

## **CHAPTER THREE**

### **WRITING A NEW CHAPTER: MEDIA AND POLITICS IN 2002**

#### **3.0 Introduction**

This chapter attempts to engage with the political scenario in Kenya in 2002. In this chapter, I present a background into the history of multi-partyism drawing a timeline from the 1990's to the election year. Media structures are discussed in this chapter leading to an examination of the relationship between media and democracy, media and elections in present day Kenya.

#### **3.1 Historical context of politics in Kenya**

Kenya's transition from an authoritarian government to a democratic one in 2002 was far from easy. But then political transitions are never easy. Marina Ottaway (1997:2) in commenting about such transitions notes that the outcome remains uncertain because a transition from authoritarianism to democracy requires a radical change of political, and probably of social and economic relations. Radical change never occurs easily and smoothly. The performance of the Kenyan government post 2002 is testimony to this, with the government trying to stabilize as a coalition of many groups. Ottaway argues that existing democracies emerged not from engineering, but from conflict, violence, bargaining and compromises, reverses and new attempts at reform (1997:2). Kenya went through majority if not all these routes. The path to democracy started way back in 1992 when the opposition and civil voices began to make demands for multi-partyism from the government. To elaborate, Haugerud (1995:15) notes that a lively opposition culture stormed Kenya's public domain in the early 1990's and with it, an attempt to shatter carefully preserved silences. Yet she observes that the democracy that was expected is not what the politicians and public got. Between 1992 and 2002, various opposition politicians and pro- change movements tried to vouch for a democratic system to take effect but it was not till December 27<sup>th</sup> 2002 that this was finally attained.

The success of NARC at the 2002 elections in Kenya signaled a win not only for the party but for democracy and multi-partyism as a whole. Grignon *et al* (2001) argue that elections in Africa are often a war for political and economic survival and losing an election is often losing everything. The control of the state is the central concern of politicians partly because the state has been, since the beginning of the continent's postcolonial history, the engine of kleptocratic accumulation and the essential generator of both patronage and resources<sup>19</sup>. In Africa, politicians and those in government alike produced a culture of despotism which they used to hold on to power at all costs. In most of these countries, Wanyande (2000) notes, they went into power after holding multi-party elections at independence but most abandoned the system within a short time. Most African leaders adopted a one-party system immediately dissolving all smaller parties with the leaders and supporters being absorbed into the ruling parties, thus making them *de-facto* rather than *de-jure* states (2000:107). Kenya experienced this in 1963 when President Kenyatta dissolved other parties and imposed unity on KANU and KADU-Kenya African Democratic Union. From then on, Kenya remained a *de facto* single party state until 1992.

Adejumobi (2000:248) posits that the late 1980's and 1990's in Africa were characterized by a general trend towards plural politics, popularizing the clichés 'elections', 'multi-partyism', 'civil society', and 'democracy'. In Kenya, most notable of this was the infamous *saba saba*<sup>20</sup> demonstrations of 1990. Ajulu (1995:9) observes that the demonstrations which were called by the unofficial opposition disintegrated into widespread rioting and looting. Thousands of people took to the streets protesting the lack of democracy in the country. Ajulu highlights that the most important impact of the *Saba saba* riots is that it marked the beginning of open political demands for a democratic alternative. This encouraged a large portion of the population to seek alternatives from the repression that was so common in the Moi government.

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<sup>19</sup> 'When Kenyans spoke: 2002 general elections report', *Kenya domestic observation report* (K-DOP) 2003

<sup>20</sup> The *saba saba* rally took place on 7<sup>th</sup> July 1990. *Saba* is a Swahili word for 7 hence *saba saba*. See Ajulu 1995:8

Two factors account for the trend towards plural politics: the context of declining economic fortunes and severe material poverty of the people. Authoritarian and one-party rule appeared to have squandered their social capital and political legitimacy. The second development was the shift in the international political economy which coalesced to make a difference in the choice of political system in Africa (Adejumobi, 2000:248-249). The latter factor was more to account for President Moi's agreeing to repeal section 2(A) of the constitution- which barred the formation of other political parties- and allow multi-party democracy. In 1991 Western donors decided to freeze \$350 million (out of an initial \$1 billion) in quick disbursing aid to the country. Moi grudgingly agreed to constitutional changes to allow for multi-party elections in December 1992, doing away with the *mlolongo*<sup>21</sup> method of voting and restoring partial independence in the judiciary (see Hempstone, 1996).

President Moi complained that he had been forced into it and warned of the dangers of tribal warfare. Like a prophet of doom, the very dangers that had been warned against, surely came to pass. The 1992 elections were characterized by politically instigated ethnic violence before the elections and especially in the Rift Valley and Western provinces. Ajulu (2003:5) notes that systematic chaos and confusion were deliberately inculcated into the electoral system. He cites that so chaotic were the organized chaos that it took days for the voting process to end and ridiculously, elections were completed in some constituencies two days after the presidential inauguration. Barkan (1993) records that over 800 people died or were rendered homeless as a result of the clashes. A parliamentary select committee investigating the root causes of the clashes concluded that political motivations, fuelled by prominent members of parliament were the main cause. This was a terrible moment for Kenya and many people turned bitter and lost their faith in the system and the government.

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<sup>21</sup> *Mlolongo* is a Swahili word for queuing where voters would queue behind their candidate of choice. The method was employed during the infamous 1988 general elections. This method was not only tedious and lengthy but also intimidated voters who tried to support candidates who were not in the official KANU party.

But this did not stop president Moi from winning the 1992 elections, the results of which were consequently rejected by the then opposition parties in parliament. Haugerud (1995:25) reports that the 1992 elections recorded the highest voter turnout since the 1963 elections with Moi returning to office with 36% of the total vote and defeating a badly fragmented opposition. The period thereafter was not an easy one for Kenya. Haugerud notes that opposition politicians still experienced official harassment and occasional arrest. Although political pluralism had been set up on paper in the country, it was not effective remaining much of an ideology than a reality. Generally the press and specifically the alternative media were largely affected in this time. Publications that had come at that time like Pius Nyamora's *Society, Economic Review* and Gitobu Imanyara's *Nairobi Law Monthly* were banned with time. The government interpreted their presence in terms of what Ajulu (1995:21) describes propaganda outfits of certain interest groups.

The 1997 elections provided another scenario where the opposition once again tried to get Moi and KANU out of power. Seemingly, they had not learnt from the previous elections and went out as a divided lot. About 14 opposition political parties combined, amassing 59% share of total votes<sup>22</sup>. Moi and KANU won with 41% share of total votes, a higher percentage than the 1992 elections. Again, this was resultant from the lack of unity among the opposition political parties despite several attempts at opposition unity.

Anebo Felix (2000:262-263) in looking at the voting pattern and electoral alliances in Ghana's 1996 elections notes that common opposition to the Rawlings Empire made possible co-operations between the country's two major political antagonists, the New Patriotic Party (NPP) and People's convention Party (PCP). Coming from two divergent political traditions the two were historically bitter enemies yet they buried their past and present differences. The large floating voters among the Ghanaian electorate also *emphasized the need for an opposition electoral alliance* (Italics mine). Ghana's case provided an apt example for other countries to follow. For the 2002 elections, the

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<sup>22</sup> According to statistics from 'Kenyan politics' retrieved 15<sup>th</sup> July 2004 from [www.Kenyaweb.com](http://www.Kenyaweb.com)

opposition parties in Kenya saw the only way they could win was by adopting a united stand against KANU.

The path towards this opposition unity began back in 1998 when the mainstream opposition parties (Ford Kenya, Democratic Party and Social Democratic Party) joined the National Convention Executive Council (NCEC) to press for constitutional reforms. In the same year, opposition and civil society formed the Ufungamano Initiative which led to several attempts at opposition unity. In September 2000, James Orengo then of Ford-Kenya and other opposition MPs formed Movement for change or *Mageuzi* (Swahili word for change) which transversed Kenya calling for a people-driven constitution review process and calling for opposition unity but its movements were quickly curtailed by the government<sup>23</sup>.

With *Mageuzi* unable to operate, opposition groups then teamed up with the NCEC to form a united front and to ensure that KANU interests did not drive the constitutional process. The result was Umoja wa Wakenya (Ukenya), a means of countering the NDP and KANU merger by providing the basis for opposition unity. Disagreement on which other parties to bring to board widened the groups divisions and Ukenya resultantly remained inactive.

Hard pressed for an alternative, leaders of the Democratic Party (DP), Ford-Kenya and the National Party of Kenya (NPK) launched the National Alliance for Change (NAC) in 2002, in response to civil society groups and religious leaders' pressure for opposition unity. In addition, the alliance appointed a committee to make recommendations on how to achieve opposition unity and field a single presidential candidate for the 2002 elections. Another alliance soon evolved after the formation of NAC- the Ford People Coalition comprising several parties that had distanced themselves from NAC parties.

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<sup>23</sup> See Ajulu 2003:15

The opposition was not the only team forging for a united front...KANU had erstwhile managed to form a coalition government with Raila Odinga's National Development Party (NDP); a move that was seen to consolidate the Luo votes and assist KANU to win the forthcoming elections. The historic union that took place in March 2002 was viewed with skepticism by both KANU delegates and members of the opposition. The Panafric News Agency reported that the election had taken an 'ethnic twist' and in many respects, one would agree that KANU had played their cards well in creating an ethnic balance, an important factor for consideration in winning the next elections. At this moment, it seemed that KANU had a fighting chance and the new unity would perhaps make the electorate reconsider their skepticism about KANU.

But, as Muhammed Bakari (2002) puts it, it was Moi who sealed the fate of KANU by appointing Uhuru Kenyatta as his anointed successor. This move alienated a significant portion of ambitious KANU loyalists who felt snubbed by the choice of this virtually apolitical nominee; a move also viewed as personal rather than in the national interest<sup>24</sup>. Yet others viewed this as a smart move for it endeared Uhuru to the younger electorate who believed that it was time for the 'young turks' to rule the country and not old men. However, the attempt to revitalize the ruling party under Uhuru's leadership never really gathered momentum.

Odinga challenged this move, and when it proved futile, he orchestrated the opposition within the ruling party taking with him among others former Vice- President George Saitoti, Kalonzo Musyoka, William ole Ntimama and Joseph Kamotho into LDP (Throup, 2003:2). He further swung into action and introduced this group to the NAK which by then had brought together Charity Ngilu's National party of Kenya (NPK), Kijana Wamalwa's FORD-Kenya and Kibaki's DP. The amalgamation saw the formation of the National Rainbow Coalition (NARC) at a historic rally in Nairobi's Uhuru Park.. Throup further reports that it was Odinga who pre-empted his colleagues in NAK and

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<sup>24</sup> Bakari, M. 2002. 'Kenya Elections 2002: The End of Machiavellian Politics', in *Alternatives: Turkish Journal of International Relations*. Volume 1, No. 4. Retrieved from the net November 13<sup>th</sup>, 2004 from [www.alternativesjournal.net/volume1/number4/bakari.pdf](http://www.alternativesjournal.net/volume1/number4/bakari.pdf)

NDP by declaring ‘Kibaki *tosha*’ indicating that Kibaki was to be the presidential candidate for NARC. Simeon Nyachae, himself a political heavyweight was initially with the opposition unity but broke away, refusing to accept Kibaki’s nomination as the presidential candidate for NARC (2003:3).

Ajulu (2003:8) argues that NARC was not born out of a pragmatic political ideology; it was an amalgam of recycled KANU politicians glued by their own common hostilities to Moi’s imposition of Uhuru on them rather than any grand democratic principle. He maintains that indeed it was and remains a ragtag army of political opportunists, philistines and quislings who in a large measure were not much different from their KANU opponents. Andrew Harding, a BBC correspondent viewed it quite the same way only using different terms. For Harding, NARC was “a coalition of genuine reformers and opportunists”, a strategy used by former KANU members who abandoned ship after realising the party was doomed to fail<sup>25</sup>. I support Ajulu’s assertion especially in view of the fact that it would only be a matter of time before the same politicians used the same methods of operation they had used in the KANU regime. However like Harding, most Kenyans then were optimistic of the reality of a change in government and believed that the incoming leaders would adopt new modes of operation. A few years later, Kenyans are realising that it is hard to teach an old dog new tricks and mismanagement and corruption today ride high on Kibaki’s government.

The announcement that Kibaki would run against Uhuru Kenyatta in the 2002 elections almost sealed the votes in an election that had more or less pre-declared ‘Moi (and KANU) must go’. The official rainbow slogan now infiltrated the country, NARC took up the populist song ‘*Unbwogable*<sup>26</sup>’ as a chant and in every essence, they were ready to go against Moi and his party. Throup observed that KANU leaders from Moi down seemed to accept that the national mood has finally turned against the regime (2003:4).

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<sup>25</sup> Harding, A. BBC World News, 29<sup>th</sup> December, 2002. Quoted in Bakari, 2002.

<sup>26</sup> *Unbwogable*, was a hit song by popular musicians Gidi Gidi, Maji Maji. The song originates from a Luo (ethnic group in Kenya) word *bwogo* which means fear, and represented the fear many Kenyans had lived in under Moi’s regime. NARC borrowed it as a theme for their campaign to show they were no longer afraid.

On 28<sup>th</sup> October, the speaker of Parliament issued writs to the Electoral Commission of Kenya (ECK) declaring all parliamentary seats vacant and on 29<sup>th</sup> October, Chairman Samuel Kivuitu declared 27<sup>th</sup> December as polling day. Their mandate could be traced to 1997, when wide-ranging constitutional, electoral, legal and administrative reforms were passed into law under a cross-party parliamentary reform initiative. Among the reforms passed included the Constitution of Kenya (Amendment) that *inter alia*, gave responsibility to the ECK for promoting free and fair elections and voter education in Kenya.

On December 27<sup>th</sup> 2002, Kenyans went to the polls to elect 210 members of the national assembly in the country's 8<sup>th</sup> elections since 1963<sup>27</sup>. An approximate 10.45 million Kenyans registered to vote but Ajulu (2003) notes that even with the excitement that surrounded the campaigns, fewer Kenyans turned out for the exercise than had voted in 1997. NARC won the elections overwhelmingly with 62.2% of the votes over KANU's 31.3 %. A coalition government had won over authoritarian rule. Kibaki's new government was able to achieve ethnic balances that had hitherto not been reached.

As Bakari (2002) notes, the elections were given a clean bill of health by most poll observers and the ECK<sup>28</sup>. Previously, 56.9 percent of Kenyans had thought the ECK unable to legitimise a free and fair election. Ajulu (2003:5-6) explains that the main reason the commission was able to conduct the elections with improved impartiality was that it became obvious that Moi/KANU would not win presidential elections and there was the possibility of a new government hence the officials kept a respectable distance from the electoral process.

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<sup>27</sup> Bakari, M. 2002. 'Kenya Elections 2002: The End of Machiavellian Politics', in *Alternatives: Turkish Journal of International Relations*. Volume 1, No. 4. Retrieved from the net November 13<sup>th</sup>, 2004 from [www.alternativesjournal.net/volume1/number4/bakari.pdf](http://www.alternativesjournal.net/volume1/number4/bakari.pdf)

<sup>28</sup> *ibid*



The election process took place amidst surveillance from domestic and foreign media. While the foreign media were sceptical in gauging whether Kenyans would have a free and fair election or go the way of civil war like many African countries, the local press was interested in ensuring citizens got a round-up of what was going on in the country.

### **3.2 The Print media in Kenya.**

Kenya's print media is dominated by five main dailies, the *Daily Nation*, *East African Standard*, *Kenya Times*, *Taifa Leo* (Swahili version of the *Daily Nation*) and the *People Daily*. Other newspapers are the *East African*- a subsidiary of the Nation Media Group, which is published weekly. The rest of the papers are published weekly, fortnightly or monthly and due to the nature of their articles and propagandist reporting, have often been branded as 'gutter press'.

The *Nation* newspaper is the largest selling paper in Kenya and has an average daily circulation of 200,000<sup>29</sup>. Over the 2002 election period, newspaper sales soared as the Election Day neared<sup>30</sup>. The paper had for a long time supported the opposition and often published articles criticizing government policies, according to a country report on Kenya Human Rights, 2002. It earned a reputation for its condemnation of government repression especially in the last government era. The International Press institute once described the *Nation* as 'unquestionably the best produced paper in independent Africa' (Odero & Kamweru, 2000) because of its high technological capacity to produce a well designed paper.

Ownership is divided between His Highness, the Aga Khan (controlling 44.73% of the shares) and local investors<sup>31</sup>. It is the largest media conglomerate in East and Central Africa having been started by the Aga Khan in 1951 as a small Swahili publication *Taifa*

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<sup>29</sup> Moggi P. & Tessier R, 2001. Media Status report: Kenya, GRET. The present day circulation stands at 192,000 according to Sinyika (NMG) in personal correspondence

<sup>30</sup> Sales at the Daily Nation averaged 190,000 in September, 197,000 in October, 217,000 in November and 238,000 in December. The paper registered sales of a whopping 406,093 copies on the day Mwai Kibaki was inaugurated on December 31<sup>st</sup>, 2002 according to Sinyika (NMG) in personal correspondence.

<sup>31</sup> The top three owners at the Nation Media Group- the flagship company of the *Daily Nation* are led by the Aga Khan Foundation for Economic Development- 44.73%, Amin Juma- 8.17% and Old Mutual Life Assurance- 1.97%. See table 1 for further details.

and later turned into a newspaper called *Taifa Weekly*. The paper fits well into the liberal/commercial tradition yet exhibits what Heath (1997:40) distinguishes as the advocacy/protest tradition. Its reputation as a purveyor of truth would lend credence to its advocate position while its private ownership confirms its liberal/commercial entity. From the beginning, *Nation* identified with African nationalist aspirations.

The *East African Standard* was founded as the *African Standard* in 1902 by A.M Jeevanjee. It is Kenya's oldest newspaper. Currently the *Standard* and its sister company Kenya Television Network (KTN) are owned by Baraza Limited. In 2001, it had an estimated daily circulation of 54,000<sup>32</sup>. Odero & Kamweru (2000) note that the paper which today stands more than a century old has a history that bears the imprint of those who owned the paper at different times with its ownership changing hands since it came into being.

*Standard's* ownership has changed hands over the years from Mr. Jeevanjee to Lonrho; a London based conglomerate to Standard Newspaper Group (SNG) holdings who currently own the newspaper. In 1996 a consortium of influential Kenyans with links to the then ruling party KANU bought controlling shares in the newspaper from the Lonrho conglomerate. These influential Kenyans are said to be members of Moi's family who took over the Standard Group in 1997 afterwards incorporating the newspaper and the Kenya Television Network (KTN). It is linked to Baraza Limited which in 2000 was bought by SNG holdings, a company registered in the UK but was later established to be owned by President Moi, his son Gideon and personal assistant Joshua Kulei.<sup>33</sup> In reality, this takeover had an impact on the way the news was reported, albeit in a subtle manner.

The *Nation* newspaper by virtue of its private ownership enjoyed a liberal stance in its reports. In June 1989, *Nation* reporters were banned from Parliament for four months

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<sup>32</sup> Moggi P. & Tessier R, 2001. Media Status report: Kenya, GRET.

<sup>33</sup> According to the Media Institute in <http://www.kenyanews.com/Archives/guideb.html>, retrieved from the internet on October 2, 2004. See also Kadhi & Rutten, 2001 and 'Kenya Moves into a Freer Press Era' in IPI Global Journalist, Spring 2003

because the paper had been reporting on official corruption. When the truth emerged, it was discovered that the main reason for the ban was that *Nation* had criticized the lack of debate in parliament and was consequently accused of being disrespectful to Kenya's political leadership. A month before the ban was imposed; President Moi had accused the newspaper of promoting subversive activities against his government and setting itself up as an "unofficial opposition party"<sup>34</sup>. With the return to multi-party politics in 1992, the *Nation* clearly identified with the opposition (Weekly Review, January 1, 1993:53) leading all the other dailies in the liberalism context<sup>35</sup>. Over the years, the paper was able to maintain objectivity in reporting; playing the watchdog role of the media. This was at a time when to dare speak against the government was punishable through detention, imprisonment or at worst, mysterious death. The KANU government used the penal code which prohibits publication of information likely to cause fear or alarm to intimidate pro-opposition media outlets of which the *Nation* was seen as one of them<sup>36</sup>.

The *Nation* and *Standard* have been competitors for a long time. The depth of coverage and professionalism the two newspapers inject into their news has made them favorable towards their respective readers<sup>37</sup>. In June 1991, Moi accused the *Nation* and *Standard* of being used by foreigners to destabilize Kenya. Arguing that the newspapers were being unpatriotic in their reporting with owners telling them what to write, it was to him in the "interest of the nation" to ban the two papers.<sup>38</sup> This was a pointer to show that the government did not applaud the liberal attitude the *Nation* and *Standard* adopted. Much has changed since that remark was made, especially in lieu of ownership of the newspapers and this will provide a basis to check whether ownership changes influenced the two newspapers reporting.

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<sup>34</sup> Kenya: Taking Liberties. 1991. *An Africa Watch Report*, New York:

<sup>35</sup> as noted in Heath (1997:33)

<sup>36</sup> While the Kenyan constitution provides protection for freedom of speech and the press, the government continued to boldly interpret other existing laws to restrict free expression while harassing and intimidating independent journalists according to the *Kenya Press Overview*, 2001.

<sup>37</sup> According to The Media Institute – [www.kenyanews.com/Archives/guide.html](http://www.kenyanews.com/Archives/guide.html), retrieved from the internet November 15, 2004.

<sup>38</sup> Carver R, 1991. Article 19, Censorship report.

What generally constitutes a free press? Ochieng (1992: 55) argues that freedom of a newspaper is not necessarily constituted by the number of shareholders it has. He puts it thus, 'no owner of a commercial venture can be expected to stand aloof to its operations. Every newspaper owner has a broad idea as to the latitude (or lack of it) he wants his publications to enjoy. Ochieng argues that managers and editors who accept positions there are fully aware of this. They know that if they deviate from the general norm set by the owner, then the owner will step in to set the back on the course he has in mind. He engaged deeply in these politics of editorial interference with the two papers *Nation* and *Standard* in question. Out of this, there lies the general feeling that private ownership of newspapers is not without its demands and the least of these would probably be the desire for the newspaper to reflect a disinterested political agenda in its reports. For the 2002 elections, without solid guidelines, it may have proved a task for media to carry out a non-partisan agenda especially with regard to their ownership.

Though they communicate a great deal of information, the private press in Africa seems to serve a certain market, mostly urban. The free press is not very prevalent outside of Nairobi due to restrictions of reach and where accessible, the newspapers face the problem of illiteracy in the villages. Also the norm in rural Kenya pre-2002 was that, the media was largely government controlled and opposition voices were seldom heard. While the press is popular within the urban areas, less than one percent of Kenyans nationwide buy newspapers, according to a survey carried out by the Media Institute in 2002. The disparity between Nairobi's relatively crowded news scene and the absence of independent news sources in the country is representative of the rural-urban gap that leaves many Kenyans without access to news necessary to inform political choice.<sup>39</sup>

Juma (1992: xi) in a foreword to '*I Accuse the press*' puts it thus, 'Ochieng provides enough practical material to support the view that the press is not an independent entity that operates purely on the basis of its inner logic and professional ethics. The issue becomes whether the self-interested and individual judgements that editors rely upon can be utilized to promote the long-term interest of the continent'<sup>40</sup>. In reporting the 2002

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<sup>39</sup> Human Rights Watch report, Kenya, December 2002, Vol 14, No. 10

<sup>40</sup> Dr. Calistous Juma writing in a foreword to the book

elections, this factor should have been topmost in the minds of the journalists. For what angles of reporting they choose to take, what issues they choose to contend with are such as the citizenry will engage in wholly.

As discussed in chapter 2, one of the major roles of the press in democratic times is the watchdog role where they check on governments to safeguard citizen's rights. An *Article 19* report of 1999 noted that at the height of the 1998 political violence in Rift Valley, the media was found to have failed to counter-balance rumours and misinformation which predominated in the Rift Valley. Part of the reason for this was the political bias that pervaded virtually all newspapers and magazines. This bias influenced their reporting of vital issues such as casualty numbers, and slanted their analyses of the causes of the violence. *Article 19* stated that the bias found in the reports especially those which favoured the opposition's interpretation of events, was partly a reflection of the fact that such publications were published directly or indirectly by opposition politicians or by individuals closely connected to them. Publications in this category included the *Star*, *Dispatches* and *Kenya Confidential*. The fact that some of these publications had no advertisements indicated that their owners or controllers were sufficiently motivated to be willing to sustain them through direct financial support. On the other hand, pro-government bias was apparent in newspapers such as *Kenya Times*, *Dunia*, *Standard* and *East African Standard*, all of them directly or indirectly owned or controlled by the government<sup>41</sup>. This violence was seen to have resulted from the 1997 elections where Moi won once again after which KANU supporters were accused of stirring ethnic hatred in the Rift Valley.

Most of the papers *Article 19* mentions were relatively small publications and it is understandable that *Kenya Times* took the editorial stance it did which is attributed to the newspaper ownership. The *Standard* is also incriminated in this report by having its own bias in favour of the Moi government, mainly on account of its ownership links. These

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<sup>41</sup> Article 19, December 1999. *Kenya: Post- election political violence*. Retrieved Nov 7<sup>th</sup>, 2004 from <http://www.article19.org/docimages/465.htm#4>

affiliations were later reflected in the 2002 election coverage of the elections. *Expression Today* in an article in 2002 noted that when these political interests clash with the professional obligations and public expectations, the result is reflected in the peppered media coverage revealed by results of the media being monitored. Add to this are the pressures of being fair and yet there is the obligation from the owners of the newspaper that the news be angled to fit their demands in some way...thereby constituting bias.

Ochieng (1992:15) purports then that press freedom is only marginally dependent on ownership. It is only peripherally important for a newspapers freedom whether it is owned by the state, the ruling party or a private individual. And it matters little whether the private individual is indigenous or foreign. He argues that in certain situations, state ownership has managed to safeguard freedom- not only of the press but the whole of society- from material wants much more genuinely than has private ownership.

*Expression Today* reported in 2002 that the independent/private media are not blameless and according to a FAIR report, no matter how independent they strove to be, there was subtle editorial slanting of the news across all the media in favour of certain political preferences. The article noted that KTN, sister company of the *Standard*, on average allocated the first and second slots of its news items to Uhuru Kenyatta. The *Nation* which has traditionally been sympathetic to the opposition was faulted for failing to publish results of an opinion poll that showed Uhuru Kenyatta to be ahead of the KANU Pack, and according to *Expression Today*, inside sources attributed this move to Chief Executive Wilfred Kiboro. The poll was conducted under the auspices of the media polling group comprising all the major media, including Nation Media Group and was carried by the *People*, *Standard*, KTN and KBC. Accordingly, the opposition continued to receive the bulk of its positive coverage from the *Nation* while the *Standard* was seen to be caught in between outright support for Uhuru and what *Expression Today* termed, lift-and-bang professionalism<sup>42</sup>. While this is not the central focus of my argument in the

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<sup>42</sup> 'Private Media failing fairness test' in *Kenya News*. Retrieved from the internet 7<sup>th</sup> July, 2004 from [www.kenyanews.com/archives/mainsto/medst\\_1.html](http://www.kenyanews.com/archives/mainsto/medst_1.html)

research, it reflects a certain aspect of news production which is the organizational demands which may require the newspaper to be friendly towards their interests. This is in turn reflected in the news reports.

An important point of reference for this paper is George Krinsky's argument that when looking at independent media, it is important to include financial independence as a prerequisite in addition to political independence. He cautions on the dependence of the media on advertisers where journalists are fearful of contamination by advertisers pressures which can lead to building internal walls between news and business functions. Fear of political contamination of the information gathering process can build another wall separating the newsroom from the editorial department - both fears which are important in Western journalism. That the *Nation* and *Standard* were independent of government meant they could be guaranteed to speak up against the injustices of the state and agitate for change in the transition to democracy. But in the 2002 election which saw a win for democracy, it seemed as if it was a transitional point for the media in that the opposition groups they were vouching for became the group they must now turn to be watchdogs of. How they handled this transition is important to this work.

Kadhi and Rutten (2001: 261) additionally found that there were many ethical and professional transgressions committed while journalists covered the 1997 elections. There was considerable evidence that editors and media proprietors determined the important issues that formulated the main agenda of the polls, namely ethnic loyalty. These issues would unfortunately repeat themselves during the coverage of the 2002 elections by shifting issues from the candidates and party policies to sensationalism and private issues.

### **3.3 Media/ State Relations in Kenya**

James Madison's popular quote that 'a popular government without popular information, or a means of acquiring it, is but a prologue to a farce, or a tragedy or perhaps both' is as apt today as it was when he made the statement in 1822<sup>43</sup>. Madison's argument represents

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<sup>43</sup> Madison, 1822 taken from The James Madison Project in [www.jamesmadisonproject.org](http://www.jamesmadisonproject.org)

what many governments subject their citizens to and the Kenya government for a long time continued to dictate and limit access to information. The Constitution guaranteed freedom of the press and freedom of expression and there were no restrictive press laws on the book (Hatchen, 1971:216). But the government continued to impose and curtail freedom of expression in various ways. This however did not deter the press from realizing that a free press has an indispensable role in protecting, preserving and expanding democracy, a premise that political economy of communications takes seriously. Yet the state and the media in Kenya would like to be seen as mutually co-existing groups. With a healthy competitive press, Kenya sends a signal that it is a liberal democracy that tolerates diversity of opinion and is friendly to foreign investment. This arises from the premises that the international community has often pegged press freedom and democracy as one of the conditions for donor funding which the government is heavily reliant on.

The 1990's were harsh years for Kenyan journalists who had to endure police brutality and all sorts of violence which was politically instigated by Moi's regime. Physical and verbal threats were everyday occurrences against journalists especially those viewed to be affiliated with the opposition. Media organizations like *People* were constantly attacked by virtue of their affiliation with Kenneth Matiba, one of the leading opposition figures in the country. Information was not urgently disseminated to the media from the government as they wanted to keep the citizens in the dark. It was only after 2002 that investigative reports were unearthed such as the conditions that detainees underwent at the infamous Nyayo house torture chambers.

Heath, (1997:46) notes that the commercial/private press was seen as less likely to actively oppose the government unless stability and structure was threatened. Such a situation arose in the late 1980's and at the beginning of 1990; the commercial press joined the advocacy groups in publishing editorials and commentaries which drew attention to corruption and the erosion of human rights. Heath argues that once



oppositional parties were legalized in December 1991, the commercial/private press then became an important forum for public debate on the new multi-party order. The overwhelming message was support for transparency in government and business, respect for human rights, rule of law, and an end to violence on the part of the state and angry citizens

Generally speaking, although the media in Kenya was not wholesomely free, it was able to operate under less stringent measures than in many African countries. This can be attributed especially to the return of multi-party politics in the country. A libertarian theory best serves the private media and as Ochs (1986) expounds, this theory argued for limited government and greater individual freedom. Where the press was concerned, libertarians viewed it not as an instrument of government, but rather as a device for presenting evidence and arguments on the basis of which the people could check on government and make up their minds on policy. This is in contrast to governments which viewed the press as a means of promoting a government- and national development (1986:6). The image portrayed by the press as Heath (1997:42) viewed, was that of a privately-owned, competitive press limited only by law, journalists' commitment to social responsibility, and ideological consensus. Today the press is more in danger of gagging itself than any judicial and political instrument in Kenya.

In May 2002, Parliament passed a Media Law that threatened many small presses. Under previous Kenyan law, publishers were required to register with the government, pay a libel insurance bond, and submit copies of every publication to the government registrar. The new law raised the libel insurance bond amount one hundredfold, from U.S.\$128 to U.S.\$12,800, and penalized vendors who sold unregistered publications. While the law's proponents claimed the measure was an attempt to eradicate a proliferating and irresponsible "gutter press," critics saw in it an attempt to muzzle opposition voices in a critical election year. Mutuma Mathiu then a columnist for the *Nation* labelled this as 'prior censorship' and condemned it as a 'vile and evil crime' with the Law Society of Kenya LSK terming it as 'too restrictive'. As of September 2002, the law had not yet been enforced, but it remained a potentially serious weapon.

Even within the context of restrictive media laws, the media in Kenya was working from a fairly liberal environment in 2002 compared to any other election year. The newspapers were thus freer to document the political scenario much more liberally than before. This liberation as noted before could be traced back to the advent of multi-partyism in the 1990's in Kenya. Popular Kenyan cartoonist Gado's statements in Musila (2004:132) affirms that the decade of the 1990's was a slightly complex one in that the advent of multi-party politics ushered in to a certain degree of freedom of expression. At the same time, the running elite was at its most paranoid, faced as it was by the threat of competitive pluralist politics, and as such, there were increased cases of coercion, which in turn rendered a newfound freedom, a 'paper' freedom that did not immediately translate policy into lived reality. The press was thus serving under restricted conditions which may have led to self-censorship on their parts due to the prevailing political circumstances.

However, restrictive political regimes are not the only ones to blame for the existing state of the press in Kenya. 'The management and ownership of the Standard Group, Nation Group, *The People*, *Kenya Times* and KBC is all politically connected or anointed', once claimed *Expression Today*<sup>44</sup>. While it remains that parastatals like KBC will still have government appointed managers, the private owned media will rely on particular managers and editors to push for independence from their owners. Particular regimes may choose to implement media freedoms or decide to impose stringent laws that will continue to impinge on press freedom. Media today has become big business, the onus is on profit making at whatever costs and it is the newsrooms today that are in danger of practicing self-censorship than the government in Kenya today.

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<sup>44</sup> 'Private Media failing fairness test' in *Kenya News*. Retrieved from the net 7<sup>th</sup> July, 2004 from [www.kenyanews.com/archives/mainsto/medst\\_1.html](http://www.kenyanews.com/archives/mainsto/medst_1.html)