating to media conduct and ethical standards. Its mandate includes resolving disputes between the public, government, and media actors, and ensuring adherence to the Code of Conduct for the Practice of Journalism¹⁴ The Commission's decisions should be impartial, timely, and cost-effective, with mechanisms for appeal to the High Court, offering journalists and members of the public an alternative to costly litigation. The MCC's statutory independence and competitive appointment process are designed to protect this

impartiality. At the same time, academic and sectoral commentary on media self-regulation points to ongoing challenges, including limited public trust, low awareness of complaint channels, and historical confusion over institutional mandates of the MCC, Communications Authority, and the Media Council.¹⁵



¹⁴ Media Council of Kenya, 'Mandate/Functions'. (Accessible [here](#)).

¹⁵ Amnesty International, 'Resolve emerging confusion around media regulation mandate' (2023) (Accessible [here](#)).

Methodology

This research adopted a three-phase mixed-methods and participatory approach grounded in Participatory Action Research (PaAR), designed to produce actionable knowledge that can drive reform. The primary research questions were: **what legal threats do journalists face in Kenya’s legal environment, and what are suitable remedies to the identified challenges?**

The **first phase** involved a comprehensive desktop review of Kenya’s media landscape, analysing local, national, and regional legislation and regulations as well as proposals, policies, national court decisions and jurisprudence, research reports, international or regional decisions against Kenya (e.g. from the African Commission on Human and People’s Rights (African Commission) and the United Nations Human Rights Committee), and their status of implementation; and international and regional human rights organisations’ reports on Kenya (e.g. from the UNHRC Universal Periodic Review process, special rapporteurs or the African Commission, and reputable civil society groups), and the country’s responses. These sources were reviewed to identify existing and emerging legal threats to journalists. This process produced a list of fourteen identified threats, based on those identified in the 2023 *Weaponizing the Law* report, to guide the second phase.

The **second phase** involved a public participation process, which featured industry surveys and focus group discussions with journalists, editors, and media freedom experts, who ranked identified legal threats by their potential to silence or restrict journalists. In sum, 100 survey responses were received. The respondents included 21 news journalists and reporters, 19 editors, 19 freelance journalists, 14 media actors/activists, eight community journalists and four investigative journalists. The remaining respondents held various media-related roles, which included podcasters, media trainers, communication officers, media funders, journalism lecturers and a lawyer specialising in media law.

This also included responses from organisations representing a broader array of journalists, such as the Kenya Union of Journalists.

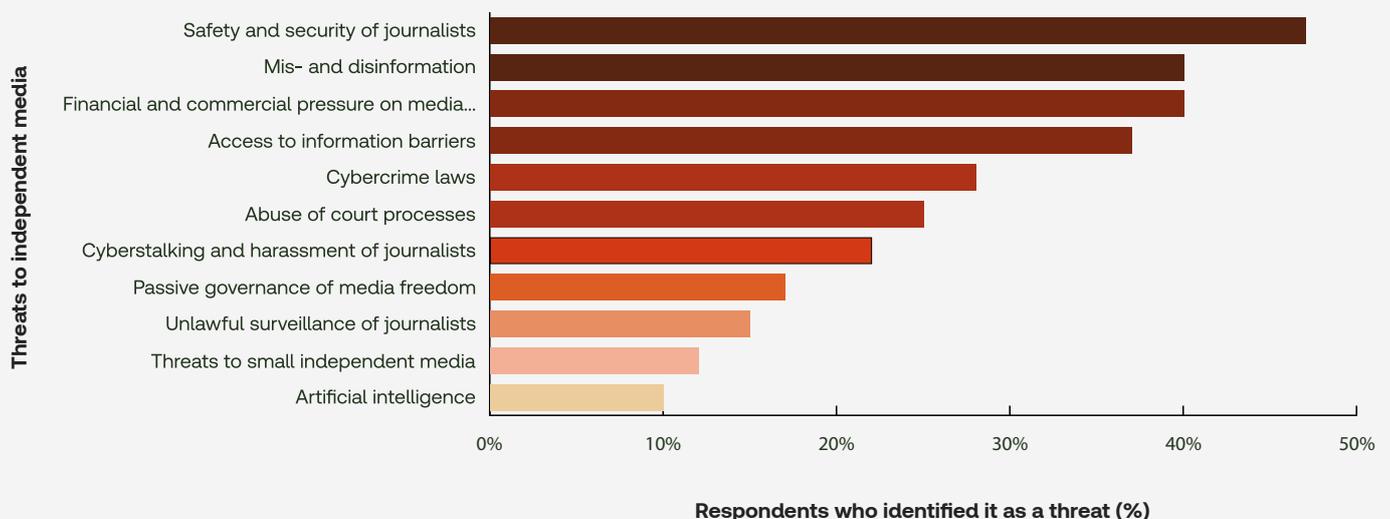


Figure 1: Survey responses to question: What are the three biggest legal threats to journalism in Kenya? ¹⁶

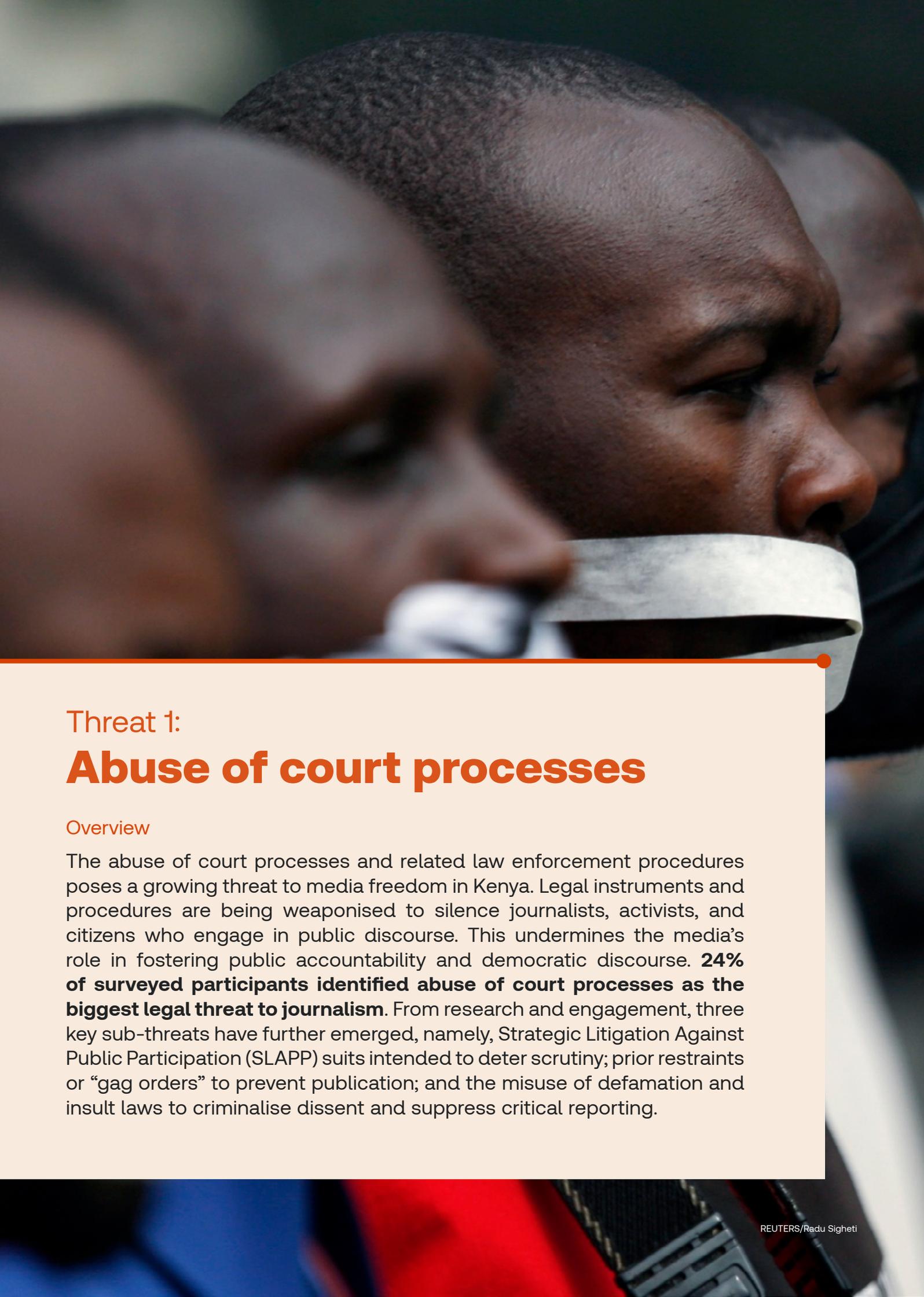
¹⁶ Please note that figures do not sum to 100% as respondents could select multiple responses.

The report also drew from two Focus Group Discussions (FGDs) with a total of 19 participants. The focus groups comprised journalists, editors and media managers, staff correspondents and reporters, professional associations, civil society organisations, legal experts, regulators, and academic experts.

In the **third and final phase**, the draft research report was shared in an expert group meeting comprising five members who refined the identified challenges and developed the recommendations to address them. This report carefully synthesises the collected data to better understand threats to media freedom in Kenya. In doing so, it departs slightly from the threats identified

in the *Weaponizing the Law* report and recategorises those that apply in the Kenyan context under six broad categories of threats and a series of sub-threats. The six categories of threats identified are not ranked in order of severity or prevalence but are presented thematically to reflect the ways in which different legal, institutional, and structural pressures interact to undermine media freedom.





Threat 1:

Abuse of court processes

Overview

The abuse of court processes and related law enforcement procedures poses a growing threat to media freedom in Kenya. Legal instruments and procedures are being weaponised to silence journalists, activists, and citizens who engage in public discourse. This undermines the media's role in fostering public accountability and democratic discourse. **24% of surveyed participants identified abuse of court processes as the biggest legal threat to journalism.** From research and engagement, three key sub-threats have further emerged, namely, Strategic Litigation Against Public Participation (SLAPP) suits intended to deter scrutiny; prior restraints or “gag orders” to prevent publication; and the misuse of defamation and insult laws to criminalise dissent and suppress critical reporting.

Notable trends

Strategic Litigation Against Public Participation

In Kenya, there are several examples of SLAPP suits being used to suppress criticism and intimidate persons seeking to highlight public interest concerns. SLAPPs weaponise the law because they exploit legal processes not to seek justice, but to burden journalists with lengthy and resource-intensive litigation and deter them from pursuing critical reporting. A 2024 study by Mzalendo Trust found that SLAPPs predominantly targeted media sector actors, individuals active in civic engagement and human rights defenders (HRDs), creating a chilling effect on freedom of expression and whistleblower activities, particularly in relation to combating corruption and the abuse of public office.¹⁷

While freedom of the media is explicitly protected under Article 34 of the Constitution, this protection is increasingly being undermined by political and financially powerful actors who can either threaten or institute SLAPPs against their critics. Indeed, a survey conducted by Mzalendo Trust study concluded that SLAPPs were being used to conceal litigants' abuse of public office, with litigation aimed to silence those who sought to speak up against such abuses.¹⁸ Furthermore, the study found that SLAPPs targeting media and HRDs were grounded in claims of defamation, false accusations and professional misconduct.¹⁹

Prior restraints

Litigation has also been used to pre-empt or prevent journalists from publishing public interest stories. This was the experience of Africa Uncensored, an independent media house that sought to publish an investigative piece regarding sexual misconduct by a high school teacher. Rather than respond to the allegations when approached for a right of reply, the school refused to provide formal responses and the teacher in question, while providing some responses, quickly approached the courts and obtained a temporary injunction

which prevented Africa Uncensored from publishing the story.²⁰ Africa Uncensored challenged the temporary injunction, arguing that it undermined media freedom under Article 34 of the Constitution, that the matter was of public interest since it concerned children's rights, that the teacher had been fairly provided the right of reply, and that the injunction had opened the door to witness intimidation or interference.²¹ The temporary injunction remained in force for two months before the court finally ruled in favour of Africa Uncensored, thus enabling them to publish the story. In a positive step against prior restraints, the court ruled that:

- the public interest of the story outweighed the potential reputational harm that the teacher had argued
- Africa Uncensored had matched its allegations in the story with credible evidence in the form of sworn testimonies
- suppressing the story risked silencing victims and endangering children
- alerting the public to information about sexual misconduct in educational institutions was in the public interest.²²

In 2022, a Maternity and Nursing Home sought a similar injunction from the Kenyan High Court to restrain the Nation Media Group from publishing an investigative story alleging sexual abuse of patients. The court rejected the application on the basis that granting such an injunction "would curtail the dissemination and discussion of an issue of public interest".²³

¹⁷ Mzalendo Trust "The Effect of Strategic Lawsuits Against Public Participation (SLAPP) on Freedom of Expression and Citizen Participation in Public Dialogues in Kenya" (2024) (Accessible [here](#)) at 10.

¹⁸ *Id.* at 25.

¹⁹ *Id.* at 26.

²⁰ Mungai "The Teacher and the System – The Story Behind the Story" *Africa Uncensored* (4 July 2025) (Accessible [here](#)).

²¹ *Id.*

²² Namu (X Post) (4 July 2025) (Accessible [here](#)).

²³ *Sipili Maternity & Nursing Home Ltd v Nation Media Group & another* [2022] KEHC 2066 (KLR) at paragraph 55.

Defamation and insult

Defamation laws are an important and legitimate remedy for individuals seeking to protect themselves from reputational harm arising from public statements. However, criminal and civil defamation laws have been used to suppress freedom of expression and to silence journalism in Kenya.

The trend towards the decriminalisation of defamation reached its high point in 2017 following a **landmark judgment in which the High Court declared criminal libel under the Penal Code unconstitutional and invalid**.²⁴ Previously, the Penal Code allowed the government to prosecute individuals for publishing defamatory content with the intent to harm someone's reputation.²⁵ The High Court found that the criminalisation of defamation was unnecessary and disproportionate, and noted that civil defamation, through which affected individuals can sue for damages, offers a sufficient remedy. The Court also found that criminalising defamation discourages free speech and access to information.²⁶

Despite the judgment, the Attorney General has not taken the formal step of removing criminal libel from the Penal Code. Additionally, other Penal Code provisions continue to pose risks to media freedom. For example, the Code criminalises publication or distribution of insulting, threatening or inciting material or images of dead or injured persons likely to alarm the public.²⁷ It also criminalises defaming foreign dignitaries and officials.²⁸ This provision is overly broad and fails to meet constitutional standards under Article 24 of the Constitution, which requires any limitation on rights to be lawful, reasonable and justifiable.²⁹ In addition, the government has revived criminal defamation through newer laws, particularly those governing cybercrime (see below).

The weaponisation of civil defamation litigation to undermine media freedom also continues to increase. The [Defamation Act](#) allows individuals to claim damages if false statements harm their reputation.³⁰ In the past decade, defamation lawsuits have become a potent tool for public officials to exert pressure on media houses, with courts awarding substantial damages against journalists and publishers.

“Our print media platform consistently receives threats from people/organisations who feel we have reported on them negatively. Some have gone to court and our media house has ended up paying hefty fines.”

Survey respondent

Recent judgments illustrate a trend in which defamation claims, often brought by powerful public figures such as politicians, civil servants and judges, result in excessive fines that threaten the financial viability of media outlets. For example, Nation Newspaper faced a KES 7.5 million (USD 60,000) penalty for defaming a senior civil servant in 2025.³¹ Royal Media Services Ltd was fined KES 4 million (USD 32,000) in 2024 for defamation involving a county-level politician,³² and in 2022 Standard Group Ltd was ordered to pay a record KES 20 million (USD 160,000) for defaming the Deputy Chief Justice.³³ These cases reflect a pattern in which defamation law is used not only to seek redress, but also to punish and suppress dissent. FGD participants and experts explained that such excessive awards discourage journalists and editors from exercising their constitutional rights to free expression and media freedom.

Criminal proceedings related to defamation and associated law enforcement procedures have also been weaponised by some state actors, suppressing dissent by orchestrating arrests that seldom materialise into full prosecutions but serve to intimidate, frustrate or even enable grievous harm to their critics.

²⁴ *Jacqueline Okuta & Another v Attorney General & 2 Others* [2017] KLR (Okuta).

²⁵ Section 194 of the Penal Code Cap. 63.

²⁶ Okuta above n 24.

²⁷ Section 66A of the Penal Code Cap. 63.

²⁸ Section 67 of the Penal Code.

²⁹ Media Council of Kenya “Media Sector Legislative Review” (2020) (Accessible [here](#)).

³⁰ Section 16A of the Defamation Act Cap. 36.

³¹ *Muthaura v Nation Media Group Limited & Another* [2025] KEHC 2386 (KLR).

³² *Okode v Royal Media Services Ltd & Another* [2024] KEHC 5437 (KLR).

³³ *Philomena Mbeti Mwilu v Standard Group Limited* [2022] KEHC 1375 (KLR).

“[I] was investigating a spate of gang killings in Western Kenya when I was arrested and branded a spy for Uganda. Released 5 hours later.”

Survey respondent

The criminalisation of defamation also remains in force through the [Computer Misuse and Cybercrime Act](#) of 2018. Illustratively, in April 2025, blogger Boniface Omondi Nyangla was arrested and charged with cyber harassment under this law for remarks he posted on Facebook which were alleged to defame Evans Kidero, former Governor of Nairobi.³⁴

The case of Albert Ojwang presents a far more tragic outcome of the weaponisation of criminal proceedings against bloggers who publish public interest stories. In this case, the Deputy Inspector General of Police (DIG) was under investigation for corruption by the Ethics and Anti-Corruption Commission. This led to Ojwang’s arrest and death while in custody at the Central Police Station in Nairobi. Three police officers and three civilians have since been charged with Albert’s murder, while the DIG momentarily “stepped aside” from his post.³⁵

Regardless of the merits of these cases, the abuse of court processes has a detrimental effect on the ability of media houses and freelance journalists to pursue public interest stories. FGD participants noted that these tactics are leading to editorial retreat, in which simply the threat of defamation cases and SLAPPs leads editors to elect to “walk back on stories” or “kill the story” rather than confront the legal and financial risks that could come with publishing investigative or public interest reporting.³⁶

“I was a Bureau Chief. Was arrested, detained at a police station and later charged with trumped up charges which the court rejected after a one-year ordeal.”

Survey respondent

FGD participants also noted that while larger media houses might have the resources to absorb awards made against them, smaller publishers with less means or freelancers are often frightened into self-censorship. An FGD participant further noted that media houses had been forced to divert scarce resources from investigative journalism to pay damages issued against them in defamation cases. The threat or payment of excessive damages, alongside the time and effort required to defend these cases, stifle investigative journalism, encourage self-censorship, and undermine public interest reporting.

“For independent media, bloggers, and digital publishers, the financial threat is existential. Since they do not have the financial muscle to contest expensive lawsuits, the mere threats of defamation cases deter them.”

FGD participant

³⁴ Mboti “Nairobi: Man Charged with Cyber Harassment for Defamatory Posts against Former Governor Kidero” Tuko (28 April 2025) (Accessible [here](#)).

³⁵ Soy and Wandera “Police officers charged with murder of Kenyan blogger” BBC News (23 June 2025). (Accessible [here](#)).

³⁶ Notes from FGD on file with the authors.



Case study:

SLAPPs to prevent scrutiny of surveillance activities

An ongoing case pitting an individual journalist against Kenya's largest telecommunications company is illustrative of the emerging threats presented by SLAPPs. In *Safaricom PLC v. Robert Wanjala Kituyi*, Kituyi, an investigative journalist, relied on Article 35 of the Constitution to write to Safaricom seeking information on whether they had received requests from the police to submit the personal data of their customers as part of criminal investigations.³⁷ Kituyi wanted to establish whether, in complying with such requests, Safaricom had put in place the necessary measures to ensure that the data privacy of their customers was sufficiently safeguarded from ambiguous or over-reaching requests. When Kituyi received no response, he escalated the matter to the Commission on Administrative Justice (CAJ), citing a violation of Article 35 of the Constitution. The CAJ invited Safaricom to respond to the allegations and when they failed to do so, issued an order instructing them to comply with Kituyi's information request. It was at this point that Safaricom finally responded by moving to the High Court seeking to appeal the CAJ order. Rather than respond to Kituyi's initial correspondence or engage in the relatively non-adversarial CAJ process, Safaricom instituted legal proceedings, which could mean high legal costs for an individual investigative journalist acting in the public interest.

In a similar vein, in October 2024, Safaricom threatened legal action against the Nation Media Group (NMG) and individual journalists after the Daily Nation newspaper published an investigative story which identified Safaricom as complicit in police-led abductions and extra-judicial killings by providing the call data records and location data of customers who were being targeted by the police.³⁸ Safaricom also filed a complaint at the Media Council of Kenya and withdrew its advertising business from NMG.³⁹ The legal threats further extended to two nongovernmental organisations – the Kenya Human Rights Commission (KHRC) and Muslims for Human Rights – who had written to Safaricom, requesting them to respond to the allegations.⁴⁰



Positive developments

Courts have prospectively provided some measure of relief in relation to SLAPPs, prior restraints, and defamation lawsuits, through developing and applying caselaw that requires each party to bear their own costs once it is established that a case concerns a matter of public interest.⁴¹ As already highlighted, the courts have also demonstrated that they would lift orders that seek to stop the publication of public interest stories. The

arrest and prosecution of the officers involved in the Albert Ojwang case raises hopes that sanctions against the abuse of law enforcement procedures and criminal prosecutions will be regularised.

³⁷ Civil Appeal No. HCCA E207 of 2025.

³⁸ "Kenya: the telecommunications operator Safaricom is pressuring Nation Media Group due to its investigation into widespread surveillance" *Reporters Without Borders* (RSF) (17 December 2024) (Accessible [here](#)).

³⁹ *Id.*

⁴⁰ Civic Freedoms Forum "Safaricom must immediately cease its attacks against KHRC, MUHURI, Daily Nation and journalists, and answer grave allegations against it" *Kenya Human Rights Commission* (1 December 2024) (Accessible [here](#)).

⁴¹ See *Rai & 3 Others v Rai & 4 Others* [2014] KESC 31 (KLR).



Threat 2:

Regressive and disabling legislation

Overview

Some of Kenya's laws have eroded the protection of a free and independent press by undermining constitutional safeguards on freedom of the media, access to information, freedom of expression and privacy rights. As discussed in later sections, certain legal provisions directly infringe on these constitutional rights, while others are ambiguously worded, enabling them to be easily weaponised against the press.

Although these cases rarely result in successful prosecutions, FGD participants noted that cybercrime, anti-terror and hate speech laws are increasingly being invoked to arrest journalists as an intimidation tactic. These laws are also used to justify secrecy on critical matters such as the conduct of counter-terrorism operations and other security operations, and, therefore, discourage journalists from reporting on issues that are clearly in the public interest. The arrests of journalists who dare to report on such stories are leading to growing self-censorship, driven by the stigma of being associated with these offences. Rather than taking steps to minimise these risks to media freedom, recent amendments to laws such as the cybercrime legislation appear to be further expanding the threats.

Notable trends

Counter terrorism

Kenya's primary counter-terrorism legislation is the [Prevention of Terrorism Act](#) (POTA). POTA contains provisions that could adversely affect journalism activities. Section 29 criminalises the collection, holding, generation or transmission of information that can be used for terrorism and imposes a prison term of up to 30 years. This provision could pose a dilemma for journalists wishing to cover stories related to terrorism as a matter of public interest. Under this law, live coverage of an unfolding act of terror can plausibly be interpreted as propagating the commission of a terrorist act. Similarly, a video or letter mailed by a terror group to a newsroom can be considered holding of information for use in the commission of terror acts. Reporting on such content can also be considered transmission of information. These are weighty issues that can cause a chilling effect on journalism, particularly for citizen journalists who, in the absence of affiliation to large media houses, could easily find themselves labelled and targeted as terrorist sympathisers or propaganda agents to terror groups. Relatedly, section 30 of POTA imposes a jail term of up to 20 years for knowingly being in possession of information held on someone's behalf with the intent of undertaking terror activities. While there are no examples of this provision being applied to journalists in practice, its broad scope presents an opportunity for malign application.

For example, in July 2025, during the "Saba Saba" public protests, journalist James Mbochi was arrested alongside Manyatta Member of Parliament Gitonga Mukunji and one other person, on suspicion of recruiting and financing violent groups during the protests. They were arraigned at the Kahawa Anti-Terror Court in Kiambu County, but the case was ultimately dismissed in September 2025 after the Court established that the Directorate of Criminal Investigations had failed to make its case.⁴² Prior to the dismissal, the accused had maintained that the charges were an act of political intimidation by the State against its critics.

Section 30A of POTA criminalises the publication of material that encourages or induces someone to commit an act of terrorism. This raises concerns about whether activities such as live streaming a developing incident could be interpreted as unlawful publication. The risk is even greater when government officials rhetorically conflate public protests that involve isolated violence with acts of terrorism. Such framing heightens the possibility that legitimate reporting could be criminalised.



REUTERS/Noor Khamis

⁴² Citizen Reporter "Kahawa court frees Manyatta MP Mukunji in terror case" *Citizen Digital* (5 September 2025) (Accessible [here](#)).



Case study:

Interior Cabinet Secretary accuses media of irresponsible journalism and mobilisation of protesters

In June 2025, a series of protests erupted in Nairobi and other parts of the country to mark a year since the 2024 Finance Bill protests and to decry persistent police brutality and extrajudicial killings. With several people killed and hundreds wounded, the Interior Cabinet Secretary, Kipchumba Murkomen, termed the protests “terrorism disguised as dissent”.⁴³

He further accused the media of incitement through their coverage of the protests, and was quoted as saying:

“What was even of greater concern is that some of the media stations were directing protestors, saying now they are on Thika Road, as soon as they converge with the ones on Kiambu Road, the possibility is that they will pass through the Museum, and the State House will be very near. That is very irresponsible journalism.”⁴⁴

These assertions were accompanied by a directive from the Communication Authority of Kenya instructing media houses to stop live coverage of the protests. However, the directive was subsequently suspended after the Law Society of Kenya sought court intervention.⁴⁵ Ultimately, the High Court issued a judgment on 28 November 2025 quashing the directive on the grounds that it was unconstitutional.⁴⁶ This establishes a welcome prohibition against similar directives in the future.

Cyber libel and other cybercrime provisions

29% of surveyed participants identified cybercrime laws as one of the biggest legal threats to their work. As already highlighted above, Kenya’s [Computer Misuse and Cybercrime Act](#) has effectively retained criminal defamation through its provisions. Section 22 criminalises the act of misinformation with intent and imposes a penalty of either up to two years imprisonment or a fine of up to KES five million (USD40 000) or both. In addition, under section 23, the publication of false information deemed to be defamatory or inciteful could lead to a 10-year prison term or a fine of up to KES five million (USD40 000), or both. Section 27 also provides for the crime of cyber harassment, with ambiguous elements such as “detrimentally affecting” a person or engaging in conduct that is “indecent” or of a “grossly

offensive nature”. The penalty for this crime is either a prison term of up to 10 years or a fine of up to KES 20 million (USD120 000), or both. The existence of the penalty itself already creates a chilling effect due to the fear of arrest or heavy fines leading to self-censorship and withdrawal from investigative reporting. As seen in the earlier example of Albert Ojwang, these provisions can lead to unwarranted criminal charges that contradict the constitutional protections of free expression and freedom of the media, and lead to grievous rights violations such as arbitrary arrests, torture and murder.

⁴³ Lawal “At least eight killed in deadly Kenya protests: What we know” *Al Jazeera* (26 June 2025) (Accessible [here](#)).

⁴⁴ Muia “Media houses were mobilizing protestors; Murkomen defends shutting down TV stations” *Citizen Digital* (26 June 2025) (Accessible [here](#)) and Agutu “Murkomen accuses media of mobilising protesters, calls coverage irresponsible” *The Star* (26 June 2025) (Accessible [here](#)).

⁴⁵ Walter “Court extends orders stopping Communications Authority ban on live protests coverage” *Citizen* (2 July 2025) (Accessible [here](#)).

⁴⁶ *Katiba Institute v State Law Office HCJR/E176/2025* (Accessible [here](#)).



Case studies:

Journalists and bloggers charged with cyber crimes

- **Collins Kweyu**, a journalist with the Standard Group, was arrested in September 2025 and charged with crimes under the Computer Misuse and Cybercrime Act. The charges included cyber harassment, identity theft, extortion and computer misuse.⁴⁷ Kweyu stated that these charges stemmed from an investigative story he was pursuing that linked a judge to corruption claims. The said judge filed a complaint with the police that led to his arrest, which has been referred by the Crime Journalists Association of Kenya (CJAK) as an intimidation tactic against journalists.⁴⁸ Further investigations by the Directorate of Criminal Investigations resulted in Kweyu being eliminated as a suspect and instead being listed as a state witness.
- **Cyprian Nyakundi**, an independent blogger, has been arrested on various occasions for publications on his social media platforms. In 2018, he was arrested twice in relation to statements he published about various political leaders, although the prosecution of these charges was eventually terminated by the Director of Public Prosecutions.⁴⁹ Nyakundi was again arrested in 2020 and charged with publishing false information under the Computer Misuse and Cybercrime Act. This was in relation to statements he published regarding a Commissioner of the Kenya Revenue Authority.⁵⁰ While he was subsequently released on bond, the prosecution of this case remains active.

In October 2025, further changes to the law were introduced through the [Computer Misuse and Cybercrime \(Amendments\) Act, 2025](#). These amendments threaten to undermine online expression and online media even further. Notably, one provision now empowers the National Computer Cybercrimes Co-ordination Committee to render a website or app inaccessible without judicial oversight, where the website or app promotes unlawful activities, sexual content of a minor, terrorism, religious extremism and cultism.⁵¹ A further amendment has criminalised communication that is likely to cause a person to commit suicide.⁵² As in the other provisions, the criminal conduct proscribed is ambiguous and can lead to malicious prosecutions aimed at silencing critics such as journalists.

Hate speech laws

The [National Cohesion and Integration Act](#), Cap 7N (NCIA), at section 13 establishes the offence of hate speech, which consists of threats, insults and abuse (in behaviour, publication or visualisation) with the intent or probability of stirring up ethnic hatred. The offence carries an imprisonment term of up to three years or a fine of up to KES one million (USD8 000) or both. It further defines ethnic hatred at section 13(3) as hatred against a group of persons on the basis of their colour, race, nationality (including citizenship) or ethnic or national origins. Section 62 of the NCIA further establishes the criminal offence of ethnic hatred and imposes a prison term of up to five years or a fine of up to KES one million (USD8 000), or both, for individuals, and a fine of up to KES one million (USD8 000) for media entities that publish utterances that constitute ethnic hatred.

The formulation of these offences has been criticised due to their overly broad nature which conflates inflammatory or offensive expression with hate speech and ethnic hatred.⁵³ In addition, the way these offences are investigated and prosecuted often encourages undue practices such as excessive digital surveillance

⁴⁷ Gaitho "Kenyan Journalist Collins Kweyu and Associates Face Cyber Harassment Charges: Court Issues Search Warrant in High-Profile Probe" (19 September 2025) (Accessible [here](#)).

⁴⁸ Khamis "New Details Emerge as Journalist Collins Kweyu Set to Become State Witness in Ongoing Cybercrime Probe" *Nairobi News* (25 September 2025) (Accessible [here](#)).

⁴⁹ BT Reporter "Cyprian Nyakundi released on DPP's orders" *Business Today* (17 May 2018) (Accessible [here](#)).

⁵⁰ Onger "Cyprian Nyakundi officially charged for alleged publication of false information" (Accessible [here](#)).

⁵¹ Clause 3 of The Computer Misuse and Cybercrime (Amendment) Act 2025 (Accessible [here](#)). Also see "Kenya: Withdraw Computer Misuse and Cybercrimes Bill and protect freedom of expression" *Article19* (7 April 2025) (Accessible [here](#)).

⁵² Kiprono "Ensure Review Process Streamlines Media Regulation" *International Commission of Jurists Kenya Section* (10 August 2024) (Accessible [here](#)); The Computer Misuse and Cybercrime (Amendment) Act 2025 at clause 4.

⁵³ "Kenya: Use of 'hate speech' laws and monitoring of politicians on social media platforms" *Article19* (14 September 2020) (Accessible [here](#)).

and the targeted monitoring of government critics, including journalists and other media actors.⁵⁴

The media and the National Cohesion and Integration Commission (NCIC), which enforces the Act, have previously clashed over cooperation in investigations, specifically on whether media coverage can be used as evidence to prosecute a case of incitement. In one instance, a journalist declined to comply with a summons to testify in an incitement case that he had reported on, citing safety concerns.⁵⁵ Such risks may discourage journalists from covering sensitive stories, such as political or ethnic incitement, if doing so could compel them to testify without adequate protection. These concerns highlight the need for clear guidelines on the prosecution of hate speech and ethnic hatred offences, as well as greater prosecutorial restraint to safeguard media freedoms and freedom of expression.

Positive developments

Despite this challenging environment, journalists, together with human rights organisations, consistently litigate in the public interest, and provide legal representation to challenge the constitutionality of some of these legal provisions and to call for the enforcement of constitutional protections. This has resulted in several cybercrime and terror-related arrests being dismissed by the courts and ongoing litigation challenging the constitutionality of some provisions.

The Bloggers Association of Kenya (BAKE) filed a case at the Kenyan High Court in 2018 seeking to declare certain provisions of the Cybercrimes and Computer Misuse Act, among others, unconstitutional. BAKE argued that the law was passed without public participation and placed undue limitations on the fundamental freedoms of expression, of the media and of conscience, religion, belief and opinion. In this instance, the court disagreed and held that the law was constitutional, duly enacted by the National Assembly and in the public interest. Notably, the court held:

“149. In the instant petition the imminent danger lies in inability of the Respondents to ensure national security in view of the Cyber-crimes and computer misuse offences as set out in the affidavits in opposition to the petition; consequently the need to protect the wider public from the dangers in the cyberspace outweighs the granting of the petition. Upon examination of the impugned provisions of the Act, I find the same effectively protect the public interest and as such the public interest needs to be held in the highest esteem.”⁵⁶

This judgment is currently subject to an appeal in which the appellants argue that the court’s presumption of constitutionality actually serves to undermine the public interest by unduly limiting the fundamental rights and freedoms guaranteed under the Constitution.⁵⁷ Specifically, the appellants hope to convince the Court of Appeal of the following key arguments:⁵⁸

- That “the best interest of government to preserve public order” is not a permissible limitation to the freedom of expression under the Constitution;
- That it is the State and not the appellants that are required to establish that the stipulated offences under the Cybercrimes and Computer Misuse Act do not contravene the constitutional provisions on limitation of rights;
- That cyber libel is well addressed under civil law and should not be within the purview of criminal law; and
- That the offences under the Cybercrimes and Computer Misuse Act must be unambiguous in the conduct they criminalise and in the elements that would constitute intent to commit the offences.

This case will be pivotal in establishing where the delicate balance lies between prohibiting vices such as misinformation, disinformation, and hate speech on the one hand and, on the other, the preservation of the freedom of the press and freedom of expression as part of the public interest.

⁵⁴ “Kenya: Use of ‘hate speech’ laws and monitoring of politicians on social media platforms” *Article19* (14 September 2020) (Accessible [here](#)).

⁵⁵ Wanjama “The 1 Thing That Will see Journalists Arrested - NCIC Warns” *Kenya.co.ke* (21 August 2018) (Accessible [here](#)).

⁵⁶ *Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & Another (Interested Parties)* [2020] KEHC 7924 (KLR).

⁵⁷ *Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & Another (Interested Parties Memorandum of Appeal)* (Accessible [here](#)) (Memorandum of Appeal).

⁵⁸ *Id.*

Alongside litigation efforts, civil society is actively pushing for legislative reforms to bring media laws into full alignment with the Constitution.⁵⁹ These reforms focus on decriminalising cyber libel and ensuring that legal provisions clarify the responsibilities that accompany media freedom and freedom of expression, rather than impose undue restrictions. Stakeholders

such as the MCK have also worked to educate journalists on the law, including through resources such as the [Data Governance Guide for Media Practice in Kenya](#).



⁵⁹ Kiprono "Ensure Review Process Streamlines Media Regulation" *International Commission of Jurists Kenya Section* (10 August 2024) (Accessible [here](#)).



Threat 3:

Weak implementation of media laws

Overview

The weak implementation of media laws in Kenya poses a significant threat to democratic governance, civic participation, and the protection of fundamental rights. Despite progressive legal frameworks such as the [Access to Information Act](#), as well as provisions supporting community media under the [Kenya Information and Communications Act](#), enforcement remains sporadic, under-resourced, and vulnerable to political interference. Without robust implementation, these laws risk becoming symbolic rather than transformative, undermining media freedom.

Notable trends

Weak implementation of access to information laws

38% of surveyed participants identified access to information barriers as one of the biggest legal threats to journalism in Kenya. Access to information is a cornerstone of democratic participation and a key enabler of other rights. For example, it allows voters to understand political party positions and assess the preparedness of electoral bodies to deliver free and fair elections.⁶⁰ The constitutional right to access information is implemented through the Access to Information Act, which conforms with international standards such as the [African Model Law on Access to Information](#).⁶¹ However, implementation remains uneven in Kenya, as it does across the region. After a seven-year delay, the government finally published the [The Access to Information \(General\) Regulations](#) and responded to requests for information.

Implementation of access to information legislation is worsening. Despite the regulatory progress described above, Kenyans continue to face major hurdles when trying to access public information. While some government agencies publish details of their structure, staffing, procurement and policies, these disclosures are often incomplete.⁶² Public institutions and private bodies covered by the law frequently ignore or reject requests for information. A notable example is the case of *Katiba Institute v Presidential Delivery Unit*, in which the High Court found that the Presidential Delivery Unit had violated the law by failing to disclose how much public money was spent on advertisements during the 2017 general elections. The Court affirmed that entities holding public information cannot deny access simply because the requester is a company rather than an individual citizen.⁶³

FGD participants also noted that despite the law, journalists still struggle to obtain official documents from government institutions, which undermines investigative journalism. They highlighted that government departments often fail to respond to questions from journalists, yet later claim they were never contacted when offered a right of reply or after a story is published.

Participants also raised concerns about the continued absence of whistleblower protection legislation to safeguard individuals who provide information to the media in the public interest.⁶⁴ Efforts to pass such a law have repeatedly stalled. Most recently, the Whistleblower Protection Bill, 2025, was tabled in the National Assembly in July 2025. If enacted, it would establish a comprehensive framework for making public interest disclosures and protecting whistleblowers in both public and private institutions.⁶⁵

Repeated non-compliance with access to information laws discourages journalists from pursuing investigative stories, ultimately weakening transparency and accountability.

⁶⁰ African Commission on Human and Peoples' Rights, Guidelines on Access to Information and Elections in Africa (2017) (Accessible [here](#)).

⁶¹ African Commission on Human and Peoples' Rights, Model Law on Access to Information for Africa (2013) (Accessible [here](#)). See, for example, the assessment by Africa Freedom of Information Centre "State of access to information in Africa" (2017) (Accessible [here](#)).

⁶² For example, in relation to the Independent Electoral and Boundaries Commission, see the assessment made by the African Commission on Human and Peoples' Rights in Resolution on Internet Shutdowns and Elections in Africa, ACHPR.Res.580 (LXXVIII) (2024).

⁶³ *Katiba Institute v Presidents Delivery Unit & 3 Others* [2017] eKLR (Petition No. 468 of 2017) at para 43.

⁶⁴ FGD 1 of 9 October 2025. Notes on file with authors.

⁶⁵ See the Whistleblower Protection Bill, as first tabled in the National Assembly in 2023 (No. 51 of 2023).



Case study:

Government withholding public finance information

In 2024–2025, the government endorsed and campaigned for Raila Odinga as a candidate for Chairperson of the African Union Commission.⁶⁶ This move raised pressing questions about the use of public resources to support the campaign. Journalists, civil society actors and concerned citizens sought to scrutinise the financial basis of the campaign, in particular seeking information on when the decision to use public funds for the campaign was made and how much public money was budgeted and expended.

A petitioner, acting in the public interest, formally requested access to budgetary records detailing the government's financial support for Odinga's bid. Despite the clear relevance of this information to public accountability and fiscal transparency, the government failed to respond substantively.⁶⁷ In subsequent court proceedings, the Attorney General argued that the requested information fell under the category of "foreign affairs" and was therefore exempt from disclosure under the Access to Information Act.⁶⁸ This interpretation has been criticised for undermining the spirit of the law, which is designed to promote transparency, not shield politically sensitive expenditures from scrutiny. This case exemplifies a broader pattern of institutional resistance to information disclosure.

Without access to official records, journalists are unable to verify claims or trace public spending. The invocation of exemptions amounts to the weaponisation of the law because it shields the government from scrutiny.

Weak implementation of community media law

Community media continues to fill the information gap left by both public and private media. The public broadcaster, the Kenya Broadcasting Corporation, has historically been seen to favour the government of the day in its news and programming, which has undermined its credibility as an independent and impartial outlet.⁶⁹ Private broadcasters, by contrast, are largely driven by commercial interests and profit.⁷⁰ Community broadcasters, many of which are registered as community-based organisations, play a different role. They serve both geographic and interest-based communities, including urban low-income areas, rural regions, and university campuses, providing locally relevant information that other media often overlook.⁷¹

However, the implementation of legislation on community broadcasting is deteriorating. The Kenya Information and Communications Act requires applicants for community broadcasting licences to demonstrate community support, operate on a non-profit status, provide their funding sources, and outline plans for community participation in content creation.⁷² However, these requirements are not being applied consistently, partly because they no longer reflect how media is produced and distributed today.

First, Kenya's 2015 transition from analogue to digital broadcasting expanded access to regions previously unreachable by radio and television. Broadcasters no

⁶⁶ See Maina "Nairobi Tight-lipped on Raila's AUC Budget" *Kenyan Foreign Policy* (21 August 2024) (Accessible [here](#)).

⁶⁷ Kiplagat "City Lawyer Seeks to lock State from Spending Public Funds on Raila's AUC Bid" *Daily Nation* (11 December 2024) (Accessible [here](#)).

⁶⁸ Kiplagat "Attorney General Dorcas Oduor Fights to Keep Raila Odinga's AU Bid Spending Secret" *Daily Nation* (2 July 2025) (Accessible [here](#)).

⁶⁹ Nyongesa "Rethinking Public Service Broadcasting in the Age of Economic Pressures: A Case Study of KBC" *International Journal of Media Journalism and Mass Communication* 7 (3) (Accessible [here](#)).

⁷⁰ Communications Authority of Kenya "Baseline Survey for Broadcasting Services in Kenya Report" (2022) (Accessible [here](#)).

⁷¹ Githethwa et al (eds) "Kenya Community Media Network Community Radios: Broadcasting for Peace" *Kenya Community Media Network and Umoja Radio for Peace* (2018) (Accessible [here](#)). Also see Ngugi and Kinyua id and "Unganisha Jamii": Community Radios Empower Kenya's Youth to Unify Communities and Build Peace Online" *UNESCO* (8 February 2024) (Accessible [here](#)).

⁷² Section 46F of Cap. 411A.

longer needed multiple booster stations, allowing private media to reach wider audiences.⁷³ This expansion blurred the lines between community broadcasting and local-language commercial stations, often referred to as “ethnic radio stations”.⁷⁴ Second, community broadcasting is rooted in collective action, in which communities collaboratively produce, share, and engage with news content. However, social media platforms promote individual-driven content creation, much of which may resemble news but often lacks journalistic integrity.

Finally, community media face many of the same challenges as other outlets in gathering and disseminating news. These include restrictions such as media shutdowns. As one survey participant explained:

“My station is a community-based media, and when you do stories that are not favourable to the local leadership, either political or government, then you become a victim. You will be denied funds and support, and to some extent, get threats of shutting down or mobilising the community to demonstrate against you.”

Survey respondent

Positive developments

With respect to access to information, the High Court has affirmed that financial decisions made by public officials must comply with constitutional principles of openness, accountability, and public participation.⁷⁵ This ruling arose from a case in which the petitioner sought documents detailing the legal advice that led the Cabinet Secretary to exempt NIC Group PLC and the National Bank of Africa from paying stamp duty. The government refused to release the information, prompting the challenge.

During engagements, the Commission on Administrative Justice, which regulates implementation of the Access to Information Act, told this study that it had, in partnership with the Media Council of Kenya, developed a handbook for journalists on access to information⁷⁶ and had trained over 300 editors and reporters across the country.⁷⁷

Another recent positive development relating to community media is the ongoing operationalisation of the [Public Benefit Organisations Act](#).⁷⁸ **Once its regulations come into force, community media broadcasters registered as community-based organisations may seek public benefit organisation status from the Public Benefit Organisations Regulatory Authority.** This status would allow community broadcasters to access the tax exemptions available for public benefit activities, which include community broadcasting.

⁷³ Obonyo and Owilla “Country Report: Journalists in Kenya” *Worlds of Journalism Study* (2017) (Accessible [here](#)).

⁷⁴ See, for example, Kijana “A General Assessment of the Independent Ethnic Radio Broadcasting Stations in Kenya” (2012) 3(8) *International Journal of Business and Social Science* 128.

⁷⁵ *Okoiti v Cabinet Secretary Ministry of Lands and Physical Planning and Another* [2023] KEHC 19947 (KLR).

⁷⁶ (Accessible [here](#)).

⁷⁷ Interview of 22 October 2025. Notes on file with authors.

⁷⁸ 2013.



Threat 4:

Technology-facilitated Harms

Overview

In recent years, laws governing cybercrimes, terrorism, and broadcasting have increasingly enabled technology-facilitated harms, including surveillance and media or internet shutdowns. Law enforcement and security agencies are interpreting national security provisions broadly, and sometimes abusively, to justify these actions. At the same time, rapid technological change, including the growing use of artificial intelligence (AI) in journalism, is creating new challenges that existing legal frameworks are struggling to address.

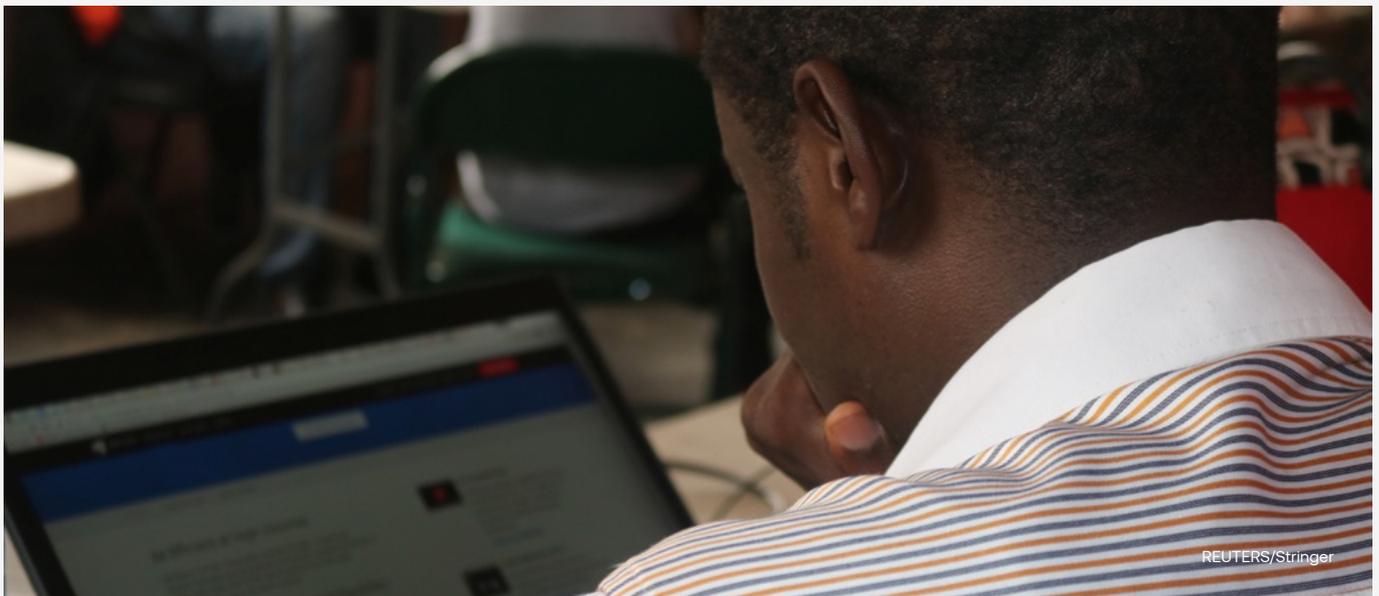
Notable trends

Media and internet shutdowns

The government is obligated by regional and international norms to refrain from shutting down the internet using justifications such as national security.⁷⁹ Internet shutdowns prevent journalists from transmitting live updates, accessing sources, and verifying facts, which severely undermines real-time reporting and public access to accurate information. Until 2024, Kenya had largely avoided using legal or administrative measures to disrupt internet access.⁸⁰ Notably, during the 2022 general elections, the government and its agencies did not interfere with internet services or other media platforms.⁸¹ This changed, however, during the Gen-Z-led #RejectFinanceBill2024 protests, when the government either ordered or tacitly allowed internet disruptions to limit the flow of information.⁸²

Internet shutdowns create an information vacuum, and misinformation often fills the gap. 40% of survey respondents selected misinformation and disinformation as one of their primary concerns when considering threats to journalism. Among other challenges, this can expose journalists to reputational

risks. For example, one FGD participant explained how, during the 2024 shutdown, high levels of misinformation led some members of the public to mistakenly believe that security forces had committed a massacre in a suburb of Nairobi. When a particular media house reported that there was no evidence of such a massacre, it was accused of a cover up. Critically, repeated internet and media shutdowns send the disturbing message to journalists that coverage of politically sensitive events may be obstructed, discouraging them from planning or investing in live reporting. Another FGD participant noted that internet shutdowns compromise the safety of journalists who may not be able to communicate with colleagues. Looking forward, a third participant raised the concern that internet and media shutdowns may become common in the lead-up to the 2027 general elections.⁸³



⁷⁹ For instance, the African Commission on Human and Peoples' Rights has urged states to refrain from internet shutdowns. Most recently, in 2024, the African Commission reaffirmed the importance of access to the internet in the digital age for the realisation of human rights provided for in the African Charter on Human and Peoples' Rights and other human rights instruments. Resolution on Internet Shutdowns and Elections in Africa, ACHPR.Res.580 (LXXVIII) (2024).

⁸⁰ Disruption of the internet may take one or more of the following forms: total access blockage to the internet; restriction of access to particular websites or applications; or bandwidth throttling (lowering the quality or speed of signals).

⁸¹ See, for example, Mute "Proactive Disclosure of Information During Elections in Kenya: An Assessment of Kenya's Compliance with the Guidelines on Access to Information and Elections in Africa" Centre for Human Rights, University of Pretoria and Article 19 Eastern Africa (2023) (Accessible [here](#)).

⁸² See, for example, Kenyan Section of International Commission of Jurists "Analysis of Internet Shutdowns and Governance Frameworks in Kenya" (2025) (Accessible [here](#)).

⁸³ FGD 1 of 9 October 2025. Notes on file with authors.



Case study:

Government in defiance – shutdown despite a court order

Ahead of planned protests in June 2025, commemorating the Finance Bill Gen-Z protests one year earlier, civil society groups secured a High Court injunction barring the government from restricting access to the internet or digital platforms, including social media.⁸⁴ Despite this court order, the government, through the Communications Authority of Kenya (CAK), instructed media outlets to halt live coverage of the protests. Officials claimed that live broadcasts violated constitutional provisions on freedom of expression and the media, citing concerns about incitement and propaganda.⁸⁵ Civil society organisations countered that this interpretation distorted the Constitution and was used to justify censorship.⁸⁶ The High Court first suspended and then quashed the CAK's ban on live coverage in a final judgement that affirmed the right to broadcast the demonstrations.⁸⁷ A Parliamentary Committee condemned the government's actions as unconstitutional.⁸⁸ Previously, in 2023, the CAK had threatened to withdraw the licences of six television stations for their live coverage of opposition protests, claiming that the coverage amounted to public incitement.⁸⁹

Surveillance

The [Prevention of Terrorism Act](#) (POTA) poses significant risks of undue or unlawful surveillance that can violate journalists' privacy and compromise the confidentiality of their sources. Under section 36A, the Interior Cabinet Secretary may authorise national security agencies to intercept communications "for the purposes of detecting, deterring and disrupting terrorism". These

surveillance powers, along with those in the [National Intelligence Service Act](#),⁹⁰ have been criticised for lacking sufficient safeguards and for those that do exist being easy for security agencies to circumvent.



REUTERS/Feisal Omar

⁸⁴ Osen "Court Blocks State from Shutting Down Internet as Public Debate on Finance Bill Gathers Pace" *The Star* (16 May 2025) (Accessible [here](#)).

⁸⁵ Otieno "Stop the Live Coverage, Communications Authority Orders" *Daily Nation* (25 June 2025) (Accessible [here](#)).

⁸⁶ See, for example, Amnesty Kenya "Statement on the Communications Authority's Directive to Halt Live Broadcasts of Protests and Potential Shutdown of the Internet for 56 Million Kenyans" (25 June 2025) (Accessible [here](#)).

⁸⁷ *Katiba Institute v State Law Office HCJR/E176/2025* (Accessible [here](#)).

⁸⁸ Mwere "Kabogo's Date with MPs Over Switching Off Tv Stations" *Daily Nation* (4 July 2025) (Accessible [here](#)).

⁸⁹ Nyabuga "Media Under Pressure: The Trouble with Press Freedom in Kenya" *Friedrich Naumann Foundation* (2023) (Accessible [here](#)).

⁹⁰ No 28 of 2012.



Case study:

Unauthorised surveillance in “Blood Parliament” case

Nicholas Wambugu, Brian Adagala, Mark Denver Karubiu, and Christopher Wamae are the filmmakers behind “Blood Parliament,” a BBC Africa documentary which used open-source intelligence and forensics to investigate the killing of three protesters during the 2024 Kenya Finance Bill protests. The filmmakers were arrested on 1 May 2025 after the documentary aired, and were accused of making false publications and of cyber harassment under sections 23 and 27 of the Computer Misuse and Cybercrime Act. Their equipment and phones were confiscated by the police during the arrest.

They were released without charge the following day, but their devices remained in police custody for over a month before being returned to them, based on a court order secured by their lawyer. Once received, the devices were subjected to an independent forensic analysis. The analysis established that while in police custody, some of the devices had been installed with FlexiSPY, a spyware tool with the ability to record phone calls, capture microphone audio and text messages, collect screen shots, track the device’s location and delete and modify data.⁹¹

The filmmakers are still facing proceedings in the Magistrates’ Court but have secured protection from arrest after the court granted them anticipatory bail and barred the Directorate of Criminal Investigations (DCI) from detaining them. In addition, based on the forensic report submitted as evidence, the court summoned the DCI to respond to allegations of surveillance against the filmmakers.⁹² At the time of writing, the DCI had not responded to this summons.

FGD participants described these laws as a gateway to surveillance, with specific mention of how security agencies use these laws to access telecommunication networks.

A 2017 investigative report by Privacy International found that Kenya’s National Intelligence Service (NIS) has direct access to the country’s communication networks, access which has been utilised to facilitate gross human rights violations such as torture, enforced disappearances and killings as part of counterterrorism operations.⁹³ As already discussed, the Daily Nation newspaper has also suggested the possibility of mobile network companies being complicit in these operations by providing customer data to these security agencies in the absence of court authorisation and data security safeguards.⁹⁴ Stakeholders have recommended reforms to POTA and related surveillance laws to increase accountability for their use and for the criminal

prosecution of security officers who abuse surveillance powers as currently enacted. Key areas for legal reform through Parliament include strengthening transparency and accountability in the use of surveillance powers, establishing effective independent oversight mechanisms, and creating accessible avenues for redress for victims of surveillance-related violations.

⁹¹ Mutiso (X Post) (10 September 2025) (Accessible [here](#)).

⁹² MCCRMIISC/E1640/2025 *Christopher and Brian Adagala and 2 Others v Director of Criminal Investigation*

⁹³ See Privacy International “Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya” (March 2017) (Accessible [here](#)).

⁹⁴ Civic Freedoms Forum above n 40.

Technology-assisted gender-based violence

Journalists in Kenya face widespread technology-assisted gender-based violence in the newsrooms and virtual spaces in which they work. 22% of survey participants stated that cyberstalking and harassment of journalists was one of the biggest legal threats to journalism.

“There are also personal challenges that come with being on the radio. Some fans can take advantage of the access they have to presenters. For example, a few go as far as stalking or sending late-night text messages saying how much they have fallen for you. While it may seem harmless at first, it can cross boundaries and make presenters feel unsafe.”

Survey respondent

A study by the Kenya ICT Action Network found that technology-facilitated gender-based violence is exacerbated, among others, by fragmented, outdated, and poorly enforced laws.⁹⁵ Although the Penal Code, the [Sexual Offences Act](#) and the Computer Misuse and Cybercrimes Act cover some forms of abuse, they do not expressly define or criminalise technology-facilitated gender-based violence in media contexts. The study also found that the current legal and institutional framework leaves affected individuals uncertain about where to report offences, and law-enforcement agencies themselves often lack familiarity with the relevant laws.

Positive developments

The existing levels of advocacy against surveillance of the media and internet shutdowns point to an increasingly vigilant media and civil society in Kenya. The tools deployed to conduct these harms continue to be exposed, and stakeholders are benefiting from programmes that provide training on surveillance risks and support to access protective and corrective measures. Strategic litigation is also being undertaken to safeguard constitutional rights and to navigate

the emerging challenges that technology continues to present. Finally, the government is working with stakeholders to review the Sexual Offences Act, among others, to address technology-facilitated gender-based violence.⁹⁶

⁹⁵ Kenya ICT Action Network “The Existing Legal Framework in Kenya Relating to Technology Facilitated Gender based Violence” (2025) (Accessible [here](#)).

⁹⁶ Obiria “When Technology Turns Traitor: Kenya Rewrites the Lawbooks to Fight Digital Predators” (*Daily Nation*, 14 July 2025) (Accessible [here](#)).



Threat 5: **Impunity and safety of journalists**

Overview

By participating in, condoning, or failing to address attacks against journalists, the government undermines the media's ability to collect and publish news and opinion safely. Journalists face persistent safety risks, including surveillance, harassment, and physical attacks, with little or no action taken against perpetrators. This climate of impunity itself amounts to the weaponisation of the law, since it involves deliberate failures to enforce existing legal protections.

Notable trends

Safety of journalists and impunity

Almost half (48%) of survey participants identified the safety and security of journalists as one of the biggest legal threats to journalism in Kenya. Survey respondents reported facing specific legal threats such as court action, police summonses and threats of regulatory crackdowns by tax agencies, along with broader threats such as the denial of business, coordinated online attacks, doxing, sexting and the threat of death or physical violence.

The physical risks that journalists face while working range from being forcibly ejected from official press conferences or public ceremonies, to being injured by the police when covering politically sensitive events. For example, in April 2025, in a deliberate abuse of media freedom, police fired tear gas at journalists covering events around the performance of a secondary school play, perceived to have political undertones, during the National School and Drama Festival.⁹⁷

Over half of survey participants expressed a lack of confidence in the legal system's ability to protect journalists who cover sensitive or controversial topics. They further explained that journalists have reacted to this impunity by imposing self-censorship, thereby limiting their ability to research and run controversial investigative stories.

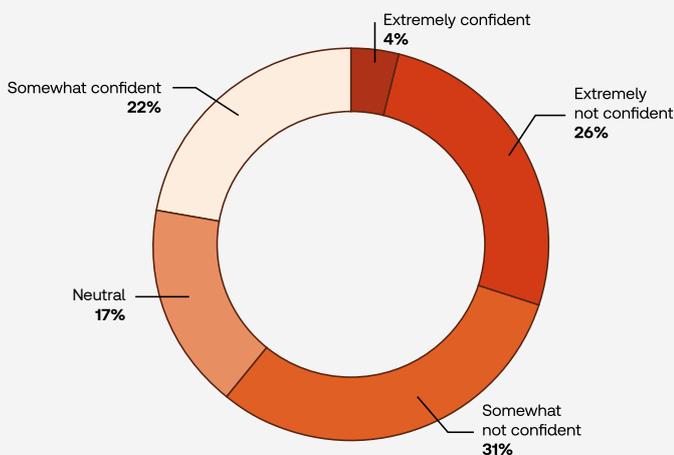


Figure 2: Perceptions of survey respondents on the legal system's ability to protect journalists who cover sensitive or controversial topics

Below is a selection of the experiences shared by survey participants, reflecting the risks they face and the culture of impunity that enables them:

"I once worked on a story about disinformation by the State, especially the national police, and received threatening calls and was cyber bullied by people and bots created by people who work for the government."

Survey respondent

"I was threatened with legal action for posting content that highlighted the dirty and corrupt deeds [of] a politician who threatened me with severe unspecified consequences that included a threat to my life as a content creator."

Survey respondent

"You go to the field to collect news as usual, but once some politicians learn that you've [got] their footage while misbehaving, they'll reach out to you to drop it for some favours, when you insist no, they start threatening [you]."

Survey respondent

There are several examples of law enforcement agencies having failed or been slow to investigate the killing of journalists and bloggers. Bloggers in multiple counties, including Meru, Tharaka-Nithi, and Kisii have been kidnapped, tortured, or killed under suspicious circumstances, often after publishing content critical of local politicians.⁹⁸

These examples all reflect a repeated trend of failure by the State to uphold its obligation to protect journalists and ensure accountability against threats or harm to them. According to the CEO of the Media Council of Kenya, law enforcement agencies have not taken meaningful steps to guarantee journalists' safety or hold offenders accountable, thereby establishing a climate of impunity that undermines the media's vital role in society.⁹⁹

⁹⁷ Koskei "Police lob tear gas at journalists covering Butere Girls play, Malala blocked from venue", *Daily Nation* (9 April 2025) (Accessible [here](#)).

⁹⁸ "Kenya: Justice for Murdered Blogger Duke Nyabaro" *Article 19* (12 April 2024) (Accessible [here](#)).

⁹⁹ "Impunity Check: Media Stakeholders Call for Swift Resolution of Cases" *Media Council of Kenya* (1 November 2024) (Accessible [here](#)).



Case study:

The killing of Arshad Sharif and the persistence of impunity in Kenya

In October 2022, Arshad Sharif, a Pakistani investigative journalist, was fatally shot at a police roadblock in Kajiado County, Kenya. Sharif had fled Pakistan, citing threats to his life, and was residing in Kenya at the time of his death. His killing raised urgent questions about the safety of journalists and the accountability of security forces. A Kenyan court ruled that Sharif's killing was unlawful, arbitrary and disproportionate, affirming that the use of lethal force by police officers violated both domestic law and international human rights standards.¹⁰⁰

Despite this judgment, the government has not arrested or charged the officers implicated in the shooting. The United Nations Special Rapporteur on Freedom of Expression and Opinion, Irene Khan, expressed concern over the lack of accountability, emphasising that the failure to conduct a full and impartial investigation undermines Kenya's obligations under international law and sends a chilling message to journalists.¹⁰¹ Sharif's case exemplifies a broader pattern of impunity in Kenya, in which security forces implicated in violence against journalists often evade prosecution. The absence of meaningful accountability mechanisms erodes public trust in law enforcement and enables further violations against media practitioners.



Positive developments

Journalists and citizens have actively challenged impunity through the courts, using legal avenues to defend media freedom and hold public officials accountable. Media organisations such as the Kenya Union of Journalists, the Kenya Editors Guild, and the Bloggers Association of Kenya (BAKE) have continued to collaborate with civil society organisations such as Article 19 East Africa and Katiba Institute to challenge violations and strengthen protections for the press. Their efforts demonstrate a growing willingness across the sector to assert constitutional rights and resist unlawful interference.¹⁰² Survey participants also emphasised the resilience of journalists who successfully continue to collect, disseminate and comment on news despite the

legal threats they face. Their day-to-day work reflects a commitment to public interest journalism that persists even under pressure.

As one participant stated:

“We exposed corruption in the then Nyahururu Municipal Council, the Mayor threatened us through his lawyer; we stood by our story. They dropped the matter.”

Survey respondent

¹⁰⁰ *Siddique w/o Arshad Sharif & 2 others v Attorney General & 4 others* [2024] KEHC 9667 (KLR) (8 July 2024).

¹⁰¹ “Kenya: UN expert urges full accountability for Pakistani journalist's killing after landmark ruling” *Office of the High Commissioner for Human Rights* (25 September 2024) (Accessible [here](#)).

¹⁰² *Kenya Union of Journalists v Communications Authority of Kenya and Another; Media Council of Kenya (Interested Party)* [2024] KEHC 13677 (KLR).



Threat 6: **Sustainability of the media industry**

Overview

The law has not kept pace with the financial and commercial pressures facing the media sector. Journalists face exploitative labour conditions that undermine their independence and safety. The government continues to use financial tactics disguised in legal or bureaucratic terms to punish critical media outlets. At the same time, major technology companies and the rapid rise of AI have introduced new commercial challenges – including unfair competition and intellectual property concerns – that existing legal frameworks have yet to adequately address.

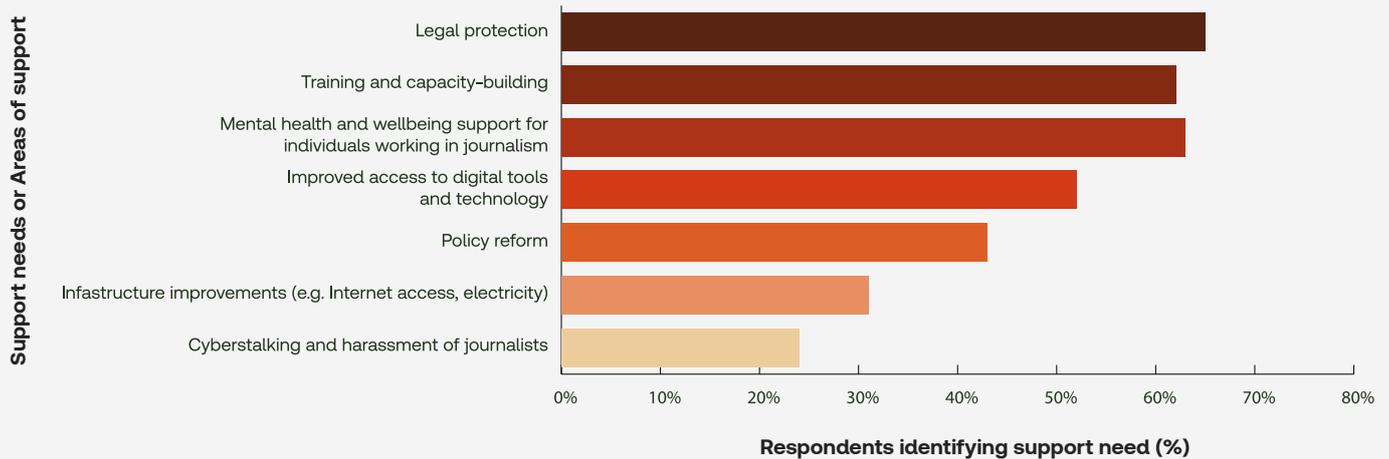


Figure 3: Perceptions of support needed to ensure the sustainability of journalism in Kenya

Notable trends

Financial and commercial pressures enabled by law

40% of survey respondents identified financial and commercial pressures as one of the biggest legal threats to journalism. Government officials continue to use financial tactics, often framed in legal or bureaucratic language, to penalise and intimidate media outlets that publish critical reporting. One common method involves withholding government advertising, which media houses rely on for revenue. This practice weakens editorial independence and lowers journalistic

standards.¹⁰³ In early 2025, for instance, the Broadcasting Principal Secretary cancelled an advertising contract between the Ministry of Irrigation and the Standard Group, reportedly in response to critical coverage.¹⁰⁴ This echoes a 2017 directive in which the government barred its accounting officers from placing advertisements, including tenders and job notices, in private media, citing cost-saving measures.¹⁰⁵

Case study: Retaliatory advertising ban puts financial pressure on media independence

In 2023, Kenya witnessed a stark example of how state actors can weaponise commercial influence to punish and deter independent journalism. The incident involved then Cabinet Secretary for Trade, Moses Kuria, and Nation Media Group (NMG), one of the country's leading media houses. Following investigative reporting that exposed alleged misconduct within the Ministry of Trade, Cabinet Secretary Kuria publicly lashed out at NMG. He instructed government departments and agencies not to place advertising with NMG platforms and warned that civil servants who defied the order would face dismissal.¹⁰⁶ Kuria told the Nation: "You need to decide if you are a newspaper, broadcasting house, a media station or an opposition party."¹⁰⁷ Government advertising, particularly through the Government Advertising Agency (GAA), constitutes a significant revenue stream for Kenyan media houses. Cutting off this lifeline sends the chilling message that editorial scrutiny of public officials could be met with economic sanctions.

¹⁰³ Nyabuga above n 89 at 11-12.

¹⁰⁴ Kagonye "Kisiani Cancells Standard Group Deal Over Critical Comment" *The Standard* (18 March 2025) (Accessible [here](#)).

¹⁰⁵ "Kenya Bans Advertising in Private Media" *The East African* (27 February 2017) (Accessible [here](#)).

¹⁰⁶ Nyamasyo "CS Kuria Threatens to Fire State Officials Advertising with Nation Media" *Kenya.co.ke* (19 June 2023) (Accessible [here](#)).

¹⁰⁷ The East African above n 105.

These financial pressures extend beyond advertising. One FGD participant described how the government also weaponises the law by tightening the regulation of foreign funding to place additional strain on media outlets, often by targeting the grantmakers that support them. In July 2024, for instance, the government scrutinised the Ford Foundation, a major funder of public interest media, following the Gen-Z protests, implying that its grants could be used to destabilise the country.¹⁰⁸ The FGD participant noted that the politicisation of grantmaking to public interest investigative outlets was intended to undermine the financial ability of such media houses to undertake their work.¹⁰⁹

Fair labour practices

The government has failed to enforce labour laws that guarantee minimum working conditions for journalists. Article 41 of the Constitution protects the right to fair labour practices, including fair pay, reasonable working conditions, trade union rights, and the right to strike.¹¹⁰ According to the Media Council of Kenya, there is “a clear disparity in contractual security”; whilst 75% of journalists employed by media houses have written contracts, 80% of freelance journalists work without any formal contracts.¹¹¹ 86% of employed journalists have contracts of one year or more, while 14% work on short-term three- to six-month contracts. Only 53% of employed journalists receive paid leave, and many experience delays in salary payments. Some employers in the media industry discourage union membership. The MCK concludes that this data demonstrates the precarious nature of journalism and the urgent need for labour protection and contract standardisation.¹¹²

Survey respondents bolstered this analysis with examples of work-related threats such as involuntary job loss or contract termination without compensation; delayed or non-payment of salaries, wages, or freelance fees; lack of formal employment contracts; and unclear or exploitative terms of employment or engagement. Weak labour protections and poor enforcement of employment laws leave journalists vulnerable to exploitation and retaliation, which in turn undermines

their independence. One survey participant described how demands from news editors or media owners can also limit media freedom:

“When I was in the newsroom, we did a story about a building that was sanctioned by the government to be demolished since it was built on a road reserve and the owner of the building, who knew people at the radio station, called in to threaten us to remove the story on air or he will sue. I was a new news reader and reporter and just did what the news editor at the time told me to do. But looking back, I should have contacted the legal department first before removing the story from my bulletin, since it was an official government notice and the demolition was done anyway.”

Artificial intelligence in journalism

Technological innovations such as AI are providing both opportunities and risks within the field of journalism. FGD participants highlighted benefits which include easing menial and time-consuming tasks like analysing documents or identifying data points, and that AI can enhance storytelling through tools that enrich data visualisation, for example. These developments can, in principle, strengthen journalistic work and free up time for deeper reporting. However, such use has also introduced significant risks to the profession.

Without adequate training and safeguards, the use of AI tools can lead to data breaches or violations of privacy rights. A 2024 report by the Thomson Reuters Foundation on how journalists in the Global South are using AI found that over 80% of survey respondents were using AI in their profession, but almost 58% of AI users were self-taught, indicating a greater need for training.¹¹³ Further vulnerabilities are exposed through a lack of robust frameworks and policies for AI adoption: almost 8 in 10 respondents had no established policy for AI use in their newsrooms.¹¹⁴ There are also major legal gaps concerning the accountability of the platforms that develop and train these systems. In addition, the

¹⁰⁸ See “Ruto questions Ford Foundation over Sh752M in grants to the Mzalendo Trust, Africa Uncensored, KNHRC” *Bana Kenya* (22 July 2024) (Accessible [here](#)).

¹⁰⁹ FGD 1 of 9 October 2025. Notes on file with authors.

¹¹⁰ Also see generally the Employment Act (Cap. 226.)

¹¹¹ Media Council of Kenya “Assessment of Media Environment in Kenya 2025” (Accessible [here](#)).

¹¹² *Id.*

¹¹³ Journalism in the AI Era: A TRF Insights survey (2024) (Accessible [here](#)).

¹¹⁴ *Id.*

use of AI continues to highlight fast-evolving intellectual property challenges, including how to ensure fair compensation for human-generated content that is used to train AI models and for derivative works produced by those systems. These gaps underscore the need for updated regulatory frameworks that can support innovation while protecting journalists and their work.

Another commercial pressure, which is poorly regulated in law, stems from the growing use of AI in news dissemination. As one FGD participant observed, large technology companies are now using tools such as Google's AI Overviews, which divert user traffic away from media outlets and weaken their ability to monetise original content through advertising.¹¹⁵ Copyright and competition laws remain outdated and ill-equipped

to safeguard media sustainability in the digital era.¹¹⁶ These frameworks have not been updated to ensure fair compensation for journalists, to safeguard news creators from the disruptive effects of AI, or to prevent big tech platforms from unfairly siphoning audience traffic in ways that undermine the financial viability of independent media worldwide.

Positive developments

Media stakeholders and labour rights advocates are increasingly working together to address precarious working conditions. The Kenya Union of Journalists continues to push for standardised employment contracts and fair labour practices across the sector. In addition, the MCK has developed guidelines on the ethical use of AI in journalism, providing a foundation for responsible innovation in newsrooms. There are also ongoing advocacy efforts to modernise copyright and competition frameworks to better protect journalists' intellectual property in the digital age. Civil society organisations have begun documenting patterns of advertising weaponisation, building an evidence base that can support future accountability measures and transparency requirements for government advertising procurement.

¹¹⁵ FGD 2 of 9 October 2025. Notes on file with authors.

¹¹⁶ See Competition Act Cap. 504; Copyright Act Cap. 130.

Conclusion

Kenya's media operates within a legal and political landscape marked by contradiction: constitutional guarantees are strong, yet implementation remains uneven; the media sector is vibrant, yet increasingly vulnerable to legal, economic, and technological pressures. The evidence gathered through desk research, the survey, and focus group discussions reflects a consistent pattern: laws and legal processes are frequently deployed in ways that restrict, rather than protect, media freedom. At the same time, weak enforcement of protective legislation or lack of legal regulation leaves journalists exposed to impunity, unsafe working conditions, and profound financial insecurity.

Across the six categories of threats documented in this report, three cross-cutting themes emerge. First, legal tools are increasingly used to punish, deter, or delegitimise critical journalism. This includes SLAPP suits, misuse of cybercrime and counterterrorism laws, and opaque regulatory practices such as the withholding of government advertising. Second, institutional weaknesses, such as inconsistent implementation of the Access to Information Act, weak oversight of surveillance powers, and limited enforcement of labour standards, undermine the effectiveness of existing legal protections. Third, rapid technological change is outpacing the law, leaving journalists exposed to new risks ranging from AI-driven market disruptions to technology-facilitated gender-based violence.

At the same time, the report identifies signs of resilience and progress. Courts have increasingly scrutinised prior restraints, unlawful arrests, and disproportionate sanctions. Civil society and media organisations continue to challenge unconstitutional provisions, educate journalists on their rights, and expose abuses of power. Journalists themselves remain committed to public interest reporting despite significant personal and professional risk. These developments demonstrate that key actors have the potential to safeguard media freedom if supported by sustained advocacy, strategic litigation, and political will.

Looking ahead, the sustainability of a free and independent media in Kenya will depend on comprehensive reforms that align laws with constitutional standards, strengthen oversight of state power, and ensure that journalists can work safely and with dignity. Addressing the economic pressures facing the sector, particularly those created or exacerbated by state action, is equally essential. Without measures to secure financial independence, protect labour rights, and regulate emerging technologies fairly, even the strongest legal protections may prove insufficient.

Ultimately, safeguarding media freedom is not only a legal imperative but a democratic one. A well-functioning media enables public accountability, informed participation, and trust in institutions. By addressing the threats identified in this report and implementing the recommendations that follow, Kenya can take meaningful steps toward strengthening its democracy and ensuring that journalists can continue to play their critical role in society.

Recommendations:

Responding to threats against journalists in Kenya

These recommendations were provided by the expert group, who refined the identified challenges to journalism and media freedom in Kenya and developed recommendations to address them.

Addressing abuse of court processes through legal protections and judicial reform

- The Kenya Judiciary Academy, in partnership with media stakeholders, should **develop a module for judges and magistrates on identifying and addressing SLAPP suits** in the interest of media freedom and freedom of expression.
- The judiciary should deter the institution of SLAPP suits by **expediting hearings** on cases that, on face value, concern the publication of matters of public interest. Furthermore, SLAPP suits that are deemed meritless by the court should consistently result in an award for costs in favour of the defendant.
- Media stakeholders and legal experts should **conduct litigation surgeries** that aim to educate journalists and other stakeholders on the trend of SLAPP suits in Kenya, to learn from each other and strengthen legal strategies against such cases.
- The Attorney General should move Parliament to **repeal all provisions in the Penal Code which criminalise defamation**, including Section 194 on criminal libel, which the High Court declared unconstitutional, and Section 67, which criminalises the defamation of foreign dignitaries and officials.
- The Attorney General should move Parliament to **introduce amendments to the Defamation Act** to establish a high bar for public figures to succeed in defamation civil suits. In particular, public figures should be required to prove serious harm to reputation and actual malice, which entails knowledge of falsity or reckless disregard for truth.
- The Office of the Chief Justice should, working with the National Council for the Administration of Justice, **establish guidelines for awarding damages for civil defamation**. The guidelines should establish a set of factors to consider when assessing damages including proportionality, the distinction between a public figure and private individual, and balancing the competing rights of protecting reputations while promoting freedom of expression. The guidelines would reduce uncertainty, potentially preventing disproportionate awards.
- Stakeholders should consider establishing or strengthening litigation **funding to support meritorious defences and appeals** by individuals against whom large awards are made for libel. This would support indigent individuals with resource constraints. Successful appeals would push back on some of the growing body of caselaw backing the disproportionate treatment of parties found liable in civil defamation suits.
- The media industry should also explore providing **insurance cover for journalists** against civil defamation claims.
- Law enforcement oversight mechanisms including the Independent Policing Oversight Authority (IPOA), the Internal Affairs Unit of the police service and the Office of the Director of Public Prosecutions (ODPP), should ensure that **officers who abuse cybercrime provisions through arbitrary arrests and related violations are held accountable** through disciplinary action, personal civil liability and criminal prosecution, which would serve as a deterrent and provide justice to affected persons.
- The ODPP, in consultation with stakeholders, should **review its prosecutions policy and manner of application**, to address frivolous and unmerited prosecutions in relation to the computer misuse offences that have been deemed to be retaliatory measures against government critics.

Mitigating the impact of repressive and disabling legislation

- The media and civil society should continue to **advocate for amendments to the Computer Misuse and Cybercrimes Act** to ensure that all prescribed offences are aligned with the constitutional protections on media freedom and freedom of expression. This should also include the continued pursuit of strategic litigation challenging the constitutionality of the law in the absence of amendments, and legal support to media actors and individuals unduly prosecuted under it.
- The ODPP should ensure that the **prosecution for offences under the Prevention of Terrorism Act should not be used to silence dissent and media scrutiny**. Such **prosecutions should attract sanctions** for the law enforcement officials responsible.
- Political actors and government officials **must desist from rhetoric that conflates journalistic activities such as interviews and live coverage with terror-related offences** such as incitement and dissemination of terror-related propaganda.
- The ODPP should **eliminate ambiguities in the prosecution of hate speech and ethnic hatred under the National Cohesion and Integration Act (NCIA) by developing guidelines** that adhere to the six-part threshold test (para. 29) of the Rabat Plan of Action on the prohibition of incitement to national, racial or religious hatred. These guidelines should inform the training of National Cohesion and Integration Commission (NCIC) officers and other law enforcement officers and guide the investigation and prosecution of these crimes.
- Where safety concerns have been raised, the NCIC and related law enforcement agencies should **institute safety measures for journalists required to cooperate with their investigations** in relation to offences under the NCIA. This should be done in conjunction with the Witness Protection Agency and include measures such as physical and armed protection, relocation within or outside Kenya, change of identity or any other measures deemed necessary after assessment of the threat involved.

Strengthening implementation of access to information and community media laws

- The Commission on Administrative Justice (CAJ) should **provide regular and detailed data on the extent to which public agencies and relevant private bodies are meeting their obligations** under the Access to Information Act.
- The CAJ and other regulatory agencies should **enforce sanctions for non-compliance with information requests** more rigorously. The government, through the Head of the Civil Service, should also issue a circular to all government agencies reminding them of their legal obligations under the Act to provide information to the public proactively, and to respond to on-demand requests for information.
- Parliament should **expedite the enactment of whistleblower legislation** to protect individuals who provide information to the media in the public interest.
- The government, through the Ministry of ICT and the Digital Economy, and media stakeholders should **review provisions on community broadcasting** in the Kenya Information and Communications Act, to align their implementation to the changed environment within which media content is produced and disseminated. The government should interpret and implement the law in ways that support sustainable community broadcasting, grounded in the principles of community participation in content creation.
- The government should support the generation of credible public interest or community interest news and programming by giving **community broadcasting services tax incentives and tax breaks based on nonprofit status**.

Addressing technology-facilitated harms

- Stakeholders working on media freedom and freedom of expression should urgently **explore the legal and advocacy options for engaging state agencies to address the threat of internet shutdowns** during the 2027 general elections. In particular, stakeholders should **challenge the role that private telecommunications companies** may be playing to facilitate unlawful throttling or full shutdowns of the internet. Media organisations should engage with telecommunication companies to secure commitments before elections to avoid infringing on human rights, including free expression.
- Media stakeholders should continue to **deploy litigation as a strategy to safeguard rights and seek accountability for illicit surveillance activities**.
- Media stakeholders should **continue to educate each other** about the surveillance tools being used against them and the different tools available to protect themselves from such surveillance.
- The relevant government ministries and parliament should work with stakeholders to **finalise the process of updating legislation addressing technology-facilitated gender-based violence**, including by making necessary amendments to the Sexual Offences Act to expressly define and criminalise technology-facilitated gender-based violence in media contexts.
- Employers and employees in **media organisations should be educated on what constitutes sexual harassment**, how to respond to it and how to support staff. Newsroom managers should work with human resources (HR) professionals, employee representatives and employment lawyers to **draw up a sexual harassment policy** that clearly defines sexual harassment and how to report it, and the consequences of committing harassment.

Addressing impunity and enhancing the safety and protection of journalists

- Law-enforcement agencies should **comply with their legislative duties to investigate and prosecute crimes against journalists**.
- The media industry and constitutional advocates, including human rights defenders, should **enhance targeted public awareness-raising campaigns** on how freedom of expression and of the media is being undermined, and impunity for crimes against journalists.

Advancing the sustainability of journalism

- Media actors, including the government and media owners, should work with the Kenya Union of Journalists, Kenya Editors' Guild and other journalists' associations to **establish a framework for standardising equitable employment terms and safety protocols** for journalists, in conformity with legal guarantees for fair labour practices.
- The Government Advertising Agency should **establish accountable and transparent guidelines on the procurement of public advertising**. The government should not **weaponise revenue from public advertising contracts** against the media. Media actors should explore patterns of such weaponisation and undertake advocacy with relevant state bodies.
- The relevant government ministries and Parliament should consult stakeholders and **amend copyright and competition laws** to safeguard media sustainability in the digital era by regulating competition and ensuring fair compensation for journalists.
- The MCK and other media stakeholders should **widely disseminate existing guidelines on the ethical use of AI in journalism** and ensure journalists are trained on key legal aspects such as data protection, privacy rights and intellectual property.
- Parliament, in consultation with media stakeholders, should **improve legal safeguards related to fostering accountability from platforms that develop, train and facilitate the use of AI tools**. These safeguards should ensure that the platforms do not infringe constitutional rights such as the rights to property and privacy.

Useful Resources

- Afrobarometer “Kenya: Country Democracy Scorecard” (17 July 2024).
- *Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & Another* (Interested Parties) [2020] KEHC 7924 (KLR).
- *Githongo v Murungaru* [2022] KECA 821 (KLR).
- Human Rights Council Report of the Working Group on the Universal Periodic Review, UN Doc A/HRC/44/ (2020).
- *Jacqueline Okuta & Another v Attorney General & 2 Others* [2017] eKLR (Petition No. 397 of 2016).
- *Katiba Institute v Presidents Delivery Unit & 3 Others* [2017] eKLR (Petition No. 468 of 2017).
- *Kenya Union of Journalists v Communications Authority of Kenya and Another; Media Council of Kenya* (Interested Party) [2024] KEHC 13677 (KLR).
- Kijana “A General Assessment of the Independent Ethnic Radio Broadcasting Stations in Kenya” (2012) 3(8) *International Journal of Business and Social Science* 128.
- *Kitur v Nation Media Group Ltd* [2023] KEHC 24090 (KLR).
- Mute “Proactive Disclosure of Information During Elections in Kenya: An Assessment of Kenya’s Compliance with the Guidelines on Access to Information and Elections in Africa” *Centre for Human Rights, University of Pretoria and Article 19 Eastern Africa* (2023).
- *Muthaura v Nation Media Group Limited & Another* [2025] KEHC 2386 (KLR).
- *Mwili v Radio Africa Limited and Another* [2023] KEHC 4055 (KLR).
- Ngugi and Kinyua “The Concept and Philosophy of Community Radio Stations in the Context of Kenya” (2014) 5(1) *Journal of Mass Communication and Journalism* 1.
- Nyabuga “Media under pressure: The trouble with press freedom in Kenya” *Friedrich Naumann Foundation for Freedom* (2023).
- *Okode v Royal Media Services Ltd & Another* [2024] KEHC 5437 (KLR).
- *Okoiti v Cabinet Secretary Ministry of Lands and Physical Planning & Another* [2023] KEHC 19947 (KLR).
- *Philomena Mbeti Mwili v Standard Group Limited* [2022] KEHC 1375 (KLR).
- Resolution on Internet Shutdowns and Elections in Africa, ACHPR.Res.580 (LXXVIII) (2024).
- United Nations National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21: Kenya (2025) A/HRC/WG.6/49/KEN/1.

Thomson Reuters Foundation resources for journalists and media organisations

- [Understanding defamation laws in Kenya](#) [2023]
- [Understanding the laws on journalistic sources in Kenya](#) [2023]
- [Pre-publication due-diligence guide for Kenya, South Africa, and Zambia](#) [2024]
- [Before you publish: A journalist’s guide to safer reporting](#) [2025]
- [Legal Service for Independent Media](#)
- [The Impact of Gen AI on Freedom of Expression in Eastern - Thomson Reuters Foundation](#) [2025]
- [Three steps to an AI-ready newsroom: A guide to responsible policies](#) [2025]
- [Journalism in the AI Era: A TRF Insights survey](#)
- [Media Freedom and the Law in Kenya, South Africa and Zambia - Thomson Reuters Foundation](#) [2023]
- Practical and legal tools to protect the safety of journalists ([Home - Safety Of Journalists](#))