GUARDING THE GUARDIANS

Reflections on Media Coverage of Governance
GUARDING THE GUARDIANS
CONTENTS

Acknowledgements .......................................................... 1
Foreword ...................................................................... 2
Executive Summary ..................................................... 3
Key Findings ................................................................. 4

Introduction ................................................................ 6
Objectives of this study .................................................. 6
Research questions ......................................................... 6
Methodology ................................................................. 7

Chapter 1: Governance and the role of the Media ............. 10
Principles of good governance and the role of the media ................................................ 10

Chapter 2: Professional and Ethical challenges .......... 12
Sample statistics ............................................................. 12
Challenges of accessing information when investigating corruption .............................................. 15
Challenges journalists face when reporting on good governance ................................................. 16
Ethical violations when reporting on good governance .............................................................. 17
Impact of recent laws on reporting on governance ................................................................. 18

Chapter 3: The Judiciary: Corruption and infighting ...... 25
Background .................................................................. 25
Findings ..................................................................... 25
Coverage and Prominence allocation of story .............. 26
Rule of Law .................................................................. 28
Accountability and transparency ..................................... 30
Equity and inclusion ........................................................ 32
Participation ................................................................. 33
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Foreword

The Media Council of Kenya is an independent national institution established by the Media Council Act 2013 for purposes of setting of media standards and ensuring compliance with those standards as set out in Article 34(5) of the Constitution. As per the mandatory requirement by the Act, the Council monitors’ newspapers, television stations and radio stations on their adherence to the Code of Conduct for the Practice of Journalism in Kenya.

The role of the media in promoting good governance is paramount in enhancing the functioning of African democracies. All aspects of good governance are facilitated by a strong and independent media scape within a society. Good governance and accountability are ultimately about effective and dynamic communication between policymakers, politicians and their constituent populations.

Against this backdrop, greater effort is required to convince legislative institutions and governments of the value of free and fair media, and of expanded networked journalism in enhancing good governance. The essence of good governance can be described as the enhancement of predictable, open and enlightened policies which are facilitated to a great extent by the media.

The media plays a watchdog role, keeping the public informed particularly about the operations of the state, defending society from corruption, dealing with issues that the public cares about and providing information necessary for democratic decision-making. That journalists face various challenges in reporting issues of good governance is a fact which the Media Council is clearly aware of. However, some of the solutions can only result from an integrated approach by all key stakeholders including the media owners and the government as well.

For the media to effectively promote good governance, it must be free from any kind of influence, particularly political, ownership, commercial and government influence. This puts the Public broadcaster in sharp focus in terms of its role in questioning the government operations. Other privately owned media stations have not equally manifested an absolute commitment to the reporting of good governance and have in some instances prioritised profitability at the expense of professionalism which demands critical interrogation of issues facing the society including bad governance.

Considering the resource base needed to undertake consistent and objective investigative journalism, media houses should invest more in investigative and public affairs journalism in order to remain true to the media watchdog role.

It is however critical to understand that the media has come a long way in enhancing freedom of expression of critical issues like good governance right from independence.

Haron Mwangi
Chief Executive Officer & Secretary to the Council
Executive Summary

This study focused on the ethical and professional challenges that the media face in reporting on governance in Kenya. The study also examined the media’s watchdog role with regards to corruption and how journalists view issues relating to governance. The study also examined the three arms of government with specific focus on good governance in Kenya.

The study also offered journalists and the media an opportunity to (re)examine their roles and performances in the development of good governance as a foundation for democratic consolidation in Kenya.

The study reveals that intimidation from ‘culpable’ agencies/organisations and individuals pose major challenges to journalists seeking to investigate and report on governance issues. In addition, the recent Media Acts, especially the Kenya Information Communication (Amendment) Act 2013, with various clauses, fines and penalties therein, were considered major impediments to investigative reporting.

The study further shows that the media failed in some instances to uphold objectivity and fairness in their work although some journalists were still objective. There was a certain level of bias, even though it is evident that on the whole the media remained balanced particularly when covering controversial stories. Regardless, the media gave little space to ‘ordinary’ citizens. Consequently, the voices of the ordinary often miss from most of governance stories.

What’s more, the media was somehow unable to distinguish the sensational, dramatic and the political angle. Evidently so, the majority of the programmes/content analysed is ‘news programmes’. However, media in Kenya should diversify their reporting format to include more feature stories, live or recorded interviews and professional panel discussions among others even within their news programmes.

Remedially, there should be effort by the media to increase coverage of topics and themes that are important to achieve good governance too. Such topics include; corruption investigation, human rights abuses, political conflicts and affairs, law and justice, land, youth and gender and environment issues.
Key findings

- 46% of the respondents indicated that unwilling news sources posed the greatest challenge when reporting on governance. 31% indicated that intimidation from investigated agencies/organisations was their greatest threat when reporting on corruption and bad governance. Other challenges included inadequate resources, enough time for in-depth investigative journalism, and complexity of cases investigated.

- 68% of the respondents indicated that recent media laws, especially the Kenya Information’s & Communications (Amendment) Act (KICA), 2013, and clauses, fines and penalties therein, prevent journalists from properly and adequately investigating and reporting issues of governance.

- 57% of the respondents noted that the state broadcaster, the Kenya Broadcasting Corporation (KBC) had failed to report objectively on governance issues. Furthermore, it had failed to report on accountability and transparency within government.

- 64% of the respondents felt that the increasing number of radio stations had given a voice to the public to contribute to issues of governance. However, the respondents felt that the space for public discourse on governance issues was not adequate for exhaustive contribution.

- 58% of the respondents indicated that political threats, including intimidation, censorship and attacks on media and journalists, hinder the investigation and reporting of stories on bad governance.

- 58% of the respondents noted that their organisation have been warned or reprimanded for publishing stories containing ‘wrong information’ on corruption and bad governance.

- 24% of the respondents felt that the central and county governments engage the public through the media to facilitate good governance.

- 23% of the respondents indicated that they had used financial incentives to assist them get access to news sources and information on corruption, system inefficiency and ineffectiveness as relates to governance.

- 40% of those sampled revealed that they had used surreptitious news gathering techniques including hidden cameras or microphones to obtain information on bad governance.

- In the Judicial Service Commission (JSC) and Chief Registrar saga, the media were able to protect their sources without compromising on the truth and accuracy of information as required by the Code of Conduct for the Practice of Journalism. Protection of sources is paramount.
• 33% of the story headlines analysed concerning JSC and Chief Registrar saga in *The Standard* were biased. *The Daily Nation* however had 19% of the story headlines biased compared to 81% which were neutral.

• The media always made reference to laws relating state appointments. Articles made reference to article 27(8) of the Constitution of Kenya 2010 on the two-thirds rule and Article 232 on ethnic representation. However not all stories analysed quoted such legal sections and frameworks.

• The media was in some instances sensational and dramatic. Articles analysed were unable to clearly separate legal issues and the politics relating to the good governance issues.

• Majority of news stories analysed had two or more sides (87%) while 13% of the broadcast stories were one-sided. Equity and inclusiveness as a principle of good governance demands that the media be balanced and fair in their reporting of all parties and sides of a story.

• Women were clearly underrepresented as news sources and subjects on the issue of appointments. Almost 70% of the news sources centralised and focused on men while 25% of the stories analysed had news sources as men and women. Only 3% of news sources were women.

• Only 26% of the stories analysed applied professional and objective analysis, and understanding of legal framework applicable to the issues of contention, constitution and other legislation when examining the wrangles between governors and MPs. 5% of the coverage on legislation was biased. It presented one side of the law that either favoured the MPs or the governors. Articles 2(15) of the code of conduct states that journalists should present analytical reporting based on professional perspectives and not personal biases.

• The media offered little or limited space to citizens on issues of good governance. Citizen participation on the coverage of appointments was highest in the print media at 11% and was mainly in the opinion and commentary sections. Only 6% of TV news stories contained ordinary citizen’s voice and this was mainly in talk shows and interviews.
Introduction

Good Governance is critical in the social, economic and political development of any state (World Bank, 1989; UNESCO, 2005). And the media plays a fundamentally important role in good governance in any democratic state. What’s more, good governance demands citizen participation. This is realised when the media offers a platform for the exchange and interrogation of ideas and issues in society.

Good governance is characterised by predictable, open and enlightened policies which are facilitated, to a great extent, by the media. Good governance also ensures that there exists effective mechanisms, processes and institutions through which individual citizens and groups can articulate their interests, exercise their legal rights, meet their obligations and mediate their differences within existing legal frameworks. The media plays a very important role in facilitating this.

Journalism is essentially about account giving. It deals with information collection, verification and dissemination. Traditionally and constitutionally, the media has no defined role in governance. It does not have the power to change any decisions made by various arms of a state, be it the legislature, executive or judiciary. Yet, the media plays a fundamentally important role in the functioning of any society. It plays a watchdog role, keeping the public informed particularly about the operations of the state, defend society from corruption, deal with issues that the public cares about and provide information necessary for democratic decision-making. The media also amplifies the voice of citizens and communicates their opinions to the lawmakers.

However, for the media to contribute effectively to the development and sustenance of good governance they must apply the basic principles of patriotism, accountability, transparency and objectivity in the discharge of their duties and uphold truth and fairness at all times (Dunu 2013).

It is however clear that political independence from the government is a decisive factor in reporting balance or imbalance in governance news coverage. News media outlets thought to be aligned with the government in one way or another are largely positive or neutral about the government actors in their governance news coverage. In contrast, those generally perceived to be independent from the government are more often neutral or critical of the government actors.

An analysis of media coverage and reflection of governance focuses on the formal and informal actors involved in both the formulation and execution of decisions. The focus of analysis was on processes and structures within the three arms of government in Kenyan framework.

Objectives

1. To examine how the media have covered good governance particularly in the three arms of government with special focus on various processes, structures and outcomes;
2. To determine the level of good governance in the media by focusing on adherence to professional and ethical standards and self-regulation in line with the Code of Conduct;
3. To examine ethical and professional challenges the media face when reporting governance in Kenya.
Research Questions

i. What ethical and professional challenges do journalists and media face when reporting issues of governance?

ii. What are possible solutions to any impediments journalists and media face when reporting governance?

iii. Did the media offer and discuss the appropriate legal frameworks applicable to issues of good governance and the rule of law?

iv. Did the media investigate and report unaccountable and irresponsible behaviour?

v. How did the media cover issues of official deceit, malpractices and misappropriations in government?

vi. Are the media fair, impartial and balanced when reporting governance?

vii. Did the media provide channels for feedback?

viii. Did the media promote plurality and diversity of opinion to enhance citizen participation, equity and inclusiveness in issues of governance?

ix. How do non-state actors like civil society organisations contribute to media’s reporting of governance?

Methodology

Three media monitoring studies were conducted over a period of six months. The projects specifically examined the processes, structures and outcomes of decisions and their implementation within various arms of government. The projects focused on:

1. The Judiciary, specifically the tussle between the former Chief Registrar of the Judiciary Gladys Shollei and the Judicial Service Commission.

2. The Executive, specifically presidential appointments.

3. Parliament, specifically the wrangles between governors and Members of Parliament (the Senate and National Assembly).

This study used content analysis and an online survey. The study analysed both print and electronic content relating specifically to good governance. An online questionnaire was to gather data from Internet users.

Purposive sampling was used with respondents being mainly journalists (reporters, anchors, editors and correspondents). Purposive sampling was used given the fact that the research focused on the coverage of the issues discussed above, and that the journalists understood not only the factors informing the coverage but also the context, actors and content of the stories. Moreover, due to time and logistical constraints, purposive sampling was considered the best method to collect views from expert respondents.

The sampling frame was obtained from the list of journalists accredited by the Media Council of Kenya. Based on their accreditations status, the respondents were still active journalists at the time of the study.

The research was informed by the Code of Conduct for the Practice of Journalism in Kenya in the Media Council Act 2013 as well as UNDP’s (2012) principles of good governance.
Governors and national government officials at a past consultative meeting.
Chapter 1

Governance and the role of the media

Good governance is not just about government. It is also about political parties, parliament, the judiciary, the media, and civil society. It is about how citizens, leaders and public institutions relate to each other in order to make change happen.


This report examined the media’s role in good governance at two levels:

a) Good governance in the Media

Media aids good governance by carrying out its work ‘objectively’ and ‘fairly’. Media reports events and happenings with ‘professional objectivity’. It neither hides facts nor presents facts selectively. The media ought to remain impartial and report the news as is. It is therefore important to note that the development of independent, legally protected, professionally managed, and economically viable news media is essential to the attainment and sustenance of accountable, responsible and ethical media.

a) Good governance by the media

This is where the media enhances good governance by ensuring and supporting the rule of law, accountability and transparency, participation, equity and inclusiveness, effectiveness and efficiency, accountability, and strategic vision in the exercise of political, economic, and administrative authority.

Through its agenda-setting and watchdog roles, the media brings to the forefront salient but critical issues that capture the attention of the government and citizens alike. Through the media, interest groups like civil society, religious organisations and other non-state actors find a platform to air their issues and concerns.

Principles of good governance and the role of the media

I. Transparency and accountability

The traditional role of the media as conveyors of truthful and accurate information is the cornerstone of Transparency and accountability. As noted above, a key function of the media is to give the public the information necessary for good decision-making. The media can seek to confirm official accounts, reveal official deceit, and correct errors of omission or even unearth malpractices and misappropriation of funds which are against good governance.

Access to information by the media and subsequently the public is guaranteed by a free and independent media. The media can play a key role in ensuring and enhancing government accountability to the general public by explaining government policies and actions. It can identify and explain government actions, how and why an action has to take place, who is involved and by what standards decisions are made. This then undoubtedly ensures public understanding of government actions and policies while exposing inactions and failures.
II. Participation
Wide and effective public participation and inclusion are vital to good governance. A free, independent and open media facilitates participation by providing a platform and channel for expression of public views. By providing the information, and platform and channel for the expression of different viewpoints, the media fosters democratic dialogues and attendant development. Democratic engagements are characterised by unrestricted expression of public feelings and assent and dissent on disparate issues.

III. Rule of law
In their primary function of information dissemination and education, the media provides the knowledge that citizens need to understand the rule of law as a critical instrument in their protection. Besides informing, educating and explaining to the people the importance of democracy and its core values, the media helps keep state and government officials within expected (constitutional) bounds and the rule of law.

IV. Equity and inclusiveness
The media’s role in this regard is very simple – providing balanced and fair coverage to all issues in a manner that diverse voices and opinions will be represented. Equity and inclusiveness ensures that people, irrespective of their gender, ethnicity, station in society and other factors, are well covered in the media and without discrimination. Article 16 of the Code of Conduct talks about gender non-discrimination with regards to news sources and news subjects and supports the principles of equity and inclusiveness in good governance.

V. Effectiveness and efficiency
The media has the ability to investigate and unearth malpractices in society shine the spotlight on institutions that are inefficient and unproductive. This can include an audit of the processes and structures meant to promote efficient provision of public service and inefficient.
Chapter Two

Professional and ethical challenges

Introduction

Media and journalism face numerous challenges in their everyday practices. Among the serious challenges facing journalism today is how to be ethical and professional especially when reporting controversial and emotive issues.

This research put the ethical and professional challenges into perspective, and sought the views of practitioners to further understand how such concerns impact their work. This chapter offers the insights into feedback received during the study as well as statistical breakdown of the responses.

Sample statistics

<table>
<thead>
<tr>
<th>Respondents:</th>
<th>Journalists from different TV stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sample size:</td>
<td>79</td>
</tr>
<tr>
<td>Response:</td>
<td>84%</td>
</tr>
<tr>
<td>Age:</td>
<td>74% below 36</td>
</tr>
<tr>
<td>Gender:</td>
<td>64% Male, 31% female, 5% no-response</td>
</tr>
<tr>
<td>Education:</td>
<td>54% Degree, 9% Masters, 31% Diploma, 6% no-response</td>
</tr>
<tr>
<td>Media platform:</td>
<td>48% print, 43% radio, 6% TV, 3% no-response</td>
</tr>
</tbody>
</table>

Role in the newsroom
- Reporters - 52%
- Anchors - 19%
- Correspondents - 16%
- Sub-editors - 9%
- No-response - 4%

Type of stories done by respondents
- News stories - 49%
- Features - 21%
- Documentaries - 7%
- Business stories - 13%
- Sports - 3%
- Editorials - 2%
- Commentaries - 2%
- No-response - 3%

Stories on principles of good governance
As shown in the figure above, 46% of the respondents indicated that they had done stories that reported on transparency and accountability. This makes it the most reported principle of good governance by the media. 21% indicated that they had examined the issue of the adherence to the rule of law in their stories.

There are various ways in which the media can help combat and prevent corruption. A news story can have a direct and “tangible” effect, such as resulting in the launch of an investigation, impeachment, and forced resignation of corrupt political leaders as it helps in enforcing Transparency and accountability by various institutions (Nogara 2009).

### The pursuit of profit and its impact on reporting on governance

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
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</thead>
<tbody>
<tr>
<td>Has the media adequately embraced its role in enhancing good governance in Kenya?</td>
<td>Yes - 52%</td>
</tr>
<tr>
<td></td>
<td>No - 41%</td>
</tr>
<tr>
<td></td>
<td>No response - 7%</td>
</tr>
<tr>
<td>Has the pursuit for profit hindered the media from proper reporting of issues on good governance?</td>
<td>Yes - 60%</td>
</tr>
<tr>
<td></td>
<td>No - 29%</td>
</tr>
<tr>
<td></td>
<td>No response - 11%</td>
</tr>
</tbody>
</table>

As the table above shows, 60% of respondents believe focus on entrepreneurial profitability affects the quality of reporting on issues of good governance. This may be due to the fact that investigating good governance stories requires significant resources, including time and money which some media enterprises are not willing to commit.

The Governance Social Development Resource Centre (2010) report points out that private media can also be influenced by business interests or even government, especially through government advertising or tax cuts. These are profit-oriented strategies which can affect media reporting on governance issues.

The concentration of private media in the hand of a few private owners and the pursuit for profit can also restrain the media from reporting on governance issues, as experienced in many Latin American and Caribbean countries (Transparency International 2003).

### Media freedom and independence in relation to coverage and promotion of good governance

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has media has given adequate space for public discourses on issues of good governance?</td>
<td>Yes - 41%</td>
</tr>
<tr>
<td></td>
<td>No - 56%</td>
</tr>
<tr>
<td></td>
<td>No response - 3% gave</td>
</tr>
<tr>
<td>Is the media in Kenya adequately free and independent to discuss and report issues that promote good governance?</td>
<td>Yes - 54%</td>
</tr>
<tr>
<td></td>
<td>No - 42%</td>
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<td></td>
<td>No response - 4%</td>
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</table>
As seen above, 42% of the respondents felt that the media in Kenya was not adequately free to investigate, discuss and report on issues of bad governance. However, 54% indicated that the media was free and independent in that respect.

Freedom of expression is one of the most important preconditions for free, unbiased and independent media coverage, from which the freedoms of press and media derive. This right has been defined in article 19 of the Universal Declaration of Human Rights (UDHR) and in Article 19 of the UN Covenant on Civil and Political rights, the two pillars of the freedom of expression.

**Level of support received by journalists when investigating corruption**

As the chart above shows, 35% of the respondents indicated that level of support that they received from their media houses was good. 3% felt that they received very low (poor ratings) support.

Whether private or state owned, there is a need for media freedom organisations or professional organisations for journalists to lobby media owners to recognise the principles and importance of editorial independence. When the media owners are able to recognise the editorial independence of their reporters, and then are they able to offer sufficient support in their pursuance of proper reporting on good governance.

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**KBC’s coverage of accountability and transparency in government**

<table>
<thead>
<tr>
<th>Question</th>
<th>Response Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has KBC improved its questioning and quest for accountability and transparency in government?</td>
<td>Yes - 38%</td>
</tr>
<tr>
<td></td>
<td>No - 57%</td>
</tr>
<tr>
<td></td>
<td>No response - 5%</td>
</tr>
<tr>
<td>Has the proliferation/increase of radio stations enhanced the voice of the public in interrogating issues of good governance</td>
<td>Yes - 64%</td>
</tr>
<tr>
<td></td>
<td>No - 29%</td>
</tr>
<tr>
<td></td>
<td>No response - 7%</td>
</tr>
</tbody>
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*All aspects of Good Governance are facilitated by the existence of a strong, pluralistic and independent media within the society*  
As indicated above, most of the respondents (57%) doubt KBC has improved its coverage of issues of good governance, seeking accountability and transparency even in government. However, 64% felt the increasing number of radio stations had enhanced the voice of the public in interrogating issues of governance.

State-owned media often have the broadest outreach in developing countries. However, their reporting is often biased in favour of government. A World Bank report on media ownership structures in 97 countries indicates that state-owned media tend to be less effective than private media in monitoring governments (Transparency International, 2003).

In addition, media ownership, and the companies and powers behind it are often not transparent and can affect the operations and integrity of the media. This is particularly worse in countries where media control and political power are concentrated in the hands of an individual.

Journalists face numerous obstacles in their pursuit for information, including harassment by security agencies.
Challenges of accessing information when investigating corruption

As the graph above indicates, many journalists (31%) would do a story with the information available. 36% indicated that they would use alternative sources for the same story. The respondents indicated that they seek information from different sources that may hold the same information they need. Some said it was better to use the information they had as seeking further information was impossible. Others said it was better to use anonymous sources when impossible to get official information.

Challenges journalists face when reporting on good governance

Unwilling news sources and intimidation are greatest challenges faced by journalists when reporting on good governance. From the graph above, the biggest impendent to reporting on governance is unwillingness of news sources to provide information and this was 46% of the respondents. 31% indicated that intimidation from investigated agencies/organisations was their greatest chal-
lenge. Other challenges included inadequate resources and time for in-depth investigative journalism and the complexity of cases investigated.

Some of the respondents reported that they had had their lives threatened because of investigating corruption.

A cynical, mercenary, demagogic press will produce in time a people as base as itself. The power to mould the future of the Republic will be in the hands of the journalists of future generations

– Joseph Pulitzer, 1904.

### Effects of reporting corruption and governance

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
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</thead>
<tbody>
<tr>
<td>Have respondents and their media house ever been warned or reprimanded for publishing a story that had revealing information with regards to corruption or any other issue on bad governance reported individuals or organisations?</td>
<td>Yes - 58% No - 37% No response - 5%</td>
</tr>
<tr>
<td>Have political disincentives, including intimidation, censorship and attacks on media and journalists, hindered the pursuit of stories on bad governance?</td>
<td>Yes - 58% No - 29% No response - 13%</td>
</tr>
</tbody>
</table>

As the figures above show, many journalists (58% of the respondents) fear political disincentives, including intimidation, censorship and attacks on media and journalists, may have hindered their pursuit of stories on bad governance.

58% of the respondents stated that their media houses had at one time or another been warned or reprimanded for publishing corruption stories or any other issue on bad governance touching on particular individuals or organisations.

### Ethical violations when reporting on good governance

<table>
<thead>
<tr>
<th>Ethical violations when reporting on governance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Recording interviews &amp; telephone conversations</td>
</tr>
<tr>
<td>Paying for news &amp; articles</td>
</tr>
<tr>
<td>Confidentiality of sources</td>
</tr>
<tr>
<td>Unnamed sources</td>
</tr>
<tr>
<td>Integrity</td>
</tr>
<tr>
<td>Accuracy &amp; fairness</td>
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</table>
Many respondents (32%) revealed that accuracy and fairness were some of the most violated ethical principles while 18% indicated that integrity had suffered as a consequence of their reporting on governance issues. 15% used unnamed sources. Other ethical violations include inability to maintain confidentiality of sources and paying for news and articles.

Some respondents, however, indicated that their violations of the principles were justified by their commitment to public interest and the public’s right to know. Moreover, they publish the stories after consultations with their editors and legal teams. They also felt they had exercised due diligence, and adhered to the code of conduct before publishing stories on governance.

### Impact of recent laws on reporting on governance

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have the recent media legislations, especially the Kenya Information and Communications (Amendment) Act 2013 with the clauses, fines and penalties therein hindered impacted investigative reporting</td>
<td>Yes - 68%</td>
</tr>
<tr>
<td></td>
<td>No - 26%</td>
</tr>
<tr>
<td></td>
<td>No response - 6%</td>
</tr>
<tr>
<td>Does the government (including county governments) engage the public through the media to facilitate good governance</td>
<td>Yes - 24%</td>
</tr>
<tr>
<td></td>
<td>No - 59%</td>
</tr>
<tr>
<td></td>
<td>No response - 17%</td>
</tr>
</tbody>
</table>

It is clear that the recently enacted legislations, specially the Kenya Information and Communications (Amendment) Act 2013, have had a significant impact on investigative reporting. 68% of the respondents said the clauses, fines and penalties therein will negatively affect investigative reporting.

24% of the respondents felt that the government (including county governments) engages the public through the media to facilitate good governance.

Transparency International’s 2013 Global corruption report indicates that a country’s legal framework has a direct impact on the space available to journalists to do their work with integrity, and their capacity to resist undue influence and report impartially. This is particularly true for developing countries where democratic structures are not well established. In such settings, the media can be prevented from playing its watchdog role by specific restrictions imposed on their operations.

**Media owners’ influence on reporting on issues of corruption and bad governance**

Most of those surveyed, 65% as indicated above, said media owners influence editorial decisions, story angles, and prominence of stories on governance. Respondents revealed that sometimes editorial managers acting on behalf of media owners re-wrote edited and cleared stories before publication.
According to Callamard (2010), media ownership structures often have the potential to resist undue influence on reporting by either governments or private interests.

Djankov (2001) argues that in order to promote the values of public-interest journalism and enhance the quality and integrity of journalistic reporting, special attention should be directed at raising professional standards, and principles of transparency both of ownership and political affiliation. In terms of media ownership, there is a need for governments “to enforce strict transparency rules concerning the management, funding and ownership of media”.

The media must fight the 3Cs: corruption, collusion and cronyism. They must promote human rights; uphold the rule of law and keep the citizens constantly informed – SCG, 2006

Impact of extreme commercialisation on the interrogation of issues of governance

As the chart above shows, most of those surveyed or 83% of the respondents, agreed, 55% of them strongly, that media commercialisation has affected the quality of reporting in relations to good governance. A small number, 14% thought commercialism did not impact the quality of reporting on governance.

According to Norris and Odugbemi (2010), the media is unable to fulfil its watchdog role by obstacles such as restrictions on press freedom, too much focus on commercialisation, market failures, lack of professional standards, weak civil society, and limitations in media literacy and public access to the media.

<table>
<thead>
<tr>
<th>Biased and ethnic reporting of governance issues</th>
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<tr>
<td><strong>Question</strong></td>
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<tr>
<td>Is the media partisan and biased when reporting corruption and application of the rule of law on various issues of governance?</td>
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<tr>
<td>Has the public used citizen journalism as a way of fighting corruption and promoting good and accountable governance?</td>
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It is evident that 59% of respondents surveyed believe the media practices partisan, biased or ethnic reporting of stories related to corruption scandals, application of rule of law and on various issues of governance. Those interviewed indicate that some political and ethnic factors often inform the coverage of corruption issues.

In developing countries with deeply entrenched patronage systems, the media may also be affected by clientelism, making it difficult to break free from its
political or business constraints (Governance Social Development Resource Centre (GRDC) 2010)

**Poor pay and brown envelop syndrome’s effect on coverage of governance**

Most respondents, or 68%, agreed that poor pay has promoted the brown envelop syndrome which has become a major hindrance to good reporting on issues of accountability and transparency. In fact, those interviewed say corruption is rife in the media and that money often influences the publication or ‘killing’ of stories. Some journalists are also often bribed to change stories, publish false information.

According to Minnie (2007), professional standards of journalism in many developing countries are generally considered as low due to inadequate standards of training, lack of quality control within the media, and high turnover of staff. This is particularly the case in Africa and is likely to make the media more vulnerable to corrupt practices.

Poor pay, working conditions and under-resourcing of media are also likely to breed corruption. In contexts where journalists receive low wages and fear losing their jobs, good reporting and compliance with ethical values are supplanted by the desire to make money.

In such contexts, journalists are likely to accept gifts, entertainment or bribes to complement their salaries in exchange for favourable reporting. Prospects for more lucrative careers can also introduce a bias when reporting on potential employers.

**Effect of investigative journalism on good governance**

As the chart above shows, 45% of the respondents felt that the media was effective or very effective in enhancing good governance through investigative stories. 23% felt that the media was very ineffective or ineffective in its reporting of governance. The measure of effectiveness was based on whether the media was able to achieve corrective or retributive actions after reporting on bad governance.

According to Callarmand (2010), one of the pre-requisites for fighting corruption and bad governance through the media is that the problem must be publicly acknowledged and denounced by the media community through regular reports and stories. Investigative journalism, as a powerful tool to fight corruption and uncover corruption in the media, can help in this regard.
Impact (corrective measures and action) of media reporting on bad governance

A majority of the respondents (41%) felt that sometimes media reports on bad governance played a role in the corrective measures and action while 28% thought that this occasionally happened. 14% felt that the media hardly has any effect on bad governance.

While watchdog reporting may push the wheels of change and reform, however, the media have little control of the direction these take and the obstacles they face. The impact of watchdog journalism is often diminished by the inertia of governments, the unwillingness of elites to take action, the weight of bureaucratic cultures that are resistant to change, a law enforcement system that is incapable of punishing wrongdoing, and an apathetic and cynical public (Coronel 1999: 18).

Respect the function of the news media as an essential factor in good governance, vital to increasing both Transparency and accountability in decision-making processes and to communicating the principles of good governance to the citizenry

– The Dakar Declaration on “Media and Good Governance”

Gagging the media

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<th>Questions</th>
<th>Response</th>
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<td>Are there efforts to gag the media through legislative fines and penalties and are these informed by the media’s watchdog role with regards to good governance?</td>
<td>Yes - 89%</td>
</tr>
<tr>
<td></td>
<td>No - 7%</td>
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<tr>
<td></td>
<td>No response - 4%</td>
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<tr>
<td>Do you think that patriotism is an important ingredient when reporting on issues of good governance?</td>
<td>Yes - 75%</td>
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<td></td>
<td>No - 19%</td>
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<td>No response - 6%</td>
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A large majority of those interviewed, or 89%, believe that there are efforts to gag the media through legislative fines and penalties due to its watchdog role. 75% of the respondents also agreed that patriotism was key to reporting on issues of good governance.

There is broad consensus that a free press helps curb corruption by improving “citizens’ accessibility to information which in turn makes it more difficult for politicians and public servants to get away with corrupt behaviours. In particular, the media plays a key role in exposing corruption and raising general awareness of its detrimental effect upon society, as well as in promoting integrity and accountability norms, values and practices in society. Research has also shown that accountability and transparency tend to improve as the access to information increases” (Fardigh, et al.90-91, 2011).
Almost a third of those surveyed, or 29%, blamed a culture of deeply entrenched corruption as one of the major stumbling blocks on the war against corruption. 17% felt that an apathetic and cynical public, reluctant or seemingly resigned to the rampant graft, as another stumbling block. 15% blamed the weight of bureaucratic cultures that are resistance to change as one of the impediments against the fight on corruption.

One of the pre-requisites for media engagement and success in fighting corruption is that the problem is publicly acknowledged and denounced by the media community through regular and consistent reports and stories. Investigative journalism can help in this regards as a powerful tool to fight corruption and uncover corruption in the media. The use of free media space and operating within the legislative framework will enhance media achievements in being part of the solutions to corruption in society and governance systems.

### Effects of inaction on journalists’ morale

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<tr>
<th>Questions</th>
<th>Response</th>
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<tr>
<td>Do you sometimes feel disappointed that some of the corruption cases unearthed by the media have not been acted upon after so much effort and does this discourage you from pursuing similar stories?</td>
<td>Yes - 69%</td>
</tr>
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<td></td>
<td>No - 27%</td>
</tr>
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<td>No response - 4%</td>
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<tr>
<td>Do the media provide contextualised reporting by handling systemic, historical or structural questions to do with corruption cases in Kenya?</td>
<td>Yes - 60%</td>
</tr>
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<td>No - 37%</td>
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<td>No response - 3%</td>
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Many of those interviewed (69%) expressed their disappointment with little or no action taken on corruption cases unearthed by the media despite the investment of huge monetary and time resources and effort. This, they indicat-
ed, had discouraged them from pursuing similar stories in future.

In his study of investigative reporting in Latin America, Waisbord (2004) has indicated that factors unrelated to the quality of journalistic work affect the impact of an exposé. These include the timing of the report’s release, the prestige of the news organization, and the production values of the investigation. Scandals involving well-known figures and sensational details get more public attention as do investigations that appeal to the public’s voyeuristic appetites.

Structures and systems are hard to explain. Journalists throughout the world are accustomed to dealing with the current and the empirical; they are generally handicapped in handling systemic, historical or structural questions. Even if they had this skill, however, such content would find scant space in the commercially oriented media. Stories that have a human and dramatic element sell better. It is also easier to correct wrongdoing committed by an individual rather than one that involves systemic or structural change (Waisbord, 2004).

*Journalists should understand the nature and dynamics of good governance if they are to effectively play their role in national development. Good governance requires standards and principles that guide public policy, decision making and government action*

– Madi Jobarte

**Scandalmongering and Kenyan media**

Has the Kenyan media become more of a scandalmonger whose role is to titillate and amuse citizens, rather than inform and mobilise them for reform with regards to good governance?

Most of those surveyed, or 53%, agreed with the statement. 41% disagreed.

Kaplan (2002) argues that competitive media, coupled with democratic institutions and structures to scrutinize wrongdoing, create a hothouse environment for scandal politics. This type of politics becomes a permanent feature of democracies and does not necessarily result in either cleaner governments or more responsible media. Instead, scandals lead to cynicism rather than a renewed commitment to democratic values and institutions.

Kaplan further argues that in many developing countries, accusations of corruption and even bad governance played out in the media are mere parts of political contestations. The charges of malfeasance sometimes made by organisations friendly with accusers have become regular media fare.
Using financial incentives to access information from news sources

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<th>Questions</th>
<th>Response</th>
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<tr>
<td>Have you ever used financial incentives to get access to news sources and information in pursuit of stories of corruption, system inefficiency and ineffectiveness as relates to good governance?</td>
<td>Yes - 23%</td>
</tr>
<tr>
<td></td>
<td>No - 47%</td>
</tr>
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<td></td>
<td>No response - 30%</td>
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<tr>
<td>Have you ever used surreptitious news gathering techniques including hidden cameras or microphones to obtain information in pursuit of stories related to bad governance?</td>
<td>Yes - 40%</td>
</tr>
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<td></td>
<td>No - 47%</td>
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<td>No response - 13%</td>
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As the table shows, 23% of the respondents indicated that they had used financial incentives to get access to news sources and information in their pursuit of stories on corruption, system inefficiency and ineffectiveness. 40% of those sampled, admitted using surreptitious news gathering techniques including hidden cameras or microphones to obtain information on bad governance. Published stories may sometimes contain information obtained through bribery. The stories may also contain false or skewed information meant to favour particular individuals or organisations. Such practices undoubtedly undermine the integrity and impartiality of media reporting, resulting in widespread practice of fictional news, biased news or news for sale (Spence 2008).

Training and capacity to report governance

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<th>Questions</th>
<th>Response Indicated</th>
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<tr>
<td>Is journalism education and skills received at an institution of learning prepared you enough to play the watchdog role with regards to good governance?</td>
<td>Yes - 67%</td>
</tr>
<tr>
<td></td>
<td>No - 27%</td>
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<tr>
<td></td>
<td>No response - 6%</td>
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<tr>
<td>Do editorial policies at your work place facilitate your reporting and exposure of bad governance?</td>
<td>Yes - 64%</td>
</tr>
<tr>
<td></td>
<td>No - 27% indicated NO.</td>
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<tr>
<td></td>
<td>No response - 9%</td>
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Most of those surveyed, or 67%, indicated that the knowledge and skills they received during their journalism training adequately prepared them to effectively play the watchdog role. 27% felt that editorial policies in their media houses encouraged them to report and expose bad governance.

Some of major challenges to the way the media promotes good governance include lack of or inadequate training, poor technical skills among journalists, low professional standards, limited financial resources, inadequate legal frameworks and an undemocratic political system. In addition, corruption in the media may further undermine the role that the media can play in fighting corruption and promoting good governance and accountability (Spence 2008).
Chapter 3

The Judiciary: Corruption and infighting

Our Republic and its press will rise or fall together. An able, disinterested, public-spirited press, with trained intelligence to know the right and courage to do it, can preserve that public virtue without which popular government is a sham and a mockery. A cynical, mercenary, demagogic press will produce in time a people as base as itself. The power to mould the future of the Republic will be in the hands of the journalists of future generations—Joseph Pulitzer

Background

In August 2013, the JSC, in a meeting in Mombasa, resolved to commence investigations into complaints and allegations touching on financial mismanagement and poor governance in the Judiciary. The Chief Registrar of the Judiciary constitutionally serves as the chief accounting officer of the Judiciary. Subsequently, Mrs Gladys Boss Shollei was sent on compulsory leave to facilitate investigations into the allegations of financial impropriety and other accusations.

However, Mrs Shollei filed a petition in the High Court seeking to restrain the JSC from taking any disciplinary action against her. Regardless, in September 2013, the JSC served her with 87 allegations touching on financial and human resource mismanagement, irregularities and illegalities in procurement, and misbehaviour.

The controversy between the JSC and the Registrar was prominently featured in the media and raised concerns about good governance in the Judiciary. Some of the governance issues raised included allegations of misappropriation of funds at the Judiciary by both JSC and the Chief Registrar, lack of participation in important decision-making exercises and violation of the Constitution of Kenya 2010 among other issues.

Findings

A total of 89 articles in two leading newspapers – The Standard and Daily Nation – for October and November 2013 were sampled and analysed.
A high percentage of stories analysed in both newspapers were in the format of news stories – 81% in The Standard and 73% in the Daily Nation. The Standard had more editorials (13%) on the tussle between the Chief Registrar and the JSC compared to the Daily Nation’s 7%.

**Coverage and Prominence allocation of story**

The Standard covered the issue more, with 59% of the total articles analysed compared to the Daily Nation’s 41%. The coverage was however characterised by sensationalist and dramatic exchanges between the JSC on one side and the Chief Registrar and the legal parliamentary committee and some politicians on the other.

Bias in the headlines on the Shollei-JSC issue

Bias here refers to imbalances or unfair presentation of facts. 33% of the story headlines analysed in The Standard were biased while 67% of the headlines analysed were neutral. The Daily Nation on the other had 19% of the story headlines biased compared to 81% that were neutral.
Number of viewpoints and sources

33% of stories published in the *Daily Nation* had one source compared to 38% of the stories in *The Standard* as the table below shows. *The Standard*, with 25%, had the highest number of stories with three or more viewpoints compared to the *Daily Nation’s* 20%.

Number of Sources

33% of the articles in *The Standard* and 38% in the *Daily Nation* used at least two sources in their stories. 39% of the stories in *The Standard* had at least three sources compared to the *Daily Nation’s* 25%.

One of the objects of a newspaper is to understand the popular feeling and give expression to it, another is to arouse among the people certain desirable sentiments; the third is fearlessly to expose popular defects – Mahatma Gandhi.
Article 8 of the Code of Conduct states that journalists have a professional obligation to protect confidential sources of information. However, Article 4(2a) calls for the identification of sources whenever possible. The same article calls for the use of confidential sources only when it is clearly in public interest to gather or convey important information or when a person providing information might be harmed.

The above arguments are reinforced by excerpts in newspapers covering the tussle between the JSC and Mrs Shollei. Some of these state:

"The tendering was extremely suspect, and the prefabs on the ground do not reflect that amount," said a source in the Judiciary who could not be named for fear of reprisals.

'Sources within Judiciary told the Sunday Nation that the senior politician and a judge of the Supreme Court had on Monday strongly lobbied some members of the JSC against sending Mrs Shollei home.'

The press, or at least most of it, has lost the passion, the outrage, and the sense of mission that once drove reporters to defy authority and tell the truth

– Chris Hedges

Rule of Law

The media have the responsibility of promoting the rule of law. In effect, the media should have been keen to ensure the challenges and disputes within the judiciary were resolved according to existing laws. Some of the critical questions informing this analysis include:

- Did the media in its coverage give guidelines on the legal frameworks for handling the issue between the JSC and the Chief Registrar?
- Did the media undertake proper vigilance on the legal and administrative processes in trying to resolve the issue at the Judiciary?
- Did the media in their articles provide information on issues related to the separation of powers considering the involvement of the National Assembly through the Parliamentary Committee on legal Affairs?
• Did the media in their quest for answers observe individual constitutional rights and freedoms and rules on natural justice?

• Did the media separate the political influence and involvement from legal facts by pointing out and creating a distinction between processes and policies related to resolving the issue at the Judiciary?

From the analysis, the following issues were identified:

i. The media in the coverage of the Shollei-JSC controversy based its reporting on the legal framework that touched on the issues at the judiciary. Such efforts included seeking news sources that understood or referred to the legal processes surrounding the tussle between the JSC and the Chief Registrar. One Standard newspaper article reported that:

... Articles 94 and 95 of the Constitution gives the National Assembly, through itself or through its committee, powers to deliberate on matters of concern to the public and to oversee State officers and organs such as the JSC. [Turkana Central MP Ludepe] Nakaara also demanded to know the frequency of their meetings. “Importantly, I want the chairman to tell this House whether the JSC, having been adversely mentioned at the commencement of the investigation by the committee can fairly and impartially sit in judgment on matters concerning the conduct of the Chief Registrar,” said the MP. Njagih, Moses (2013) ‘Is Judicial Service Commission qualified to hear Gladys Shollei probe?’

The Standard, 8 October.

ii. The media provided objective guidelines on the rule of law especially by making reference to relevant legal frameworks touching on the JSC and the Chief Registrar tussle. However, from the analysis of the articles in both newspapers, it was evident that the quoting and interpretation of the law varied extensively depending on the angle of the story, choice of news sources and editorial position.

Some of the issues relating to the rule of law included the procedures of removing the chief registrar, the jurisdiction of the Parliamentary Committee on legal Affairs in the JSC-Shollei conflict and the separation of powers principle among others. This is illustrated by a Nation excerpt below:

The committee has powers to remove members of the JSC. If we find they did not follow the right procedure, we will write to the National Assembly to pass a motion and instruct the President to form a tribunal,” he said. “Judiciary reforms are not a monopoly of a few persons and we need to guard them jealously. We will let them know that non-attendance would have legal implications,” he warned, probably anticipating that the Judiciary might resist interference from the Legislature. Nation Team (2013) ‘House Team summons JSC over Gladys Shollei’.

Daily Nation, 20 August

iii. The media in its reporting sometimes created a sense of existence of a constitutional crisis owing to the conflict between the National assembly and the Judiciary. For instance, when the legal parliamentrary committee summoned the chief justice to appear before it, even before the response of the summoned party, some stories were alluding to the existence of a constitutional crisis.
“The office of the Chief Registrar of the Judiciary is the Accounting Officer of the Judiciary, and under the Constitution and the Public Finance Management Act, she is only answerable to Parliament, Auditor General, Public Procurement Oversight Authority, and Ethics and Anti-Corruption Commission,” said [Mrs Shollei’s lawyer Donald] Kipkorir. Mrs Shollei argued the power of JSC in disciplining her is only residual and on referral from the statutory bodies. Chepkemei, Pamela (2013) ‘Chief Registrar of Judiciary Gladys Shollei fights back misconduct claims as JSC hearings kick off’. The Standard, 17 October.

iv. Some articles were unable to distinguish the dramatic and political angle that the JSC-Shollei clash had taken. The articles analyzed were unable to clearly separate issues touching on legal issues and those that were generated by the political discussions that had surrounded the controversy.

The weeklong controversy around Chief Registrar Gladys Boss Shollei is expected to intensify with fresh allegations being made about her integrity. There is also a new accusation that Mrs Shollei attempted to interfere with a fraud case involving a senior politician from the Rift Valley. These and other claims over procurement and employment are likely to intensify the internal battles that made the Judiciary the focus of Kenyans’ attention this past week. Gekara, Emeka-Mayaka (2013) ‘Why JSC is fighting to kick Shollei out of office’. The Daily Nation, 24 August.

Accountability and transparency
The tussle between JSC and Chief Registrar was largely based on financial mismanagement and governance issues in the Judiciary. These are key issues in good governance. Some of the questions informing the study include:

- Did the media in its reporting investigate the allegations raised by both parties (JSC and the Chief Registrar) to ascertain the true position in terms of management of resources in the Judiciary?
- Did the media allow both parties to explain their position in regards to the allegations levelled against them on misappropriation of judiciary funds?
- Did the media demand, scrutinise or quote any documentary evidence on allegations of misappropriation as alleged by both parties?
- Did the media cover the issues related to accountability and transparency as per the policies and administrative procedures and government guidelines, such as tendering processes, which enhance good governance?

The media attempted to investigate the issues that had been raised by the JSC especially the alleged misappropriation of funds in the Judiciary. From the analysis, it was evident that issues relating to accountability and transparency were adequately covered. Such issues included procurement processes.

... Documents seen by the Sunday Nation show that the commission will investigate claims that Mrs Shollei claimed Sh54,000 in daily sitting allowance amounting to Sh2.5 million for participating in interviews of High Court judges for which she is said not to have been present. Why JSC is fighting to kick Shollei out of office. Gekara, Emeka-Mayaka
_The Daily Nation_, 24 August.

i. The media accorded an opportunity to both parties in the tussle to respond to the issues. Nonetheless, the opportunities accorded were not balanced in terms of space allocation and prominence.

Article 2 of the Code of Conduct for the Practice of Journalism demands that all sides of the story be reported wherever possible.

Most of the articles analysed, 88%, had both sides of the story while the rest, 12%, presented only one side. This indicates that the media tried to at least present both sides of the story as per the Code of Conduct. This also shows that people were given considering that the people should get as much information from the parties in order to make objective decisions with regards to the issue. Consider the statement below:

_She [Mrs Shollei] said she is “entitled to impartial hearing, right to administrative action, right to legitimate expectation in a judicial process, right to public hearing and that the process must meet the minimum threshold for administrative action.”_ Chepke-mei, Pamela (2013) ‘Chief Registrar of Judiciary Gladys Shollei fights back misconduct claims as JSC hearings kick off’. _The Standard, 17 October._

_The biases the media has are much bigger than conservative or liberal. They’re about getting ratings, about making money, about doing stories that are easy to cover_  
— Al Franken

**Equity and inclusion**
Gladys Shollei was mentioned in 36% of the articles analysed while the JSC was mentioned in 34% of the stories sampled. Considering that both parties were central to the issue, it is evident that there was fair or balanced coverage of the protagonists. Some of the individuals covered in the media included politicians who took sides on the issue. The excerpt from the Standard below shows the mention of the protagonists in the same story.

However [Mrs] Shollei has maintained her innocence and says the allegations were part of a wider scheme orchestrated by Chief Justice Willy Mutunga and other employees in his office to kick her out of the Judiciary. Shollei has accused Justice Mutunga of coming up with a “war council” made of senior staff in his office and of which he was the head with the express aim of kicking her out of the Judiciary. Standard Reporter (2013) ‘Shollei set to appeal ruling against her return to work’.

The Standard, November 24.

Both men and women were central in 55% of the articles analysed. In 39% of the articles analysed, women were central while men were central in only 6% of the articles. This difference could be explained partly by the fact that the Chief Registrar was female. Gender inclusion is central to equity and inclusion and giving opportunities to both men and women demonstrates that the media is interested in promoting these tenets.

Participation
The study found that the media were able to provide avenues for feedback (albeit minimal), particularly via opinion and commentary sections. In these newspaper sections, people were given opportunities to register their feelings concerning the JSC-Shollei tussle.

It is evident from the graph above that only 6% of the articles in *The Standard* were opinions and commentaries. The *Daily Nation* published only 20%.

*Since August, the public has been treated to embarrassing spats and email exchanges on the inner workings of the JSC and the senior managers of the courts. Some of the claims have been spurious and mischievous, but they have succeeded in sowing seeds of doubt in Kenyans on the integrity of the men and women the nation invested heavily in to protect the rule of law.* Daily Nation (2013) ‘Judiciary at crossroads’. *Daily Nation, 18 October.*

Deputy President of the Republic of Kenya Honourable William Ruto speaks after a meeting between national government officials and governors.
**Non-state actors’ in the media**

Good governance involves presenting the viewpoints of civil society, NGOs and other non-state actors. Their voices are important as they are critical to the development and sustenance of accountability and transparency in government processes, structures and outcomes.

Only 3% of the articles analysed had the input of civil society and other non-state actors as news sources and actors. This indicates that the media may not be keen on the voices of non-state actors, or that they do not proactively seek their participation in such issues.


*The media’s the most powerful entity on earth. They have the power to make the innocent guilty and to make the guilty innocent, and that’s power. Because they control the minds of the masses*  

– Malcolm X
Chapter Four

The Executive: Presidential appointments

Background

On 28 December 2013, President Uhuru Kenyatta appointed 26 new heads of government bodies including parastatals and authorities. Most of the appointees were former members of parliament or political aspirants for various seats during March 2013 general election. Immediately after the announcement, there was heated debate about the legality of the appointments. This led to the revocation of some appointments including that of Mr Mohammed Abduba Dida as the CDF chairperson.

Appointment of individuals to key positions is vital in enhancing good governance. One of the means by which openness, Transparency and accountability can be achieved is through the selection or election (as appropriate), and appointment of high calibre individuals who are fit to serve in those positions.

Statutory appointments might be the main cause and source of corruption and undoubtedly a major impediment to good governance. The constitution of Kenya 2010 empowers the president and other state officers to make appointments.

This study looked at the coverage of such appointments on TV and print media platforms. The TV stations analysed were KTN, KBC, NTV, CTV and K24. Newspapers sampled were The people, The Standard, Daily Nation and The star.

The following issues relating to good governance were considered:

1. Did the media undertake objective, accurate and fair reporting relating the issue of appointment with regards to individual rights of the appointed individuals to express their opinions?
2. Did the media in its reporting ensure that public appointments were done as per existing laws by pointing out any irregularities to that effect?
3. Did the media highlight issues of equity and inclusiveness with regards to gender, ethnic, regional and special interests?
4. Did the media offer opportunities for the citizen participation in objective dialogues concerning the appointment made by the president?
5. Did the media focus on accountability and transparency done objectively and fairly?
6. What was the level or quality of journalistic coverage of issues of good governance?
7. Did the media violate the Code of Conduct for the Practice of Journalism in their reporting?

Findings

A total of 832 articles were analysed over a period of six months. Of these, 164 articles (19.7%) were from the Daily Nation, 272 (32.7%) from The Standard, 156 (18.8%) from The Star and 240 (28.8%) from The People.
Format of TV stories analysed
Most of the items sampled were news reports (84%), 6% were interviews, 3% special features and 35 talk shows.
Rule of law
The media focused on the appointments and whether the president acted within the law when making the appointments. Some of the issues the media raised were:

1. Advisory opinion in relation to the appointments which were done in contravention of the law. For example, the Commission for the Implementation of the Constitution (CIC) chairman, Charles Nyachae, was reported to have said that the appointment of political cronies as parastatal heads contravened Articles 10 and 73(2) of the Constitution. Some of the articles analysed published an entire advisory which indicated the focus, importance and prominence the media had accorded the issue.

The CIC further advised President Kenyatta against appointing his political cronies as parastatal chairmen given it contravenes Articles 10 and 73(2) of the Constitution which demand that the appointments be based on fair competition and merit.

12th January,
The Star Newspaper

The media was able to point out the fact that some of the appointments were in violation of the constitution and other relevant legislation that defined appointment like the CDF Board chairman. For example, various media pointed out that:

The CDF act stipulates the chairperson to the fund ought to be nominated for parliamentary vetting before appointment, but [Mohammed Abduba] Dida was handed a direct appointment. The deputy president has hinted there is confusion in government owing to misadvice by presidential advisors.

January 2014, 11th News edition. KTN

The two Gazette notices refer “powers conferred by Section 5 (4) of the CDF Act 2013” in making the appointments. However, both the President’s and Cabinet Secretary’s appointments were irregular. Mosoku, Geoffrey and Mbaka, James (2014) ‘Mystery of Abduba Dida’s double appointment’.

The Standard, 9 January.

2. Appointments with reference to Article 27(8) and Article 232 of the Constitution. Article 27(8) of the Kenya Constitution 2010 demands that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

However, there were accusations in some media reports that the president ignored the article when making the appointments. The special interest group issue was raised on the 9pm news of 6 January 2014 with nominated ODM MP Isaack Mwaura threatening to go to court over the removal of Abel Onyango, a person living with disability from the Kenya Medical Laboratories, Technicians and Technologists Board (KMLTTB). Besides, the issue of gender inclusion was also raised by The Standard.

Recent appointments by President Uhuru Kenyatta have been criticised for not respecting the gender rule. Of the 43 state corporations appointments made so far, only two women have been appointed, raising questions as to whether the President is keen on implementing the Constitution. Former Marakwet East MP Linah Kilimo was appointed to chair the Anti-female Genital Mutilation Board, while Agnes Ndetei chairs National Drought Management Authority Board. Koross, Kibiwott (2014) ‘President Uhuru Kenyatta Ignored gender rule, activist claim’. The Standard, 18 January.
Transparency and accountability

1. The study of TV and print media reports reveals that the media did not provide adequate information on the appointments. The president made 26 appointments but the appointment of Mohammed Abduba Dida and Francis Muthaura and a few others were the only ones that received extensive media coverage. Transparency demands that the media provides information in an open manner to demystify processes and outcomes.

“The process of appointment must be visibly transparent and accountable and must not be based on political considerations, favouritism, nepotism, improper motives or corruption. The overall motive of the appointment should be to promote good governance,” the advisory states.

2. The media through its agenda-setting role was able to ensure focus on the controversial appointments and consequently created a considerable force in marshalling enough pressure that forced the president to rescind some of the appointments. The president claimed he had been misadvised on the appointments. The actions demonstrate what the media can achieve, and how they can help ensure accountability and transparency in government. The CIC chair Charles Nyachae is reported to have said:

... those people who made the President do the signing of the gazette notice without proper diligence must be asking themselves questions and we will also be asking them very hard questions. Burrows, Olive (2014) ‘Freeze parastatals appointments, Nyachae advises Uhuru’. KTN news, January 12.

3. In the stories analysed, the media was unable to adequately challenge the ethnic and political support that some individuals gave to the appointments. The media covered some individuals supporting the presidential appointments without providing in-depth analysis of the nature of such support. The reports did not state whether the support was backed by legal instruments or whether it was due to political and ethnic reasons.

Much of the coverage on Citizen TV was based on political reactions. The television station failed to challenge the ethnic support granted the appointments.

For instance, on 4 January 2014, a section of North Eastern MPs expressed support for Mohammed Abduba Dida’s appointment despite the fact that it was unconstitutional. Citizen TV only aired their statement without contextualising the appointment.

4. The media focused largely on individuals and institutions that questioned or supported the appointments. This raised questions and generated debate on the integrity, accountability and transparency of state appointments.

Information gives power to monitor and make good choices [thus] a significant positive correlation between transparency and improved governance gives us pause to think: just giving better data to people can help countries to govern better

– Islam, 2003

38 GUARDING THE GUARDIANS
Article 2(3) of the journalists’ Code of Conduct states that comments shall be sought from anyone adversely mentioned in media reports and that evidence of attempts to seek comment shall be kept. It is evident from the discussions above that although some of the presidential appointees were adversely mentioned in media reports; they were not given a chance to respond to the issues raised. In 3% of the articles analysed, the people adversely mentioned were not given a chance to respond to allegations levelled against them or their appointments. Only 5% of the articles analysed contained responses from the appointees.

**Presentation of facts on appointments**

Most of the articles sampled contained factual reports of the appointments. Particular attention was paid to talk shows and interviews discussing the appointment.

In talk shows, presenters offered facts especially when interviewees seemed to digress. For instance, on 12 January 2014 on the Checkpoint talk show on KTN interview within the news segment, TNA’s Johnstone Sakaja was asked why the Jubilee administration was making too many irregular appointments. He claimed only that of the CDF Board Chair Mohammed Abduba Dida was irregular despite the mentioning of others.

In one of the interviews monitored, the talk show host asked Mr. Sakaja to ‘separate politics from state appointments’ when he tried to justify the presidential appointments. Such interjections demonstrate the affinity for factual information.

It is worth noting that journalists provided necessary background information to stories aired. On 12 January 2014, KTN reported that the CIC had published guidelines in relation to public appointments. In the same story, the reporter provided an in-depth analysis quoting documents such as *the Reform on Parastatals* report published by a presidential taskforce in the year 2013.

The provision of relevant, accurate and timely information by the media allows citizens to make informed decisions that facilitate their objective analysis of government performance.
**Equity and inclusion**

The fundamental objective of a journalist is to write fair, accurate and unbiased story on matters of public interest. All sides of the story shall be reported, wherever possible. Comments should be obtained from anyone who is mentioned in an unfavourable context. This is according to Article 1a of the Code of Conduct for the Practice of Journalism in Kenya.

It is evident from the articles analysed that most news stories had two or more sides (87%). Only 13% of stories broadcast were one-sided.

Equity and inclusiveness as principles of good governance demands that the media is committed to balance and fairness, and plurality and diversity of viewpoints.

Women were clearly underrepresented as news sources on the issue of appointments. Almost 70% of the news sources were men while 25% of the stories analysed had news sources as men and women. Only 3% of news sources were women.
Participation

Citizens participation in issues of appointment was highest in the print media although this was only 11% and mainly in the opinion and commentary sections. Only 6% of the news stories analysed on TV stations had citizen’s participation and this was mainly in talk shows and interviews.
GUARDING THE GUARDIANS

The Kenya National Assembly in session.
Chapter Five

Parliament: Supremacy wars

Background
At the heart of the controversy between the governors and the Members of Parliament was the issue of governance. The allocations and distribution of resources, accountability and transparency in resource use, efficiency and transparency in resource utilisation, participation in development issues at the county level and the rule of law were at the centre of the controversy.

The issue of separation of powers and the allocation and use of resources between members of parliament and the governors have caught media attention and continue to be extensively covered. Arguments that MPs, particularly Senator, should stick to their oversight role over county governments instead of seeking to sit on development boards as chairpersons has captured great media attention.

At the centre of many controversies was the equalization fund. MPs reportedly want to manage the funds. They feel county governments have no capacity to manage the fund. On the other hand, governors are adamant that the management of the funds is their responsibility. Besides, they also want to take charge of the Constituency Development Fund currently managed by the MPs. The governors argue that such funds should be centrally managed to enhance county development. However, the Senate feels it is in charge of all matters concerning the national budget, public finance, and trading activities as well as commerce, tourism, investment, and planning and development fund allocations.

In addition, the Senate claims that the Constitution empowers it and any of its committees to summon any persons for the purpose of giving evidence or providing information on matters related to resolutions and bills for appropriations as well as distribution of national revenue to counties. On the other hand, the governors have accused Senators of trying to usurp their powers and wanting to take over the management of county development boards.

All the above mentioned issues were investigated in this research as part of trying to understand how the media covered them.

Some of the questions informing the study include:

- Did the media maintain objectivity, accuracy, fairness and professionalism during the reporting of the wrangles involving the Senators, governors and MPs?
- Did the media give adequate coverage to legal framework implicated in the wrangles?
- Did the media investigate allegations of misappropriation of county government’s funds as revealed by the Auditor General as part of enhancing accountability and transparency at the county level?
- Did the media give the public opportunities to participate in the interrogation of issues surrounding the wrangles between Senators, MPs and governors, and the Auditor General’s report?
• Did the media focus on the efficiency and effectiveness of service delivery at the county level following the Auditor General’s report on the misuse of funds?

• How did the media demonstrate equity and inclusiveness in its coverage of the Senators, MPs and governors during the wrangling?

• Were women adequately represented as news sources and subjects?

A total of 134 articles and news stories were sampled and analysed during the research. Four daily newspapers and four television stations were studied.

The highest number of stories analysed were in *The Standard* with 33%. KBC contributed 30% of the articles analysed.
News stories formed the majority of the content analysed with 68% and 69% from television and print respectively.

**Rule of law**

i. The media was able to examine the legal framework within which the senator-governor row was located. This came out clearly after the court ruled in favour of the impeached Embu governor Martin Wambora. The Senators accused the Judiciary of making rulings that were not consistent with the Constitution. They argued that in issuing court orders, the Judiciary had overstepped its mandate.

*The Star* newspaper, for example, carried an analysis on the role of the Senators with reference to its oversight role as per the law.

*First, the Senate's oversight role is limited to the equitable share that counties receive from the national level. The Senate cannot exercise oversight over loans, grants, and revenue that county governments collect locally.*

ii. There was no in-depth analysis of the issues that were central to the controversy with regards to the rule of law. A significant number of articles analysed, especially TV news stories, merely mentioned the relevant legal frameworks without delving deeper into the implications of the wrangles and possible solutions as per the law.
Most of the articles sampled did not analyse the wrangles between the senate and the governors. In fact, 69% of the stories did not have any analysis. However, 26% of the stories analysed had professional and objective analysis. 5% of the articles were deemed biased and offered only one side of the law that either favoured the MPs or the governors.

Articles 2(15) of the Code of Conduct stipulates that journalists should present analytic reporting based on professional perspectives not personal biases.

The two concepts – good governance and press freedom – can and must develop together as part of an integrated approach to nation building

– Tharoor 2007

**Transparency and accountability**

Article 2(9) of the Code of Conduct states that while journalists are free to be partisan, they should be able to distinguish clearly between comment, conjecture and fact in their reporting.
Only 3% of the TV news stories studied did not have clear distinctions between comment and fact. A large percentage, or 67% of the stories sampled clearly distinguished between fact and conjecture on the important issues of Transparency and accountability.

On the 25 January 2014, Citizen TV did a comprehensive new story as a follow-up on the report released by the Auditor General on the financial operations of county government from January to June 2013. The report revealed irregular spending of billions of shillings by former respective council and now counties, excessive borrowing, theft of assets and lack of records of land and other assets. The report which was handed to the Senate shows shocking abuse of public resources, unauthorized expenditures of millions of shillings and false declaration of county assets. Nairobi County, for instance, was not able to account for hundreds of millions of shillings in received income while 45 vehicles bought by the county could not be accounted for.

NTV did an 11 minutes interview with the Makueni County Governor Kivutha Kibwana over the alleged misappropriation of Ksh 42 million. The TV station was able to question the alleged misappropriation or unauthorized expenditure and help Kenyans make sense of alleged misuse of county resources. Some of the questions raised were: Why did governor use the said funds without the approval of the Controller of Budget as required by the law? Why was Ksh4 million used to build two toilets? Why didn’t they follow the laid down procurement processes? Why was there no tangible evidence on the same? Why were there irregular payments of allowances and controversies over the budget?

KTN had a comprehensive feature story following the audit report and alleged massive irregularities in the use of public funds. The story made revelations of how millions of shillings were used in dodgy projects and how procurement procedures were flouted. The Machakos County governor, for example, is reported to have used Ksh 2.9 million shillings in the funeral of the late Makueni Senator Mutula Kilonzo. Also in the report was a catalogue of procurement failures that cost Machakos county millions of shillings. KBC also did a story based on the Auditor General’s report.

Such interrogations were objective and adhered to the Code of Conduct for the Practice of Journalism because they were able to distinguish between fact, comment and conjecture.

**Equity and inclusiveness**

To promote equity and inclusion, the media should provide a channel for the expression of divergent views. Equity and inclusiveness also demands that the media represents the views of both males and the females in the news stories as both news subjects and sources.
Governors and senators received the highest share of space in media coverage of the wrangles between them at 25% and 17% respectively. The media also gave space to non-state actors like the church (4%). Citizens (6%) were also able to contribute to the debates. The Judiciary also received some coverage particularly when the protagonists sought legal interpretation and resolution of the controversy.

Anglican Church of Kenya bishops utilised the media to express their dissatisfaction with the country’s political leadership. They were particularly piqued by the constant wrangling between the MPs and the country government, and feared the devolution agenda was being derailed by power plays and individual political interests.
The Sides of the story

More than 90% of the newspaper stories analysed presented both sides of the story while 8% were one sided. Article 2(2) of the Code of Conduct demands that both sides of the story be presented to ensure media equity and plurality and promote balance and inclusiveness.

Geographic presentation of stories covered by the media

The wrangles between the governors and the senators were a national issue that demanded great attention from the media. 78% of the stories analyzed covered matters considered national issues. The rest were stories important to the grassroots and specific to some areas of the country.

Participation

Did the media enhance dialogue between different stakeholders implicated in wrangles between senators and the governors?

Only 6% of articles analysed offered space for citizens to interrogate the wrangles. Undoubtedly, the media should provide the platform for conversations between different stakeholders as part of enhancing opinion discussion and formation, which are important elements in good governance.
Conclusions

That the media can enhance good and accountable governance is not in doubt. But such capacity depends on its ability to provide accurate or truthful and robust reporting on issues of governance. This can be further potentiated by its capacity investigate malpractices, excesses and failures and provide the information necessary for the development and sustenance of good and accountable governance. In other words, the media can raise awareness on social problems by informing elected officials about public concerns and needs.

In addition, the media must provide a platform and channel through which the governors and the governed can interact. It must offer the space through which the voices of the ordinary populace can be heard. It must not pander to the whims and interest of the elite, and the (politically and economically) powerful at the expense of the issues of genuine public interest. For the media to effectively promote good governance, it must be free from any kind of influence, particularly political, ownership, commercial and government. Such is not the case with the Kenyan media which are often owned, controlled or easily manipulated by the elite. Granted, it is important that the media, be it commercial, public or community be interested in issues of good governance as the basis for the advancement of democracy and development.

What’s more, the media must uphold the professional tenets of ‘truth’ and accuracy, objectivity, fairness, balance, impartiality, as well as embrace principles of patriotism, accountability and transparency in their work. A credible media is one that offers accurate and unbiased information. This promotes trust in the media as a reliable institution capable of midwifing change in society, and upholding the rule of law.

The Code of Conduct provides the foundation for good governance in the media and the development of a reliable and credible media that cares about the welfare of society.

Recommendations

i) Training of journalists on investigative reporting skills and ethical standards accompanied by adequate funding of investigative journalism will improve reporting on governance issues like corruption, accountability and transparency.

ii) Media owners should try and desist from influencing any editorial decisions which may affect ethical and professional reporting on governance. In addition, media organizations should be more transparent about their ownership, their editorial decision making processes and the pressures and restraints on reporting on governance.

iii) Providing better pay and job conditions for watchdog journalists will help objectively report on issues of bad governance with resistance to influences like bribery.

iv) The media should deepen the information role they play in facilitating participatory governance by explaining processes of government and public policy formulation, as well as by monitoring government performance.

v) Journalist should ensure that they adhere to ethical standards and public interest principles as they
seek information from news sources. Ethical standards with public interest principles should guide how, if, when a story should be published.

vi) There is need for media enterprises and journalists to exercise fairness, objectivity and professionalism when reporting on stories that involve governance and more especially when conflicts are involved. Such reporting accords the public the opportunity to make objective decisions as to what is factual and what is not in a way that enhances proper feedback for good governance.

vii) Journalists and media enterprises should provide background information that includes legal/constitutional provisions that relate to the stories they carry. This calls for capacity building for the media on the Constitution and related good governance requirements.

viii) Journalists and media houses should distinguish the sensational, dramatic and political and factual issues when reporting. Differentiation between comment, fact and conjecture should be made in line with the code of conduct. Stories should be reported in context and summative wrapping -up stories should be discouraged as it destroys objectivity.

ix) Journalists and media enterprises should exercise balanced reporting including gender sensitive reporting. In addition to the opinion and commentary columns in the newspapers and broadcast programmes, the media should also increase airtime allocated for more interactive programmes on issues related to governance.

tax) The coverage of governance issues is limited in both quality and quantity across every type of media; therefore; the governance coverage should be increased, and the quality of governance reporting must be enhanced. There is no denial that well-informed citizenry and society can help them make better decisions and increase the level of their participation in development and governance. To contribute to achieving this goal, the role of media in disseminating quality news about governance is indispensable, if not paramount.

xi) To achieve a more balanced focus, media outlets should focus on other state and non-state actors such as other state agencies, county governments, businesses, social and political organizations and citizens in general when reporting on issue of governance. This is because to enjoy wholesome fruits of good governance, the media should exercise absolute inclusivity and participation of all concerned entities.

Suggested issues for deliberation on the media’s role on good governance in Kenya

i) The Constitution of Kenya 2010 provides for devolved governments. Some of these county governments are in the process of establishing county media stations with an objective of creating dialogue on various development issues and facilitating consultation and feedback mechanism between the county governments and the citizens.

Will the county media stations facilitate objective dialogue on issues of good governance considering that they are established and funded by the county government?
ii) Following the operationalization of the Media Council Act 2013 and the Kenya Information Communication (Amendment) Act 2013 there were a few contentious clauses related to the hefty fines and penalties on journalists and media houses. Such clauses may in effect scare journalists from pursuing stories that might be controversial and loaded with wrong information from their sources with regards to good governance.

iii) How can the media investigate or interrogate issues related to good governance if they are partly or fully owned by the same people it may seek to investigate?

iv) Reporting good governance requires that media houses invest more in investigative and public affairs journalism. Given the commercial nature of most media enterprises in Kenya and considering the resource base needed to undertake consistent and objective investigative journalism that will enhance in-depth reporting on issues like accountability, transparency in line with media watchdog role, what are some measures taken by media houses in enhancing such reporting with regards to resource allocation?

v) The issue of protocol journalism in which highly placed public officials are deliberately shielded from embarrassing questions and investigations from the media in return for some consideration for the media has been a challenge on proper reporting on good governance. This issue, coupled with the commercialization of news, and partisan, biased or ethnic reporting of events and the practice of blackmail journalism have also hindered good reporting on governance issues. How can the media free itself from such influences and still maintain professionalism when reporting on issues of governance?

vi) Media plurality in Kenya has improved in past three decades. There has been an increase in the number of radio, TV stations and even newspapers in the in Kenyan market. Has such proliferation enhanced the amplification of the voice of Kenyan citizens with regards to issues on good governance? Are citizens able to contribute effectively and promptly to the discussions on issues that affect them and which they feel violates any of the principles of good governance?
References


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Good governance translates to service delivery and enhanced trade.