
Role Of Media In Curbing Corruption

The media are the lifeline of freedom of expression; freedom of the press is crucial. The pluralism and independence of the media are essential to democratic rule regardless of whether publishing takes place offline or online. The media have long been considered central, shared sources of information, 'watchdogs' and the fora of public debate. Thus, the media constitutes a public sphere based on the nexus between media, democracy, and civic engagement. The study, therefore, examines the strategies used by the state to deal with the mass media through the implementation of media laws. The central argument sought out is that the relationship between the mass media and the state in Kenya is unlikely to improve unless two conditions are met. First, there must be a commitment on the part of the state to democratic governance and a recognition of the legitimate role of the media in the promotion and protection of democracy. Secondly, there must be a vibrant civil society that is capable of obstructing attempts by the state to encroach on the rights and freedoms of the public, including the freedom of the press.

Mill (1859) describes the freedom of expression as being indispensable in the discovery of truth. According to him, the struggle between liberty and authority can be traced throughout the histories, whereby liberty was meant to serve as protection against the tyranny of the political rulers. He further states, ... the peculiar evil of silencing the expression of an opinion is that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit the clearer perception and livelier impression of truth, produced by its collision with error...' Post (2011) in support of Mill, opines that the defines of freedom of expression are crucial in a democracy for its role in facilitating people to participate in the authorship of the law, hence supporting democratic self-governance. Redish and Emerson postulate self-fulfillment of any individual is tied to one's freedom of expression. Furthermore, Schauer defends the freedom of expression for its role in its important role in advancing individual self-attainment.

Baker and Scalon argue that the freedom of expression by the media should be protected because doing so is a recognition of individual autonomy. Therefore, individual autonomy is an important premise of liberal political thought. Baker argues that freedom of speech has to be respected because it is "central to individual liberty": '... freedom of speech is fundamental less because of its instrumental value or the value of reasoned arguments and more because the freedom to engage in self-expressive acts is central to individual liberty.... Part of the reason to protect speech, is a commitment to the view that people should be able to participate in constructing their world"

Bunker (2001) adds to this school of thought in terms of the individual-centered value of freedom of expression. He opines that this right must be protected because it contributes to individual's opportunity to develop their rational faculties. Dworkin (1996) argues that freedom of expression should be protected because of its 'instrumental' and 'constitutive' character. Instrumental value in this instance refers to the role of the freedom of expression in facilitating democracy and democratic processes such as elections. From a 'constitutive' perspective, freedom of expression is important not for its functions but rather for its role as a building block in a democratic society. He further supports the notion has a role in advancing human dignity.

He states that the idea of dignity requires a democratic society to relate with its members with 'equal respect and concern'. This he postulates requires guaranteeing freedom of expression as a means of allowing all members to participate and contribute to public affairs without discrimination.

Moon (2009), in his explanation of the social theory of the freedom of expression, posits that this particular freedom is important because of its role in facilitating social interactions. He argues that the freedom of expression and the right to information protects the right of members of society to communicate with each other. According to him, communication is a deep social engagement through the use of socially constructed language. On the other hand, Blasi (1977) argues that freedom of expression should be protected because of its 'checking value'. He argues that all classical freedom of expression justification has a common underlying premise, which is the prevention of the abuse of power by guaranteeing the right of people to speak out against excesses of those in power.

2.1.2 Lawson Media Regulation.

Several factors tend to hamper the smooth functioning of the Fourth estate. However, legal and regulatory frameworks appear to impact media the most supposedly due to the traditional mandate of the media itself in society vis-à-vis the power of the state to enact those laws. In their paper "Silencing Critics: why and how presidents restrict media freedom in democracies", Kellam and Stein (2014), concluded that media's freedom is more susceptible to encroachments by presidents when other political bodies neither "check nor balances" executive authority nor have in place mechanisms to sanction its actions. They appear to argue that in the absence of strong state institutions to regulate the activities of a president, the media's watchdog role is stretched to the extent that its criticality makes it vulnerable to executive crackdowns.

Writing on the constitutional promise, Ogbondah (2002) observed, "On paper, most African states have moved a long way in a short time [but] the constitutional promise contained in these reforms, however, has not been fulfilled". This, among others, might have informed Bank's (2014), observation when he commented on the structuring of section 16 of the South African constitution, which highlights the freedom of expression. He states, that it is not without significance that section 16 of the South African Constitution, after stating that "everyone has the right to freedom of expression", includes "freedom of the press and other media" under the general rubric of freedom of expression, and places these facets of the right on an equal footing with the "freedom to impart information and ideas, freedom of artistic creativity, academic freedom and freedom of scientific research." Bank appears to bring to light the deliberate intent of some governing authorities to promulgate provisions on media freedoms under general themes in constitutions to create a vacuum, which somehow enables them to pounce on media at the least provocation even if the media is justified.

Acharya and Sigdel (2016) undertook an analysis of press freedom provisions as spelled out in the 2015 Nepali constitution and noted that despite the improvement in fundamental rights generally and of the media specifically, restrictions on these rights are unclear in wording and are subject to several interpretations. They cited censorship in the 2015 document and requested that the court or lawmakers interpret the provisions. Turkey and Germany's constitutional provisions on media freedom are very similar because they both safeguard this

right; however, the introduction of new strict laws by Turkey is making its landscape hostile to journalists and subsequently leading to their arrests. Despite the similarity of the media freedom provisions of the two countries, the law impacts their media environments differently concerning reporting and participating in public sphere discourse. This suggests that beyond codifying media freedoms in constitutions; social, traditions, historical, and political factors as it pertains in different societies inform the extent to which media freedom is exercised or otherwise.

Balule (2008) assessed the growth of democracy in the SADC region by examining the extent to which “insult laws” impact media freedom. The study showed that though the SADC countries are democratic with constitutions that protect media freedoms and of expression generally, archaic laws in the statute books protect public officials from being critical against them. These laws, according to Balule, contravene the very ideals of democracy that they practice especially the insult law.

Dworkin (1996) emphasizes that the constitutive justification of freedom of speech, which does not rely on free speech’s instrumental value, provides the necessary broad protection for all expressions. Besides the speaker’s point of view, Dworkin also lays down a clear argument from the perspective of the listeners: He states, “We retain our dignity, as individuals, only by insisting that no one no official and no majority has the right to withhold an opinion from us on the ground that we are not fit to hear and consider it”.

2.2 Theoretical Framework.

This chapter discusses the theories that are applied in this study of media freedom in Kenya and how various laws limit this freedom. The study will utilize the following theories: normative theories, which involve Authoritarianism, Libertarianism, and Social responsibility. It also includes the later theories that were developed after the four normative theories of media. The theories include Democratic participation theory and Development Theory.

2.2.1 Normative theories

This section of the study will apply normative theories to give a brief understanding of the ideal role of the media in society. These theories are the results of a custom in the making of policy for the media in different societies. According to Oosthuizen (1989), the basis of a particular social structure and more specifically the political structure, every normative theory maps out a particular role of control for the media.

Normative theories are concerned with restrictions on the media in various situations and how this affects the functioning of society. This was the principle of 1950 studies of the different press systems in the world. As such, it will be utilized on the current situation of the media regulations and freedom of expression in Kenya.

Christian, Glasser, and McQuail (2009) argued that normative theories introduce the authoritarian, libertarian, and social responsibility concepts of what the press should be and do. These proponents argued that the press always takes on the form and pattern of the social and political structure within which it operates. It reflects the system of social control whereby the relations of individuals and institutions are adjusted.

Later the Development theory was formulated to accommodate conditions in developing countries. Democratic participant theory was introduced after Development theory to account for a media-government-public relationship, which has in recent years developed in reaction to deficiencies such as corruption and abuse of power in traditional democratic free-market societies.

2.2.1 Authoritarianism Theory.

This theory applies to nations where there is authoritarian control by the government. This theory visualizes a situation where the state has total control over both public and limited private media. It came into being in the authoritarian climate of the late Renaissance, soon after the invention of printing. The press was seen as a powerful tool and those in power utilize their powers to convey only the information they wanted the public to have. In that society, the truth was conceived to be not the product of the great mass of people but of a few wise men that were in a position to guide and direct the masses. The emphasis of this theory is on the control of the press to ensure the promotion of the interest of those who are in power. In the Kenyan context, the post-colonial era witnessed a government that monopolized major sources of media, which at the time encompassed radio and broadcasting.

In the case of the media, the authoritarian ideology encourages a media system that champions the government's hegemonic agenda over the rest of society, while at the same time overlooking the government's shortcomings and excesses. It does or is expected to do this by articulating only those views that are in harmony with the dominant state ideology. The aim of the authoritarian approach to governance as it relates to the mass media is that it should lead to distortion of information and in some cases, the deliberate disinformation of the public. It also aims at keeping the public ignorant. This is done to make the public susceptible to manipulation by the state, and therefore easy to rule. While this does not mean that the media should automatically succumb to the designs of the state, the choices are not always easy, particularly in a one-party state. In some cases, newspapers and magazines during the Kanu's one-party rule were shamelessly banned or proscribed. This is what the government did, for example, to Society magazine. The government confiscated 10,000 copies of the magazine's January 13th, 1992 issue in an early morning raid. Other magazines that suffered a similar fate for refusing to toe the official government line are beyond and the Financial Review.

According to Siebert (1963), Authoritarian theory further means 'an idea that placed all forms of communications under the control of governing elites or authorities'. This also means that broadcasting should always be subordinate to the interest of the state in maintaining social order or achieving political goals. Siebert et al (1963) argue that this theory of the press being a servant of the state was commonly accepted in the 16th and most of the 17th centuries. This concept sets the original pattern for most of the national press systems of the world and continues.

Similar media policies were adopted in Africa during the colonial period (Olalekan, 1991). African-owned newspapers in the colonial period match the colonial government. Those who conducted them reasoned that, in the absence of a democratically elected government, the press was the most effective constitutional weapon for publicizing grievances and influencing the trend of events. The government was required to control the newspapers by initiating prosecutions for seditious libels, and proposing or passing restrictive press laws, most of which

were renovations and adaptations of obsolete eighteenth-century laws in England. In Kenya for instance, many newspapers including the East African Standard and the Daily Nation, which appeared to be pro-establishment during the one-party rule, have since the 1990s become some of the harshest critics of the state. The state on its part has not let these criticisms go unchallenged. In many instances, the state has responded by either closing down some of the printing facilities of the newspapers and magazines. It has in some cases arrested proprietors of the print media that are considered critical of the state and charged them with sedition or other such serious offenses.

Authoritarian doctrine determined the mass communication pattern for more people over a long period than any other theory of press control. It is a theory under which the press as an institution is controlled in its functions and operation by organized society through another institution, the government. These purposes inevitably control its attitude towards both the cultural and political aspects of communication. The unit of communication under such regimes seeks to support and advance the policies of the government in power so that this government can achieve its objectives with the least form of opposition.