

Dilemmas in Media Coverage of Human Rights in Kenya

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Abstract

Media practitioners and entities play an essential role in enabling human beings to enjoy the rights enshrined in article 19 of universal declaration of human rights, and interrelated human rights. However, as moral agents they are bound to be occasionally in dilemmas in the process of undertaking their duties. Cognizant of the fact that social, political, economic and moral environments varies, this study, examines the various kinds of dilemmas that media practitioners and media entities face and deal with in Kenya. The study used Kurt Lewin's gatekeeping theory, which was adopted by Barzilai-Nahon. A qualitative approach with descriptive research design was employed with data being sourced from Kenya's four largest media enterprises, namely the Nation Media Group, the Standard Group, Mediamax and Radio Africa Limited. Through purposive sampling, the study targeted respondents who had gatekeeping capability and experience in reporting or editing stories on human rights. Four kinds of dilemmas were found to be prevalent: ownership interests versus public interests; advertisers' commercial interests versus public welfare; government interests versus professional obligations; and societal moral values versus journalistic responsibility. An interesting from the study was that the media practitioners' ethnic, religious, and moral identity were the genesis of these dilemmas. From these, the authors concluded that whereas these dilemmas cripple media practitioners' capacity to undertake their duties that are crucial to human beings' enjoyment of the right to be informed and to knowledge, and attendant rights, in many cases the might of media owners and government, advertisers' interests prevailed. Finally, the study recommends critical and creative strategies for avoiding horns of dilemmas by retraining the media practitioners who cover issues of human rights on the protection and promotion of human rights.

Key Words: Media, media dilemma, human rights, gate-keeping, right to information, right to knowledge

Introduction

Article 19 of the United Declaration on Human Rights (UDHR) states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference, seek, receive and impart information and ideas through any media...” (UDHR 1948, Art. 1). This right is among the many human rights that are perceived crucial to human beings living lives of dignity. By virtue of the principle of the interrelatedness of human rights, media practitioners and media entities are pivotal to the enjoyment of the rights as provided for by Art. 19 of the Constitution of Kenya (Republic of Kenya 2010, Art. 19). Free, responsible media practitioners and media entities have a duty not only to present accurate information but also to ensure that people understand what is presented and that it is factual.

The demand for responsibility applies to actors who are rational and have free... Responsibility applies to individual and corporate actors, and it is in this respect that media houses and state-parties are moral agents. Meyer *et al* (2022, 25) asserts seven capacities that are necessary for attribution of responsibility. These are; autonomy, capacity to act, legal capacity, ability to be held liable, possession of moral agency, and, being trustworthy. Media practitioners and media houses have the burden of promoting and protecting human rights, insofar as they possess these, and are conceived as critical agents in enabling human beings to exercise their rights (Winston and Pollock 2016, 307). Aside from conditions that void moral agency, such as mental illness, defective will, and external coercion, normal moral agents are open to situations in which the options available to them are incompatible³. Such situations are conceived as moral dilemmas.

Conceptualization

The capacity for media institution including practitioners and ownership to provide accurate, reliable, and timely information is crucial to the enjoyment of all human rights including the right to access information and freedom of the media, and, the right to privacy. These three, the right to access information, media freedom, and the right to privacy⁴ are essential to the enjoyment of many other rights and fundamental freedoms. For example, the right to participate in deliberations of one’s polity is tied to, not just the information that state agents provide, but the critical information journalists make available. Exercising civic, social, and economic rights depends on having accurate, reliable, and timely information. This is in addition to the traditional principles of journalism, namely, truth, objectivity, accuracy, and fairness (Fisher 2015, 58). However, Weinberger asserts that whereas objectivity was a crucial principle in traditional journalism, this has since been replaced in the information age by the principle of transparency. Journalistic objectivity according to Weinberger (2009, 24-28) presumes that journalists strive and succeed in eliminating biases and partialities by presenting what reflects ‘the reality.’ Transparency requires that the journalist provides evidence for their reports and personal disclosure, on the basis of which the reader can undo the unintended effects of the ever-present biases (Weinberger 2009, 27).

³The concept of normalcy is contested. See Hanner, Oren. 2018. “Moral Agency and the Paradox of Self-interested concern for the Future in Vasubandhu’s *Abhidharmakosabhasya*.” *Sophia*, Vol. 57, pp 591-609. <https://doi.org/10.1007/s11841-018-0642-0>.

⁴ See Republic of Kenya, 2010. Constitution of Kenya, Arts, 35, 34, 31

The three rights, the right to access information, media freedom, and the right to privacy, may be jeopardized by decisions of media practitioners and media houses. Whereas journalistic values demand particular standards and commitment to public welfare, challenges occasioned by the gatekeepers' interests often prevail. Jeopardy originates from unresolved dilemmas, and even the inability of media practitioners to interpret conflicted situations or conflict between principles. For example, how does a media practitioner uphold the principle of accuracy and transparency, particularly in view of the rise of infotainment, which blends opinion and straight news reporting, fact and fiction" (Fisher 2015, 60). If the principle of accuracy and the principle of transparency are at parity, the media practitioner will most likely fall in a dilemma.

Significant to add here is the fact that, it is the media practitioner as well as the media entity that determines if the principles have parity status. At stake is a possible violation of the right to information, because the majority of right holders may not have capacity to use supporting evidence and personal disclosure to sieve out biases. In the post-modern world, which is also referred to as post-truth, the blurred boundary between fact and fiction result in fake news, jeopardising not only the right to information, but also individual's capacity to be informed truthfully and accurately. What the right-holder might be accessing as information might be fake news, propaganda, misinformation or even disinformation. Moreover, whereas the principle of objectivity has the effect of sanitizing information presented by media practitioners and media entities, the principle of transparency has the potential of doing the opposite. While the information presented could be accurate, and therefore useful to consumers to utilize in exercising their fundamental rights and freedoms, personal disclosure can bias and even put off people from a news story. Media practitioners' and media entities' undertakings on matters that have human rights dimensions are bound to be affected by dilemmas that the variables discussed above generate.

A dilemma is a decision-situation that has the two options which have parity status, and in the actor's perception, opinion and interpretation, the two options are mutually exclusive, and the choice of one may seem as neglecting the other (Chang 2005, 331). The nature, structure and presentation of dilemmas is such that, they either carry obligations, or prohibitions. Prohibition dilemmas are choice situations in which all feasible actions are wrong. Obligation dilemmas on the other hand are choice situations in which each of two feasible but incompatible actions is obligatory. To see that these can be distinct kinds of dilemmas requires that we take a closer look at the notion of obligation.

According to Manteuil (2021), dilemmas are of different types namely, epistemic, ontological, personal (self-imposed), conditioned (externally imposed), prohibition, single-agent, and multi-person dilemmas. Epistemic dilemmas are "evidential situations in which epistemic principles appear to give incompatible recommendations, render all available options impermissible, or lead to irrational outcomes" (Wagner 2021, 1). This, for Leonard (2020, 573) is a "genuine rational indeterminacy." Ontological dilemmas arise when the available options are inconsistent and none overrides the other. Self-imposed dilemmas arise from the agent's actions and when it is externally imposed, it is a dilemmas that arise from

developments or actions that are outside the agent's control. A distinction between single-agent dilemmas and multi-agent dilemmas is vital. In our case, single-agent dilemmas apply to the media practitioner, while multi-agent dilemmas can arise within the environment of the media entity. An environment of media entity has owners, directors, editors, reporters, correspondents, photographers, news analysts, and commentators, among others. In addition, this environment has stakeholders and consumers. The multiplicity of values, personal, ideological and religious, ethnic, political, and idiosyncratic can very easily play out in incompatible choices and actions, if the media entity is not managed diligently. As a result, dilemmas may arise in any of the following forms: central figure/marginal figure; accuracy/media house interests; agent good/public good; impartiality/personal value; personal advancement/media ethics; and subjective/objective, and fairness/biased. On each of these binaries, there are general obligations and prohibitions. However, the nature of some situations, and moral situations in particular, the agent has to perform the cognitive process of interpreting it, classifying it, and determining the best possible course of action... A keen observation at the broader discourse on human rights reveal that, it is possible to find human rights on both sides of the binaries. For example, if there is just one slot for a news item in the first binary, the media practitioner ought to weigh whether to air news on a politician addressing a rally or a rural woman who was battered by a husband. In the second binary, supposing accurate reporting on a particular item is incompatible with the interests of the media house, how should media practitioners act? While a media practitioner's interest ought to coincide with the public interest, what happens in a situation in which the two conflict.

Law, Professional Ethics and Reality

At the heart of human rights are whether they relate to civil, cultural, economic, political or social issues, inherent to the dignity of every human person. To this extent, all human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. They are based on principles of dignity, equality and mutual respect, which are shared across cultures, religions and philosophies. They are about being treated fairly, treating others fairly and having the ability to make genuine choices in our daily lives. Rene Cassin conceived dignity, equality, liberty, and solidarity as foundational principles (see Andreopoulos 2003, 5). The nexus of human rights on the one hand, and media practitioners and entities on the other is Art.19 of UDHR (UDHR 1948, Art. 19). The spirit of article 19 UDHR finds expression in Kenya's Constitution in Chapter Four.⁵ Articles 33 and 46 specifies what is permissible expression and what is not. Article 34 spells out the extent of the freedom and independence of media practitioners. Article 34 restrains the State from controlling or interfering with media practitioners, and from punishing a person for expressing their views. The same article asserts the freedom of media entities to establish and operate, subject to licensing processes, which aim at regulating operations. It also asserts their independence from government, political interest and commercial interests. By dint of the constitutional provisions, citizens have the right to access information held by the State as well information held by another person that is necessary for exercising and protecting a fundamental right or liberty. Article 46 (a) (b) and (c)

⁵Republic of Kenya, 2010. Constitution of Kenya, Articles 33, 34, 35 & 46.

of the Constitution accords consumers the right to information necessary for the access to goods and services of reasonable quality for the purpose of securing their health, safety, and economic interest.

From these Constitutional dictates, it becomes obvious that media practitioners and media entities have a crucial role to ensuring enjoyment, protection, and promotion of human rights. Hammarberg (2011) argues that reference to the media as the fourth estate expresses the fact of balance of power governance and that it is “an essential addition to the powers of the executive, the legislative, and the judiciary” Hammarberg (2011, 3). The notion of media practitioners and media entities being self-regulating as has been cited in the various articles at the international, regional and national levels “springs out of the desire to encourage media structures to develop a code of ethics to regulate and protect individual and group interests from unacceptable abuse in the media industry as well as demonstrate that state intervention is not necessary” (Hammarberg 2011, 4). Ethical journalism is a testimony to the conviction that media practitioners and media entries have capacity to broadcast, print, and disseminate information and opinions that enable people in society to have essential knowledge to exercise their liberties. This is why Hammarberg points out that “[i]n essence, the ethical journalists serve the public’s right to know. ...they seek the truth and resist the pressure to convey distortions, be they from media owners, business interests or political forces” (Hammarberg 2011, 4).

However, media practitioners and media houses, like all other ‘living’ entities have existential interests, key among them being economic needs and the desire to flourish. Given Maslow’s hierarchy of needs, media practitioners have interests other than professional that could be incompatible with and compromise the values of ethical journalism. This is why under certain circumstances that demand gatekeeping media practitioners are under temptations that may entail making decisions and taking actions that are incompatible with human rights. “[W]ithout (*clear and unbiased*) information, people won’t know what’s going on locally, nationally, and internationally. Their ability to respond to laws, policies, and events-including human rights violations is limited by ignorance” (Soken-Huberty, 2023, emphasis ours). This creates a blot on the role of media in protecting and promoting human rights. On the overall however, Media practitioners and media entities can promote human rights on the basis of values and principles that allow one to navigate the dilemmas encountered in the course of professional duty.

Research questions

This study sought to address following questions.

1. What are some of the prominent dilemmas that impede media coverage of human rights?
2. How do dilemmas impact ethical journalism?

Theoretical Framework

The study was carried out using gatekeeping theory. This theory enabled the study to inquire into factors that determine when, how, and why it may become necessary to withhold information regardless of its value to the public. The theory is traceable to the ideas of Sociologists Kurt Lewin and David Manning White who introduced the idea, suggesting that media professionals act as gatekeepers who control the flow of information by selecting and filtering content. Kurt Lewin used the theory

to refer to the control of information as it passes through a gate (Shoemaker & Vos, 2009, 26). The gate is guarded by gatekeepers, who make decisions about what information to let through and what to keep out (Lewin, 1947, 16ff). According to Barzilai-Nahon (2009, 433), in media, gatekeeping is the process of controlling or filtering information as it moves through the various stages of transmission. As the process of news production is underway, various actors decide on what information ought to be passed to the next stage of transmission and what needs to be reframed. It is worth noting that gatekeeping decisions in the media are often made regardless of the constitutional, legal and even professional considerations that may otherwise have guaranteed the public the right to know and access information. Editors and reporters have been identified as the primary gatekeepers in a media (Olsen *et al.* 2022, 1). Besides editors and reporters, the other players in gatekeeping include media entrepreneurs, advertisers, government, lobbyists, civil society activists and opinion leaders who often cajole media professionals to process or fail to process certain details depending on which side their interests are served. In such a situation, the media practitioners may have to battle between adhering to their professional code of conduct, and aligning themselves to the interests of those who own the enterprises in which they work.⁶

Gatekeeping is usually riddled with phenomenal dilemma. Nahon (2009) argues that first among the rationale for gatekeeping is the question of deciding on suitable information that is deemed appropriate for access by particular audiences. This begs the question of who has the right to decide on what is *appropriate information*. The second is editorial considerations based on what editors and newsmakers view as newsworthy or otherwise. The third is the protection of the audience from material that in view of the gatekeeper may be judged as harmful, traumatizing and toxic to the morals and the psyche of the target audience. Again, the right to access information challenges gatekeepers to decide between the right for society to be well informed and the need for society to be protected from harm. The fourth is cultural preservation intended to control and sustain the ethos of society and minimize the penetration of foreign cultural values. The fifth is behaviour change, involving the intention of the gatekeeper to influence, motivate, encourage or discourage certain attitudes, perceptions, beliefs and behavioural patterns. The sixth is the journalistic responsibility of societal education. Gatekeepers, in the position of editors and reporters, consider themselves informers of society and therefore may often feel the need to decide on what knowledge is suitable for audiences depending on the agenda they intend to set and build.

Methodology

This study employed qualitative approach with descriptive approach research design. The philosophical underpinning that informed this choice was the fact that the study concerned itself with holistic descriptions of situations rather than comparing effects and treatments. As opined by OSU (2016, 257), when the data being sought is suited to purely qualitative measures, then a qualitative design is most appropriate. The study targeted the four largest media enterprises in Kenya-

⁶All privately-owned media enterprises in Kenya depend on advertising revenue as their primary source of revenue. For this reason, publishing or broadcasting anything, however useful to promoting Human rights, which displeases a corporation that advertises with them is a big risk. The corporation may retaliate by never advertising in that particular platform. Such an eventuality would mean reduced business and reduced revenue for the media enterprise.

according to the official Media Council of Kenya State of the Media Report for the year 2022, namely the Nation Media Group, the Standard Group, Radio Africa and Royal Media Limited.⁷ According to the report, the four organizations are all thriving conglomerates and control a market share of 83% with Royal Media controlling 62%, Standard Group 22%, Nation 6% and Radio Africa 5%. They have print, broadcast and online outlets thereby guaranteeing the platform diversity that is essential for varied opinions while gathering data. Twenty four (24) key informants from the four aforementioned media houses were purposively sampled for interviews that were guided by structured interviewing schedules. From each media house, six media practitioners at the levels of reporter, sub-editor and editor were selected. The selection criteria were guided by two principles; each respondent had the gatekeeping capability and had experience in reporting or editing stories on human rights. The data was then gathered based on the two themes of dilemmas encountered and the rights in question. The responses provided adequate data from which conclusions were derived and professional recommendations that may contribute to policy formulation or change, and best practices made.

Presentation and Discussion of Findings

The overall intention in addressing the research questions that guided this study was to formulate realistic and viable suggestions for minimizing professional compromises that may arise from dilemmas in newsrooms. The 24 key informants were purposively selected from Kenya's four most prominent media outlets. Twenty two respondents participated in the study representing 92% response rate.

The significant finding of the study revealed that the most prominent dilemmas in the Kenya media revolve around five categories of human rights, namely;

1. The right to life with respect to the media's position on death penalty and abortion. Media opinion is challenged as to whether to set and build agenda on these provisions of the Bill of Rights for the reason that they remain contentious.
2. The right of the public to know with respect to information that media may consider detrimental to the ethos, safety or morals of the public as exemplified by pornography, national security, political sensitivity, of religious sensitivity and radical extremist sentiments.
3. The right to privacy in situations where privacy violations safeguards public good, the media may be compelled to disregard one's privacy for the sake of public safety or public welfare.
4. Freedom of expression with respect to issues that society shy away from discussing publicly as exemplified by the Lesbian Gay, Bisexual Transgender and Queer rights (sexual and gender minority rights). Since these raise questions concerning the moral compass of the society and sheds light on sexual preferences that are ostensibly not preferred by religious and political leaders.
5. Minority rights with respect to ethnic, gender and religious minorities who

⁷ See Media Council of Kenya, 2022. State of the Media Survey Report. Nairobi, 2022, p 7.
<https://mediacouncil.or.ke/sites/default/files/downloads/State%20of%20the%20Media%20Report%202022%201%20%282%29.pdf>

are prone to discrimination and emotional ridicule by the majority.⁸ Was revealed as one of the paramount concerns by citizens regarding the media in Kenya. The biases manifest themselves in a number of ways including political bias, religious and gender discrimination.

In response to the research questions, the study established that four dilemmas are most prominent in afflicting the professional landscape of the Kenyan media. These include:

1. Ownership vs. Public interests.
2. Commercial (Advertisers) vs. Public welfare
3. Government vs. Professional obligations.
4. Societal moral values vs. ethical Journalistic Responsibility.

Ownership Interests vs. Public Interests

Ownership interests are often enshrined in the editorial policies of a particular media enterprise. The owner pays the employees of the news production process in the process they are able to dictate what to pass as news or not, regardless of the public interest involved. The owner's interest may be political or even socio-economic whether the media is a public enterprise (government owned) or private. A number of interesting examples arise with respect to this question. The Nation Media Group, being East Africa's largest and most thriving media enterprise is owned by His Highness the Imam of the Ismailia Muslims, the Aga Khan. For this reason, editors at the Nation Media are often conflicted about whether to uphold Camden Principle 6 (iv),⁹ which imposes the moral responsibility to "[a]dhere to the highest standards of information provision that meet recognised professional and ethical standards" by reporting issues that arise in his other businesses, which are loaded with public interests, or tacitly protecting the ownership interests. A case in point of this binary is the recent plethora of complaints that were expressed on social media about deteriorating standards of treatment at the Aga Khan University and Teaching Hospital in Nairobi. Whereas this is a public interest concern the editors' at the media house chose to act otherwise in order to protect the interests of the ownership. Here, the dilemma is whether to report and editorialize on the situation and violate the media house owners' interest or protect the owner's interest and violate their duty as per Camden Principle 6 (iv). In this and similar situations, sensitive editors and reporters weigh the ownership interests against public interests, and more specifically the freedom and duty of the media to inform the public. If in the process of weighing between the two, it is determined that public interest has greater weight, the editors/reporters will have diffused the dilemma.

The study also found an instance in which the religious interests of media owners were in conflict with public interest. A respondent narrated as follows: One of the most disturbing professional dilemmas I encountered was when we were to carry a feature story about Ms. Amina Lawal Kurami, a Nigerian

⁸ Media Council of Kenya Report for 2022, 39

⁹Camden Principles were articulated out of deliberations of United Nations officials, civil societies and experts in international human rights law in 2008 by Article 19. Article 19 is international Organisation that campaigns for freedom of expression.

woman sentenced to death by stoning for adultery and conceiving a child out of wedlock. Lawal was sentenced by an Islamic Sharia Court in the Northern State of Katsina, Nigeria. The alleged father was acquitted. We had scheduled to carry the story in a pullout. But, despite putting a lot of effort into this story, the ownership decreed that we remove the pullout before we went to press (Respondent 1).

Despite the fact that the setting for this story was miles away from Nairobi, the religious leanings of the media owner became a factor in deciding whether the Kenyan readership would know about a Nigerian woman's right to sexual pleasure and consequently her right to live, or be denied the right to information. This is a case of a multi-agency dilemma, given it involves editors and reporters on one hand, and media owners on the other hand. The dilemma is rooted in the fact that there are competing duties that seem incompatible and the media house can only either uphold the duty of informing and enlightening the public, in which case the religious value of the owners will be violated, or bend a professional duty and serve the interest of the ownership, in this case religious interests.

Commercial Interests vs. Public Welfare

All of Kenya's mainstream media enterprises are run and sustained on profit motive. Their primary objective, is not public interest but economic. The major source of profit is advertising revenue. This comes with several compromising strings. For starters, the media is at the mercy of organizations that advertise in their outlets. The more advertisers a media house attracts and retains, the more stable it becomes economically. To this extent, advertisers take advantage of this situation to either demand editorial favours or dictate editorial content. Oriare *et al.* (2010, 6) observes that the media house strives to please government and other prominent advertisers and the government advertises in media houses that support their mutual agenda. This situation leads to a spiral of silence that compromises and violates people's right to information. One of Kenya's most thriving industries is mobile telephony which has two major players, Safaricom and Airtel. Cases of occupation hazard have been reported particularly focusing on customer care departments whose personnel have been afflicted by hearing problems owing to the strain precipitated by extensive use of head and ear phones for long period of time while on duty. The story has not found its way in any mainstream media since mobile phone companies are some of the most consistent and lucrative advertisers in the media industry. Evidently, this presents a situation where the right of affected workers to tell their stories has been systematically and deliberately embargoed for commercial reasons. One respondent, a former top editor at the Nation newspapers summarized this situation by quipping that:

There is always pressure by advertisers to turn the media into a public relations notice board. Big advertisers including Safaricom, East African Breweries and Kenya Airways are particularly notorious for this. They threaten to withdraw advertising unless media does their bidding (Respondent 2)

The frequent business threat from advertisers demanding favourable treatment from media houses is evidence of the latter's dilemma situations in which there is a clear

conflict between on the one hand the requirements of ethical journalism and social duties, and, commercial interests on the other. This is an externally as well as a prohibition dilemma. This mirror Sophie's dilemma. Sophie's dilemma arose when a German secret police in a Nazi concentration camp in Auschwitz asked Sophie to choose which of her two children they were to kill (Dovi, 2006, 175). A media house's twin pursuits, profit and public good are not necessarily incompatible, and in some frameworks these can be reconciled and hence compatible. In the framing of the 'big advisers' that the respondent refers to, they are incompatible and in the wake of either choice there can only be remorse. However, only a media editor and manager who has the fidelity to ethical journalism can suffer a pang of remorse if public interest is sacrificed at the altar of commercial interest.

In the course of duty, media managers may engage in irrational cost-cutting. Some may recommend and implement cost cutting through retrenchments. This in some cases may occasion serious professional implications. The Kenya Union of Journalists during the World Press Freedom day of 2022 revealed that a number of journalists had been retrenched by their employers in response to the then on-going economic recession.¹⁰

One respondent in supporting this said:

In the recent past, our station has arbitrarily dismissed several journalists and increased the workload of those who survived the axe. None of us is bold enough to argue and stand for our labour rights. But, the immediate consequence of this action will be a compromised output and a reduced capacity of the media to competently perform its role as a tool for the protection of the rights of citizens (Respondent 3)

Commercialization of the media is not unique to Kenya. It is a global trend with a few unique exceptions such as the BBC model. Commercialization has a phenomenal grip on media (Yaday, 2020; Tomazet *al*, 2022; Nwankwo, 2011; Sjøvaag & Ohlsson, 2019). It is manifest in unapologetic and selfish focus on the market to the extent the media forgets or is incapable of performing its public role by prioritizing commercial gain at the expense of public welfare. The foregoing demonstrates that media practitioners in Kenya are sites of moral regrets, granted the preponderance of commercial interest over public interests. This leads to the conclusion that fundamentally, media in Kenya is about business concerned with and whose first priority is profit as opposed to an entity for informing the public.

Government Interests vs. Professional Obligations

Government interests are essentially ideological and the preservation of the status quo. These interests revolve around the interests of the ruling establishment to always earn favourable coverage. This often demands withholding access to information that paints the government, any of its agencies, or officials in the negative, even if were the truth. When media practitioners and media houses exercise their freedom and independence, the government responds with a hard or

¹⁰ See Kenya Union of Journalists, 3 May, 2022. World Press Freedom Day: Don't Take Away Gains Kenya Media Has Registered
<https://kuj.or.ke/world-press-freedom-day-dont-take-away-gains-kenya-media-has-registered/>

a soft demand for a favourable reporting.¹¹ It should be noted that the government is one of the most reliable and lucrative advertisers in the media. For this reason, it often threatens to withdraw advertising revenue to demand conformity in private media. Therefore, editors and journalists are always confronted with either conforming to government preferences to sustain the attraction of government advertising and the resultant revenue or stick to professional duty which may at times demand critical comment on government. More often than not, reporting that is critical government policies comes with the risk of withdrawal of advertisements. One case in point makes interesting reading. A prominent editor revealed that:

In the coverage of the 50th Anniversary of the ascension to power of Queen Elizabeth, there was a lot of interest from the British High Commission and Government Officials. Both wanted the story never to point out any violations to young men who were lined up to help secure her from the Tree Tops hotel in Nyeri. (Respondent 4).

Government pressure may compel news enterprises to become bystanders as opposed to watchdogs. Bystanders cannot safeguard human rights because they lack independence and the will to make decisions.

Schimmel (2009) emphasizes that professional weaknesses in the newsroom is a probable cause for dilemmas in coverage. He argues that the dearth and professional competence of journalists to cover human rights issues is consequential to analytical and interpretative coverage. Journalists lacking in professional capacity to cover human rights risk exposing their ignorance. However, the greater threat to media practitioners' professionalism in Kenya is the preponderant power of the government and its propensity to use it as evidenced in the fact that the World Press Freedom Index Report of 2023 revealed that in that year, as many as 20 journalists in Kenya were assaulted by government operatives and the country's ranking on World Press index fell from position 69 out of 180 to position 116 (Nzioka, 2023). These statistics imply that journalists are bound to face conflicted situations in which they have to choose between undertaking their professional obligations which may be regarded as antagonistic to government interests, or reneging on their professional obligations which primarily demands safeguarding public welfare and overtly or covertly furthering government interests. This is also a case of epistemic dilemma.

Societal Values vs. Journalistic Responsibility

The ethos of a society may not necessarily conform to the evolution of human rights. In Kenya for example, the LGBTQ community and the rights to which they are entitled in the constitution such as protection from discrimination and minority rights often present prominent ethical dilemmas to the media.¹² A number of respondents confessed that whereas journalistic responsibility demands fairness and objectivity in reporting on special interest groups including the LGBTQ community, societal ethos make some media practitioners to agonize on how to

¹¹ See Article 19 for details of the principles that free press should use.

¹² See Republic of Kenya, 2010. Constitution of Kenya, Arts 27, 36, 48, 50 & 56

cover events in this community. Media practitioners are rooted in the societal moral values most of which are conservative and orthodox. Indeed, Benequista (2015) observes that in Kenya, “journalists experience and respond to social divisions that can be created in the dynamic interaction between ethnic identity, personal networks and competitive party politics that characterizes a politics of belonging” (Ibid, 3).

In certain circumstances societal norms clash with journalistic responsibility and the dilemma in this case is focused on which side to pick. For example, the right of the public to know, an obligation media practitioners often fulfil with much relish, occasionally attracts societal ridicule especially when media exposure is viewed as intrusive to particular societal perceptions. A respondent recalled an incident where a young woman died at a nightclub in Nairobi under what she described as ‘shameful circumstances’. The media published the story and revealed the identity of the dead woman. Relatives called the media house to protest that they had not only invaded her right to privacy but also violated the African principle of not embarrassing the dead. In this instance, the media defended themselves using the principle that professionally, you cannot defame the dead.

Additionally, the study established that when faced with dilemmas, media personnel are compelled to resort to actions that often compromise their capacity to contribute to safeguarding the rights of citizens. Such actions include dropping certain stories or framing them in ways that fit into “acceptable” narratives and not revealing one’s identity as a journalist, when interacting with sources, in order to protect oneself from ridicule for violating ethical norms. As a matter of fact, a respondent confessed that whenever one does a story on the LGBTQ community, they do so anonymously for fear of public condemnation. According to Brandle (2018, 3), reporters play safe by not framing human rights issues as rights especially those that arouse moral discomfort in the community.

Dealing with Dilemmas in media Coverage of Human Rights

Dilemmas that arise from coverage of human rights can be addressed through various strategies. Tomaz et al. asserts that, “In order to reduce commercial influence in newsrooms, several measures have been developed, both through theoretical analysis and journalistic practice (Tomaz et al., 2021, 166).” Tomas et al. spells out two measures: separation of the newsroom from ownership, management, and the sales department and diversification of revenue streams. However, it is not feasible to absolutely separate the newsroom from ownership, management and sales. With respect to the strategy to reduce dependence on single advertisers, Tomaz et al found that while “Some media reduced dependence on single advertisers, most became more susceptible” (Tomaz et al., 2022, 181).

Self-censorship provides an easy escape viable for media practitioners when they are faced with dilemmas. When reporting on matters of conflict such as violence that arise after a hotly contested election, media personnel face the option of revealing the truth and risking hostile public reactions, media practitioners choose to censor their own reports for the sake of public safety and in the process curtail people’s right to information. A television news editor (who requested anonymity) revealed that she was accused by the police of incitement that led to riots at many university campuses nationwide. This followed a news report that implicated the

police in a case in which a student had been fatally shot. This points to the fact that while it is the duty of the media to provide information to the public in order for it to hold government and its agents to account, some media practitioners and media houses may violate this duty in order to avoid being perceived by government as catalysts of public disobedience and disorder.

Protecting sources with anonymity is also an option for media practitioners. Although revealing the identity of the source gives a story journalistic credibility and the story itself believability, media practitioners often find themselves in the dilemma of enhancing the credibility of a story by revealing the identity of the credible source or leaving them anonymous for purposes of their safety.

There are moments when media practitioners compromise their journalistic expectations. These compromises may include situations where a story violates the interest's media ownership or even commercial interest is a story rich in public interest. When the public interest carries the day and such stories are published, some editors use their reporters and other subordinates as scapegoats. However, prioritisation of the right to information and public interest is rare in Kenyan media coverage of human rights. Arising from the interests of the power brokers, many public interest stories and violations of human rights end up silenced. Notwithstanding public good, interest groups and political and ethnic affiliations are bound to challenge and impede adherence to journalistic ethos. However, progressive editors always establish whether any conflict of interest may interfere in a new item before assigning responsibilities. This is one way of avoiding being external agents that expose the reporter to dilemmas. This happens even in media houses where owners intervene indirectly, granted it is improbable for media owners and their entire editorial team and reporters to be in accord on every aspect of reporting that is newsworthy..

The present study has pursued the logic that there should be a deliberate attempt by the media to ensure human rights reporting is relayed as a social concern if for no other reason. In Kenya, Journalists can use alternative media spaces to articulate human rights issues when their media houses are conflicted on their coverage. These platforms is available in social media, for example X, WhatsApp, Instagram among others. The alternative news channels can ensure a degree of accountability and public participation in debates on national issues (Ogola and Owuor 2016, 229). In such instances, it may be useful for the marginalised voices and their bearers to work with other human rights advocates within the civil society, trade unions and religious organizations to attract the prominence that human rights messages mounted in alternative platforms deserve. It should be recalled that Media is only one of the informers of society. For its work to be effective, complementary actors must be employed so that a multi-communicative approach is embraced for this kind of initiative. Klapper (1960, 15) argued that media is most effective when adopted as a message-reinforcing agent, not as a sole informer on critical matters such as human rights. In other words, critical and creative interpretation (Chan 2020, 1516) of situations that appear to be dilemmas could yield insights that defuse or offer alternative courses of action from horns of dilemmas.

Conclusions and Recommendations

From the study findings, dilemmas are part and parcel of media efforts to report news events involving human rights. In doing this, the media faces fundamental challenge that cannot be ignored. In this paper, these challenges presented themselves in forms of dilemmas that present themselves right from news gathering to dissemination. The findings show that the role of the media as a pillar of democracy and a tool for setting and building agenda for human rights issues is seriously threatened. The dilemmas that pose a threat to human rights reporting arise in many ways ranging from conflict between ethical journalism and government interests; between public interest and commercial interests. These examples are a demonstration of the problem media practitioners find themselves in their attempt to fulfil the duty of promoting human rights in Kenya

Based on this, the study recommends the following:

1. Media training institutions to incorporate and embed reporting on human rights within their curricular. This will eliminate situations that face media practitioners in the field that were not handled theoretically during training. This will also equip the practitioners with the intellectual wherewithal to interpret and analyse human rights issues accurately and with the effectiveness it deserves.
2. Media stakeholders to frequently convene professional workshops and symposia for purposes of discussing emerging issues in human rights reporting
3. The Media Council of Kenya being the custodian of media ethics, in liaison with established human rights organizations and other stake holders should develop and implement a program on human rights reporting similar to Kenya's election reporting. This will facilitate development of professional guidelines for the coverage of human rights reporting complete with a professional and binding charter that is signed by all media stakeholders including media ownership. This will time wasted on thinking about dilemmas that arise in the course of duty, and in the process protect and promote human rights in Kenya.
4. The constitutional bodies being National Human Rights Institutions (NHRI)¹³ should use the constitutional provisions increase human rights spaces as a way of reminding the population of their rights, duties and obligations under chapter four of the constitution of Kenya. This will lead to a better-informed public on human rights in tandem with the proposal by Coleman and Ross (2018) that, the audiences are capable of subverting

¹³ National Human Rights Institutions (NHRIs) are state institutions created under the guidelines of the Paris Principles and play a crucial role in promoting and monitoring the effective implementation of international human rights. NHRIs are the cornerstones of national human rights protection and promotion, and not only provide the link between States and the international human rights system but also act as the bridge between civil society and the state. As state-mandated bodies, independent of government, NHRIs sit between the state and civil society. The mandate, roles and functions of a specific NHRI is defined by national law, in Kenya's case, Article 59 of the Constitution. Full compliance with the Paris Principles is essential to ensure that NHRIs are as effective as possible. Compliance enables NHRIs to work independently and professionally in promoting and protecting human rights, by giving them legitimacy and credibility within their countries and on the international stage.

media gatekeeping practices by demanding more programs that guarantee interactive discourse. Such programs would be actualized through avenues such as live studio talk show programs where human rights issues are expressed mainly through the voices of victims or even perpetrators

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