

WITNESSES, VICTIMS, SURVIVORS, OR CO-OPPRESSORS: TRANSITIONAL
JUSTICE AS A CRITICAL MOMENT OF “TRUTH” FOR
JOURNALISM PRACTICE IN KENYA

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DISSERTATION ABSTRACT

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Title: Witnesses, Victims, Survivors, or Co-oppressors: Transitional Justice as a Critical Moment of “Truth” for Journalism Practice in Kenya

This study investigates the engagement and participation of journalists in Kenya’s truth-seeking process, set up through the Truth, Justice and Reconciliation Commission (TJRC). Studies show that journalists are often relegated to the margins in truth-seeking processes. This research re-centers the role of journalists in a transitional justice context and argues that their exclusion from the planning and design of truth commissions hurts the transformative goals of transitional justice.

According to the TJRC, the normalization and institutionalization of human rights violations, abuse of power and misuse of public office had contributed to the violence that followed the 2007 election and continued to hold sway in Kenya. Thus, the post-election violence (PEV) was a critical moment, not only for Kenyans, but also for journalists to reassess how their relations with power had contributed to a culture of injustice and inequality. An eclectic theoretical and conceptual framework is employed to underpin scholarly debates on the nexus between journalistic practice, historical injustice and inequality in Kenya.

A triangulated methodology was used to gather data: in-depth interviews, a quantitative content analysis, a critical document analysis and a thematic analysis of journalistic testimonies before the Truth Commission. Findings reveal salient features of journalism practice and news paradigms in Kenya during the period of transition and beyond. First, patterns of news coverage revealed how the dominance of political personalities in the news defeated the transitional justice goal of prioritizing victim-centric and justice-centric voices. Second, the TJRC's rocky engagement with the media coupled with journalistic skepticism of the truth-seeking process and subservience to an elite political media system ensured that the transitional justice period in Kenya was non-transformative in championing social change. Finally, journalists testified about the repressive actions of the state and corporate interests. However, *what was not said* at this session constitutes a missed opportunity to genuinely confront the truth about journalism in Kenya.

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CHAPTER I

INTRODUCTION

Everyone has the right to life, liberty and security of person.
— Article 3 of the UN Declaration of Human Rights (1948)

A few minutes after midnight on March 2, 2006, heavily armed and hooded men entered the offices of Standard Group — one of Kenya’s leading media companies — in downtown Nairobi and switched off the lights and security cameras. The intruders also disabled the lifts and harassed journalists they found on duty that night. They switched KTN TV off air, vandalized the offices and hauled away broadcasting equipment, and computers. The raiders then moved to the company’s printing facility on Likoni Road where they destroyed press machines and set ablaze copies of the day’s newspapers as they rolled off the printers. The company lost more equipment in the attack at the printing plant, including a vehicle (Onyango, 2018). The Internal Security minister later explained that the media company was raided because it was planning to publish and broadcast a series of stories that were damaging to the government and would compromise national security. President Mwai Kibaki set up a commission to investigate the attack, but its findings were never made public and no one has ever been held accountable for the raid.¹

On February 10, 1984, a security operation conducted at the Wagalla Airstrip in Wajir town of Northern Kenya resulted in the killing of hundreds (or thousands) of civilians (TJRC Report, 2013). State security agents committed numerous other atrocities including torture, brutal beatings, rape and sexual violence, burning of houses and looting

¹ The Standard Group sued the government and was awarded KES5 million in damages following a protracted court battle that lasted until 2018. Secondly, a parliamentary report on the investigations was leaked to the public.

of property. To this day, no one has ever been held accountable for these atrocities, commonly referred to as the “Wagalla Massacre”.

On February 16, 1990, Kenya’s Foreign Affairs Minister Dr Robert Ouko was found dead in a remote forest at Got Alila village near his Koru home in Western Kenya. He had a broken right leg at the ankle, bruising on his body, a gunshot wound to his head and his torso badly burned (TJRC Report, 2013). Despite investigations by the three chambers of government and the British Scotland Yard, no one has ever been convicted for his brutal murder. Instead, Kenyans have increasingly been subjected to news of assassinations and extra-judicial killings too many to count.

These incidents are just a few examples of Kenya’s history of state-sanctioned violence and injustices that are grossly overshadowed by a hegemonic view of Kenya as an “island of peace” in a war-weary region (Wrong, 2009) and as a friend of Western governments for aid, trade, investment, tourism and security (Hornsby, 2012). However, the wave of unrest that followed the 2007 presidential election drove Kenya to the brink of a civil war. More than 1300 people lost their lives and half a million more fled their homes after facing hostilities from neighbors they had lived with for decades. According to the Truth, Justice and Reconciliation Commission (TJRC), the violence and bloodshed was a critical moment for Kenyans to re-examine past injustices that had contributed to “a state that still holds sway in Kenya: normalization and institutionalization of gross violation of human rights, abuse of power and misuse of public office” (TJRC Final Report, 2013, n.p.).

The post-election violence (PEV) was a watershed moment in Kenya’s history, shattering the socio-political system and ushering in calls for transitional justice. The

United Nations defines transitional justice as consisting of “judicial and non-judicial processes and mechanisms, including prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations” (2010, p. 2.). Scholars of historical political developments have termed such periods of significant change critical junctures (Collier & Collier, 1991). These are politically important timeframes that require scholarly analysis of institutional transformation and cultural interventions that bridge the gap between policy makers and the public (De Greiff, 2014). However, transitional justice processes are not just watershed moments that follow massive loss of life or disruption of livelihoods. They are also not universal processes of peacebuilding and post-conflict reconstruction.

Transitional justice approaches are complicated projects that have in some instances collapsed or failed to garner any reforms (Mutua, 2015). These difficulties call for transitional justice efforts that are transformative (Gready & Robins, 2014).

In this study, transitional justice mechanisms are treated normatively as transformative processes whose legitimacy lie on the promise of hope for wounded societies; that past wrongs can be addressed to restore justice, human rights, reconciliation and social change. As debates continue about the legitimacy and legacy of transitional justice approaches, they provide a helpful context within which to examine social actors that shape national dialogue when nations seek the truth about past injustices. One of these social actors are the media.

Problem Statement

In the aftermath of PEV, a series of political events culminated into a period of transition that lasted between 2008 and 2013 in which several mechanisms were launched to begin a path towards justice, healing and sustainable peace. Two of the most popular mechanisms were: the TJRC, which was mandated to investigate Kenya's history of injustices and the International Criminal Court (ICC) which opened trials against suspected masterminds of PEV. There was also a constitutional referendum, review of boundaries and several other reform programs.

Much has been said about Kenya's dark moment. However, there has been little or no conversation on the local media's role during the period of the transition. There is a lack of attention to how an enduring history of human rights violations and economic marginalization has influenced journalism practice in Kenya. Aiming to address that gap, this study argues that the media are key stakeholders in moments of peace, conflict and post-conflict reconstruction. As such, this study was premised on the deconstruction of media and power when a society undergoes a period of socio-political upheaval, with a bid to re-center the critical role of media and communication in the design and goals of transitional justice.

The development of Kenya's news media system is closely tied to the country's political history (Nyanjom, 2012; Ogola, 2011a; Ogola, 2011b). Therefore, this study's assessment of Kenya's critical juncture placed journalistic practice under the spotlight for several reasons: a. Following PEV, journalists were blamed for inciting Kenyans to violence through news coverage of divisive political rhetoric ahead of the 2007 election. A radio journalist was tried at the International Criminal Court over similar allegations,

though he was later acquitted of the charges; b. After the violence, there were tensions in newsrooms with editors and political journalists taking aim at gatekeeping practices that they believed contributed to the violence. Anecdotal evidence from my newsroom experience attributes these tensions to political realignments among media managers and senior editors of leading news organizations in support of the main rival parties Orange Democratic Movement (ODM) and Party of National Unity (PNU); c. An elite class of politicians and media moguls control a large share of ownership of Kenya's mainstream media through a complex web of interlocking directorships and shareholding with extensive commercial interests. Several high profile personalities with links to this media ownership network were adversely mentioned persons (AMPs) in the PEV investigations. In such a hyper-commercialized media environment, the transitional period when efforts were geared towards justice was a test of their watchdog capabilities and keeping with their ethical codes of conduct; d. The PEV raised the stakes for a need to demystify Kenya's climate of repression and its implications on journalistic practice.

Study Rationale

The initial reaction to PEV was shock. It wasn't that there had been no ethnic violence before, but it was how these taken-for-granted conflicts coupled with years of mega-corruption scandals, assassinations, extra-judicial killings, persecutions, torture, detentions, military operations and profound economic marginalization culminated into bloodshed and displacement. The ICC trials and the TJRC's truth-seeking mission were meant to address these social and economic ills bedeviling the country by enabling a truthful, justice-centric transition to sustainable peace. Unfortunately, these two

mechanisms that occupied much public consciousness failed to bring about transformative change. For one, the TJRC's Final Report was never published for public access as had been planned and the trials of prominent personalities at The Hague did not lead to any convictions. Furthermore, the new constitution passed in the 2010 referendum, at the heart of the transitional period, was hailed as the most affirmative in Kenya's history but has since failed to transform the country into an equitable society.

In Kenya, politicians take up a large share of the news. At the time of study (and up to date), print newspapers were hugely skewed towards political figures in terms of competitive visibility. Notably, circulation managers and news editorial leadership believe that politics sells (Namwaya, 2010). The "front-page news" format is one that is meant to capture attention as vendors display the dailies on the streets all over the country. So powerful is a favorable front-page story that political and corporate actors fight for it, even going as far as bribing journalists (Namwaya, 2010). Before PEV and after, prominent politicians still made it to "front-page news" as the transitional period captured substantial public attention. Amidst heightened competing notions of truth and justice, the news media were central in influencing public perceptions of the same.

Studying the media's role during a transitional context also involves exploration of the relationship between newsrooms and transitional justice actors in reaching the public for interventionist approaches like public outreach. For this reason, it is important to unveil mediatization efforts that involve close workings with journalists to understand the best formats with higher chances of passing through the "gates" of newsworthiness.

The politicization of news in Kenya follows a trajectory of state control since independence from British colonial rule in 1963 which extended into the transitional

period. The media cannot be neglected in debates about inequality and injustice. They are at the center of political power, negotiating a contested terrain as political institutions that espouse the circuits of political, economic, and social power (Schudson, 2002), yet they have been peripherally treated in the study and design of transitional justice processes (Hodzic & Tolbert, 2016; Laplante & Phenicie, 2009). Finally, as transitional justice usually triggers conversations about socio-economic marginalization, underdevelopment and inequality, rethinking media and communication systems to include economic development goals during times of political upheaval can offer a framework for reform (Duthie, 2009).

In this research, I chose to focus on the work of the TJRC, as its broad mandate overlapped with other transitional processes at the time. A quantitative analysis of sampled news content was conducted to examine patterns of news coverage of events and actors in the TJRC's truth-seeking campaign. A qualitative document analysis critically explores the TJRC's Final Report for ways in which the Commission engaged with journalists, the public and media artifacts. Thirdly, I employed a critical thematic analysis of journalistic testimonies presented before the TJRC about media capture in Kenya. Finally, in-depth interviews with human rights analysts and journalists critically explore the relationship between journalism practice, inequality and injustice in Kenya.

In my conclusions, I find that first, PEV was a critical moment for news media actors to look inward and reconsider their taken-for-granted roles as authoritative public informers. This critical moment introduces transitional justice as a context for critical journalistic self-reflexivity. Secondly, news coverage corroborated anecdotal evidence that media attention was largely skewed towards prominent politicians and what they said. They

are found to have been the most dominant source of news during the period of study, whether in support of justice or contesting justice mechanisms. Findings also underscore the power of the city news desk as a “gate” that influences newsworthiness and framing. Third, journalistic truth-telling exposed violations of journalistic rights before, during and after conflict as a pathological condition that ensured reproduction of a system that has constrained agency for social change among journalists. Fourth, this study reconstructs the journalism-transitional justice collision, since both are political and ideological institutions shaped by historical antecedents. These antecedents capture their institutional processes, structural influences, symbiotic and antagonistic relations. A critical journalistic legacy offers news ways to approach the media-transitional justice nexus as mutually constitutive concepts useful to societies that have undergone a period of human rights violations or war. This critical journalistic legacy can be useful as a framework for underscoring the contribution of journalism’s normative roles to discourses, investigations and extensions of historical chapters in a society. In this study, new conceptualizations of journalistic identities emerge; journalists as victims, survivors, witnesses and co-oppressors.

Why are these findings important?

Journalism remains one of the key pillars to a society’s stability. For decades, scholars and practitioners have studied and documented journalism’s contributions to democratic ideals. Debates about journalism and society are enduring even in the current technologically advanced era. Historically, journalism has informed and been informed by politics, economics and technology (Mabweazara, 2018). Scholars have urged for a shift away from homogenized, reductionist assumptions of journalism’s democratic roles (see Mabweazara, 2018; Mellado & Van Dalen, 2017) but rather situate journalism within

unique cultural and historical contexts. In Kenya, political journalism is dominant and coveted among journalists (Kareithi, 2013). It is also shaped by ethnicity (Wasserman & Maweu, 2014), advertisers (Maweu, 2014), corruption (Ireru, 2016), and a gendered division of labor (Awino & Steeves, 2015; Alidou, 2013; Steeves, 2007). Even though it is presented as secularist, journalism in Kenya is also influenced by religion predominantly skewed in favor of the Christian faith (Alidou, 2013). Nonetheless, Kenyan journalists are part of a media system that has contributed to shaping public opinion (Ireru, 2016) and one that is considered partly free (Reporters Without Borders, 2019).

The thematic areas of investigation that the Kenyan TJRC covered are closely aligned with the structural, ideological and representational tenets of the local media system. For instance, ethnic and tribal imbalance in sharing of economic resources was a major factor in the TJRC's investigations. For while a few ethnic groups control the reins of governance in Kenya, newsroom composition is also skewed towards these ethnicities (Ireru, 2016; Wasserman & Maweu, 2014; TJRC Report, 2013). The resultant unequal distribution of wealth, and economic marginalization played a major role in perpetuating post-election violence (TJRC Report, 2013). In terms of rights, Kenya has strong anti-media laws that undermine media freedom (Oriare, Okello-Orlale & Ugangu, 2010). In this study, the structure of media ownership, media representation of social issues, commercial priorities, newsroom demographics and press freedom, elite dominance in media routines as news sources are among factors that influenced the news media's coverage of the TJRC and journalistic participation in the truth-seeking process.

This study is important in highlighting the understudied area of journalism, media and transitional justice contexts (Hodzic & Tolbert, 2016; Laplante & Phenicie, 2010). In

analyzing Kenya's truth-seeking process, this study upends normative conceptualizations of journalism and democracy by investigating the political news system in relation to inequality and historical injustices that contributed to a culture of impunity that is believed to have triggered PEV. Truth commissions are meant to be victim-centric (ICTJ, 2020). Given that the press always takes on the form and coloration of the social and political structures within which it operates (Siebert et al, 1956), an understanding of these structures informs our views of the media and society in a country where political journalism is coveted (Kareithi, 2013).

Scholars and commentators have stressed the important role of journalism to democracy (e.g. Bennett, 2016; Dumitrescu & Mughan, 2010; McNair, 2009), but critics have questioned the shelf-life of the Anglo-American journalism-democracy nexus as a yardstick for gauging democracy in other countries (Zelizer, 2012; Josephi, 2012). Instead, as Josephi adds, it is not sufficient to rely on media systems based on political forms of democracy as essential to journalism, but rather "the freedom of expression and relative journalistic autonomy afforded to media workers," (p. 474). The implication here is that media and democratization scholarship requires a paradigm shift to reconstruct democracy in ways that provide a deeper understandings of the media-power nexus and its implications on newsmaking in unique contexts. This study integrates an interdisciplinary approach in the hope of offering a new glimpse into the way journalists in transitional societies interact with truth-seeking and truth-telling processes that are aimed at bringing about transformative reforms.

I am motivated by a personal desire for social change in my country through credible journalism, which I perceive as the cornerstone of respect for human rights and

equality. The picture painted of a politician on the front page is that of a “male, tribal chieftain, wealthy, Christian, powerful with strong corporate interests”. As a journalist during and after the PEV, my experiences inform and motivate this inquiry. PEV was a moment of reckoning for all of us in the newsroom. Something was wrong. It challenged us to look inward and question our professional identity, interpret our roles and values, and evaluate the forces that influenced our work. It was also a moment to realize that even within the newsroom, there was a need to re-examine the truth about our alliance with power. When I initiated this study, some journalists wondered why I was doing this, as they believed Kenyans had moved on (it has been 13 years since the violence and seven years since the TJRC published its Final Report). Ultimately, the politics of forgetting and moving on — especially by the very people who encode the news to political power (Bennet, 2016) — is rooted in an oppressive ideology of weariness, one that buries memories deep within.

In this journey of discovery, I am self-reflective as well and I cautiously take into account my personal biases. I adopt a *praxeo-onto-epistemological* perspective in an attempt to address the “how did we get here” question, demystify and contest power arrangements, and thereby bind theory with praxis and intervention (Pickard, 2013).

Finally, for a long time, transitional justice and truth-seeking initiatives have been a reserve for human rights and international justice legal experts. Much of the literature on transitional justice has been jurisprudential and a province for international law experts (Fischer, 2011). This study demystifies the media’s engagement with the Kenyan TJRC. I hope this will be a story of Kenyan journalists’ interpretation of their professional boundaries as either witnesses, victims, or courageous storytellers on the one hand or

complicit spectators (or bystanders) and co-oppressors on the other. This study should also motivate deeper discussions on revitalized forms of storytelling in transitional democracies and offer ways in which truth commissions and journalists can engage in the search for justice, healing, reconciliation and social change.

Study Objectives

Using a critical journalism lens, this study was broadly designed to:

- a. Examine journalism in Kenya through a historical trajectory of human rights violations and their implications on professional media work in the country.
- b. Investigate media coverage, journalistic participation and engagement with the truth-seeking process during the transitional justice period.
- c. Explore the media-transitional justice nexus as a critical point of departure for Kenya's realization of United Nations Sustainable Development Goal #16 which seeks to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels."

Overarching Research Questions

To realize these objectives, this research is guided by the following overarching (and overlapping) research questions:

RQ 1: To what extent did media coverage of the Truth Commission's work campaign align with the victim- and justice-centric goals of transitional justice?

Following PEV, Kenyans supported the creation of a truth commission. To this end, the TJRC crisscrossed the country hearing from Kenyans about their experiences of

injustice and inequality. As expected, the TJRC's work would make news in the newspapers and broadcast channels. Given that the news had historically been subservient to the political class, coverage of the truth-seeking campaign meant the adoption of a new news paradigm, that was victim- and justice centric. According to the International Center for Truth and Justice (ICTJ), transitional justice is rooted in accountability and redress for victims. It recognizes their dignity as citizens and as human beings. As such the goals of truth commissions are supposed to address victims' concerns through recommendations and advocacy for implementation. To what extent did media coverage of the TJRC reflect this major goal? This question examines how the news turned up and how routinization of journalistic processes shaped the news (Shoemaker & Reese, 2014) during the transitional period.

RQ 2: How did Kenyan journalists participate in the truth-seeking process?

The transitional context offered an unprecedented platform for Kenyan journalists to shine the spotlight inward, both as a collective and individually, to reflect on the prevailing journalism culture, and its relation to power over the years. By participating in the truth-seeking process, journalists rearticulated their version of truth about the drivers of newsmaking in Kenya. These recollections of the past shape present actions and such critical incidents address moments that are important to the well-being of the journalistic community (Schudson, 1992; Zelizer, 1992).

RQ 3: How has Kenya’s history of injustices influenced journalistic freedoms and rights?

The 2007/2008 election violence was a critical incident for Kenyan journalists. Zelizer (1992) defines a critical incident as a “moment by means of which people air, challenge, and negotiate their own standards of action” (p. 4). In its Final Report, The TJRC listed thematic areas of inquiry that included massacres, political assassinations, extra judicial killings, sexual violence, land conflict, ethnic tensions and economic marginalization. There was no specific theme in the Final Report about injustices in the media, but the Commission held a one-day public media workshop with journalists and media managers. In this session, journalists testified about media capture and forms of state repression that had over the years cemented a culture of censorship and suffering in the mainstream industry.

Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) list Kenya as among countries whose media are partly free. However, it is not clear how “partly free” is “free or not free”. These views remain understudied and such measurements have been questioned on their validity and reliance on Western metrics or even the need to rank at all (Sobel & McIntyre, 2018; Price, et al., 2011). Nevertheless, such rankings have been helpful in gauging a country’s media environment and can be used with other indicators to study the prevailing media system. Kenya’s PEV, therefore, offers a unique context within which to examine media freedom in Kenya against a backdrop of historical injustices that almost drove the country to a civil war.

RQ 4: How can the media-truth seeking nexus be harnessed in Kenya's quest for sustainable peace and development?

Truth commissions rely on the mass media and their own outreach programs for visibility and trust. The TJRC's Final Report extensively documents a culture of state repressive structures and ideologies that have robbed Kenyans of equitable distribution of resources, gender equality, sustainable peace and access to justice. How can the media and truth commissions seek a mutual relationship that can mitigate bottlenecks that stand in the way of sustainable peace and development? This study argues that the news media are important avenues for social change and their information role should not be understated during periods of transition.

Overview of Thesis Organization

This dissertation is divided into nine chapters. Chapter I is introductory. It begins with anecdotal accounts of historical injustices against perceived state enemies. This contextualizes the culture of impunity that has impinged on all institutions in the country, including a structural and ideological chokehold on independent political journalism. Also included in the chapter is the problem statement, study rationale, objectives and overarching research questions. This introductory chapter summarizes the major goals and findings of this study.

Chapter II provides the demographic and historical context necessary to understand Kenya's socio-political arena, where its international image as a peaceful and prosperous country in a war-weary region is juxtaposed against a culture of human rights

violations and impunity. This background closes with a review of events leading to PEV, the transitional justice period and the difficult tenure of the Kenyan Truth Commission.

Chapter III presents the study's theoretical framework and literature review. An eclectic theoretical/conceptual framework includes a review of the political economy of the media, the Gatekeeping theory, the Hierarchical Model, media capture and critical incidents in journalism. Related transitional justice and media studies follow with examples of research on media systems in diverse post-conflict contexts such as Rwanda, South Africa, former Yugoslavia and Peru. The secondary literature includes non-academic resources from think tanks like ICTJ, official documents from human rights organizations and commissions of inquiry. More importantly this chapter lays the groundwork for an argument on the need for synergies between actors in the media and transitional justice sectors. This segues into a sociological overview of political journalism in Kenya before, during and after PEV. Using secondary literature, this section highlights the factors that have shaped journalism in Kenya since independence. This section ends with research questions emanating from gaps in literature.

Chapter IV is the methods section, where the rationale for various methods of data collected are discussed. This study employs a triangulated methodology that includes: A basic, descriptive quantitative content analysis of news reports of the TJRC's representation in the mainstream press during the transitional period; a qualitative document analysis of the TJRC's Final Report to extract the opportunities and challenges of strategic engagement with journalism and media in its investigations into historical injustices; A critical thematic analysis of transcripts of journalists' testimonies before the TJRC; and extensive in-depth interviews with transitional justice analysts,

communications specialists and Kenyan journalists selected to contribute to the study. Each method of data gathering has its merits and demerits, these are mentioned too in this chapter.

Chapters V through VIII discuss the findings from data gathered. These are reported and evaluated in relation to the research questions guiding this study and the theoretical frameworks and prior studies that informed the inquiry. Chapter V reveals the findings of the content analysis that indicates the extent to which the press reports during the time of transition framed the work of the TJRC within an elite-driven agenda.

Chapter VI critically analyses the TJRC's Final Report to find the moments in which the Commission engaged with the media in its work. Here the study reveals the Commission's reliance on archived news for its own research, current news for its assessment, monitoring and evaluation. In its assessment, the Final Report underscores the TJRC's hot-cold relationship with the media when it hoped the latter would be an invaluable tool for outreach of the Commission's activities and as a platform to call out elite politicians who were implicated in various crimes under investigation.

Chapter VII reveals salient themes extracted from close reading of transcripts from journalistic testimonies before the TJRC. This section carries the self-reflective narratives of journalists on the culture of injustice in Kenya, in the newsroom and the media industry. Through elaborate journalistic narrativization, interviewees tell of instances where their work was influenced by state repressive terror, hyper-commercial interests by media organizations, intra-newsroom political divisions and unofficial editorial policies that influenced news gatekeeping.

Chapter VIII examines the media-transitional justice nexus through the lens of selected human rights and communications specialists and journalists. This chapter underscores the trajectory of injustices in Kenya as path-dependent and searches for the significance of PEV as a critical juncture in the political arena. The interviews unravel the social system in which news production is immersed and ways in which this system was shaken during PEV but bounced back due to a sustained reproduction of the conditions of reproduction (Althusser, 1971). Here, the media's position as an ideological state apparatus is strengthened despite efforts by individual journalists and civil society partners to inject a journalism for equality and rights approach in newsmaking.

Finally, Chapter IX is the conclusion and suggests a productive path forward in research and scholarship. As countries emerge from periods of massive human rights abuses under repression and in conflict, it becomes increasingly clear that media systems shape conversations geared towards healing, reconciliation and a return to sustainable peace. Strengths and limitations of the study are also articulated here. For instance, technological advancements in the digital age have had a huge impact on journalism and news production. Future studies on media and transitional justice should look at how news producers use digital platforms for new ways of storytelling and engagement in conflict and post-conflict situations. For example, in my extensive studies, I have found that platform capture and data bias — through interlocking forms of oppression and domination — are emerging forms of constraints that hinder efforts towards sustainable peace and development in conflict and post-conflict contexts.

CHAPTER II

CONTEXTUAL BACKGROUND TO KENYA'S POLITICAL ARENA

This chapter provides the demographic and historical context necessary for an understanding of Kenya's political arena, as it aligns with the dominant form of news journalism in the country. This background also intersects with Kenya's complicated dualistic image as a peaceful, prosperous country and international hub on one hand, and enduring problems of poor governance on the other hand. Kenya's history is too broad and deep to be wholly captured in this study. An attempt has been made to highlight salient issues that have historically shaped political developments, such as ethnicity, corruption, injustice and repression. This backgrounder segues into a review of events leading to the post-election violence (PEV) and the transitional justice period. Kenya is a country of "Commissions of Inquiry" that are always launched to investigate social problems and crimes committed by powerful people in government (AfricoG, 2007). This section also introduces this phenomenon as a precursor to the truth-seeking campaign of the Truth, Justice, and Reconciliation Commission (TJRC; interchangeably referred to as the Truth Commission, or the Kenyan Truth Commission or the Commission).

Kenya: "Gateway to East Africa"

Kenya is a country in East Africa, bordering Tanzania, Uganda, Somalia, Ethiopia and South Sudan. The country has area coverage of 582,646 sq. km and is divided into 47 administrative counties (UNDP Kenya, 2020). The government is led by President Uhuru Kenyatta who is the Commander in Chief of the Armed Forces, and Deputy President William Ruto, having been elected in 2013 and re-elected in 2017 under the Jubilee

Coalition. The Attorney-General, 18 Cabinet Ministers, and Director of Public Prosecutions complete

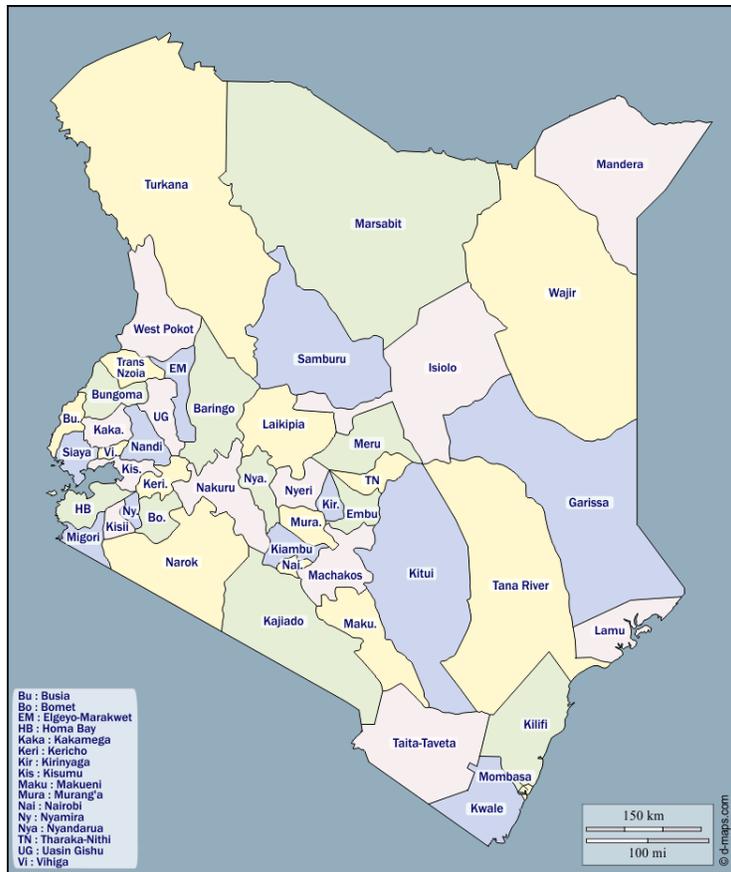


Figure 2.1: Kenya: County Boundaries

SOURCE: Free maps at d-maps.com

the make-up of the Executive. The Legislature is bi-cameral with 337 Members of Parliament and 67 Senators. The Judiciary is made up of the Supreme Court, the High Court and the subordinate courts (Magistrate, Kadhi's Court and Court Marshals) (UNDP Kenya, 2020).

In 2010, Kenya adopted a devolved system of governance that is managed by 47 governors for each county. Devolution of governance was meant to ensure equitable distribution of national and local resources and promote citizen participation in decision-making on issues that affect them at the local level. According to UNDP Kenya figures, it is estimated that 26.4% of the population live in urban areas. Agriculture is Kenya's economic mainstay; the country produces tea, coffee, maize, horticulture and sugarcane for export. The tourism sector also drives foreign currency exchange, with huge economic impact. Other economic activities revolve around the service sector, transport

and communication as well as mining (UNDP Kenya, 2020, n.p.).² Kenya’s geographical location has endeared it to international observers. The United States Agency for International Aid (USAID) describes Kenya as the “gateway to East Africa” through its “robust economy”...with a “young, ambitious and well-educated workforce eager to contribute to the development of the country” and Kenya’s positioning as a “transportation hub for much of sub-Saharan Africa” (USAID Kenya, 2020, n.p.).

American news company, the *New York Times* describes Kenya as “one of the most developed and economically robust nations in Africa”. Finally, the World Bank, a key player in Kenya’s development focus, offers a mixed audit of Kenya as a country that has made strides towards political, structural and economic reforms over the past decade, but one which still struggles with poverty, inequality, climate change, among others (World Bank Kenya, 2020).

Travelogue discourses by Western foreigners have long provided images of Kenya that do not capture *wananchi* (ordinary Kenyans) but rather tourism clichés that give Kenya an enviable level of brand recognition especially among its neighbors (Wrong, 2009). Such discourses have been critiqued as counter-productive in their representation of African countries, with some treating the African continent as a country, while engaging in other stereotypical depictions of African cultures (see Wainaina, 2005).

² https://d-maps.com/carte.php?num_car=35032&lang=en
Fair use conditions <https://d-maps.com/conditions.php?lang=en>

Table 2.1: Kenya Basic Facts and Figures³

Capital City	Nairobi
Population	48,397,527 (July 2018 est.)
Area in sq. kms	591,971
Official Languages	English and Swahili
Literacy	78%
GDP per capita	KES 350,000 (USD 3,500)
Major ethnic groups by population	Luhya, Kamba, Luo, Kisii, Kikuyu, Kalenjin, Meru, Maasai
Religion	Christianity (85%); Muslim (10%); Others (5%)

Kenya: History of Neopatrimonialism, Political Rivalry and Exclusion

“A goat was eaten by a hyena and then the goats went and said to other hyenas, ‘We were eaten by a hyena. Can you help us?’ The hyena went to other hyenas and said: ‘If you ate some goats, why did you not eat all of them, so that we could not hear any complaints?’” - Victim testimony (TJRC Final Report, 2013, Voll, p. 154)

The history of Kenya is complex and multifaceted; but historians have summed it up as a lost opportunity to free itself from the shackles of neocolonialism, systemic corruption, economic marginalization, and human rights violations (Hornsby, 2012). Since the late nineteenth century, “Kenya has held a special place in the hearts of Britons, Americans, and others in the West” (Shadle, 2015, p. 2.). The British colonial government ruled Kenya for 60 years until 1963 when Kenya attained independence and became a

³ Sources

UNDP <http://www.ke.undp.org/content/kenya/en/home/countryinfo/>

CIA Factbook <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>

Kenya National Bureau of Statistics (KNBS) <https://www.knbs.or.ke/publications/>

sovereign state since then. In the years after independence from the British, Kenya's political economy has largely been a struggle for resources in a complex web of relations between Western powers and elite Kenyans (Hornsby, 2012). Furthermore,

Kenya's economic performance has also been driven by Western political pressure. Good relations and alignment on international issues encourage investment and tourism. The granting and withholding of foreign aid and budgetary support is a political process, driven by the degree of alignment between the ruling elite and Western interests, and by the behavior of the elite. (p. 4).

The British used the "divide and conquer" method to hold onto power while keeping Kenya's tribes apart (TJRC Report, 2013). This led to deep divisions among ethnic communities that collaborated with the British and those that fought for independence. Indeed, one cannot understand Kenyan politics without understanding Kenyan ethnicity. Competition for ethnic supremacy has persisted to date (Hornsby, 2012). An individual's success or failure is commonly interpreted as victory or defeat for an entire ethnic community. It is not uncommon to hear jokes about boardroom meetings where members communicate in the tribal languages, despite English or Swahili being official national languages. Ethnic belonging in Kenya has been a cancer that has refused to heal. Slye (2018) explains from his experience as a TJRC commissioner:

Kenyan politics is unfortunately dominated by a fetishism of ethnicity. There is an assumption in the political discourse that individuals are first defined by their ethnicity, and thus members of a particular ethnicity will not benefit from a government process unless a member from their tribe is represented in that process (p. 244)

The fight for political power and ethnic affiliation go hand in hand in Kenya. Through the ideology of ethnic supremacy and tribal chieftaincy, elected individuals enjoy an elevated identity within their communities. In Kenya's competitive politics, a powerful presidency has sustained a vicious scramble for the top seat for politicians with support

from their ethnic communities and “friendly” ethnic groups. Allocation for public resources has favored the major ethnic groups with the Kikuyu community enjoying more of such resources and economic power. This ethno-political “othering” has often led to tensions amid accusations of election irregularities that are believed to have triggered the 2007-2008 PEV (TJRC Report, 2013). Thus, political power in Kenya has been largely determined by ethnicity, an important (but not the sole) factor in this study, but which, as Hornsby (2012) notes, has been a flashpoint in electoral politics. Together, the Kikuyu and Kalenjin communities have been in government since independence and have had more public servants employed in senior positions than other ethnic groups (TJRC Report, 2013). Notably, Kenya’s first president Jomo Kenyatta was Kikuyu, his successor Daniel Moi was Kalenjin, next in line was Mwai Kibaki a Kikuyu and currently Uhuru Kenyatta is a Kikuyu.

It is worth mentioning the role of the opposition in Kenya’s politics. Jaramogi Odinga Oginga was Jomo Kenyatta’s vice president after independence. Jomo is the father of Kenya’s current president Uhuru. Jaramogi is father to Kenya’s former Prime Minister and prominent politician Raila Odinga, a Luo. Both Jaramogi and Jomo are deceased, but their relationship ended in a bitter rivalry between the Luo and Kikuyu communities, which has over the years ebbed between cooperation and outright rejection.

The politics of worshipping at the altar of ethnic dominance has had grave implications on governance and accountability in Kenya. A few powerful individuals have sustained neopatrimonialism, clientelism, and presidential authoritarianism (Hornsby, 2012). Under neopatrimonialism, a regime’s public and private interests are blurred, with officials using their positions for selfish material gains at the expense of

service to the public (Bratton, 2011) Consequently, vices like corruption and tribe are a way of life that powerful individuals have leaned on to escape accountability (Wrong, 2009). Even the Executive is not without blemish. For instance, a report by international consultancy firm Kroll Associates UK Limited, alleged that former president Daniel Moi and his close associates and family members embezzled nearly USD 2 billion from the Kenyan economy during his 24-year rule (Branch, 2011). The Kroll Report was handed over to the Mwai Kibaki administration but it was never made public and never implemented, though report findings were leaked to the British media.⁴ Several corruption scandals running into billions and billions of dollars have left Kenyans shocked and helpless, as accountability is elusive.

Some of the mega corruption scandals that the TJRC investigated include the Goldenberg and Anglo Leasing scandals in which billions of shillings were lost through fraudulent actions between government and private entities. In instances where a few public officials have been convicted for economic crimes, they have gotten away with lenient fines only to return to public service a few years later. Transparency International's Corruption Perceptions Index (CPI) ranks Kenya poorly in its slow progress fighting corruption. CPI bases its ranking on corruption cases, efforts towards convictions and recovery of assets. In 2019 CPI ranked Kenya at 137/180, with a score of 28/100 in fighting the vice (Transparency International, 2019).

Also widespread among Kenyans is the *toa kitu kidogo* (pay a bribe) culture, that it is even epitomized in a popular song *Nchi ya kitu kidogo*⁵ (nation of bribes) — by local

⁴ A Wikileaks report later corroborated the allegations of theft. Here is the link to the Report https://wikileaks.org/wiki/The_looting_of_Kenya_under_President_Moi

⁵ Audio version <https://www.youtube.com/watch?v=xDTiNKVc1XE>
Video https://www.youtube.com/watch?v=Sr7_OI7QmVk

musician Eric Wainaina — which decries the normalization of bribery and corruption for access to vital services, or to escape justice.

Kenya also has profound socioeconomic inequality (Branch, 2011). The TJRC Report highlighted socio-economic marginalization as one of the triggers to the post-election conflict. Imbalances in economic experiences for Kenyans intersect with ethnicity, class and proximity to political power. This has favored members of the Kikuyu ethnic group. As Branch notes,

the chances of a newborn surviving and then thriving in modern Kenya vary greatly. A child is nearly four times more likely to die before his or her fifth birthday in Nyanza Province than in Central Province. The population of Western Province has less than half the health facilities per head that Central Province has. Girls in the Rift Valley are half as likely to attend secondary school as their peers in Central Province. Less than a third of the population of Nyanza has access to the clean water that more than nine in ten residents of Nairobi have. (p. 295)⁶

Still, Bretton Woods institutions such as the World Bank see Kenya as potentially becoming one of Africa’s success stories “if it can address challenges of poverty, inequality, governance, the skills gap between market requirements and the education curriculum, climate change, low investment and low firm productivity to achieve rapid, sustained growth rates that will transform lives of ordinary citizens” (World Bank, 2020). How to address these challenges as outlined by the World Bank remains a challenge, as a culture of impunity has held back any transformative progress towards good governance and equitable distribution of resources. The concentration of wealth among a small clique of people enabled by flow of neoliberal capital, ethnic dominance of just a few tribes led by the Kikuyu, tribal political chieftains and *the mtu wetu* (our son) syndrome, an elite crop of

⁶ Central Province is a region predominantly dominated by Kikuyu community Nyanza is home for Luos, while Luhyas call Western home and the Kalenjin live in the Rift Valley. These are regional divisions done by the British which cemented ethnicity and tribalism.

pro status-quo upper middle class Kenyans and expatriates, have directly or indirectly enabled the germination and growth of the Kenyan establishment.

The post-colonial Kenyan establishment co-opts any potential resistance against injustice and inequality. Hegemonically, this establishment supports dissent as long as it is not too disruptive to the existing power arrangements. History has shown that anyone who challenges the Kenyan establishment courts a death sentence (Wrong, 2009; Branch, 2011). Calls for redistribution of resources and social justice have been met with assassinations, extra-judicial killings, unlawful detentions, torture, forced disappearances, threats and intimidation.

The story of Kenya's involvement with ethnically-inflected corruption and economic marginalization is one of runaway impunity, camouflaged by discourses of western modernity and civilization, and emboldened by hegemonic ideologies of neoliberal (free market) capitalism. The ensuing peace only lasts until the next assassination or corruption scandal.

However, Kenyans have hoped for new beginnings and many still believe that a time is coming when Kenya will realize its vision to be a self-sufficient, industrialized country where the masses enjoy modest living standards and power is devolved to the grassroots. In 2007, the opportunity for change came to Kenya, albeit packaged in an unprecedented wave of unrest. Commentators are all agreed that the violence that followed announcement of Mwai Kibaki as winner of the presidential election was a moment of reckoning. The next section takes this study through events as recorded to reflect Kenya's darkest moment, yet.

Post-election Violence and Kenya's Transitional Justice Context

The forces of impunity in this country are stronger than the forces that want a credible truth commission — Betty Murungi, Vice Chair & TJRC Commissioner

On December 27, 2007, Kenya held its general election, to elect the president and other public officers such as members of Parliament. There are numerous accounts of the events that followed this hotly-contested election between Raila Odinga and Mwai Kibaki. But by the end of February 2008, thousands of Kenyans had been killed and hundreds of thousands more fled their homes. The violence propelled Kenya into a period of post-conflict transition.

The United Nations defines transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation” (UN, 2010). The International Center for Transitional Justice (ICTJ, 2020) defines transitional justice as those ways in which “countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response”. More importantly, ICTJ emphasizes that transitional justice is “rooted in accountability and redress for victims ...it recognizes their dignity as citizens and as human beings”.

The transitional justice period in Kenya emerged from the Kenya National Dialogue and Reconciliation (KNDR) process — a mediation exercise led by the former United Nations Secretary-General Kofi Annan. The TJRC Final Report (2013) explains that the KNDR resulted in the adoption of, among others, the Agreement on the Principles of Partnership of the Coalition Government on the basis of which, the National

Assembly enacted the National Accord and Reconciliation Act. The National Accord brought together the rival political factions, paving the way for the establishment of a coalition government with a President (Mwai Kibaki), Prime Minister (Raila Odinga) and two Deputy Prime Ministers (Uhuru Kenyatta and Musalia Mudavadi).



Figure 2.2: The National Accord

Raila Odinga (seated right) and Mwai Kibaki (seated left) sign the National Accord in February 2008 in Nairobi. Behind them are members of the Panel of Eminent African Personalities: Tanzania's 3rd President Benjamin Mkapa (standing behind Odinga), Kofi Annan (standing center) and Tanzania's 4th President Jakaya Kikwete. Picture Credit: The Standard (www.standardmedia.co.ke).

In summary, the National Accord tackled four main agenda items: an immediate action to stop violence and restore fundamental rights and liberties; immediate measures to address the humanitarian crisis, promote reconciliation, healing and restoration; how to overcome the current political crisis; and long term measures and solutions (such as constitutional, institutional and legal reforms; land reform; poverty and inequity; unemployment; consolidating national cohesion and unity; and transparency,

accountability and addressing impunity). The last of these items, known as agenda item #4, was the most comprehensive and is the subject of this study.

A number of agencies were established under agenda item #4. One of these, the Commission of Inquiry into Post-Election Violence (CIPEV) was immediately created in 2008 “to investigate the facts and circumstances surrounding the violence, the conduct of state security agencies in their handling of it, and to make recommendations concerning these and other matters” (CIPEV Report, 2008) According to CIPEV, the general election of 27 December 2007 was conducted in a volatile environment following decades of institutionalized and normalized violence in Kenya. Thus, years of impunity, injustice, and ethnic tensions had laid a fertile ground for the eruption of animosities. By the end of February 2008, CIPEV notes, 1,133 people had been killed, thousands assaulted and raped, hundreds of thousands more displaced from their homes, and property worth billions of shillings destroyed.

As part of the KNDR mediation process, another outcome of the agenda item #4, was the creation of the Truth, Justice and Reconciliation Commission (TJRC) to address long term social and economic problems in Kenya since independence in 1963. The TJRC, on its part, underscored how PEV “shocked Kenyans into realization that their nation, long considered an island of peace and tranquility, remained deeply divided” (TJRC Report, 2013). TJRC also echoed concerns by CIPEV that the normalization and institutionalization of human rights violations, abuse of power and misuse of public office of the past still held sway in Kenya.

The transitional justice process saw the entry of the International Criminal Court (ICC) as a key non-state actor in Kenya with the indictment of prominent persons

including Kenya's current president Uhuru Kenyatta and his deputy William Ruto along with three other high ranking government officials and one journalist on allegations of masterminding the violence. The Kenyan ICC cases gradually collapsed with the final case terminated in 2016.

Under agenda item #4, there were other commissions created during the transitional period that were also dealing with overlapping areas of oversight: The National Land Commission was mandated to deal with historical land injustices; The National Cohesion and Integration Commission was created to foster national cohesion and unity; The National Gender and Equality Commission was set up to promote and protect the rights of minority and vulnerable groups, including women; The Ethics and Anti-Corruption Commission was launched to investigate cases of corruption and economic crimes; The Commission on Revenue Allocation, mandated to determine allocation of revenue; and The Independent Police Oversight Authority, created to inquire into killings committed by the police.

This study acknowledges the complexity of Kenya's transitional period, a situation that was compounded by the politicization of the reform agenda in a radical post-conflict context. An examination of all the commissions, agencies and processes initiated during this time of transition in one study is impossible. Based on my own personal experience as a journalist, conversations with colleagues, and review of available texts, this study settled on the truth-seeking work of the TJRC. The TJRC was most useful for this study because its mandate shared overlapping areas of concern with all the other commissions and agencies mentioned above. As for the PEV cases, no one has ever been held to account for planning the violence, no perpetrator has ever

apologized, and no stolen or destroyed property has been returned (Lynch, 2018). Many Kenyans looked forward to a healing process by investing their time as participants in the Truth Commission's work. The truth-seeking campaign left a documented legacy of Kenya's difficult past with hope that its recommendations if implemented would halt the country's trajectory of injustice and inequality.

The Kenyan Truth Commission and the Truth-seeking Campaign

In 2003, the Task Force on the Establishment of a Truth, Justice and Reconciliation Commission reported that over 90 percent of Kenyans wanted a truth justice and reconciliation commission. No such commission was formed. However, in the aftermath of the post-election crisis, the desire for truth and justice over historical injustices resulted in the creation of the TJRC, "so that Kenyans who had borne the brunt of those injustices, and the nation as a whole, could find healing and there may be reconciliation in the land" (TJRC Final Report, 2013).

Composition and Timeline of the TJRC

The Kenyan National Assembly enacted the Truth, Justice and Reconciliation Act (TJR Act) on 23 October 2008. The Act received Presidential Assent on 28 November 2008 and came into operation on 17 March 2009. The Commission was inaugurated on 3 August 2009. Its mandate was to inquire into human rights violations and historical injustices that occurred in Kenya from 12 December 1963 when Kenya became independent to 28 February 2008 when the Coalition Agreement was signed (TJRC Report, 2013).

The work of the Commission was structured into four mutual and overlapping phases: statement-taking, research and investigation, hearings, and report writing. The Commission was tasked to receive statements from victims, witnesses, communities, interest groups, persons directly or indirectly involved in events, or any other group or individual; undertake investigations and research; hold hearings; and engage in activities as it determined to advance national or community reconciliation (TJRC Report, 2013). The Commission was to complete its work and submit a final report within two years. The final report was to state its findings and recommendations which would be submitted to the president and made public within fourteen (14) days before being tabled in Parliament.

On 22 July 2009, President Mwai Kibaki appointed the following nine individuals to serve as members of the Commission: Bethuel Kiplagat (chairperson); Kaari Betty Murungi (vice-chairperson); Tecla Namachanja Wanjala (commissioner); Ahmed Sheikh Farah (commissioner); Tom Ojienda (commissioner); Margaret Shava (commissioner); Gertrude Chawatama (commissioner from Zambia); Berhanu Dinka (commissioner from Ethiopia); and Ronald Slye (commissioner from United States).

In its operations, the TJRC was divided into working groups composed of three or four commissioners each, on: structure, gender, stakeholder collaboration, security, rules of procedure, legal affairs, human resources, internal rules and policy, and communications and media. More importantly, the TJRC divided its investigations and findings into the following themes: political history of Kenya; economic marginalization; security agencies; ethnic tensions; massacres; political assassinations; extra-judicial

killings; minority groups; reports on commissions of inquiry; land and conflict; the Shifita War; detention, torture and ill-treatment; and sexual violence.

The Truth Commission also had various departments, including the Civic Education and Outreach Department, ICT and Documentation Department, and the Communications Department, which was the link between the Commission and the media and by extension between the Commission and the general public. The Communications Department managed the Commission's media and public relations. The Truth Commission premised its work on the nexus between truth, justice and reconciliation:

Truth, justice and reconciliation – the three pillars of the Commission – share a complex relationship. Depending on how they are pursued, they can both complement and reinforce each other, or be in tension with and even conflict with each other. Truth is necessary for furthering justice and reconciliation; justice is necessary for reconciliation; and reconciliation may be necessary for truth and for justice. (TJRC Report, Vol. 1, p. 48)

The Truth Commission collected 40,000 statements, the largest number in history of truth commissions. The Truth Commission also received 1529 memoranda from individuals, groups, associations and communities. These memoranda provided information beyond the limits of the Statement Form. The Commission conducted 220 public hearing sessions during which more than 680 individuals testified (TJRC Report, 2013). The Truth Commission's findings illustrate how successive regimes had encouraged perpetuation of human rights violations, "resulting in severe repression of political dissent and intimidation and control of the media. This repression of political speech and the media allowed many violations to occur with little public scrutiny, much less accountability" (p. ix, Vol. I).

Kenya's Truth-seeking Campaign: A Difficult Tenure for the Truth Commission

The creation of truth commissions often arises from the need for victims of human rights violations to know the truth about the injustices, the identity of perpetrators, the root causes of these injustices, and the fate of their loved ones (ICTJ, 2013). Thus, truth commissions embody the right to truth. Truth-seeking is the range of activities, policies and agencies employed to generate a process of truth with the goal of justice and reconciliation. Truth commissions are contextually contingent but are generally considered non-judicial inquiries “established to determine the facts, root causes, and societal consequences of past human rights violations. Through their focus on the testimony of victims of atrocity, truth commissions provide acknowledgement and recognition of suffering and survival to those most affected” (ICTJ, 2020). Truth commissions help citizens of a country determine their nation’s story about a traumatic past (Andrews, 2003). These “unjust pasts provide memories and thus codes, tropes and interpretative contexts, which shape actions and responses and which make particular futures thinkable and others feared” (Lynch, 2018; p. 9). There is no fixed number, but several truth commissions have been established since World War II. Truth commissions have been held in Uganda, Argentina, Chile, Kenya, South Africa, Ghana, Sierra Leone, The Gambia, East Timor, Guatemala, Rwanda, Chile, Peru, Canada, and Liberia among others. The United States Institute of Peace (USIP) lists over 30 countries that have had to investigate human rights violations through truth commissions.

Table 2.2: Key Events in the Timeline of the Truth Commission

MAJOR EVENTS IN LIFE OF TJRC	DATE
Kenya National Dialogue & Reconciliation Act	18 March 2008
Parliament Passes Truth Justice Reconciliation Act	23 October 2008
Presidential Assent to Law	28 November 2008
Act becomes operational	17 March 2009
Inauguration of Commissioners	3 August 2009
Statement taking	May 2010-Oct 2011
Betty Murungi resigns as Vice Chair	29 March 2010
Betty Murungi quits TJRC	April 19 2010
International Commissioner Ron Slye “resigns”	21 October 2010
Chairperson Bethwel Kiplagat “steps aside”	1-2 November 2010
Public & Private Hearings	April 2011-April 2012
CEO Patricia Nyaundi resigns	1 August 2012
Report handover to President	21 May 2013
TJRC mandate ends	21 August 2013

Kenya’s clamor for truth, justice and reconciliation faced obstacles when the Truth Commission was embroiled in a series of scandals, resignations, financial woes and credibility problems. The Commission states in its report that the credibility of the chairperson, Bethwel Kiplagat, was the biggest challenge faced during its tenure. Divisions within the Commission also came to the fore when international commissioners refused to append their signatures on the Report’s findings that implicated the president’s family in land fraud. Slye (2018) explains that the international commissioners did not agree with their Kenyan colleagues to remove references to allegations of land grabbing by Kenya’s first president Jomo Kenyatta. For this reason, the TJRC Report has two chapters on land

injustices, one signed by all commissions and one missing three signatures. Overall, the Commission lists four challenges to its mandate (see Vol 1, pp. 124-154):

- a. Credibility of Chairman Bethwel Kiplagat: that he had served as a powerful cabinet minister in the government of President Moi and was accused of involvement in serious violations of human rights that the Commission was bound to investigate (Wagalla massacre, Robert Ouko assassination and irregular allocation of land)
- b. Financial and Resource Challenges: the Commission says it operated on a paltry budget throughout its life. “The financial situation was so dire that at times it had to seek loans from Commissioners” (p. 144).
- c. Legal Challenges: the commission faced lawsuits that threatened to derail its operations
- d. Lack of political will: Lack of support from the government and the political elite, which was rooted in the “absence of a clean break with the past” (p.152) by personalities who had served in previous repressive governments.

Despite having the largest number of statements from the public in any truth commission, Kenya’s TJRC has been considered a “failed” project in Kenya’s quest for reforms (Slye, 2018). The TJRC Report, like other commissions of inquiry before it, is not publicly available, and its recommendations have never been implemented. Lynch (2018) describes this outcome as “a *familiar performance* that fell short of the TJRC’s mythic status” (p. 97). Kenya has had innumerable commissions of inquiry, a favored approach by presidents to initiate research and investigations into a public problem. However, almost all these inquiries, which are publicly funded, always end up with reports that are gathering dust in public offices or are classified. The government restricts

auditing of these reports (AfriCOG, 2007). The reports' findings are rarely implemented. It is therefore not surprising that the TJRC Report was never released to the public.

TJRC Key Findings

According to the TJRC Report, between 1895 and 1963, the British Colonial administration in Kenya committed “unspeakable, unprecedented and horrific” violations of human rights. The colonial administration’s divide-and-rule approach to the local population that created a negative dynamic of ethnicity, that has consequently shaped socio-political relations in Kenya to this day.

The Commission reports that, in post-independence Kenya, between 1963 and 1968, President Jomo Kenyatta’s government was responsible for numerous violations of human rights: killings, torture, collective punishment, and denial of basic needs (food, water and health care); political assassinations of Pio Gama Pinto, Tom Mboya and J.M. Kariuki; arbitrary detention of political opponents and activists; and illegal and irregular acquisition of land by the highest government officials and their political allies.

The Commission adds that between 1978 and 2002, President Daniel Arap Moi’s government was also responsible for numerous violations of human rights: massacres; unlawful detentions, and systematic and widespread torture and ill-treatment of political and human rights activists; assassinations, including that of Dr. Robert Ouko; illegal and irregular allocations of land; and economic crimes and grand corruption. Finally, between 2002 and 2008 President Mwai Kibaki’s government was also responsible for numerous violations of human rights, including unlawful detentions; extra judicial killings; and economic crimes and grand corruption (TJRC Report, Vol. IV, 2013).

In other findings, the Commission emphasizes that state security agencies, particularly the Kenya Police and the Kenya Army, have been the main perpetrators of bodily integrity violations of human rights in Kenya. Secondly, the Commission notes that northern Kenya has been the epicenter of human rights violations by state security agencies such as the “Wagalla Massacre”. The Commission established that historical grievances over land constitute the most salient driver of conflicts and ethnic tension in Kenya. Women, girls, children and minority groups have been the subject of state-sanctioned systematic discrimination, and atrocities including killings, physical assault and sexual violence. Minority groups and indigenous people have suffered discrimination in relation to citizenship and political participation (TJRC Report, Vol. IV, 2013).

These human rights violations were enabled by the consolidation of wealth and power by successive regimes after independence through a system of neopatrimonialism, client patronage, ethnicity and nepotism. According to the Commission, the failure of President Jomo Kenyatta to dismantle repressive state structures established by the colonial government, resulted into a bandwagon effect. Furthermore, President Daniel Arap Moi’s administration continued with the trajectory of these repressive structures. President Moi’s government, under a single party rule, enabled a climate of severe repression of political dissent, intimidation and control of the media, which in turn allowed many violations to occur while stifling public scrutiny and accountability (TJRC Report, 2013).

The failure of successive governments to investigate and punish human rights injustices, the consolidation of immense powers in the presidency and the deliberate

erosion of the independence of both the Judiciary and the Legislature, sum up the factors that enabled enduring culture of impunity since 1963 (TJRC Report, 2013).

The Commission, in view of these findings, recommended a raft of measures towards reparations and healing. The Commission asked that President Uhuru Kenyatta, within six months of the issuance of the Report, offer a public and unconditional apology to Kenyans for all injustices committed during the mandate period. Also to apologize to Kenyans were state security agencies, and in particular the Kenya Police, Kenya Defense Forces, and the National Intelligence Service for injustices committed by their predecessor agencies. The Judiciary was to apologize to Kenyans for failing to address impunity effectively and perform its role of deterrence. The British government was asked to offer a public and unconditional apology to Kenyans for all human rights injustices committed by the colonial administration. The Report recommends the creation of a National Human Rights Day on 10 December and the fast-tracking of the enactment of human rights related laws on freedom of the media, fair hearing and rights of persons held in custody or detained.

SUMMARY

This chapter has addressed the geography, demographics and political history of Kenya. The chapter has also discussed events that led to PEV and post-conflict reconstruction efforts that were initiated to lead the country to a path of peace and stability. Among the raft of transitional justice mechanisms, this study focuses on the truth-seeking campaign of the TJRC. The rest of the chapter introduces the TJRC, its justification and mandate, composition, timeline, challenges and final contribution to the truth about Kenya's history of injustices. The chapter ends with the primary findings of

the Commission and a few of its recommendations. Among the most notable issues during the Commission's tenure was the controversy surrounding the chairperson's credibility crisis. However, for all its challenges, the Commission's Report, which is 2,100 pages long, is its legacy. The Report highlights elements of neopatrimonialism, client-patronage and enormous powers vested on the presidency as stains on Kenya's governance record which has enabled oppressive structures of injustice and inequality that intersect with other social markers such as tribe, class, gender, nationality and even religion. As succeeding sections of this study will show, there is much to learn from the Commission's investigations and findings.

When documenting or commenting about Kenya's transitional period and the assertion that successive governments since 1993 had institutionalized ethnic violence, abuse of office and human rights violations, the news media is mentioned only in passing. This study examines how the Truth Commission interacted with the media to realize its agenda for truth, justice and reconciliation. In understanding the Commission's context, composition, operations, findings as well as its challenges, we are charged with the question of national dialogue. The Commission's agenda was one that captured conversations about the country's political developments at a time when Kenyans were reeling from PEV, electoral injustices, repression, inequality and all manner of rights violations. For a post-conflict society that was yearning for change, the media definitely played a role in the construction of these dialogues. The next section underscores the nexus between the national media and the truth-telling process.

CHAPTER III

THEORETICAL FRAMEWORK AND LITERATURE REVIEW

The class which has the means of material production at its disposal, consequently, also controls the means of mental production, so that the ideas of those who lack the means of mental production are, on the whole, subject to it. — Karl Marx & Friedrich Engels (1976).

The two previous chapters have contextualized Kenya's transitional justice period and the truth-seeking campaign of the TJRC. This chapter has two major sections. The first part maps the philosophical and theoretical underpinnings of media and power. The theories reviewed here complement each other in their contribution to social, economic, political and cultural factors that shape the news. This study benefits from a multi-level analysis of journalism practice as a way to scrutinize media organizations, so that the different phases of media work and the significant relations between units of organizational activity and between media and the "outside world" can be identified for study (McQuail, 2011). These theories help us understand how news content is shaped, the form it takes, and its implications on social relations by integrating "effects on content with effects of content" (Shoemaker & Reese, 2014, p. 5).

This chapter is divided into three parts: conceptual framework, related studies and presentation of my research questions. The conceptual framework portion begins with the gatekeeping theory, which revisits the debate on how journalists negotiate decision-making terrain amidst the pressures from "forces at the gates". The hierarchical model which arose out of contemporary gatekeeping models, is organized around five levels of analysis which complement one another to shape news content. In this study, the model is helpful in understanding factors that have influenced media work that eventually enabled or constrained a system of injustice and inequality in Kenya. The social systems level of

analysis examines external influence on news production that reproduce and sustain power arrangements that privilege the establishment elites. Under social systems analysis, the political economy of the media theory addresses the implications of the economic context of media work on its operations and output. This section also includes neo Marxian concepts of hegemony and ideology as interacting within the political economic framework in which the media function. Media capture is a concept that provides a strong anchor to this section by illuminating how forms of state and elite control of the media impinge on editorial independence and overall media freedom. Subsequently, this chapter explores the nexus between press freedom and sustainable development.

The next section is a review of literature on related studies that connect the news media paradigm to transitional justice. It reflects on other studies that have been done within transitional justice contexts of other countries. The chapter ends with an overview of literature on the media and journalistic culture in Kenya, culminating into questions arising from missing gaps in the literature. These research questions are grounded in the concepts and related studies previously reviewed, as well as in the context of the study in Chapter II.

Gatekeeping: “Forces at The Gates” in News Making

News production scholarship has featured prominently in academic scholarship from the 20th century (for example, Tuchman, 1973; Gans, 1979; Fishman, 1980; Shoemaker, 1982) to recent concerns on news production and democracy (Schudson, 2011; Zelizer, 2012; Hanitzch et al., 2010). One of the central processes of making news is gatekeeping, a theory of news production that has stood the test of time. In times of disruptive media technologies, scholars have struggled to reinvent news content production by pronouncing

the demise of gatekeeping, yet it remains an enduring news production process at the center of the media's role even in contemporary public life (Shoemaker & Vos, 2009).

Gatekeeping in mainstream media is the ultimate mystery of media content encoding as it is a process whose dynamics are largely known only to editors, reporters and other actors in a media institution.

Gatekeeping is defined as “the process of culling and crafting bits of information into the limited number of messages that reach people each day” (Shoemaker & Vos, 2009, p. 1). Simply put, in the gatekeeping process a deluge of potential news messages are considered newsworthy and are packaged to fit publication standards. As one of the oldest theories of mass communication, it has evolved to adapt to contemporary ways of curating the news (Vos & Heinderycks, 2015). The media still filter our experiences and shape our understandings of the world, although traditional gatekeeping has had to adapt in the face of more sources of information as well as verification and authentication challenges have upended traditional gatekeeping. The fact that media gatekeepers still craft and cull information before it reaches the audience, whether in online news, social media or legacy media channels, makes the process of gatekeeping still relevant today.

The advancement in communications technologies has led some scholars to pronounce the death of traditional journalism. McChesney and Pickard (2011) ask “Will the last reporter please switch off the lights?” to signal the collapse of journalism in the USA, legacy media continue to thrive in some locales including in the USA even though the ground has shifted to convergent media platforms (Pew Research, 2015). As long as news exists, gatekeeping will be part of it.

For decades the gatekeeping function has given power to news producers and their organizations. Gatekeeping as a theory of news selection, now 70 years old, was launched in communication studies in a seminal paper by David Manning White in 1950 (Vos, 2015). Scientist Kurt Lewin is credited with providing the gatekeeper metaphor, which David Manning White adopted under the pseudonym “Mr Gates” and this paved the way for gatekeeping as a theory behind the selection of media content (Shoemaker & Reese, 1991). Troves of studies have used this concept to explain forces that shape news construction. The gatekeeper metaphor has given scholars a framework for evaluating how selection of media content occurs and why some items are rejected while others are selected. However, the “Mr Gates” model of an individual gatekeeper was limited because it did not recognize that multiple layers of gatekeeping and gatekeepers’ own role conceptions or positions may shape gathering, shaping and transmitting news items (Shoemaker & Vos, 2009).

Unlike previous studies of processes and effects in media studies that had dominated early communication studies at the time, gatekeeping theory sought to establish factors, both internal and external, that influence media content (Shoemaker & Reese, 1991). Therefore, gatekeeping studies answer the *why* instead of the *what* in news production but first use the *what* to evaluate the *why* behind it (Vos, 2015). In other words, gatekeeping studies look at media content (what) and seek a justification (why) for the content. As mentioned earlier, the ground has shifted in media gatekeeping research, as the convergence ecology and culture have given rise to audience dual participation as “producers”, where they are users as well as producers of content (Bruns, 2006).

Recent studies thus attempt to reevaluate gatekeeping studies. For example, Thorson and Wells (2015), suggest the renaming of the gatekeeping metaphor to using the term “curated flows”, which indicate how different actors share the role of content production and dissemination. But Vos (2015) and Heinderycks (2015) argue that gatekeeping is in transition, and remains an important lens through which to explore the question “how does news turn out the way it does?” (Vos, 2015; p. 4). Examining how news turns out the way it does is historically and contextually contingent to media access and consumption patterns. In non-Western contexts like Kenya where internet penetration is still low, despite the steady growth of Information Communication Technologies (ICTs) through mobile telephony, newspapers have been popular mediums for national dialogue.

The media’s role in shaping public consciousness is unquestionable, though universalist understandings of this function are problematic. Graber, McQuail and Norris (2008) see news as a primary determinant and an indicator of public opinion, which is ultimately translated into action, such as votes or support for a public program. The media shape public opinion through gatekeeping, a process of selecting, from an array of news stories, those which gatekeepers deem as newsworthy (fit for publication/fit to print). Through this selection and display of news, editors and news directors who ultimately decide what makes news, draw the attention of audiences and influence their perceptions on what are the most important issues of the day (McCombs, 2004).

Decisions about what is most important is evident in the way news is arranged in a hierarchical order for publication whether as breaking news, front-page news, page leads, teasers, and so on. Visual cues such as photographs and images, the placement of stories, the size of headlines and other typographical symbols, are as a result of strategic decisions

that influence the salience and perceived importance of news stories in newspapers (Ojala & Pantti, 2017; Coleman, 2010; Zillmann et al., 2001). By hierarchically arranging or displaying the news, the news editors tend to lead the audience to a “reality” of which news story is of highest priority. These news producers rely on an innate characteristic of people to be interested in information that is deviant or of social significance (Shoemaker & Cohen, 2006). Furthermore, the work of journalists’ attempts to reflect the society based on the context of that society because news production is a highly dynamic process that does not take place in a cultural and social vacuum (Machin & Niblock, 2006). It is therefore necessary to examine and update our understanding of how news journalism functions and impacts our society (Machin & Niblock, 2006).

In regard to structure and content of news media, the main issues are how media organizational routines and procedures for selecting and processing content influence what is produced, what degree of freedom a media organization possesses in relation to the wider society, and how much freedom is possible within the organization (McQuail, 2010). As gatekeepers rely upon normative roles to guide their daily sampling of the environment and provide a limited view of this environment (McCombs 2004), one way to analyze media organizations is to think in terms of levels of analysis, so that the different phases of media work and the significant relations between units of organizational activity and between media and the “outside world” can be identified for study (McQuail, 2010). This leads to the review of the hierarchical model in gatekeeping studies.

The Hierarchical Model

The hierarchical model (formerly hierarchy of influences model) has been one of the most prominent approaches in the study of sociological influences on news media gatekeeping. The approach focuses on forces that shape media content and how this (content) constitutes a mediated symbolic environment (Shoemaker & Reese, 2014). The model takes into account the multiple forces that simultaneously impinge on media and suggests how influences at one level may interact with those at another level. The strongest contribution of the hierarchical model in this study is that it adopts an eclectic approach to the study of media and power, by linking together layers of factors that influence news gatekeeping. According to Shoemaker and Reese, this means that what happens at the micro level is affected, and even to a large extent determined by what happens at the macro level. In short, “one level constrains or conditions, or is contingent on the influences at another” (p. 243).

The hierarchical model marked a groundbreaking moment in gatekeeping studies by applying five levels of analysis to establish factors inside and outside media organizations that affect media content. Shoemaker & Reese (1991) collapsed these levels of analysis into a hierarchy of five influences: individual (media professionals), media routines, organizational, extra-media factors, and ideological (socio-cultural). These five levels of analysis are conceptual tools that help explore how “forces at the gates” influence how journalists and news organizations select news. The five levels of analysis of the model turned media effects research on its head, because it concentrated on *why* news content turns out the way it is and why this shapes social relations.

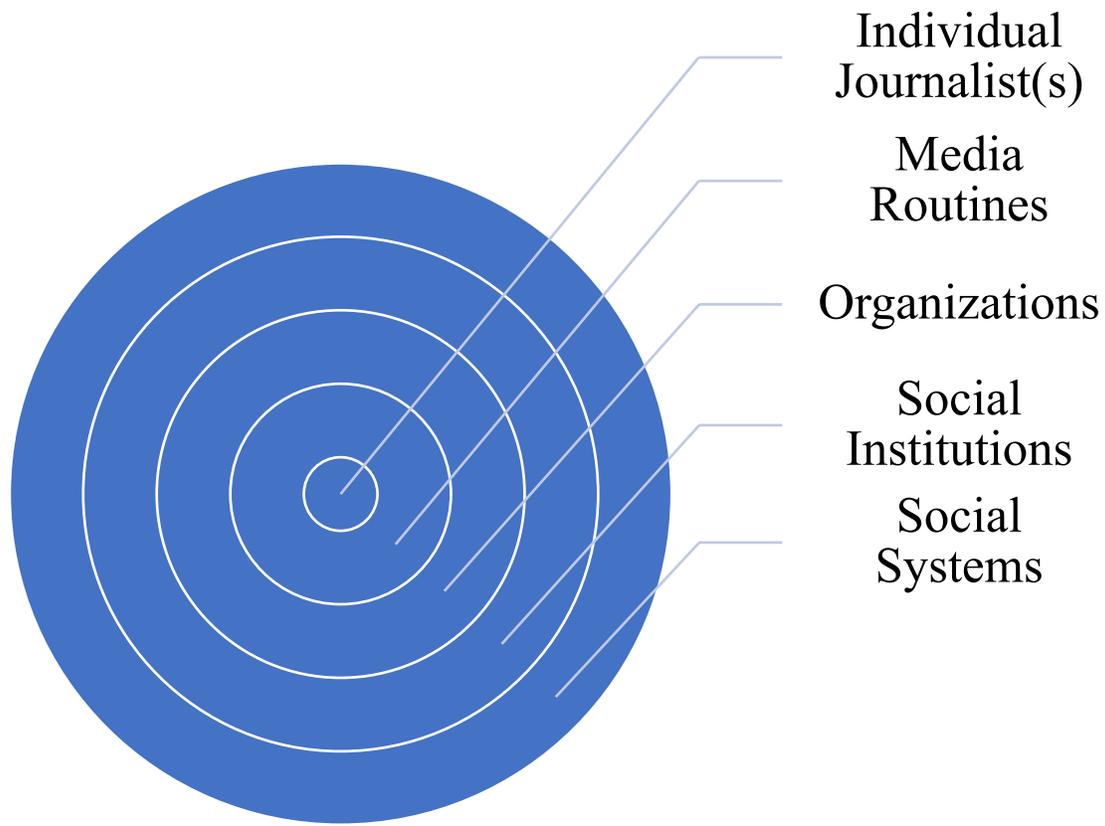


Figure 3.1: The Hierarchy of Influences Model

Early research using the hierarchical model centered on micro levels of influences such as journalistic perceptions and media routines. A journalist’s ethnicity, gender, sexual orientation, or personal-religious orientation rests within the innermost circle at the individual media worker level (Shoemaker & Reese, 1991; Riffe, 2011). The pressure intensifies when the modern journalist is expected to be all things at once: watchdog, messenger, reporter analyst, advocate, or broker (Patterson & Domingo, 2008). But these roles are not fully compatible, and by focusing on one, journalists could inevitably diminish their ability to perform another equally well.

Patterned reliance on expert sources falls within the media routine circle (Riffe, 2011). Every media organization has a set of routines that media workers follow to produce

news. Routines are crucial in determining which items are moved through the channel and which ones are rejected (Shoemaker & Reese, 1991; Shoemaker & Vos, 2009). Part of news production routines involves “authoritative sources” of information from police, government officials, subject experts, and think tanks among others. Scholars have debated — and are divided over — the influence of “authoritative sources” on the news-making process, whether it constitutes a symbiotic or parasitic relationship between journalists and their sources. Strömbäck & Dimitrova (2011) argue that this frequent reliance on “authoritative sources” gives the media leverage to exert considerable influence over news discourse, not only by giving them direct access to the public but also by allowing them to influence the meaning and interpretations of the issues at hand. Other work routines that influence newsroom decisions are editorial conferences, imminent deadlines, ethical procedures and editorial policies. In a study of news coverage of 50 Congressional Bills, Shoemaker et al. (2001) found that forces at the routine level influenced newspaper gatekeeping more than individual staff writers’ characteristics. In another study, Clayman and Reisner (1998) studied how newspaper editors in conferences jointly determine which stories receive priority attention.

At the organizational level, management and ownership allocate resources, hire senior personnel, determine target markets, and set broad policy guidelines (Hackett & Uzelman, 2003). For Shoemaker & Vos (2009), the ability to hire and fire is one of the greatest powers of an organization. In other words, owners and managers have the final say in what the organization does. Changes in ownership of a media company would also be identified as an influence occurring at the organizational level (Riffe, 2011).

Extra-media influences explain the pressure from institutions that make up the social system to which the organization belongs (Shoemaker & Reese, 1991; Shoemaker & Vos, 2009). Corporate pressure from public relations firms, markets, policy institutes, and political parties are examples of extra media forces that shape news content. Bowing to advertiser pressure not to cover something is an extreme example of such influence (Riffe, 2011). The extra media level of analysis in later revisions (Shoemaker & Vos, 2009; Shoemaker & Reese, 2014) was recognized at the social institutional level.

The final level of influence is that of social systems as the base on which the other levels of analysis rest (Shoemaker & Reese, 2014). The social systems level is complex as it explores “meaning in the support of power and ideas in the support of interests” (p. 64). Within the social systems level of analysis are the notions of ideology and hegemony, which influence news gatekeeping to reinforce existing power relations. Riffe (2011) observes that consistent, non-conspiratorial patterns of media coverage (the result of institutional, occupational and cultural practices that make up the mass media) that lend support to actions advocated by powerful elites and executed by the government would be evidence of how ideology influences media content. Furthermore, the need to make a profit also plays an inhibiting role, where independent reporting and commentary face mounting challenges if they go against dominant opinion (Graber et al., 2008).

Under the hierarchical model the micro levels of analysis (individual, routines, organizational) have received more attention in studies (Shoemaker & Reese, 2014). The meso and macro levels of analysis (social institutions and social systems) have seen less research focus. Consequently, most communication researchers and political scientists who primarily deal with effects of news frames have omitted the notion of power, ideology,

hegemony, control and domination, while privileging studies on individual journalists (Waisbord, 2014; Vliegthart & van Zoonen, 2011).

Media messages through their meanings can connect the “ideological subsystem to the cultural subsystem by transmitting familiar cultural themes that resonate with the audience. These themes or frames are selectively chosen and constructed into a coherent whole” (Shoemaker & Reese, 2014, p. 69.). Ideology is also tied in a mutual relationship to class interests. Democratic pluralism, Marxism, instrumentalism, political economy and hegemony are examples of ideological axes through which the relationship of power and media play out in journalistic practice.

In this study, the hierarchical model has been employed to synthesize multiple levels of influence on news gatekeeping. However, the hierarchical model as presented paints a broad brush on factors that impinge on news decision-making. The model largely takes a liberal-pluralist view that supports normative approaches to journalism’s “watchdog” role over excesses of the establishment elite. The broad brush appeal of the hierarchical model is not sufficient in critically confronting influences on news making that have implications on journalistic interpretations of their work in relation to inequality and injustice.

Critical Political Economy of the Media

The media today are as pervasive in our societies as they have historically been. The increasing penetration and proliferation of communication in everyday life does not occur in a vacuum (McChesney, 2000). The media have historically been the main source of information for socio-political processes and have influenced public consciousness on

such matters (Murdock & Golding, 1973). Communication scholars continue to critically raise questions about the influence of the media on power relations, investigating how political and economic arrangements are embedded in media processes of information gathering, production and distribution. Basically, in the political economy of media studies “the social relations, particularly the power relations, that mutually constitute the production, distribution and consumption of resources, including communication resources” (Mosco, 2009, p. 2).

Scholars moved away from neoclassical economics in the analysis of media and power to embrace more radical questioning of the control of media, from media ownership to commercialization, marketization, financialization and commodification of the media (Hardy, 2014; Wasko, et al., 2014). Hence, studies of critical political economy of the media have retained a radical questioning of salient issues in media and communication with an emphasis on the nexus between communication and the unequal distribution of power that has reproduced sustained inequalities (Hardy, 2014). A critical analysis of the media’s relation to powerful economic interests is integral in understanding the rise and rise economic nationalism, populism and structural injustice. To advance their approaches in the study of communication and democracy, scholars have long been urged to “revitalize and privilege” political economic analyses of the media (McChesney, 2000).

Critical political economy studies underscore how the media are locked into close knit relations with the political class in capitalist, democratic and even authoritarian societies. This approach highlights how the relationship between the media and the political class ebbs between mutuality, dependency or parasitic and symbiotic cases. As Murdock and Golding (1973) state, vertical and horizontal integration have given the media more

leverage in expansion of influence through various commercial arrangements like interlocking directorships, shareholding, mergers and takeovers. In critical political economy, the media are seen as subservient to these interlocking arrangements in ways that have reinforced the power of the establishment and more often than not failed to initiate counter hegemonic, revolutionizing information agenda. It is even more difficult to recognize the media's contribution to injustices, oppression and marginalization when their operations are hidden behind the shadows of free market ideologies, democratic principles and lack of overt censorship. Consequently, the media oftentimes get away with subtle ways of maintaining a status quo that benefits the elite political and ruling class while widening the inequality and injustice gap.

The elite domination of the media is not a single issue problem in media work. Herman and Chomsky's (1988) propaganda model identified five news filters that they argued traced the way elite-driven media marginalized dissent and manufactured consent. Critiqued as a radical political economic analysis of the US media, the propaganda model identifies five filters that interact with, complement and reinforce one another in media operations, of which news gatekeeping is large part of. These filters are: the size, concentrated ownership, owner wealth, and profit orientation of the dominant mass-media firms; advertising as the primary income source of the mass media; reliance of the media on information provided by government, business, and "experts" funded and approved by these primary sources and agents of power; "flak" as a means of disciplining the media; and "anticommunism" as a national ideology and control mechanism. In the years since their propaganda model, the consolidation of media products and industries through concentrated ownership, mergers and takeovers, diversification and internationalization

have increasingly shaped local and global media flows. Herman and Peterson (2011) have critiqued the liberal media in western societies as aligned with western powers and their military, political and cultural agenda. The western media are part of the elite establishment that has largely propelled US imperial interests by adopting a “State Department Needs Model” (Herman & Peterson, 2011).

The profit-orientation of the media conglomerates is mind boggling. The advancement of new communication giants that now control much of global mediated content — Facebook, Netflix, Twitter, Amazon, Microsoft, Google — has extended the profit-oriented function of media corporations (Birkinbine, Gomez & Wasko, 2017). Their dominance in global information flows also illustrates what Schiller (1989) termed as “not yet post imperialist era” as these American-based companies contribute to the US imperialistic power through a military-industrial-complex (Herman & Peterson, 2011; Schiller & Phillips, 1972; Schiller, 1971). Despite contemporary changes in disruptive effects of new media giants, there is little to celebrate about fighting inequality and injustice even with the opening of more spaces for social movements. For while “counter-currents have tried to ebb the flow of powerful waves of inequality, they only create temporary tidal pools that are eventually washed over by the flows of global financial capital” (Birkinbine, Gómez, & Wasko, 2017, p. 2). The US military-industrial-communication-technology complex has benefited from transnational neoliberal economic structures that have aided its dominance over the global transnational flow of communication products.

The propaganda model also singles out the ransom power of advertising as a dominant source of revenue for the media, which still holds sway in today’s globalized

environment. The mainstream media has also continued with its reliance on “authoritative sources” of news coded as government and pro establishment elite voices. Flak in many forms including media boycotts, threats, defamation and libel suits with quantum awards has also robbed the media of independence in judgement while facing such pressures. Anti-communist ideology as a control mechanism in the propaganda model can be interpreted as any anti-establishment ideology that threatens to uproot the domination of the capitalist, imperialist supremacy of a powerful pro-status quo system. Apart from the threat narrative of communism, the media have propagated threat narratives of globalization, immigration and terrorism through representation of the “Other” in western spheres. Such narratives have reinforced fear and promoted dominant narratives of nationalism and populism in the guise of “patriotism” and “sovereignty”. While the propaganda model and other radical political economy approaches have illuminated powerful modes of media control, they have been critiqued as reductionist and western-centric. They have also been weakened by their macro approach that erases the good of journalism (e.g. the Panama Papers, Watergate, etc.). The radical approach has also been critiqued as being economically deterministic. These critiques have paved the way for neo-Marxist contributions to the role of ideology, hegemony and myths in the media-power relationship.

Neo-Marxist arguments extend critical political economic analyses of media and power by highlighting the role of ideology, hegemony and myths in media content construction. The hegemonic approach sees the media as co-opted into a system of subtle control by the ruling class. According to Gramsci, the media are organically subservient to the ruling class as traditional intellectuals promulgating the worldview of the dominant class (Bodenheimer, 1976). In Gramsci’s view, the dominant system’s power and control

does not lie in violence and coercion but by acceptance of the ruled of the dominant world view through which the dominant class wins over the consent of the subordinate classes (Bodenheimer, 1976; Hall, 1977). Hegemony is always historically situated and never fixed or uncontested, but insurgency has a heavy price tag as those who are not co-opted are punished one way or another especially with the rise of organic intellectuals. Hegemony and ideology reinforce the dominant means of production through coercion and consent. As Marx famously stated, the ruling class controls the ruling ideology (Marx & Engels, 1976).

According to Althusser (1971), ideological and repressive state apparatuses provide the conditions and relations of production that reproduce class privilege and subordination. In this theory of ideological state apparatuses, the media are among other cultural institutions that work with repressive apparatuses to sustain a condition of subjectivity to the dominant ideology. For capitalist societies, Althusser emphasizes the Marxist argument that no production is possible without the reproduction of the material conditions of production, the reproduction of the means of production. As commercial organizations, the media are subjective to the dominant ideology and have been used by repressive forces to further the interests of the exploiters.

The media's response to state and commercial control is not fixed, but dangers loom for counter-hegemonic systems of gatekeeping. Social systems level of analysis has therefore shifted to capture more nuanced ways in which powerful interests continue to shape media work.

Media Capture and Press Freedom

Media capture is defined as the control of media production (news making) by powerful and vested interests (Schiffrin, 2018). The term “capture” was originally used by economics scholars but has been helpful in providing an analytical framework to address challenges to media freedom. Some societies experience increased forms of media capture than others. Media capture is also contextual, occurring at unique junctures in a society’s history. Historically, the most dominant form of media capture was by the state (Atal, 2017). In contemporary times, a collusion between government and private sector interests can be a threat to journalistic independence (Schiffrin, 2017). The media are not free when they do the bidding for elites and when there are relationships between political elites and the media (Schiffrin, 2017). Evidence from literature and press freedom advocates shows a strong connection between authoritarian countries and media capture. In the neoliberal era, state elite rulers have relationships with private corporates in dynamic and complex ways that have served to promote and cement their ideologies. The privatization that was fueled by neoliberalism increased media pluralism but in the process did not lead to greater diversity in media ownership but concentration of media ownership among wealthy individuals with ties to the ruling elite class (Workneh, 2017; Schiffrin, 2017).

There are diverse and overlapping forms of media capture: state capture, where the media are ideologically controlled by governments; corporate capture where the media are controlled by advertisers and owners; cognitive capture where the media coverage pushes a certain agenda; plutocratic capture where the media are controlled by wealthy donors and other politically connected plutocrats (Atal, 2017; Schiffrin, 2017).

Intersecting capture occurs when different forms of capture interact to impinge on media independence (Atal, 2017). According to Schiffrin, cognitive capture is the most subtle and difficult to prove, since journalistic reporting can give rise to acceptance of views within society that reflect similar interests. These views “can become part of the echo chamber that amplifies and solidifies conventional wisdom” (p. 14).

Media capture as an analytical framework for studying constraints on media work is not new because it connects journalism to political power. The freedom of the press and how to measure it has been an enduring debate among scholars of media capture. According to Skjerdal (2000), there are two kinds of freedom of the press. The first type, technical freedom, references the perceived rights of the press to be editorially independent from government and advertisers, rejecting censorship and economic pressures. Secondly, structural or ideological freedom pertains to the unwritten, unseen and often unconscious constraints on the press.

There are instances when news organizations engage in biased reporting for political reasons through sourcing of content (Prat, 2016). In media capture, powerful actors, especially the government, wield rewards and punishment based on media co-option into authoritarian agendas. Repressive regimes have punished targeted journalists with torture, harassment and even murder. Rewards include bribes, and advertising revenue.

But media capture is not absolute. There are instances where media power overcomes obstacles to influence electoral outcomes or public policy without state manipulation (Prat, 2016). Woodall (2018) examined how mega-leaks disrupted media capture in the United States through journalistic collaboration. This culture of collaboration, she says, encouraged reportorial independence from dominant sources.

However, mass leaks and collaborative projects are rare. The daily production of news is still reliant on media systems with structural implications for public opinion. Frisch et al. (2018) studied the news system in Hong Kong as influenced by Mainland Chinese political and business interests through the “re-negotiation of power and media, via media practices and norms that mirror Mainland China’s authoritarian media practices” (p. 1166). Media capture here is exercised through the collusion of government and business interests.

In their strategies to control the press, governments sometimes turn to public broadcasters. In the Balkans, lack of editorial independence that is manifest in politically biased, pro-government news content has contributed to the media capture in the region. Milosavejic & Poler (2018) critically reviewed the public broadcast system in the Balkans and concluded that a lack of editorial independence, reflected in politically biased, pro-government news content, was the main problem of public service broadcasting in the region. Other factors that have influenced Public Service Broadcasting (PSB) is the sponsorship, product placement and commercialization of programs at the expense of public interest content and in favor of entertainment formats (Milosavejic & Poler, 2018).

Evidence shows that historically repressive societies have had repressed media systems. Marquez-Ramirez & Guerrero (2017) note that the media systems of several Latin American countries have been influenced by a history of authoritarianism. Media outlets that seem free are buoyed by corporate interests that supported the region’s past regimes, leaving a legacy of clientelism and capture in its wake. McMillan & Zoldo (2004) explain how in Peru, for example, during the reign of Alberto Fujimori, secret-police chief, Vladimiro Montesinos Torres “bribed judges, politicians, and the news media” (p. 69). Montesinos’ preference was television, which he used to “bring peace back to the country”

and to “work for the national interest”. His media capture strategy was bribery, which he used to control news content. In the end, it was the news media that helped bring down Montesinos and his corruption schemes. The broadcast of the bribery provoked the uprising that toppled Fujimori from power (McMillan & Zoldo, 2004). The “Montesinos virus”, as the authors call it, is present in many other countries too that have levels of corruption, coupled with commercial forces that have fueled the concentration in ownership.

In sub-Saharan Africa, press freedom is closely linked to the rise of “big men” and their control of communication spaces for political gain passed on from one strongman to the next (Workneh, 2017). The strongman phenomenon then begins a vicious cycle where poor governance goes unchallenged, impunity reigns and divides, and the media are subdued in a system of patrimonialism and fueled by neoliberal capitalism. Market fundamentalism, as Workneh notes, benefited from deregulated, liberalized and privatized neoliberal systems that paved the way for transnational corporations to take root in the African mediascape.

The fall of strongmen from power in sub-Saharan Africa was hailed by pro-democracy actors, but this was short-lived as their successors continue with the trajectory of repressive structures that have shaped media work. The neoliberal economic partnerships with the West (and now China) that have reproduced wealth and power to African leaders is perhaps a repudiation of the push for a New World Information and Communication Order (NWICO) when Third World leaders called out the imbalance in global flow of media and cultural products. The NWICO debate occurred at a time when members of the Non-Aligned Movement, which included many African countries that had gained independence, questioned north-south relations amidst the Cold War

(Padovani, 2015). At the onset of the neoliberal economic regime, African states were coopted into development programs of the World Bank and International Monetary Fund (IMF), that gradually paved the way for a dominant class of “one-percenters” controlling wealth and fighting anyone standing in their way. Media capture on the continent has not diminished, even with the pro-development optimism that fueled the “Africa Rising” meta narrative among scholars (see Bunce, 2017). In Tanzania the media sector is largely discredited and poorly funded and is embedded in a system of multi-faceted form of capture through state regulation, clientelism, economic pressure and intimidation (Powell, 2017). There are also nuances where some journalistic cultures defend what others would categorize as media capture as responsible journalism. Such is the case of Rwanda where journalists have chosen to adopt government restrictions on news coverage and their own self-censorship over what they deem as sensitive topics (Sobel & McIntyre, 2019). In fact, these journalists believe that “outsiders do not understand their news media culture and should not judge them as oppressed” (Sobel & McIntyre, 2019, p. 572).

With the fall of strongmen such as Robert Mugabe (Zimbabwe), Omar al Bashir (Sudan), José Eduardo dos Santos (Angola), Hosni Mubarak (Egypt), Yahya Jammeh (the Gambia), Laurent-Desire Kabila and his son Joseph Kabila (DRC), the continent seemed to have been on its way to sweeping waves of freedoms. Authoritarianism has persisted in Africa (Freedom House, 2019), this is evident under the remaining strongmen regimes of Yoweri Museveni (Uganda), Paul Biya (Cameroon), Theodore Obiang’ (Equatorial Guinea), Isaias Afewerki (Eritrea) and the fledgling state of South Sudan under Riek Machar, among others.

The media capture problem in sub-Saharan Africa has taken on new forms that require novel analytical frameworks to understand these nuanced, fluid and complicated dynamics. It is however not uncommon to find that human rights abuses are not strong determinants of news in journalistic gatekeeping even in influential international news outlets like the *New York Times* (Maier, 2018). The incongruence of news coverage of such abuses has contributed to a culture of media capture where dictators operate under less spotlight. The following four concepts can be useful in analyzing media capture: political parallelism, market of loyalties, ideological polarity and fear of freedom.

Political Parallelism

Seymour-Ure defines political parallelism as a feature of newspapers being loyal to political parties and the partisanship of their readers (quoted in Artero, 2015). Political parallelism is sometimes referred to as media partisanship or bias (Munoz, 2015). In media system research, political parallelism “refers to the character of links between political actors and the media and more generally the extent to which media reflects political divisions” (Hallin & Mancini, 2004; p.21). In Africa such political divisions between political parties in power and those in opposition have overwhelmed media coverage of electoral politics and issues of governance. Political parallelism is also evident in the ownership of media organizations, media content and audiences, which highlight political party affiliations. Media narratives of power struggles in Africa seem to mainly focus on the rivalry between incumbent and opposition figures rather than demarcated ideologies for the formulation of transformative policies. Unlike in the west, African journalists rarely declare political party affiliation. In Kenya, journalists tend to

hide their political affiliations until they leave office, as editorial policies declare neutrality and promote objectivity in political news. However, in the last instance, political alignments are evident from the coded media messages with dramatization and sensationalized news about the elite political class to drive sales, while reproducing dominant structures of marginalization.

Political contests between Kizza Besigye and Yoweri Museveni (Uganda), Raila Odinga and Uhuru Kenyatta (Kenya), Morgan Tsivangirai (deceased) and Robert Mugabe (deceased) have dominated media discourse and exposed journalists' dilemma in prioritizing the voices of the political classes while relegating those of the masses to subordinate visibility. Thus, in their fight for their own identities, journalists are caught up in these power struggles, situations that Nyamnjoh (2004) terms as the Jekyll and Hyde moments, meaning that "they propagate liberal democratic rhetoric in principle while at the same time promoting the struggles for recognition and representation of the various cultural, ethnic and sectarian groupings with which they identify" (p. 63).

Market of Loyalties

Another concept in the assessment of media capture and freedom as development is the manipulation of communications by political actors to buy the people's loyalty. Every country has players that seek to alter the information environment to strengthen or fragment particular views (Price & Stremlau, 2012). Under the market of loyalties approach, Price & Stremlau draw attention to how large-scale competitors for power use the regulation of communications to organize a cartel of imagery and identity among themselves. Africa's political and economic environment engages with elites who reap

from the imagery transformed into power and wealth and this shapes the contest for identities. Ethnic zones become the “markets for loyalties”. These markets may arise organically from the grass roots, or they may be crafted by governments or others as a means of controlling populations and defining power relations. Under this approach, consumers pay for their legitimation into one identity or another in several ways, one of which is through loyalty or citizenship as packaged by a system of regulated communication. They pay into their submission and subservience to territorial authority by laws set up by those competing for power. When the “sellers” lose the strength to control the market of loyalties, power relations are disrupted, and tensions rise. This can lead to conflict. There can be multiple “loyalty” markets with complex overlaps in a social system that influence a country’s local and regional information flows and other socio-economic indicators of development (Price & Stremlau, 2012).

The market of loyalty approach explains how powerful interests use legal structures to influence media systems into submission and the consumers into perceptions of belonging that normalize these restrictive structures. Market of loyalties structurally and ideologically sustain inequalities and fail to mitigate economic and social burdens, leading to lack of freedoms including media freedom. The market of loyalties approach combines media and state capture to explain how powerful players fragment competing views or consolidate favorable frames for their own gain.

Fear of Freedom

As concerns mount over the rising trend of human rights abuses, corruption in high places and control of information flows in African societies, few studies question

journalistic cultures as a source of “unfreedom”. There is need for an assessment of journalistic values, norms and routines that guide news work to gauge the level of media freedom within the newsroom. Such investigations could reveal levels of cultural silence, or the silent minority/majority as an indication of oppression, which is subtle and hidden from the audience. The study of newsroom cultures should be intersectional, as journalists are also not homogenous. An intersectional analysis of a newsroom through ethnographic research could be a pointer to the influence of intersecting systems of domination embedded in capitalist-patriarchy ideologies.

It is not surprising that, in journalism there are those willing to work with the powers that be, while others are indirectly complicit in their co-option into oppressive structures. According to Paolo Freire (2005), one of the reasons for unfreedom is that the oppressed admire the oppressor and follow in their footsteps; they become sub-oppressors who mirror the oppression of their oppressors. Where class, gender, religion, nationality, ethnicity, tribe intersect, the oppressed are vulnerable to divide-and-rule tactics. This forms a system of hegemonic agreement on “how to do journalism”: an organic submission seen as the norm. Those who cannot toe the line face physical threats, thus the killing, harassment and torture of journalists who dare to question those who abuse power. There are instances where journalists have lured their colleagues to their deaths.

For example, in 2016 a Somali journalist who was a “trusted source of news”, was executed by a firing squad after he was found guilty of helping militant group Al-Shabaab identify, target and kill fellow journalists. According to various news outlets, he

harbored a secret allegiance to Al-Shabaab terror group while working as a broadcaster before finally leaving to join the group. In [this CNN report](#):

Hassan Hanafi spied on fellow journalists and identified those with negative opinions of Al-Shabaab. After joining the terror group, Hanafi killed or helped kill journalists. He was promoted within Al-Shabaab and fought against Somali and African Union troops... He even carried out assassinations himself, a military court ruled.

While this may seem as an isolated case, there may be many more untold stories of journalists who have been complicit in the oppression of their colleagues. This complicity comes in many forms and is sometimes so subtle that it is difficult to detect. In 2018, a spokesman for Kenya's deputy president William Ruto threatened a journalist via phone call (the conversation was recorded and published in *The Standard* newspaper), telling him in a mix of Swahili and English:

Unataka kufutwa kazi (you want to lose your job), I want to be outright with you, *ukitaka kufutwa kazi*, (if you want to lose your job) continue with that path, *utafutwa, utafutwa, sikudanganyi, utafutwa* (you will be fired, you will be fired, I assure you, you will be fired) ... I am telling you for free, there are people who have crossed that path before... you are not the first journalist my friend. (Ngina, 2018)

It is not known to date how the spokesman got the journalist's phone number.

While the journalist's colleagues were empathetic to his plight, the "fear of freedom" approach is another useful tool for examining how newsroom divisions entrench corruption and impunity.

The fear of freedom also enables inequality in newsroom relations as hierarchies in newsroom management positions have ensured class divisions. It is not uncommon to find editorial directors, managing editors, and senior news editors with much more wealth and power than junior reporters. The divisions are also gendered as women hold less influential roles due to newsroom routines that are unfavorable and arranged according to

patriarchal cultural values (Steeves & Awino, 2015). Even when women hold top gatekeeping positions, they are held ransom by market demands and the commercial-political interest nexus of the news business. Transformative gatekeeping is still out of reach. The classism in the media and the gendered division of labor have influenced the representation of different groups. In a society of fierce fight for ethnic dominance like Kenya, minority tribes are marginalized or misrepresented as the subordinate Other.

Thus intra newsroom divisions lay bare the “tensions, contradictions, fears, doubts, hopes and deferred dreams that are part and parcel of living a borrowed and colonized cultural existence” (Freire, 2005; p. 11). The fear of freedom cannot end when the oppressed wish to only change goal posts and converge their interests with the elite. Media owners and managers in this power elite group constitute the upper class that is “more cohesive than the lower class, assisted by connections and exchange of personnel between these sectors” (Shoemaker & Reese, 2014; p. 81). In sum, the fear of freedom is a useful concept in analyzing newsroom cultures where journalists work with the oppressors for rewards. It also underpins how journalists are coopted through subtle ways into the repressive structures of the state and other political actors to maintain a condition of unfreedom.

Ideological Polarity

Ideological polarity denotes how great power politics and soft balancing have shaped international relations between the West and the rest of the world. Haas (2014) defines ideological polarity as “the number of prominent, distinct ideological groups that are present in the international system” (p. 715). Ideological polarity influences soft

balancing between world powers fighting for supremacy in the international arena. But power polarity, according to Haas is insufficient to analyze the international system. Instead, ideological polarity shapes the policies of allied states (Haas, 2014). Scholars have debated the implications for the meteoric rise of China in international relations. China's growing economic influence in Africa has not gone unnoticed. China has rolled out media programs in many African cities even as it surpassed the US as Africa's largest trading partner in 2009 (Albert, 2017). China now plays a central role in African politics that has implications on press freedom in the continent. In South Africa, critics have been skeptical about China's influence there given its human rights record and the economic differences between the two countries (Wasserman, 2015).

But China's tentacles are spread in all corners of the African continent. When faced with International Criminal Court (ICC) indictments, Kenya's President Uhuru Kenyatta and his deputy William Ruto, castigated the West and dangled a "Look East Policy" seemingly to counter Western support of their tribulations at The Hague (Maweu, 2016). The "Look East Policy" was not only a shift in neoliberal relations, but an ideological turn against the West. As Sino-African relations improved, news headlines changed. In 2012, at the height of the ICC indictments and the Truth Commission investigations these were some of the major news headlines (Wekesa, 2013):

- Kenya to reap big as China doubles loans to Africa
- China pledges help for counterfeiters in Africa
- China beams at superior balance of trade with Kenya

When the Chinese PM visited Kenya in 2014, these were some of the front-page headlines:

- Major trade deals top agenda as China PM visits Kenya
- China brings big muscle to Nairobi with Premier's visit
- Billions at stake as Chinese PM visits
- Kenya signs 17 multi-billion deals with China
- Kenya, China ink Sh327bn railway line agreement

In fact, the *Daily Nation*, Kenya's leading newspaper with influence in the East and Central Africa regions, dedicated almost all of its news pages to China-Kenya relations during the PM's visit. Even commentaries praised the new "Look East Policy" (Maweu, 2016). China also made news headlines for its \$200 million "gift of a home" to Africa: the African Union headquarters in Addis Ababa, Ethiopia in 2012.

China belongs to an ideological grouping of emerging markets: Brazil, Russia, India and South Africa (BRICS). While several scholars have studied Sino-Africa relations and BRICS media systems, there is a lack of critical assessment on how the BRICS ideological polarity has shaped editorial independence at the expense of good governance in African countries that are not members of the bloc. Studies that question the BRICS ideological polarity in the international system are helpful in understanding development as freedom.

Meanwhile, Western nations are not to be outdone. The US, UK, France, Netherlands, Germany have also maintained close ties with African strongmen. Democracy assistance during elections, trade deals, infrastructural projects now compete with those of the Chinese. In early 2013, ahead of Kenya's presidential election, US Assistant Secretary of State Johnnie Carson commented on the candidacy of the ICC suspects:

Choices have consequences. We live in an interconnected world and people should be thoughtful about the impact that their choices have on their nation, on the region, on the economy, on the society and on the world in which they live. Choices have consequences. (Joselow, 2013)

After the ICC case against Uhuru Kenyatta was terminated in 2014, US President Barack Obama came to Kenya in the summer of 2015 and conquered the media space for all the days he was in Nairobi. Kenya-US relations were restored. A seemingly similar media attention that former ICC Prosecutor Luis Moreno-Ocampo received when he arrived in Kenya in the aftermath of PEV, with others before him like US Secretary of State Condoleeza Rice, and years later Hillary Clinton also enjoying media limelight.

Any assessments of media freedom should therefore take into account international relations and their implications on news agenda setting. Ideological polarity can be used to examine how China, US and their allies are embroiled in a neoliberal, neocolonial scramble for Africa. These countries have military bases and surveillance projects in several African states, especially on the Horn of Africa region (see Sun & Zoubir, 2016).

In summary, ideological polarity as a concept is useful in analyzing how foreign policies shape African politics and how these relations reinforce social systems that negate gains made to expand press freedom. The extent to which the news media act as conveyer belt for the government's narrative on its relations with a foreign government is an indicator of how well the Fourth Estate can succumb to dominant forces.

Transitional Justice and Sustainable Development

Transitional justice often involves political events but these should be turned into transformative processes (Gready & Robins, 2014). Media and transitional justice may

interrogate the dynamics of journalistic processes and how they shape public consciousness before and after conflict. What is lacking, however, is a discussion on the implications of news media systems for a society's socio-economic goals. The International Center for Transitional Justice (ICTJ) asserts that the news media are key agents of social change for informing citizens when a country seeks to address a legacy of state repression. The main goal of transitional justice is the pursuit of a just society: "the recognition of the dignity of individuals, the redress and acknowledgment of violations, and the aim to prevent them from happening again" (ICTJ, 2020). To this end, there is justification for embedding media institutions in these efforts of mitigating not only injustice, but poverty, inequality and underdevelopment which are enablers of conflict (Duthie, 2009).

The United Nations Sustainable Development Goal (SDG) # 16 is meant to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels." One of the targets of Goal #16 is that state parties ensure "public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements." In 2019, when assessing the progress made in meeting this target, the UN raised the concern that:

Killings of human rights defenders, journalists and trade unionists are on the rise. From 2017 to 2018, the United Nations recorded and verified 431 killings across 41 countries. Every passing week saw at least eight people murdered at the front lines of efforts to build more inclusive and equal societies – a worrying increase from the previous average of one victim per day observed from 2015 to 2017. Ninety-nine journalists and bloggers were among the victims. (UN Progress of Goal 16, 2019)

This UN SDG necessitates a pause-and-reflect position for scholars and advocates of transitional justice goals for a recalibration of the critical understanding of journalism in the context of justice and social change. Debates about media and transitional justice

without considerations for the implications on social change are counterproductive as they erase the centrality of media institutions and journalism in political processes.

The place of the media industry is more often than not taken for granted; the media is left at the periphery yet planners can channel media agency for democratization potential to strategically rope in a critical stakeholder for the advancement of rule of law and human rights for sustainable peace and development. This approach also links memory making to development because studies have shown that foundations of the Universal Declaration of Human Rights are also linked to memories of the past, paving the way both for victims and for societies to come to terms with historical injustices and inequality (Veraart, 2012).

Media in Africa have been touted as vehicles for development and democratization (Wasserman, 2011). Melkote & Steeves (2015) have articulated how media can be used to harness tools of social transformation on behalf of victims of injustice. The media, they argue, can mobilize support for social movements “to create visibility to their causes, shape audience opinions and influence power holders” (p. 450). How the media can foster a transitional justice-development partnership is a fundamental question. Given that periods of human rights violations often have strong impacts on development, understanding the implications of oppressive structures on media and communications demands a new articulation of sustainable development.

The Kenyan TJRC investigated past human rights violations including the root causes of socio-economic marginalization. Very little work, if any, has been done to connect the TJRC’s work with media and sustainable development, yet truth-seeking can jumpstart socio-economic development by mitigating injustice and inequality. Greiff (2009)

has argued that truth commissions have the potential to spur development because: a. they can investigate and disclose information that have a direct impact on development; b. truth commissions can recommend restructuring of crucial institutions; c. truth commissions may gather information about victimization that may be crucial for economic reintegration; and d. monetary compensation for human rights violations may boost the economic capacity of beneficiaries. Greiff's statements, however noble, are economically dependent.

Sen (2000) defines development as freedom, and freedom as the foundation of justice. More importantly, Sen outlines “the need for an integrated analysis of economic, social and political activities, involving a variety of institutions and many interactive agencies” (p. xii). The media, transitional justice mechanisms and sustainable development goals can synergistically integrate as constituent components of development to ensure substantive freedoms and rights: right to education, quality and affordable healthcare, right to civic participation, right to housing, and right to work among other rights. This remains as a missing gap in empirical studies.

REVIEW OF RELATED STUDIES IN TRANSITIONAL JUSTICE

The first part of this chapter was a synthesis of theories and concepts that underpin media systems. The comprehensive overview of media and power through a multi-level, multi-faceted analysis facilitates an understanding of how micro, meso and macro factors impinge on news gatekeeping. This next section delves specifically into transitional justice from a comparative perspective, looking at the media and truth commissions, examining the link between transitional justice as critical junctures and finally a mapping of journalism and the media in Kenya within the truth-seeking and truth-telling context.

Transitional Justice and the “Never Again” Campaign

Ignoring massive abuses is an easy way out but it destroys the values on which any decent society can be built.— International Center for Transitional Justice (ICTJ, 2020)

Since the end of WWII, scholars, political actors and non-governmental organizations have extensively grappled with how societies coming out of conflict can address a legacy of injustice, human rights violations and oppression (Fischer, 2011). Transitional justice has since then gained global attention in academia, diplomacy, and international relations (Buckley-Zistel, et al., 2014; Fischer, 2011), with grand narratives of “never forget” or “never again” taking prominent discursive roles (Andrews, 2003). The broader goals of transitional justice are inherently united in the search for justice to ensure redress for crimes committed in conflict or historical injustices, but “justice may also be sought as a way of coming to terms with the past and building a peaceful future” (Lambourne, 2014, p. 19). Because transitional justice is ideally victim-oriented, its promoters believe that it is primarily rooted in accountability and redress for victims of injustices.

The most common transitional justice mechanisms established in societies that have experienced repression and/or war are truth commissions, trials, and reparations for victims. One of the biggest challenges today facing transitional justice efforts is how to successfully follow through with these mechanisms without politicizing the processes and retraumatizing victims. Whether successful or not, it is important to note that transitional justice does not just signal the end of warfare but opens up space for healing and reconciliation (Laplante & Phenicie, 2009).

The transitional justice process in Kenya was initiated to spearhead long term peace efforts in and more importantly act as a deterrent to politicians so that they could be held

accountable for their actions. Through the ICC and TJRC, many Kenyans saw a window of opportunity to gain justice for PEV, address its root causes and envision a reformative future out of this process (Lynch, 2018). Some scholars see truth commissions as restorative justice while criminal trials are of retributive justice (e.g., Llewellyn & Howse, 1999). However this is not conclusive. Corradetti (2012) sees restorative and retributive models of justice as incomplete and instead suggests that public disclosure of new information concerning past atrocities raises standards of public acknowledgement and allows for consolidation of a public process of recognition. These two notions of acknowledgement and recognition are crucial for transitional justice. The ICTJ, on the other hand, cautions against the retributive-restorative dichotomy as this may be misleading in unique contexts that call for a nuanced approach.

The UN Office for the Coordination of Humanitarian Affairs has compiled profiles of transitional justice measures in more than 40 countries (Fischer, 2011). The exact number is difficult to list. Some of the countries that have established one or more transitional justice measures include South Africa, Rwanda, former Yugoslavia, Guatemala, Peru, Chile, Kenya, Colombia, East Timor, Canada, Sierra Leone, Burma, Liberia, Libya, Nepal, Cambodia, Cote d'Ivoire and Kenya among others. Each country has a unique context in addressing gross human rights violations. This study focuses on Kenya's transitional period, specifically in the work of the Truth Commission. A focus on broader transitional justice mechanisms is beyond the scope of this study. Instead, my research considers the media and truth commission as a non-judicial tool for truth-seeking in the aftermath of violent conflict.

Media and Transitional Justice

The absence of media roles in transitional justice scholarship has been problematic (Hodzic & Tolbert, 2016; Price & Stremlau, 2012; Laplante & Phenicie, 2010; Laplante & Phenicie, 2009). The media shape public opinion in times of peace and conflict. Therefore, their participation and engagement in transitional justice processes require scholarly attention. Since the media have been blamed for instigating violence, they can also be seen as purveyors of justice. Hodzic and Tolbert (2016) argue that:

The power of media can be instrumentalized toward either virtuous or nefarious ends, and there are myriad examples of media being used to foment violence and dehumanize groups targeted in conflict and in various forms of state repression. Media have been used to polarize or inflame underlying identity issues, deepen divides and reinforce the root causes of conflict. Such manipulation of media easily extends into transitional times. (p. 1)

The most prominent transitional justice processes are truth commissions and criminal trials of which the ICC has played a visible role. Truth commissions are non-judicial inquiries established to determine the facts, root causes, and societal consequences of past human rights violations (ICTJ, 2020). Through their focus on the testimony of victims of atrocity, truth commissions provide acknowledgement and recognition of suffering and survival to those most affected. Truth commissions therefore engage in truth-seeking with the goal of realizing justice, healing and reconciliation. How these goals are addressed differ from one context to the next. Though they are designed as mechanisms for reconciliation, transitional justice measures such as truth commissions and trials sometimes exacerbate divisions more than interpret historical events (Krstić & Milojević, 2014). In the aftermath of ethnic violence, societies need truth-seeking and truth-telling mechanisms, since official history is more often than not an account made and distorted by powerful figures (Fischer, 2011).

Over the years, there have been arguments for and against truth commissions. While these are beyond the scope of this study, it is argued here that these truth-seeking processes have made an impact in many societies by establishing bottom-up dialogues; and societies' "right to truth" is now widely recognized internationally (Dukalskis, 2011). Meanwhile, critics have been skeptical about implementation of truth commission recommendations, a situation blamed on the politicization of post conflict reconstruction with emphasis on prominent and powerful voices shaping the narrative. The legitimization of these dominant voices has been a challenge for the news media during such fragile periods. But the media cannot be removed from these transitional processes, as they occupy front and center positions in a society's political arena. How communities access information before, during and after conflict is a determining factor in access to truth, justice, reconciliation and healing (Laplante, 2015). However, harnessing the media as a tool for reconciliation during transition is a challenge in contexts where the media had a role in exacerbating conflict and reflecting the dominant views of politicians that are negotiating power after conflict (Stremlau & Price, 2012). Furthermore, the implementation of transitional justice procedures are key tools for society's relationship with its past (Krstić & Milojević, 2014). The role of media in these processes is often neglected, although media can become significant political players in the contestation over the interpretation of human rights violations that occurred in the past (Price & Stremlau, 2012). As media are key actors for accountability and reform, they can impact society's response to atrocities and ultimately influence the rejection or tolerance of human rights violations (Laplante, 2015).

The media have played key roles in representations of various actors during trials and in framing of truth commission processes. It is often expected that the media would change

their professional practices automatically after conflict to adopt an agenda for peace, justice and reconciliation, but this is not usually the case. Just as the media never play a neutral role during times of peace, their “peace journalism” efforts are far from effective, yet information and ideas they communicate will always have an impact on victims and oppressors (Laplante, 2015). Though truth commission information is disseminated prominently to urban-based audiences (Brooten, 2016), marginalized groups also receive news from opinion leaders and community radio stations. In South Africa, the radio played a big role in informing the poor, illiterate populations (Verdoolaege, 2005).

While scholars (e.g. Laplante, 2015; Stremlau & Price, 2012) highlight the need to incorporate the media in order to realize the goals of transitional justice and lasting peace, all stakeholders in the reconstruction process must understand the socio-historical context of media relations in a given situation. It is also unclear how the media can be included in the design and context of truth commissions outside their normative professional roles, especially when they have been implicated in propagating the narratives of elite groups that sustain inequity and injustice.

In some cases, like in Rwanda and Nuremberg, the media bore criminal responsibility for instigating violence or war. Brooten (2016) has studied the Burmese media’s role in Myanmar’s transition period and demonstrated that the media can be agents of change, restraint and stability during post-conflict reconstruction. For instance, as agents of stability in Myanmar for the militarized status quo, the media’s framing of the news and self-censorship justified continued military involvement. Ahmetašević & Matic (2014) studied the media coverage of the events triggered by the arrest of the former Yugoslav president Slobodan Milosevic and his extradition to the International

Criminal Tribunal for the former Yugoslavia (ICTY) in 2001. This case caused strong political and societal polarization, initiating public debates on the legacy of Milosevic's regime, the peace building process in the Balkans and the role of the international community in public acceptance of the cooperation with the Tribunal (Bideleux & Jeffries, 2007; Scharf 2003). Their study established that media coverage focused mainly on disputes between Milosevic's supporters, the new democratic ruling coalition, and the international community (ICTY, EU, NATO and the USA). While media attention shifted from the legality of Milosevic's arrest to the question of whether or not the country should cooperate with the ICTY, the three-month public debate reflected the tension between international pressures and domestic controversies over the country's recent past. More specifically, their study leads to questions about the role of the media in shaping the public debate on transitional justice processes in new democracies where media professionals tend to "apply the norms and rules they are familiar with from their professional life under the old regime" and therefore may lack qualities in promoting inclusive politics (Voltmer, 2008; p. 28).

In a study of the media's role in Peru's truth-seeking process, Laplante & Phenicie (2010) document how explosive and provocative headlines often focused more on the defendant and victims as spectacle rather than on the proceedings of the trial. Peru's Truth and Reconciliation Commission (*Comisión de la Verdad y Reconciliación* (CVR) began its work in 2001 in response to a history of massive human rights violations that resulted from a 20-year internal armed conflict between state agents and insurgent groups. The transitional justice process in Peru prioritized criminal investigations and

prosecutions of civilian and military leaders of the conflict, including former leader Alberto Fujimori (Laplante & Phenicie, 2010).

The CVR operated in a highly divisive environment. It faced attacks from politicians and the military, while some journalists remained sympathetic to Fujimori even refusing to cover the hearings (Martinez, 2018; Laplante & Phenicie, 2010). Peruvian journalists were criticized for falling to the objectivity trap by employing a conveyor belt form of reporting: “he said, she said” (Laplante & Phenicie, 2010). These kinds of media narratives were not only incomplete in the storytelling of collective memories, but they were also uncritical in the understanding of the massive rights violations under the Fujimori regime. The CVR engaged in efforts to reach the wider Peruvian audience through public hearings that were televised and the Commission’s strategic plan also included a photo exhibition (Martinez, 2018). Thus, alongside mainstream media platforms, truth commissions can engage their publics through outreach efforts that can conjure memorialized experiences, initiate dialogue and encourage truth and healing.

Perhaps the most studied transitional justice context was in post-apartheid South Africa, which has “emerged as an established template to gauge reconciliation processes” (Al-Marashi & Keskin, 2008; p. 258) and has been popularized in academic texts, novels, films and plays (Lynch, 2018). The success and prestige of the truth commission in South Africa was largely attributed to the unprecedented media attention it garnered (Verdoolaege, 2005; Krabill, 2008), as well as considerable transparency in mediatization of the public hearings (Lynch, 2018). This kind of praise could however ideologically color media bias and sensationalism, as the media-TRC relationship was not as straightforward as expected (Verdoolaege, 2005; Krabill, 2008).

Examining the mass media in South Africa's truth-seeking process allowed the TRC to navigate systemic and structural analysis of apartheid oppression, and in essence question if the media had enabled the climate for atrocities committed during apartheid. Public hearings attract an unprecedented media attention in truth commissions (Lynch, 2018; Slye, 2018). In the South African case, as Krabill (2008) states the Truth and Reconciliation Commission (TRC) would not have been able to powerfully attract a huge audience in the manner in which it did without the national broadcast of public hearings, making it into a media event. In terms of journalistic engagement with the TRC, Krabill noted the conflicting roles played by South African mass media during the TRC hearings as neutral observers and objective critics of the TRC, as means by which the work of the TRC was communicated to the people of the nation, and as victims or perpetrators. Unlike in the Kenyan case, the TRC hearings in South Africa were not held *in camera* (privately). TRC media hearings that concerned the press focused on the government informers, or "spies", in the newsroom. In the end, several media commentators concluded that the TRC hearings failed to bring forth the whole truth (Skjerdal, 2000).

Past transitional justice projects always assumed the media would automatically change to adopt traditional peacetime mechanisms (Laplante, 2015). Even with training, which is common after violent conflict, it can be difficult to change a media culture (Bennett 1998, et al. 2007; Waisbord 2006). In the end, rebuilding the media environment in post-conflict societies requires a sustained long-term commitment.

Kenya, unlike many other transitional societies, has been a relatively peaceful country. The Kenyan truth-seeking process was modelled after the South African edition (Slye, 2018; Lynch, 2018). However, unlike in South Africa, most TJRC hearings in Kenya

failed to become a media event, and never enjoyed media interest or coverage (Lynch, 2018). From her observation, Lynch adds that:

Hearings were aired live on TV twice and irregularly on radio. Testimonies rarely made it to the evening news or the front page of the nation newspapers with limited discussion on national and local radio. Indeed, coverage was usually limited to short articles towards the middle of the newspaper while local media tended to only cover hearings in that particular area. The exception was the Wagalla Massacre. (p. 140)

For such political events, it was expected that the media would inspire an engaged audience to discuss the testimonies coming out of the hearings. But this was not the case, in spite of the fact that PEV was a critical development in the country's political history.

Critical Junctures in Political Development

Scholars of history, politics, and memory studies have studied how critical junctures shape the political arena of a society (Collier & Collier, 2002). Critical junctures are key historical moments that set countries along different developmental paths (Consterdine & Hampshire, 2014), some of which may not last long while others may be extended periods of reorientation (Collier & Collier, 2002). Historical institutionalists postulate that critical junctures are moments of rapid change following long periods of path-dependent stability (Consterdine & Hampshire, 2014; Collier & Collier, 2002; Capoccia & Kelemen, 2007). In a nation's critical juncture, a major event or confluence of factors disrupts the existing balance of economic and political power (Acemoglu & Robinson, 2012). Events and developments in critical junctures are often followed by critical outcomes that transform societies and have long-standing reverberations in the political arena (Capoccia, 2016; Collier & Collier, 2002). Critical junctures trigger different courses of agency that in the long run are capable of affecting institutional development (Capoccia, 2016).

The critical juncture framework has been applied in diverse contexts of political developments: development of regimes, ends of war, causes of war, radical policies, and constitutional changes (Capoccia, 2016). Collier and Collier (2002) studied the incorporation of labor unions in Latin American countries, as a historically dynamic change in repressive regime dynamics of these countries: “a historic change took place between the state and working class” (p. 3.). Consterdine and Hampshire (2014) analyze the radical change in UK economic immigration policy as a critical juncture that transformed it from one of the most restrictive to one of the most liberal in Europe during the administration of Tony Blair between 2001-2005. In a more recent study, Garcia-Ponce and Wantchekon (2017) employ a critical juncture framework to associate different types of anti-colonial independence movements in Africa with long standing and transformative political consequences on democratic governance and economic development.

A complete review of such studies on historical institutionalism and critical junctures is beyond the scope of this study. However, the baseline for these studies indicate a common denominator of disruption in the circuit of political, economic, and social power (Collier & Collier, 2002) and have outcomes with important legacies (Capoccia, 2016). Critical junctures are contextual and take diverse paths in a political system. Some are brief, some are extended, and some may be embedded in antecedent conditions or establish distinct trajectories. At moments of critical junctures, there are numerous opportunities for change, but this yields only so much (Benson, 2014). Instead, as history shows, path dependency ensures a pre-established course that contributes to this social inertia. Benson believes this is so because of entrenched interests “after a

period of time, it simply seems natural and the possibility of things being otherwise becomes literally unimaginable” (p. 29). This path dependency is enabled by the ideological subsystem of a society.

However, the path dependency approach is vulnerable to reductionist and universalist assumptions. Here again it begs to explore how critical junctures influence the hegemonic hold of the ruling ideologies in different contexts. In the media, one would question journalistic newsmaking as a normalized system of producing meaning in the service of power. This study expands on this concept by borrowing Collier and Collier’s three components of a critical juncture: the claim that a significant change occurred, the claim that this change took place in distinct ways from others, and the explanatory hypothesis about its consequences. In this study, Kenya’s election crisis of 2007 is viewed as a critical juncture.

Post-election Violence and Transitional Justice as Kenya’s Critical Juncture

It is well documented that violence has been a part of Kenya’s electoral processes since the restoration of multi-party politics in 1991 (CIPEV Report, 2008; TJRC Report, 2013). However, the Commission of Inquiry into Post-election Violence (CIPEV), stated that the violence and its immediate aftermath was Kenya’s critical juncture (p. vii; p. 35) for a number of reasons. First, it was by far the deadliest and the most destructive violence ever experienced in Kenya. The human casualty, destruction of property was worse than any other. Second, unlike previous cycles of election-related violence, much of it followed, rather than preceded elections. And, third, it was also more widespread than in the past. It affected all but two provinces and was felt in both urban and rural

parts of the country. Previous electoral violence concentrated in a smaller number of districts mainly in Rift Valley, Western, and Coast Provinces.

CIPEV also highlighted state repression, profound economic marginalization, and a powerful presidency as antecedents to the PEV. The ensuing transitional justice period constitutes Kenya's critical juncture as it occurred when bitter political rivals "relaxed" their stance and allowed political will and decision-making to hold peace talks on how to initiate reform change in Kenya. Part of this change, as Agenda Item 4 stated, was to find the truth about the root causes of the violence, ensure justice for those who were hurting and begin a process of reconciliation and healing. The CIPEV Report was used by both the ICC and the Truth Commission in their work. Notably, the CIPEV Report was released to the public but without the names of those suspected to have planned/paid for the attacks. These names were handed over to Kofi Annan who later submitted the list to the ICC.

As a critical juncture in Kenya's political arena, it is easy to remove the media out of these political developments. But the media are part and parcel of communities that undergo such upheavals. While other studies have focused on media coverage of proceedings during trials or public hearings, the interrogation of how journalists are immersed in these processes and emergent conceptualizations of their roles is rare. This study attempts to mark the PEV as a critical moment for Kenyan journalists by viewing the season as a critical juncture and at the same time a critical incident for journalists to reassess their relationship with power.

Critical Incidents in Journalism

Critical junctures as a concept for articulating disruptive political developments in a society neglects news as a political institution even as political scholarship on media has increased (Schudson, 2002). Journalists are key actors in the political arena and their contribution cannot be relegated to the periphery in critical juncture debates. This gap is unjustified. According to Schudson, studying the news as a political institution avoids the trap of ahistorical arguments and necessitates the consideration of three major perspectives: political economy, which is a macro level view of the structural forces behind news production; sociology of news work, which combines the macro, meso, micro level analysis of news production; and the examination of news as culture.

This typology, however, does not cater for critical moments in journalism when political institutions, including media institutions, are shaken. In recent years, media scholars have turned to an earlier concept of “critical incidents in journalism” as a framework to explain how journalists have navigated moments that have disrupted news institutions. Critical incidents give news workers the space to shine the spotlight inward and reconsider their positions as authoritative sources of news, acting within their boundaries of professionalism. Zelizer (1992a) defines critical incidents as “moments by which people air, challenge, and negotiate their own boundaries of practice” (p. 67). Through critical incidents, journalists evaluate, negotiate, and reconsider ideas about their professional practice. In redefining the boundaries of their work, journalists have used critical incidents to frame the whys and hows of their professional work (Zelizer, 1992a).

A number of historical and recent events have been considered (or studied) as critical incidents in journalism. Schudson (1992) studied the Watergate scandal as a critical

event for journalistic collective memory. Zelizer (1992a) explored discourses among journalists and news organizations about the use of satellite technology for real-life reportage by Cable News Network (CNN) during the Gulf War. In the same year, Zelizer (1992b) examined the rhetorical legitimacy of journalistic narratives as they interpreted their roles in the Kennedy assassination reporting. More recently Tandoc Jr. et al. (2019) studied fake news as a critical incident in journalism. While these studies have extended debates about critical moments in journalism, they fail to bridge the news media-critical juncture divide or see these critical incidents as contributing to political development. This is because they do not treat the news media as political institutions, as Schudson has argued. Another gap in the critical incidents in journalism studies is the lack of non-western voices in addressing key events that have been instrumental in triggering reflexivity among journalistic communities, especially after undergoing unrest.

In the aftermath of PEV, several studies emerged on the news media culture in Kenya that largely focused on peace journalism (Galava, 2018; Weighton & McCurdy, 2017; Maweu, 2017; Benequista, 2015) in the 2013 elections, leaving out the transitional justice period. Sommerville (2011) examined hate speech within the context of PEV to define hate broadcasting propaganda. These studies, however, create a need for a cohesive, coherent approach to addressing a seemingly negotiated terrain in media work where journalists are co-opted in structures that reproduce systemic inequality and injustice. During times of critical incidents, I argue, journalists seek to reassert their identities, re-center their experiences in a society's historical trajectory, and employ disruptive ways of doing journalism. Without journalistic reflexivity, establishment elites use nationalist rhetoric to push for peace narratives at the expense of justice-centric news, which in

Kenya's case, encouraged *familiar performances* of nationalism and patriotic unity (Lynch, 2018).

Critical Junctures, Media and Memory

Truth-seeking through truth commissions is also a way in which societies document national memories (Andrews, 2003). Memories and truth-telling during transitional moments allow victims and survivors of traumatic pasts to narrate their experiences. Truth commissions then document these narratives into a national collection of memories that define a society's past. In South Africa, private memories were publicly told and mediatized in mainstream press (Andrews, 2003; Slye, 2018; Lynch, 2018). Truth commissions, therefore, act as conduits for collective memory (Andrews, 2003). Truth commissions are also important because they trigger memories of unjust pasts, and these have implications on how societies view their futures (Lynch, 2018). Edy (1999) adds to this debate:

Collective memory, the meaning that a community makes of its past, is home to critical aspects of political culture, community tradition, and social identity. It informs our understanding of past events and present relationships, and it contributes to our expectations about the future (p. 71).

The transitional justice process is often characterized by antagonists who compete for access to media frames to promote their interpretation of a conflict, while the mass media contribute to the construction, contestation and reconstruction of collective memories (Van Dijck, 2004). With the primary focus on institutions, transitional justice has always relegated the media (Price & Stremlau, 2012; Laplante & Phenicie, 2010) and cultural interventions (de Greiff, 2014) to the periphery. The taken-for-granted approach on the media's role during transitional moments has prompted debate on how journalists relive their society's pasts beyond the usual banter of "journalists offer the first draft of history".

Journalists' roles are pivotal for addressing the challenges of constructing collective memory within transitional justice scenarios; therefore their work during times of transition really needs attention, as their personal interest in human rights violations and their perceptions as agents of memory can motivate them to be persistent and get over restrictive routines that favor immediacy, newness and format (Salgado, 2018; Edy, 1999). The challenge of memory-setting occurs when media ownership influences how collective memory is articulated in the public sphere, but Salgado (2018) notes that this kind of structural factor is not as salient as media routines. Others like Kaiser (2014), take the individual journalist to task in commitment to assuming the moral responsibility of bearing witness and turning news-making into activism.

Kenya's PEV provided new memories of violence and injustices of the past (Lynch, 2018). If we are to understand how our past is made meaningful for us in the media, and how our political traditions, culture, and identity are handed down to us, we must explore the ways in which journalists use and reconstitute the past. Journalistic work can help to make the past meaningful and enhance our understanding of the present (Edy, 1999). To do this, journalists often face a predicament: to either ignore the pressures of the social environment in which they operate or succumb to the same societal influences.

News is not only about power, but it permeates societies in profound yet distinct ways. A theoretical understanding of any phenomenon, such as the press, therefore, always builds on some concept of ideology, including notions of hegemony, class struggle and socio-political resistance (Skjerdal, 2000). Studying newsmaking cultures highlight how particular professional values, attitudes and beliefs provide a set of orientations that influence myriad practical decisions and actions taken by journalists and their editors in

their daily routines (Mabweazara, 2018). When we study these news cultures within a context of history, political developments and critical incidents, I argue, we attempt to unravel a constitutive truth of the individual, the organizational, the institutional and social system forces at work in the soul of news.

Journalism and Media in Kenya

“If you rattle a snake, be prepared to be bitten by it”

— Internal Security Minister John Michuki after The Standard Group raid in 2006

Kenya’s media scene is highly competitive and is seen as the most sophisticated in East Africa (BBC Media Monitoring, 2019). However, Kenya has continued to see an erosion of media freedom in recent years. At the time of this writing in March 2020, Reporters Without Borders (RSF) ranked Kenya at position 103 out of 180 countries. In 2019, RSF depicted Kenya’s media space as on a steady decline, ranking Kenya at 100 out of 180 countries. In 2018 it was ranked at 96, while in 2017 Kenya was ranked 95. Freedom of expression organization iFex has documented several series of harassment and attacks on Kenya journalists. The organization also documents the manipulation and control of Kenya’s communications network by security agencies.

A study by Privacy International (2017) — a think tank that promotes human rights of privacy — reveals how communications surveillance has been carried out by Kenyan state actors, specifically security agencies without oversight. “Intercepted communications content and data are used to facilitate gross human rights abuses, to spy on, profile, locate, track – and ultimately arrest, torture, kill or disappear suspects” (p. 6). According to this report, the National Intelligence Service (NIS) appears to have direct access to communication networks across Kenya and shares information with police agencies, some

of which have been engaged in gross human rights abuses. The report also reveals that at Safaricom, the largest mobile phone services provider with over 60 percent penetration in Kenya, “about ten Criminal Investigation Division (CID) officers sit on one floor of the Safaricom central bloc. They provide information to all police branches.” In the report, interviewed security officers say this kind of phone surveillance is necessary for national security especially in the fight against terrorism. However, while terrorist attacks in the country justify increased security measures, they have also been used to track political opponents including lawyers, journalists and increasingly target bloggers.

The media in Kenya has had to grapple with the mystery of the state security machinery (Human Rights Watch, 2017), a repressive organ of the ruling class that looms in the shadows ready to pounce at their next target without worry of consequences. For example, journalist and blogger Bogonko Bosire, mysteriously disappeared in September 2013 and has not been seen since then. Human Rights Watch (HRW) has documented findings of investigations that shed light into the surveillance of journalists and the associated reward and punishment system:

Senior editors said that journalists who regularly call leading opposition figures, even just as news sources, have been subjected to phone and online surveillance by the state, and that government communications and public relations officers regularly send money to journalists to encourage or reward positive coverage or agree to ignore negative stories (“Not Worth the Risk”, 2017).

For many decades the Kenyan media have been the traditional source of information for political actors, though today social media and independent media outlets have changed the information scene. Historians attribute early press in Kenya to Christian missionaries who launched the *Taveta Chronicle* in 1895 (Oriare et al, 2010). In 1901, Alibhai Mulla

Jeevanjee, an Asian businessman, started *The East African Standard*, which he later sold to colonial settlers (Oriare et al, 2010).

Prior to independence, the European press was the most advanced and prestigious in Kenya (Ireru, 2015), while the Asian and African publications followed in tow. In the 1940s, African and Indian nationalists and activists collaborated in production of counter-hegemonic newspapers to create an anti-colonial counter-voice (Frederiksen, 2011).

Newspapers like the *Colonial Times*, the *Daily Mail* and *Daily Chronicle* were published by Indian activists like Pio Gama Pinto (whose assassination would later be investigated by the Truth Commission). Kenyan newspapers during this era included a Kikuyu language paper *Mumenyereri*, Swahili language papers *Habari wa Dunia*, *Mwalimu* and Luo-language newspaper *Ramogi* (Frederiksen, 2011). The colonial government often sought to charge journalists with sedition, but complete control was elusive as these newspapers were published in vernacular languages and editors collaborated on pieces and embraced inconsistent processes of gatekeeping that made it difficult to trace a reporter or editor (Frederiksen, 2011). Nonetheless, as Frederiksen adds, “with time, the politics and ideologies sustaining the newspapers pulled in different directions, with African nationalism gaining the upper hand among the forces that shaped the future independent Kenyan nation” (p. 172).

After independence from the British in 1963, the Kenyan media are believed to have participated in the nation-building project of Jomo Kenyatta’s regime, which began a trajectory of state cooption of mainstream news media (Ogola, 2011b; Ochilo, 1993). The media, especially the public broadcaster KBC, made popular references to the president as *Baba wa taifa* (Father of the nation), *mtukufu rais* (his excellency the

president) that legitimized the normalization of a powerful (and untouchable) presidency, a position that also reinforced ethnic competition for the highest seat in the land.

Consequently, the media became a “publicity arm of the state” by additionally subscribing to information subsidies from the government news agencies — such as the Presidential Press Unit (PPU) and the Vice Presidential Press Unit (VPPU) — and packaging these as news (Ogola, 2011b). The public broadcaster *Voice of Kenya* enjoyed a monopoly of the airwaves under the repressive one-party regime of Daniel Moi until 1991 when the return of pluralistic politics saw private broadcasters enter the media scene (Irerri, 2015; Maweu, 2014).

Post-independence media sector in Kenya witnessed a dynamic rise in fortunes but has been largely tied to ethnic politics, which has influenced possession of resources like land, connections to the elite business class (Wasserman & Maweu, 2014), and gendered division of labor that disproportionately positions female journalists outside of decision-making roles (Media Council of Kenya, 2015; Steeves & Awino, 2015; Kareithi, 2013; Alidou, 2011; Steeves, 1997). The ethnicity factor has complicated the trajectory of media pluralism which is expected to allow diversity of voices in media spaces. In a study of demographics in the Kenyan media, Ireri (2015) found that five tribes — Kikuyu, Luhya, Luo, Kalenjin, and Kamba — which dominate Kenyan politics also dominate media jobs. A quarter of the journalists sampled in this study are from the Kikuyu ethnic group and 66% are male. Ethnicity then becomes problematic as conflicting loyalties and journalistic values clash during key democratic events like elections where ethnic bias overshadows professional norms (Wasserman & Maweu, 2014).

Corruption has also blighted the media scene in Kenya. An independent investigation by *Expression Today* revealed that journalist, both senior and junior positions were knee deep in corrupt practices in ways that affected their work (Namwaya, 2010). Brown envelopes and bribery are not uncommon, but new forms of bribery include freebies, luxury trips, and gifts like cars or new homes (Ileri, 2016). Bribery is more common during elections and is pervasive among politicians and political reporters.

Despite these stains on the industry, the Kenyan media scene is vibrant. Kenya has a public broadcaster that is state-controlled but generates revenue from the private sector too (Ileri, 2015). There is no known total number of traditional media platforms in Kenya as these keep changing. According to Ileri (2015), Kenya has 20 television stations, 90 FM radio stations, and six daily newspapers. The Communications Commission of Kenya (CCK, 2019) has, since 2017, additionally licensed 89 commercial TV stations, 54 commercial radio stations, six community TV stations and nine community radio stations. The BBC Media Monitoring Service lists the following as Kenya's main media outlets, with links to their websites.

Links to Kenya media outlets

The Press

[Daily Nation](#) - market-leading daily published by the Nation Media Group

[The Standard](#) - privately-owned daily, Kenya's oldest newspaper

[The Star](#) - privately-owned daily

[The EastAfrican](#) - weekly, published by the Nation Media Group

Taifa Leo - Swahili daily published by the Nation Media Group

Television

Kenya Broadcasting Corporation (KBC) - state-owned

Citizen TV - private, most-watched network, owned by Royal Media Services (RMS)

Kenya Television Network (KTN) - private, operated by Standard Group

NTV - private, operated by Nation Media Group

K24 - private, news

Radio

Kenya Broadcasting Corporation (KBC) - state-owned, networks in English, and Swahili and other indigenous languages

Capital FM - national commercial network, music and hourly news

Kiss FM - national commercial network, music

Radio Citizen - national commercial network

A host of community radio stations, use Swahili and vernacular languages

News agency

Kenya News Agency - state-owned, English-language

Business Today - news website

Kenyans.co.ke - news website

(BBC Kenya Profile – Media, 2019)

Media concentration and cross-media ownership in Kenya have left the news media implicated in a complex power structure of corporate duopoly, pitting the Nation Media Group (NMG) and the Standard Group (SG) (Ogola, 2011a). NMG and SG — the oldest and most profitable news companies — control a large share of the market. Print media is popular in Kenya are dominated by the two conglomerates. This duopoly has hampered efforts by the Kenyan press to fulfill their normative role of social responsibility, as the bottom-line is prioritized (Ogola, 2011a). The two conglomerates have controlled the public sphere in Kenya for many decades and continue to shape public consciousness. The recent rise in the number of media firms and the continued growth of community radio for access to non-urban audiences has, however, given a false impression of plurality in the media industry (Wasserman & Maweu, 2014). Other prominent media companies are Royal Media Services, Radio Africa Ltd and MediaMax Network Ltd.

Ownership information on Kenyan media is mostly scant and unverifiable. The Standard Group has an ownership structure that has always been traced to the family of former President Moi. There is no official confirmation of this, however. According to the company website, the largest shareholder is SNG Holdings Limited (69%). Speculation is rife that SNG Holdings is affiliated with the late president's family business empire. Media ownership also changes hands without notice. The Standard was once owned by Lonrho PLC and sold to the Moi family (Warah, 2020).

NMG on the other hand, brands itself as “the largest independent media house in East and Central Africa with operations in print, broadcast and digital media, which

attract and serve unparalleled audiences in Kenya, Uganda, Tanzania and Rwanda.”

According to company financial documents, NMG’s top shareholder with a 44.5% stake is the Aga Khan Fund for Economic Development (AKFED), an international development and investment agency with majority stake in several companies in East Africa, including in banking and tourism sectors all linked to the Aga Khan business empire.⁷ AKFED is affiliated with “His Highness the Aga Khan, the founder and chairman of the Aga Khan Development Network (AKDN),” and who is “the 49th hereditary Imam (Spiritual Leader) of the Shia Imami Ismaili Muslims” (Aga Khan Development Network, 2018). His Highness the Aga Khan acquired *Taifa* a Swahili newspaper in 1959, a year before the birth of NMG’s flagship newspaper – *Nation*. The company has grown tremendously and its shares are now cross listed at the Nairobi Securities Exchange, the Uganda Securities Exchange, Dar es Salaam Stock Exchange and Rwanda Stock Exchange (NMG Financial Report, 2019). This is a first in the region for a media organization.

Workneh (2017)’s review of media giants in sub-Saharan Africa noted dominance of NMG in East Africa’s media scene. As the largest media company in East and Central Africa, NMG is a dominant player in the production and distribution of media products. Given that it is part of the vast AKFED network, it’s influence in the region is immense. The Aga Khan meanwhile has enjoyed cordial relationships with powerful politicians, including Kenyan presidents whom he visits at the State House⁸.

⁷ Link to vast AKFED business network <https://www.akdn.org/our-agencies/aga-khan-fund-economic-development/akfed-companies>

⁸ <https://www.akdn.org/akdn/press-release/president-kenyatta-welcomes-aga-khan-state-house>
<https://www.akdn.org/gallery/his-highness-aga-khan-meets-his-excellency-president-mwai-kibaki-state-house-nairobi-kenya>

It is well known among journalistic and scholarly circles that SG's links to the family of Daniel Moi has ensured the company always propagates news that is favorable to his family's interests. The former president also had a cordial relationship with the Aga Khan. Ogola (2011a) explains:

Through proxies and KANU party apparatchiks, he [Moi] bought controlling shares in *The Standard*. He failed to gain direct control of *The Nation* but asserted his influence through his business relations with the group's principal shareholder, the Aga Khan. Roland Rowland of Lonrho [a company linked to Moi] and the Aga Khan became two of the biggest investors in Kenya during Moi's presidency. (p.82).

Both media conglomerates have adopted vertical and horizontal integration strategies for commercial benefits. For example, on its website⁹ SG states:

The Standard Group Plc is a multi-media organization with investments in media platforms spanning newspaper print operations, television, radio broadcasting, digital and online services, as well as outdoor advertising. The Standard Group is recognized as a leading multi-media house in Kenya with a key influence in matters of national and international interest. Our various media platforms include: *The Standard* newspaper, KTN, KTN News, Radio Maisha, The Nairobi weekly newspaper, Think Outdoor (billboard advertising), Standard Digital, SDE, KTN Farmers, KTN Burudani, Spice FM, Vybes Radio, Pambuzuko, Mt. Kenya Star.

For NMG¹⁰:

The Nation Media Group is a leader in media and entertainment with businesses in television networks, film, and TV entertainment, and uses its industry-leading operating scale and brands to create, package and deliver high-quality content on a multi-platform basis. As the largest independent media house in East and Central Africa, we attract and serve unparalleled audiences in Kenya, Uganda, Tanzania, and Rwanda.

The ownership and management structures of these two conglomerates have had implications on newsroom dynamics, interacting with ethnicity, gender, class and nationality to influence news making. An investigation by *Internews* (Nyanjom, 2012)

⁹ <https://www.standardmedia.co.ke/corporate/about>

¹⁰ <https://www.nationmedia.com/who-we-are/>

reveals how leading politicians in Kenya, including the current president Uhuru Kenyatta, his deputy William Ruto, former Prime Minister Raila Odinga and several others, have direct or indirect stake in media companies. The report also details how politicians in Kenya scramble for media attention during election seasons. This desire for visibility has influenced the purchase of media companies among the political class, enabled by privatization laws.

Even with opening up of the democratic space following the re-introduction of multi-party politics in 1991, the volatile political arena in Kenya has had direct influence on media freedom (Ogola, 2011b) and journalists have thus had to find ways of “circumventing censorship and confrontation with the state” (p. 124). This was evident ahead of the 2013 election when the Kenyan media were co-opted into a peace messaging campaign spearheaded by the private sector and the political class (Galava, 2018).

Apart from the executive branch of government, the legislature and judiciary have also been implicated in influencing controlling mediated content, resulting in commission reports that are never made public and corruption cases that slip out of public consciousness (Mutere, 2010). Poor training and remuneration have also contributed to inequality in treatment in the media (Ireru, 2015; Nyanjom, 2012).

Despite being rivals in media business, the SG and NMG duopoly has been beneficial in maintaining political and commercial interests in Kenya. In some instances, their flagship newspapers have had the same front-page headline. It is also not uncommon to find journalists and media managers who have worked in both organizations. This has often led to assumptions that both organizations employ similar news paradigms in their gatekeeping. It was therefore not surprising that “shortly after

Daniel Arap Moi's death (in February 2020) most newspaper columnists and editors in Kenya were extolling the virtues of the former president and praising him for his "kindness" and "humility" (Warah, 2020). Indeed, the Kenyan press has had a hot and cold relationship with state and corporate interests, but this inconsistency and contradiction in checking power has been their soft underbelly to the detriment of many Kenyans who have suffered injustices and inequality. As Galava (2020) sums it up, the Kenyan press "was founded to secure and enhance the interests of its owners, not to expand the bounds of debate and expression" (p. 283).

Journalism in Kenya and the Problem of "Truth"

In this chapter, I have reviewed theories that underpin the relationship between media and power; beginning with gatekeeping theory as a foundational analytical approach to evaluate the process of news selection. The power of gatekeeping in news making is conceptualized further through the hierarchical model — coined by scholars Pamela Shoemaker and Stephen Reese — in which gatekeeping is influenced and shaped by five levels of micro, meso and macro factors. The position of this study is that these five levels of analysis are interconnected and inform each other in varied ways that are not necessarily static. This first section of this chapter culminates into a focus on social systems analysis: political economy of media, ideology and hegemony and media capture as approaches to studying external influences on media work.

The second part of the chapter reviewed literature in transitional justices and ends with an overview of media and journalism in Kenya. The aim of this chapter was to map media relations with power within a transitional context in which questions of injustice and

inequality are traced to the media's democratic role of checking power. The literature reviewed in this chapter shows how the duopoly of NMG and SG in Kenya's media-sphere is connected to Kenya's political history where the state and private commercial interests have had a grip on news production through state and corporate capture. However, the corpus literature on the political economy of Kenya's media goes deeper than commercial and economic interests of the powerful. The domination by these two companies has not gone unnoticed, yet the "truth" about their ownership, relations to powerful people, interlocking commercial interests and impacts on news gatekeeping have not been investigated within the transitional justice context — a critical moment for journalists who are also part of the Kenyan society.

The *Daily Nation* and *The Standard* newspapers are still respected media platforms that shape public consciousness. In Kenya, the front-page headline symbolizes the most important news of the day, one that commands public attention. During the transitional period, these newspapers were awash with news of various political events that kept consumers glued to both the newspapers and prime TV news. As Murdock & Golding (1973) state, the media command an increasing proportion of discretionary spending. Even today, newspapers are packaged in various formats for mobile distribution and access. The *Daily Nation* and *The Standard* newspapers are still on sale on the streets, while at the same time digital and mobile formats are available.

The Standard newspaper is Kenya's oldest print newspaper. Having been established in 1900 during the British Protectorate era, SG has invested in marketing its flagship newspaper as the boldest and a leader of excellence in journalism. The *Daily Nation*, on the other hand, is Kenya's most read newspaper. With high circulation and

advertising figures, the NMG markets its flagship newspaper as having the widest in reach in East and Central Africa. During the transitional justice period, newspaper circulation and readership numbers seemed high¹¹ as *The Standard* and *Daily Nation* newspapers were engaged in winnowing through a vast array of competing news narratives. From personal observation as a sub editor and conversations with my seniors, editors were keen on maximizing sales with headlines of political events. But PEV was a critical time that required a reassessment of how to do media. Anecdotal evidence shows newspaper front pages with flashing headlines about politicians at a time when Kenyans wanted justice. Lynch (2018) and Slye (2018) have written about their observations and experiences during the truth-seeking process. Lynch writes about the “media corner” during public hearings that was sometimes empty “all afternoon.” She notes that:

Even when public galleries were relatively full, there was often no national and sometimes no local media coverage, which ensured that even the most carefully stage-crafted testimony often went unreported. (p. 125)

She sat through TJRC hearings and listened to moving testimonies that were not televised or covered, leading her to wonder: “Was the publicness of their testimony not rendered ineffective in the face of limited audiences and media coverage and a paucity of public commentary and debate?” (p. 125). Journalistic participation and media engagement with the truth-seeking process opens up space to ask many questions. This study limited to a few areas of exploration, with the expectation that research questions captured here will lead to many more as scholars rethink the nexus between journalism, justice, healing and reconciliation.

¹¹ Like ownership, this is another area of secrecy and mystery in the media industry. Circulation figures are only known to a few individuals within these companies. *Daily Nation* circulation figures have been managed by the Audit Bureau of Circulation (AAC), a private membership organization.

RESEARCH QUESTIONS

Patterns of TJRC News coverage

This study takes a critical focus on the media during the processes of truth-seeking and truth-telling. An empirical analysis is based on gatekeeping studies that seek to answer the *why* instead of the *what* in news production but first use the *what* to evaluate the *why* behind it (Vos, 2015). In other words, gatekeeping studies look at media content (what) and seek a justification (why) for the news content. Casual observation during the transitional period from 2008-2013 in Kenya shows that the TJRC did not receive priority front-page coverage except in rare instances. Gatekeeping studies seek to demystify news selection processes, as journalists often have to confront a flood of news stories and decide which pass through the “gates” and which ones are don’t make it to press. Multi-layered gatekeeping processes and division of labor in newsrooms deepen the mystery of news selection from one news organization to another. Editorial policies and the dynamism of events considered newsworthy means that it is impossible to have a standard or universal gatekeeping operation. Transitional times are radical political moments. An array of competing narratives arrive at the news “gates” with the possibility for mixed outcomes in audience reception. Consequently, this study seeks to gauge patterns of media coverage that can help explain gatekeeping conventions during this critical moment in Kenya, by evaluating the *what* and the *why* behind the news production. Therefore, the following questions arise:

RQ 1: a. To what extent did media coverage of the Truth Commission’s work campaign align with the victim- and justice-centric goals of transitional justice?

b. What can patterns in media coverage of the Truth Commission expose about news gatekeeping and the goals of transitional justice?

TJRC Strategic Engagement with the Media

The Truth Commission's organizational structure created room for outreach and media relations. Like any other public institution, the Commission seemed to have been well aware that media visibility during its tenure was inevitable. The Commission would then tap the expertise of former journalists to package its work for media attention, a process called mediatization where institutions or political processes are more or less dependent on the media (Shoemaker & Reese, 2014). The Commission also relied on alternative forms of media and community radio stations for outreach in raising awareness about its truth-seeking mission and on archived news articles to use in its investigations. Finally, journalistic logic meant that the Commission would make news as it engaged in questions that were of national interest.

All these factors raise questions about strategic ways in which the TJRC reached out to and engaged with the media and media artifacts for its work in unearthing past injustices. This media-TJRC relationship rests on the social institutional level of the hierarchical model, where the media is surrounded by other powerful institutions whose coercion and collusion can shape media content (Shoemaker & Reese, 2014). These institutions can also have interdependent relationships with the media. The Commission's strategic efforts to shape media content and appeal to its publics about its work has not been brought to light. However, through its Final Report, the Commission reveals a

concerted effort on media engagement, public outreach methods that faced many challenges. Therefore, this study seeks to find out:

- RQ 2. a. In what ways did the Truth Commission's strategic dependence on media platforms and products influence its investigations into historical injustices?
- b. In what ways does the TJRC Final Report unearth the truth about journalism in Kenya?

Journalistic Narratives of Injustice and Inequality

The post-election crisis in 2008 was a pivotal moment for Kenyan journalists, long respected as opinion leaders, but roundly blamed for stoking the flames of hatred that led to the bloodshed. As Kenya embarked on a path towards peace and justice, journalists had a moment of reckoning where they could maintain a status quo or participate in truth-telling as other Kenyans society. In Slye (2018, p. 165), the South African TRC identified the following types of truths: factual or forensic truth; personal or narrative truth; social or dialogue truth; healing and restorative truth. Factual evidence refers to the objective nature of the truth. He adds that objective truths have embedded within them subjective truths. The personal or narrative truth is the most important to a truth commission, as a subjective description of events and experiences. The dialogue truth, in this regard, is the public discourses surrounding different types of truths. The public hearings, media coverage and the truth commission's own final report are examples of the social or dialogic truth. Finally, the restorative truth is the kind of revelation that restores healing and closure for victims of past violations of human rights. This could include learning what happened to a loved one who had disappeared. In summary:

[TJRC] research and investigations contributed to forensic truth...our statement taking and public hearings contributed to personal and narrative truth...our public hearings, engagement with the media and final report all contributed to dialogic truth...our public hearings, statement taking, community outreach and other reconciliation-related activities contributed to historic truth. (pp. 166-167)

As a critical incident, the PEV and the ensuing truth campaign was a space for reflection for journalists. Review of previous literature has shown how Kenyan journalists face structural and ideological influences on their work. However, as a critical moment for journalism, there has been little interest on their participation in the truth-seeking process in ways that shed light on media capture and the trajectory of injustice in Kenya. This study, therefore, seeks to find out:

- RQ 3. a. How did journalists engage with and participate in the truth-telling process?
- b. What “truth” did Kenyan journalists reveal about media capture in Kenya?
- c. How have historical injustices influenced journalistic practice in Kenya?

Media Rights, Injustice and Inequality

Because of the media’s unique role in shaping public opinion, editorial interference, in subtle ways, have repercussions on press freedom, injustice and structural underdevelopment. The truth-telling process in Kenya shed light on some of the most heinous rights violations like political assassinations, land conflict and massacres. The Truth Commission’s Final Report is an extensive documentation of repressive structures and ideologies that have robbed Kenyans of equitable distribution of resources, gender equality, sustainable peace and access to justice. Critically, the Commission connects injustices with inequality. To extend debate on how the prevailing social, political and

economic system had maintained a grip on journalism practice in Kenya, this final part of my study asks:

RQ 4. a. What were some of the contributions of the Kenyan media towards the Truth

Commission's work?

b. How do Kenyan journalists describe factors that influenced news coverage of the Truth Commission?

c. How does the truth about journalism in Kenya influence the quest for sustainable peace and development?

The next chapter lays out the methodological processes that were employed in an attempt to answer the above questions.

CHAPTER IV

RESEARCH METHODOLOGY

This chapter discusses the philosophy and justification of various methods of data collection used in this study. As indicated in Chapter I, this study was initiated with a strong interest in understanding journalism and media in Kenya within a transitional justice context, in the aftermath of post-election violence (PEV). It has been ascertained that the role of journalists during transitional justice has been neglected in scholarly debates (Laplante, 2015), yet records indicate the media were and still are key actors in the political arena of any society. This study takes an empirical focus on the work of the Truth, Justice and Reconciliation Commission (TJRC, also Truth Commission or Commission). In view of the above contextual background, theoretical framework and literature reviewed in prior chapters, this study seeks to address the following questions presented in Chapter III:

- RQ 1: a. To what extent did media coverage of the Truth Commission’s work campaign align with the victim- and justice-centric goals of transitional justice?
- b. What can patterns in media coverage of the Truth Commission expose about news gatekeeping and the goals of transitional justice?
- RQ 2. a. In what ways did the Truth Commission’s strategic dependence on media platforms and products influence its investigations into historical injustices?
- b. In what ways does the TJRC Final Report unearth the truth about journalism in Kenya??
- RQ 3. a. How did journalists engage with and participate in the truth-telling process?
- b. What “truth” did Kenyan journalists reveal about media capture in Kenya?

c. How have historical injustices influenced journalistic practice in Kenya?

RQ 4. a. What were some of the contributions of the Kenyan media towards the Truth Commission's work?

b. How do Kenyan journalists describe factors that influenced news coverage of the Truth Commission?

c. How does the truth about journalism in Kenya influence the quest for sustainable peace and development?

Preliminary Research

The first task in this research was a “long preliminary soak” (Hall, 1975, p. 15) in Kenyan newspaper content between 2008 and 2013. This provided a deep immersion into the news coverage of the work of the TJRC, a step that helped focus on only those issues that were useful to the study due to the information overload. The TJRC is central to this study because its broad mandate ensured that it delved into Kenya's political history comprehensively and captured the work of the other reform commissions, the ICC cases, and the political actors who dominated the political arena during this time. To filter out the information overload, the timeline of major events in the life of the TJRC was vital in demarcating the distinct events happening simultaneously.

The second step in the preliminary research involved consultations with stakeholders in the media industry and grassroots opinion leaders in Kenya. These consultations later helped determine the scope of the study and identify problem areas as well as potential interviewees. Thirdly, an application was successfully made to the Institutional Review Board for before dealing with human subjects. The methods in this study are organized

hierarchically so that data from one method create an interrelationship with the next one and so forth.

Human Subjects Research and the Institutional Review Board

One of the data collection tools employed in this study involving contact with human subjects — the intensive interviews — was reviewed by the University of Oregon Institutional Review Board (IRB) and Research Compliance Services (RCS) at the University of Oregon. The IRB Protocol Number: 05132017.015 effective June 23, 2017, when it was determined to be exempt, through June 22, 2022. I was the sole investigator for this study, and I completed the necessary Collaborative Institutional Training Initiative (CITI) on Jan 24, 2014 (renewed certification on July 7, 2016 and July 19, 2018). All interactions with human subjects strictly adhered to the regulations and ethical considerations set forth by Office for the Protection of Human Subjects (OPHS). Attached with this study, are interview guides that address processes and protocols approved for this data collection method involving human subjects.

Researcher's Positionality and Reflexivity

I joined Kenya's news journalism in 2007 just as the country was gearing up for the general election. I left the industry for further studies in 2013 at the end of the transitional period and after the TJRC submitted its Final Report. As a journalist, my experiences are embedded in this study. I have considered this position to be an asset. For one, I had the advantage of contextual familiarity with the news content and content producers (e.g., see Steeves, 1997). I used this self-scrutiny as a reflexive stance (Charmaz, 2006), in order to

organize my inquiry into something that would be interventionist in an attempt to address the “how did we get here” question by demystifying power arrangements (Pickard, 2013) that have long plagued independent journalism in Kenya. This study is unique because it identifies journalists as part of the attempt to reconcile Kenya’s dark past with the truth about its journalism.

Data Collection Methods

This study employed a triangulated mixed methods approach. A triangulated methodology was chosen because, rather than rely on one or the other method of data collection, triangulation increases integration and interconnection between the questions under study. In this research, a triangulated methodology was preferred to weave together multiple lenses of inquiry that inform and complement each other. It also has an advantage of increasing rigor of scholarship and makes investigations robust (Anderson, Reinsmith-Jones & Mangels, 2011). The goal of a mixed methods approach in this study was not to provide a nuanced space between positivism, empiricism and interpretivism, but rather an ontological and epistemological argument for examining social arrangements in this context. For instance, in studying political developments, a stratified ontology is necessary to uncover in-depth inductive and deductive inferences (Zachariadis, Scott & Barrett, 2013). Another advantage of mixed methods research is to provide understanding and corroboration (Watkins & Gioia, 2015).

The methods used in this study are quantitative content analysis; document analysis; thematic analysis of journalistic testimonies and intensive interviews. Each method of data gathering has its merits and demerits, and these are reviewed in this chapter.

Quantitative Content Analysis

Quantitative content analysis is a social scientific method of analysis that has been helpful in applied communication research or scientific study of mass communication (Potter & Levine-Donnerstein, 1999; Riffe et al., 2014). A method that gained momentum in the 20th century, quantitative content analysis has been defined by scholars in various ways. Berelson (1952) defined content analysis as a “research technique for the objective, systematic, and quantitative description of the manifest content of communication” (p. 18). More recently, Riffe et al (2014) define quantitative content analysis as “the systematic assignment of communication content to categories according to rules, and the analysis of relationships involving those categories using statistical methods” (p. 3). Quantitative content analysis is a method of collecting content as data and is used frequently in communication research. In conducting a quantitative content analysis, researchers pay attention to “content” by systematically coding and classifying content and making inferences through statistical analyses.

In content analysis, researchers “seek answers to theoretically significant questions by inferring the meaning or consequences of exposure to content or inferring what might have contributed to the content’s form and meaning” (p. 27). The focus on quantification of categories in this type of data collection method has been largely criticized as overly focused on numerical procedures at the expense of problem significance (Holsti, 1969). The method has also faced criticism for its use of manifest content. Manifest content is seen as superficial and denotative (Potter & Levine-Donnerstein, 1999; Riffe et al., 2014), while latent content which delves deeper into meaning, is also examined in content analysis research.

The latent-manifest debate has left scholars divided over coding and interpretation of data. Scholars are also divided on whether every quantitative content analysis study should be accompanied by a qualitative analysis. Nevertheless, quantitative content analysis remains one of the most reliable methods of collecting data in communication research, especially if the data is to be broken down into categories and measured and summarized systematically (Riffe, et al, 2014). For one, researchers are largely able to make contributions in their research without involving human subjects, which is sometimes unfeasible. For instance, researchers are able to study archival material even when human subjects are not available through attrition or events have been forgotten (Riffe, et al, 2014).

In this study, the PEV, after such a long period, has been overtaken by many other events. A basic quantitative content analysis thus opens up this history for objective and systematic analysis. Notably though, this study does not set out to make large scale representative statistical generalizations about news coverage of the TJRC or PEV. Instead, it's aim is to detect patterns of news coverage to enable subsequent critical assessment of why the news appeared the way it did. This is possible because basic quantitative content analysis can empirically asses a social problem and use the evidence to champion social change (Drischo & Maschi, 2015). The authors also distinguish between the utility of exploratory research designs and descriptive designs:

Exploratory research designs often employ small samples that researchers purposefully chose in order to discover new knowledge or to gain access to new or unfamiliar information. Exploratory research designs are widely used to discover more about a specific situation, event, or experience. (p. 33)

Descriptive research projects often use much larger and often more representative samples than those used in exploratory research. Researchers use larger sample

sizes in content analyses to show the impact or spread of a social trend or characteristic. (p. 33)

Considering the purpose of this study, the selected research design combines elements of both exploratory and descriptive designs, which are employed to address my first research questions: to what extent did media coverage of the Truth Commission’s work campaign align with the victim- and justice-centric goals of transitional Justice?; what can patterns in media coverage of the Truth Commission expose about news gatekeeping during the period of transition?

An attempt was made to access print copies of Kenya’s leading newspapers, the *Daily Nation* and *The Standard*, but this was unfruitful due to the complexities of distance. I managed to get some copies through the University of Oregon InterLibrary Loan program, but the copies available were not sufficient for the study. I therefore settled for an online archival search through *LexisNexis* but this was also inefficient because retrieval success rate worked to the *Daily Nation*’s advantage. It would not be feasible to conduct a study of the *Daily Nation* alone. I finally turned to the websites of *The Daily Nation*¹² and *The Standard*.¹³ Here again retrieving news articles yielded much fewer returns for *The Standard* than for the *Daily Nation* (see Appendix C).

In the search all dates between 2008 and 2013 were included. A “recall” and “precision” method (Lacy, et al., 2015; Stryker et al., 2006) was employed to ensure the database retrieval yielded as many relevant articles as possible. In this method, “recall” is measured by first establishing a broad search criterion that is likely to capture all relevant articles in a database. Those articles are then coded — using a set protocol for relevance.

¹² <https://www.nation.co.ke/>

¹³ <https://www.standardmedia.co.ke/>

Then a more precise search term is applied, and the researcher measures what proportion of relevant articles is retrieved: (relevant articles retrieved / relevant articles in database). Precision measures what proportion of all retrieved articles are relevant: relevant articles retrieved / all articles retrieved (Lacy et al, 2015).

In my study, the terms “truth” “justice” “reconciliation” “commission” were keyed into the online databases for target dates between January 2008 and December 2013. The *Daily Nation* search yielded 440 articles. The articles were then coded for relevance. Op-ed articles including editorials, and letters to the editor or those deemed out of scope (e.g., involving other commissions) were filtered out, leaving 350 articles. Then only the search term “TJRC” was used for precision, as this term appeared in most articles filtered. In the end, the *Daily Nation* had (N=276) articles that were set aside for coding. The same procedure was done for *The Standard*, yielding an initial number of 280 articles. After filtering, these came down to 240 articles. Finally, *The Standard* yielded N=139 articles. In total N=415 news articles were set aside for pre-coding analysis.

The recall and precision method requires a correction coefficient, which in this case was not necessary because the search would not be reflective of all articles published or even a larger set that can be used for generalizability. During the period of study, *The Standard* and *Daily Nation* newspapers were print-heavy as both news organizations had not embraced full convergence. As mentioned above, getting newspapers in hard copy would have better captured the news content, but this was a near-impossible endeavor. The attempt at recall and precision proved to be the best option under the circumstances.

Pre-coding analysis

Sampled articles were first divided into yearly clusters for pre-coding analysis. Table 4.2 below shows the main themes in the content (guided by headlines and first sentence), and this coincides with the timeline of the TJRC from inception to end of mandate.

Table 4.1: Pre-coding Analysis: Salient Themes by Year

YEAR	News content about the TJRC
2008	Support and demand for justice, TJRC Bill
2009	TJRC Act, mandate, composition row, clamor for reforms
2010	Scandals, resignations, internal wrangles
2011	Public hearings, Wagalla massacre, chairperson Kiplagat tribunal
2012	Wrangles, public hearings, mandate extension row
2013	Final Report, denials, accusations, blame, dissent, implementation row

A codebook was developed (see Appendix A). These variables were coded a priori based on known routinized processes of the news media at the time, such as gatekeeping conventions that show differences in stories covered: allotted space, author bylines, daily versus weekend versions, and locations of filing and more importantly, the dominant sources and framing. The variables chosen were coded as:

Newspaper ID: identifies the newspaper under analysis. In this case there were only two newspapers and their weekend publications: *Daily Nation*, *Saturday Nation*, *Sunday Nation*; *The Standard*, *Saturday Standard* and *Standard on Sunday*.

Article category: Identifies the section in which the news article was published. The coding was only for news stories. Other categories (e.g., entertainment, were excluded in the selection, because they are not part of mainstream political news production routine) .

Author by-line: Identifies stories as either written by staff reporters, correspondents or outsourced. Some stories had no bylines, some had collective bylines that do not identify authors by name (by Nation Reporters, or Nation Team). All these were coded.

Location of filing: The city desk is the central news center in Kenya. It was therefore imperative to consider news out of Nairobi at a time when the TJRC sought to reach out to all Kenyans even those living in far-flung, peripheral areas.

Sequence: Coded for whether a story was in the weekend or daily newspaper

Year: This is an important variable as the timeline of events should reveal a pattern of news coverage as the TJRC competed with other political interests.

Article length: The length of an article is an indicator of the amount of time and space allotted to it. Since most of these articles also appeared in print (in many cases lifted directly from print versions), the longer the story, the more the sources, history or background and more content on the matter.

Dominant news source: This is an important variable because it reveals the dominant voices, views and actors in the news coverage of the Truth Commission's work. Truth Commissions are supposed to be victim-centered. This was coded by counting the source with most mentions from the headline to the first three paragraphs.

Justice Frame: This was meant to code for the news framing of the TJRC and whether the voices within content promotes a justice frame or not. For instance, according to the codebook, a news story is "justice positive" if it is critical, probes, watchdog role,

investigative, thematic, seeks solutions, demands answers, has victim-witness-survivor voices that seek truth and justice, is empathetic to victims' cause — generally has progressive attitude towards agenda of the TJRC. On the other hand, a story is “justice negative” if sensational, scandalous, political bickering, wrangles within TJRC, personalities whose stories promote self-interests, indifference, arrogance, or partisan political agenda – generally drive down or hinder the agenda of the TJRC.

A story is “justice neutral” if it is indifferent, says nothing more, just informs, episodic - generally does nothing other than relay info that neither helps nor hinders work of the TJRC.

Intercoder Reliability

A co-doctoral student participated as a co-coder. He was rigorously trained about the post-election crisis in Kenya, Kenya's political history, Kenya's media, and the transitional justice mechanisms with special emphasis on the work of the TJRC. The unit of analysis was the news article. The coder was trained to read the headline and the article and code for variables as aligned by the codebook. The two of us performed a pre-test on a random sample of N= 42 articles (*The Standard* = 14, *Daily Nation* = 28), a 10% representation of the of the articles. Simple agreement exceeded 90% across most variables. However, the “dominant news source” and “Justice frame” variables had lower than 70% agreement. We revised code-book descriptions, removed 25 articles that mentioned the TJRC only in passing or in the last paragraphs. We actually set the paragraph threshold for “dominant news sources” to three paragraphs and for “justice frame” at five. We also reduced the number of entries for “dominant news source” from 21 to 15 by collapsing some entries that overlapped. A second pretest yielded agreements

of 90% for “dominant news source” and 72% for “justice frame.” Since we were coding for nominal level data, inter-coder reliability was calculated using Scott’s Pi to compare agreement in results observed when two people code data at random (Wombacher, 2018). The Scott’s pi formula was applied, yielding results between .7 (for the justice frame variable) to .9 average for all the other variables. The overall average Scott’s pi = .8 which is considered a satisfactory inter-coder reliability.

Sampling

The pre-coding analysis yielded 390 news articles that had the TJRC as “primary focus” and were all coded as a census sample. In a census, each unit in a population is included in the quantitative content analysis ((Lacy, et al., 2015; Riffe, et al, 2014). In my study, a census was considered the best option because of the challenge of getting articles to code. A random sample would have identified very few stories and failed to give meaningful results. Finally, I emphasize that this portion of the study was exploratory as well as descriptive and was meant to complement other methods of data collection. Statistical analysis using Statistical Package for the Social Sciences (SPSS) that followed the coding included descriptive frequencies, crosstab chi-square tests and correlations. Chapter V discusses the major findings.

Qualitative Document Analysis

A qualitative document analysis methodology was used to address the second batch of research questions: in what ways did the TJRC strategically depend on media products and relations in its work investigating historical injustices? How did media-

TJRC relations impact the truth-seeking mission of the Commission? Document analysis is a systematic procedure for evaluating documents and has been used in qualitative research for decades (Bowen, 2008). Qualitative document analysis is a reflexive analysis of documents (Plummer, 1983) and is also sometimes referred to as ethnographic content analysis because it “involves immersion, exploration, contextual understanding and emergent insights into social meanings, relationships and activities” (Altheide et al, 2008, p. 134). Altheide expands his argument by stating:

Document analysis becomes ethnographic when the researcher immerses himself or herself in the materials and asks key questions about the organization, production, relationships and the consequences of the content including how it reflects communication formats grounded in media logic. (p. 135)

Documents are justified for use in research because they are symbolic representations of recorded events (Altheide, et al, 2008), have social significance in their public usage (Atkinson & Coffey, 1997), and can be a source of additional rich data (Smulowitz, 2017). Documents are more reflective of social organization, activities, meanings and social rules than most other forms of data used by social scientists (Altheide et al, 2008). A document analysis is also advantageous because it “yields excerpts, quotations, or entire passages from records, correspondence, official reports and open-ended surveys” (Labuschagne, 2003, p. 101). Document analysis is often used in combination with other qualitative research methods. Its procedures involve “finding, selecting, appraising (making sense of), and synthesizing data contained in documents” (Bowen, 2008, p. 28). In other advantages:

... documents provide background and context, additional questions to be asked, supplementary data, a means of tracking change and development, and verification of findings from other data sources. Moreover, documents may be the most effective means of gathering data when events can no longer be observed or when informants have forgotten the details. (Bowen, 2008, pp. 30-31)

One disadvantage of qualitative document analysis is that it lacks structure; it is a perspective as well as a method, and its parameters are not constrained a priori (Altheide et al, 2008). While some view this as a demerit of this method, I argue that is a strength because it allows a researcher to connect themes that are historically, culturally and contextually contingent. One analysis cannot act as a standard for others with constrained parameters of standard analytical techniques. In this study, the TJRC Final Report provides invaluable insights on the work of the commission and its attachments to the media. To this end, the qualitative document analysis takes into consideration the context, latent meanings, patterns and processes (Altheide et al, 2008). The thematic emphasis in this methodology unveils the TJRC Final Report mediatization efforts, by recognizing media formats, themes, frames and discourse represented in the document. A qualitative document analysis also places behavior and events in context.

In this study, the qualitative document analysis, rather than simply supplement other methodologies, integrates the epistemological and ontological values of all the methods employed in this exploratory study. The document analysis enabled me to entangle the TJRC with the media system in Kenya in relation to power arrangements that either undermined or supported the truth-seeking process. When used in triangulation, as in this study, document analysis helps to guard against bias by corroborating or expanding on findings across other data sources (Gross, 2018). In this study, some of the document analysis findings were used to generate questions for the intensive interviews later in the research process. Findings also corroborated the results of the quantitative content analysis, as I will report later in Chapter VI.

Table 4.2: TJRC Report Volumes and Thematic Areas

Final Report	Main Focus
Newspaper Supplement	Abridged Version - Summary
Volume 1	Background to the Commission Interpretation of Mandate Methodology & Process Challenges in execution of Mandate
Volume 2A	Historical Context History of Security Agencies Shifita War Unlawful Killings & disappearances Unlawful detention, torture, ill treatment Sexual Violence
Volume 2B (Pre-Interference) *	Economic marginalization Land and conflict Economic crimes & grand corruption
Volume 2C	Gender & Gross Violations of Human Rights Children's, Rights Minority Groups & Indigenous people
Volume 3	Ethnic Tension Mt Elgon Conflict Healing & Reconciliation
Volume 4	Findings & Recommendations Implementation & Monitoring Mechanism Reparation Framework Appendices List of adversely mentioned persons
International Commissioners	Dissent

* Two versions: 3rd May, 2013; 22nd May, 2013

Table 4.2 above indicates the chapters and thematic areas of the TJRC. The document analysis begins with a familiarity of the document for cues on its organization and structure.

The 2100-page Final Report details the work of the TJRC from start to finish. Finding out the Commission's strategic communication opportunities and challenges enabled me to draw conclusions on how the design of truth commissions and its media relations strategy is useful for memorialization and outreach. A tracking of discourse followed, by reviewing the document volume by volume to explore themes. This procedure entailed a close reading and re-reading of the document's chapters. Salient observations were made and are interpretatively discussed in Chapter VI.

Critical Inductive-Thematic Analysis of Journalistic Testimonies

The transitional justice period was a critical moment for journalists in Kenya. Apart from their normative roles as professional news producers, they faced the reality that their own industry required a new reflection, a fresh interpretation of the boundaries of their work. Many times the news audience has a vague idea of how news is manufactured. As Zelizer (1992) states:

From news gathering to news presentation, a journalist's authority often derives from the fact that the public cannot verify what he or she has done. This situates the establishment of journalistic authority within the hands of journalists, and their authority is informed by their own decisions about how, why, and in what way they turn ordinary events into news stories. (p. 66)

A critical incident like the post-conflict environment triggers discussions for a reassessment of identities, boundaries and norms. As such, journalists in Kenya had an opportunity to question the boundaries of their profession and their perceived taken-for-granted role as authoritative news makers. It is important to know how the transitional justice and the PEV affected them because they are also Kenyans. Hence, the third batch of research questions asked: How did journalists engage with and participate in the truth-

telling process? What “truth” did Kenyan journalists reveal about media capture in Kenya? How have historical injustices and inequality influenced journalistic practice in Kenya?

These overlapping questions require an analysis of journalistic self-referentiality, shining the spotlight inwards and taking stock of their work as authoritative sources of information within a history of injustices and inequality. A method of critical inductive thematic analysis of journalistic testimonies was used in order to find out how journalists take stock of their own experiences and those of their colleagues, reinterpreting, and rearticulating their memories of historical injustices, their own contributions, challenges and lost opportunities. I explore the impact of Kenya’s dark history on Kenya’s news culture using PEV as a critical moment for journalists. The Truth Commission held a thematic sessions for media professionals and journalists.¹⁴ Table 4.3 below lists media professionals who presented oral submissions before the Commission.

Table 4.3: List of journalists who testified at the TJRC hearing

Witness	Designation
William Oloo Janak	Chair Kenya Correspondents Association (KCA)
Macharia Gaitho	Chair Editors’ Guild of Kenya
Jaindi Kisero	NMG Managing Editor Economics & Investigations
Paul Melly	Standard Group CEO and Deputy Chair
Samuel Otieno Owida	Journalist with <i>Daily Nation</i>
Benard Kwalia	<i>The Star</i> journalist based in Kitale
Waigwa Maina	Former <i>Daily Nation</i> journalist from Central Kenya

¹⁴ The recordings in the public Hansard were retrieved from

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1128&context=tjrc-core>.

The testimonies here are used as a primary source of data for the study. The public hearing for the media was held at the National Hospital Insurance Fund Boardroom in Nairobi on February, 23, 2012. Critical inductive thematic analysis is a grounded-theory method that was useful in identifying salient themes from these testimonies. Grounded theory practice constructs analytic codes from data rather than from logically deduced hypotheses (Glaser & Strauss, 1967) and has been used as a qualitative method frequently. In this study, pre-analytical notes were made from the transcripts as extant texts (Charmaz, 2006). The initial coding process was open-ended and generated broad segments of texts, coded line by line.

Careful attention was paid to each speaker's language and *in vivo* coding unpacked some terms whose meanings often seem obvious. For example, in this case, the term "fairly free and robust" was used to and has still been used in reference to Kenyan media. A more focused coding was used to sift through the data by utilizing the earlier codes. This was the most important part, as it required a critical understanding of the process, its context and the close reading of the salient narratives. Finally, an axial coding process generated categories to give coherence to the analytical process. This final stage borrowed Attride-Stirling's thematic analysis which methodologically systematizes textual data into salient themes (Attride-Stirling, 2001). Salient themes were extracted from dissected text segments or categories in the transcripts. Findings are discussed in Chapter VII of this thesis.

Semi-structured interviews

Finally, my research methodology made use of semi-structured interviews to address my fourth set of research questions: What were some of the contributions of the

Kenyan media towards the Truth Commission’s work? How do Kenyan journalists describe factors that influenced news coverage of the Truth Commission? How does the truth about journalism in Kenya influence the quest for sustainable peace and development? These interviews build on the findings of the three previous methods for a more thoughtful understanding of journalism in Kenya at the social system level of analysis. Table 4.4 below shows a list of interviewees using their codenames.

Table 4.4: List of interviewees

Interviewee Codename	Designation	Interview medium
00100 1.5 hours	Editor	WhatsApp Audio Call
00200 40 mins	TJ/Human Rights Law	Skype Video Call
00300 1.5 hours	TJRC Comm Official	WhatsApp Audio Call
00400 2.5 hours	Former News Reporter	Audio Call
00500 N/A	TJ/Human Rights Law	Email Submission
00600 1 hour	Editor	Face to Face
00700 1 hour	Former News Reporter	Face to Face
00800 1.5 hours	Editor	Face to Face
00900 1 hour	Former News Reporter	Face to Face
001000 1 hour	Former Editor	Face to Face
001100 1.5 hours	News Reporter	Face to Face
001200 1 hour	Former Editor	Audio Call
001300 1 hour	Editor	WhatsApp Audio Call
001400 2 hours	Former News Reporter	WhatsApp Audio Call
001500 1 hour	Editor	WhatsApp Audio Call
001600 40 mins	TJ Expert	Skype & WhatsApp Video

In-depth (intensive) interviews were conducted with 12 journalists and four people who have widely worked on human rights and transitional justice issues. Intensive interviews “permit an in-depth exploration of a particular topic or experience and thus, is a useful method for interpretive inquiry” (Charmaz 2006, p. 25). Semi-structured interviews were conducted in various stages of fieldwork between December 2017 and March 2018. Follow up interviews were held at different times during the data analysis between 2018 and 2019. In total, I interviewed 16 people for this study. Due to the complexities of time and distance, six interviews were conducted face-to-face in Nairobi. Other interviews were conducted via phone calls, WhatsApp or Skype video calls, or email. The interviews lasted between 40 minutes and 3 hours. Intensive interviewing was used to explore questions from findings gathered throughout the previous data collection processes. Interviewees were selected through a snowball method of non-probability sampling. Having worked in the media industry for six years, I was able to locate some of my former colleagues who helped make suggestions on other possible interview participants. Despite this support, interview participants were not easy to come by. From my own observation this was due to a number of reasons, enumerated below:

- a. People still feared or were not comfortable to talk about PEV or TJRC. These are sensitive topics that have seen some journalists lose their lives or flee the country because they are also linked to the ICC trials of powerful personalities. This was the biggest concern. “Kenyans have moved on, that was a different era. Let bygones be bygones,” one journalist told me while declining to be interviewed. And he was not alone. Many Kenyans’ attitudes towards the Truth Commission is dismissive and undermining, to say

the least. For this reason, I offered not to disclose identities for all my interview participants, including the analysts.

b. Weariness/Social fatigue: Several journalists whom I approached several times for an interview even by email disappointingly turned me down, even though I had previously worked with them for years. They did this by not responding to my requests, or blatantly saying the TJRC was long gone and Kenyans had since moved on to other things.

Furthermore, the repudiation of the TJRC by the political class made many journalists question my interest in the subject. “Why was I doing it, yet I knew very well nobody cared about justice in Kenya?” one senior editor asked me.

c. TJRC is a political issue and implies unfavorable truths about representation of those in power in the newsroom. Factors like ethnicity, class and gender had shaped journalism for a long time and an insider asking an insider would make some senior decision makers uncomfortable.

All journalists selected for this interview must have been in the newsroom employed as a journalist between 2007 and 2013. There had been some mobility within the mainstream media since the transitional period: some journalists had moved up the ladder, some had left the profession altogether for totally different careers, and some had changed jobs within the industry. The experts were also purposely selected for interviewing based on their knowledge of transitional justice, and human rights in Kenya.

Face to face interviews were held in quiet Nairobi restaurants and recorded on a phone so as not to attract any suspicion as this was a highly sensitive matter. One email interview was downloaded and securely stored for analysis. The search for more

interview participants was stopped after it became clear that journalists repeatedly aired the same concerns. This saturation signaled a plateau in the information being recorded. However, follow up interviews were carried out if necessary. Interviewees were recorded with participant permission. All audio and video conversations were recorded on audio recording software *GarageBand* and saved as encrypted MP3 files before transcription. A very lengthy and elaborate transcription system followed; transcripts were 11-17 pages long. Transcripts were then subjected to a thematic analysis.

Among all the journalists I interviewed, very few had read parts of the TJRC Final Report, let alone the whole document. Most of them had read the newspaper supplement of the report that was published when the Commission submitted its work to the president in May 2013, but nothing more. The interviews generated unique conversations. I tried to get as deep as possible in collecting journalists' reflections on their work during Kenya's darkest period. Questions included where they were during the PEV, their positions at work, the number of years worked, their thoughts, feelings, actions about the violence and its transitional justice aftermath. They were also asked about political journalism and Kenya's history of injustices. See Appendix A for the list of questions asked.

The analytical process was quite similar to the one used for journalistic testimonies. I drew upon tenets of grounded theory to analyze the interview transcripts. Initial coding involved close reading of transcripts. Each transcript was read multiple times. This took much longer than the previous analysis. Through *in vivo* coding I highlighted catch phrases and metaphors used to interpret a journalists' experiences. The

axial and focused coding processes resulted in categories and themes. The findings of the thematic analysis are reported and discussed in Chapter VIII.

SUMMARY

This chapter has laid out the methods used to gather data for this study. Each methodology has been discussed in terms of its utility for this study, to help answer the questions deemed pertinent in bringing back the journalism and media to the center of debates about societies that have undergone waves of violence and human rights violations. The methods here are arranged in an order in which one complements the other, to see if the findings corroborate each other and add up to conclude with a typology of factors that can be considered when assessing journalism practice and the media in Kenya.

CHAPTER V

PATTERNS OF MEDIA COVERAGE

This chapter reports findings from the quantitative content analysis that was employed in this study to ascertain the extent and patterns of news coverage of the TJRC's work investigating historical injustices in Kenya. In this chapter, content is analyzed so that findings can shed light on patterns of reporting that illuminate gatekeeping conventions during the transitional period. This quantitative content analysis sought to answer my first research questions: To what extent did the news coverage of the Kenyan TJRC focus on victims, survivors and witnesses? What can patterns in media coverage of the Truth Commission expose about news gatekeeping and the goals of transitional justice?



Figure 5.1: The Front Page “Splash”

The screenshots above show the front pages *The Standard* newspaper in 2010. The ICC Prosecutor Luis Moreno-Ocampo and politicians featured prominently in the news. (Reproduced with permission from Standard Group under Fair Use regulations)

The findings in this section were critical in navigating other sections of the research project. News articles from Kenya's leading newspapers were coded (N = 390 stories); *The*

Daily Nation (N=260 articles), *The Standard* (N = 130 articles), using protocols described in Chapter IV. Below, key findings are discussed.

Dominant News Source

The data gathered on dominant sources of news (Table 5.1) show that local politicians received almost the same amount of coverage as TJRC actors (officials, commissioners), while witnesses and victims’ stories were less covered. Dominant news source here means the coded “voice” covered in the first five paragraphs with most mentions and quotes in a news article. This measure of dominant source was important in assessing the newsworthiness of the source and their message, relating to how prominently they are covered in the article. For example in [this story](#), Raila Odinga is the dominant voice, as he urges the government to honor the TJRC recommendations. As a prominent political figure, he is considered newsworthy to speak on social issues. In yet [another story](#) , a government official, who is also a politician criticizes the TJRC. In [this article](#) the family members of a former government official, who was assassinated, testify before the Truth Commission. In all these articles, the dominant news source is the dominant voice in the story. Overall, the content analysis indicates that dominant political voices received highest coverage.

Table 5.1: Frequencies * Dominant News Source

News Source	Frequency	Percent
Local politicians	115	29.5
TJRC Actors	118	30.3
Witnesses/Victims/Survivors	61	15.6
Others	96	24.6
Total	390	100%

The news articles were also coded for justice-centric, justice-neutral and justice-negative frames. Findings indicate that there were more articles that seemed to push for justice (N= 217), than were neutral (N=62) or negative (N=111). Table 5.2 below summarizes these results.

Table 5.2: Frequencies * Justice Frame in the News

	Frequency	Percent
Justice-centric	217	55.6
Justice negative	111	28.5
Justice neutral	62	15.9
Total	390	100.0

Table 5.3: Dominant Source * Justice Frame Crosstabulation

		Local Politicians	TJRC Actors	Victims	Others	Total
Justice frame	Justice-centric	55	67	56	39	217
	Justice-negative	41	34	2	34	111
	Justice-neutral	19	17	3	23	62
Total		115	118	61	96	390

From Table 5.3 above, we can see that victims and TJRC actors had the most justice centric news, but followed very closely by local politicians. However, local politicians again feature prominently in negative framing of the TJRC’s work on injustice. A Pearson Chi Square test of independence was performed to examine the relation between the two variables (dominant news source and justice frame), yielding a significant relationship $X^2(6, N=390) = 46, p < .001$). While more politicians are quoted in the news about the TJRC, there is higher support for the Truth Commission’s work and this applies to TJRC actors and victims too as there is little difference in support for

justice between the three groups. The assumption then here is that routine forces in gatekeeping affiliates newsworthiness with prominence. The gatekeepers then prefer popular voices in this case to shape public consciousness, which could account for the dominant sources as local politicians and TJRC actors. This reliance on prominence corroborates political economy literature on the nexus between commercial and elite political interests of news companies and the dominance of prominent personalities. When it comes to victims, it is not surprising that they were justice centric. The data analysis also breaks down the level of interaction through cross tabulations of both variables (dominant source of news and justice frame).

Table 5.4: Justice Frame * Dominant Source Crosstabulation (Percentages)

		Politicians	TJRC	Victims	Others	Total	
Justice Frame	Positive	Count	55	67	56	39	217
		% within Justice Frame	25.3%	30.9%	25.8%	18.0%	100.0%
		% within Dominant Source	47.8%	56.8%	91.8%	40.6%	55.6%
	Negative	Count	41	34	2	34	111
		% within Justice Frame	36.9%	30.6%	1.8%	30.6%	100.0%
		% within Dominant Source	35.7%	28.8%	3.3%	35.4%	28.5%
	Neutral	Count	19	17	3	23	62
		% within Justice Frame	30.6%	27.4%	4.8%	37.1%	100.0%
		% within Dominant Source	16.5%	14.4%	4.9%	24.0%	15.9%
Total	Count	115	118	61	96	390	
	% within Justice Frame	29.5%	30.3%	15.6%	24.6%	100.0%	
	% within Dominant Source	100.0%	100.0%	100.0%	100.0%	100.0%	

Table 5.4 above shows a summarized version, where TJRC actors had higher rate of justice-centric rhetoric as compared to local politicians and victims/witnesses.

However, the within-source variable analysis reveals that victims and witnesses had N=56 justice positive stories out of N= 61 articles, translating into a 92% level of push

for justice. Local politicians had the lowest within-source percentage for justice centric frames as compared to victims and TJRC actors. When it comes to negative frames, local politicians again take the crown, with 36% within the dominant source variable. Nonetheless, the table reflects competing interests between various groups, and gatekeeping preferences aligned with routinized forces that treat victims and witnesses for example as largely interested in seeking justice, while prominent personalities appropriate the voices of minorities while taking care of political and economic interests that maintain status quo relations. Therefore, for victims and witnesses, their newsworthiness is only as high as it concerns their testimonies before the Truth Commission while politicians are newsworthy across board during the tenure of the Commission and even beyond.

Year of Publication

The data analysis also measured frequency of TJRC news by year of publication. This was placed against the Commission's timeline to see patterns emerging out of the gatekeeping focus. As seen above, local politicians received more news coverage than others during the period under study. When broken down according to year of publication, the table below shows that 2010 had more news coverage, followed closely by 2011 and 2013. Between 2010 and 2011, the TJRC was embroiled in myriad scandals, and was also in the field collecting information. It is therefore understandable that TJRC news was frequently covered. Table 5.5 summarizes how the news was covered between 2008 and 2013.

Table 5.5. Frequencies * Year of Publication

Year	Frequency	Percentage
2008	14	3.6
2009	59	15.1
2010	110	28.2
2011	80	20.5
2012	57	14.6
2013	70	17.9
Total	390	100%

The TJRC began statement taking in May 2010 and completed in October 2011. Before the process began, the vice-chair had resigned following the controversy surrounding the chairperson’s credibility. In November of 2010, the chairperson “stepped aside” (a way of resigning in Kenya that does not reflect complete resignation), throwing the process into more controversy and confusion. The media reported that one international Commissioner also “resigned”, but he denied and blamed the news on a communication breakdown between him and a journalist (Slye, 2018). The TJRC however continued with its work and launched hearings in April 2011. With data showing a spike in coverage in 2010, a routine forces level of analysis indicates that gatekeepers prioritized the Commission leadership wrangles as newsworthy and the following year’s focus on witness testimonies when the Commission focused on hearings. Thus, the Commission’s visibility was highest in both years combined than any other time in its tenure. Also notable, is the Commission’s visibility in 2013 when the Final Report was released.

A Pearson Chi Square test of independence was performed to examine the relation between two variables (dominant source and year of publication), yielding a significant

relationship $\chi^2 (15, N=390) = 126, p < .001$). Additionally, a Phi and Cramer's V test of association was also very strong in the symmetric measures of both variables.

Table 5.6. Dominant Source * Year of Publication Crosstabulation (Percentages)

		2008	2009	2010	2011	2012	2013
Local politicians	Count	9	30	26	11	23	17
	% within Source	7.8%	25.9%	22.4%	9.5%	19.8%	14.7%
	% within Year	64.3%	50.8%	23.6%	13.8%	40.4%	24.3%
TJRC Actors	Count	0	5	42	19	15	37
	% within Source	0.0%	4.2%	35.6%	16.1%	12.7%	31.4%
	% within Year	0.0%	8.5%	38.2%	23.8%	26.3%	52.9%
Victims Witnesses	Count	0	4	8	37	8	4
	% within Source	0.0%	6.6%	13.1%	60.7%	13.1%	6.6%
	% within Year	0.0%	6.8%	7.3%	46.3%	14.0%	5.7%

Table 5.6 above shows how news coverage of dominant voices was aligned with the timeline of events at TJRC. For instance, in 2010 and 2013, TJRC actors had most visibility because of the scandals and the release of the final report, respectively. Meanwhile, local politicians had highest visibility in 2009 when the Commission was inaugurated as they jostled over the best way to ensure justice for the PEV and eliminate inequality. Victims on the other hand had a poor showing across board except for 2011 when the Commission was holding public hearings. Notably, even though the Commission began statement taking in 2010, TJRC actors and politicians still had a higher visibility than victims and witnesses. It was also in 2010 that the ICC named six prominent Kenyans as suspects in the planning of PEV. Therefore, at this level, TJRC was competing for newsworthiness with ICC, pushing aside victims from taking a direct dominant space in the discourse. In 2013 when the report was released to the president, again victims miss out on prominence. This again, reflects on the politicization of the

truth-seeking process at the level of routines in gatekeeping. More importantly, this raises questions about the confluence of media routines and news values in gatekeeping research.

Table 5.7: Justice Frame * Year of Publication Crosstabulation

		Year of Pub						Total
		2008	2009	2010	2011	2012	2013	
Justice Frame	Justice-Centric	9	36	40	59	28	45	217
	Justice Negative	2	9	56	11	22	11	111
	Justice Neutral	3	14	14	10	7	14	62
Total		14	59	110	80	57	70	390

A crosstabulation of justice frame and year of publication variables corroborates earlier findings that 2010 and 2011 were the most visible periods in the life of the TJRC. Table 5.7 above shows that the most positive frames were published in 2011 when the Commission was traversing the country collecting testimonies. In 2010, media reporting largely represented the Commission negatively, coinciding with the credibility crisis facing the chairman. A Pearson Chi Square test of independence was performed to examine the relationship between the two variables (justice frame and year of publication), yielding a significant relationship $X^2(10, N=390) = 55, p < .001$. Thus, news framing of the truth-seeking campaign followed a timeline of events that the news media deemed newsworthy and aligned with the dominant voices of local politicians and TJRC personalities, while victims' voices were only dominant in 2011.

Story Length

Data frequencies indicate that the majority of TJRC news stories were less than 500 words in length. Story length would mean that more time was allocated to the news article, and probably a front-page appearance. As Table 5.8 shows, only 4% of the articles coded were longer than 1000 words. The length of the story does not seem critical at face value. But a close look shows unique patterns of coverage emerging from data. Most page-one stories in the *Daily Nation* and *The Standard* point to major news that the editors deem the most newsworthy and usually takes up more space, sometimes running into more than pages. They are called the “Splash”. The data below therefore shows how the length of news articles that were coded in this study as a pointer to how newsworthy they were.

Table 5.8: Frequencies *Story Length

Length	Frequency	Percentage
Less than 500	249	63.8
501-1000	126	32.3
1001+	15	3.8
Total	390	100%

A crosstabulation of the variables (length and year) indicates a pattern of reportage in which 2010 had the longest stories but fewer in frequency, followed by 2009 and 2013. Again, this makes 2010 a news year for the Truth Commission. Table 5.9 below indicates that for stories between 500 and 1000 words, 2010 still comes ahead of the other years. A Pearson Chi Square test of independence was performed to examine the relationship between the two variables (story length and year of publication), yielding a non-significant relationship $X^2 (10, N=390) = 14, p = .162$. This result shows there is no strong or significant association between the length of the stories and the years they

were published. This means that gatekeeping conventions did not change much to cater for story length in a given year: dominant voices and publication dates still favored the elite political class, the length notwithstanding. Journalistic reporting and editing was guided by common and traditional gatekeeping norms such as political and personality prominence. Table 5.9 below lays out the side by side relationship between the two variables that corroborate news patterns discussed above.

Table 5.9: Year of Publication * Story Length Crosstabulation

		Article Length			Total
		< 500 words	500-1000 words	1000+	
Year of Publication	2008	10	3	1	14
	2009	31	24	4	59
	2010	72	33	5	110
	2011	59	21	0	80
	2012	39	17	1	57
	2013	38	28	4	70
Total		249	126	15	390

Location of Filing

Data measured for location of filing shows that the bulk of stories were filed by the city desks of both *The Standard* and the *Daily Nation*. However, according to Table 5.10, still many stories coded did not indicate the place of news filing. This can be largely attributed to “shovelware”, a process where print content is repurposed for online publication (Deuze, 1999). In the early days of internet news publishing in Kenya, protocols were still under development and author bylines may have been an oversight. Nevertheless, the majority of the stories passed through the city desks for editorial considerations. This variable is an important indicator of routine forces in news

gatekeeping. Newsroom flow of news is a mystery to outsiders and every newsroom is unique in how it handles news input. Secondly, news flows are subjected to layers of gatekeeping, including editorial conferences which often bring together senior most editors most of whom operate at the city desks. In Kenya, the two leading newsrooms operate a network of reporters but the city desk is the nerve center where key decisions are made. In this case, the Nairobi news desks hold the ultimate gatekeeping power. Newsrooms rely on contracted journalists (correspondents) outside Nairobi to gather news and work with bureau chiefs on assignments. During the public hearings of the Truth Commission, correspondents had the opportunity to report from non-urban areas (Lynch, 2018).

Table 5.10. Frequencies *Location of Filing

Location	Frequency	Percentage
Nairobi	208	53.3
Bureaus	83	21.3
Not Indicated	94	24.1
Western Cities	5	1.3
Total	390	100%

The Nairobi factor in gatekeeping cannot be downplayed. Nairobi was central to the Truth Commission’s work and journalists working in Nairobi have more association with politicians. According to Slye (2018), the two government leaders Raila Odinga and Mwai Kibaki turned down an invitation to launch the Commission’s public hearings unless it was done in Nairobi. The Commission had also considered that the major news outlets were Nairobi-based and therefore the event would get ample coverage. It is in Nairobi that the four branches of government are housed, including the president’s office at Harambee House and his abode at State House. Nairobi also houses major international

organizations and is considered a hub for people traveling in the region, or who are connecting to onward journeys to Europe, South Africa or West Africa. Nairobi is the seat of power and prestige in East Africa. Both the Standard Group and Nation Media Group trade at the Nairobi Stock Exchange (NSE). Therefore, this study not only looks at the manifest data on the filing location but deeper into the latent meaning of Nairobi as the center of news.

A crosstabulation of location and newspaper brand variables shows that both newspapers have almost similar number of articles without any indication of where they were filed: *Daily Nation* (N=46), *The Standard* (N=48). For stories filed outside Nairobi from the bureaus, *Daily Nation* has 57% while *The Standard* has 43%. A Pearson Chi Square test of independence was performed to examine the relation between the two variables (location and newspaper brand), yielding a significant relationship $X^2(3, N=390) = 30, p < .001$.

Both newspapers had stories filed mostly in Nairobi, notably important as this gatekeeping routine seems similar across board where the city desk is most favored. To explore a different pattern in the data, a cross tabulation of location of filing and year of publication shows that the bureaus, which employ many correspondents, had the highest number of stories published in 2011. Again this coincides with increased statement taking and public hearings as the commission moved out of Nairobi across the country to gather information.

**Table 5.11: Year of Publication * Location of Filing
Crosstabulation**

		Location Filed			Total
		Nairobi	Bureaus	Missing	
Year of Pub	2008	11	0	3	14
	2009	37	9	13	59
	2010	65	24	21	110
	2011	27	40	13	80
	2012	34	4	19	57
	2013	34	6	30	70
Total		208	83	99	390

A Pearson Chi Square test of independence was performed to examine the relation between the two variables (location of filing and year of publication), yielding a significant relationship $\chi^2 (10, N=390) = 70, p < .001$. This Nairobi factor re-centers the city desk as a strong influence on how the news is covered. Thus the city desk is a pillar of the beat system.

Newspaper Brand

This study’s sampled data was skewed in favor of the *Daily Nation* in terms of frequency. This was not deliberate as all stories sampled were coded. The *Daily Nation* stories were N=260 and *The Standard* were N=130 for a total of N=390. These two news companies have been in competition for many decades. Journalists working at these companies refer to the other as “competition”, yet journalists from both newspapers are known to cross over to the “competition” to take up new jobs. Some have even crossed over more than once. It is said among journalistic circles that only the masthead of both newspapers is different. Does the comradeship and familiarity with the routines of each media house have any influence on news gatekeeping? During the period under study,

data was coded for both newspapers. A crosstabulation of the newspaper brand and the framing of justice reveals that the *Daily Nation* had more justice centric coverage.

Table 5.12: Justice Frame * Brand Crosstabulation

		Brand		Total
		Standard	Daily Nation	
Justice Frame	Justice-Centric	58	159	217
	Justice Negative	41	70	111
	Justice Neutral	31	31	62
Total		130	260	390

A Pearson Chi Square test of independence was performed to examine the relationship between the two variables, yielding a weak relationship $\chi^2 (2, N=390) = 13, p = .002$). This is no indication that a difference in newspaper brand would yield unique coverage of the TJRC.

Table 5.13: Chi-Square Tests: Brand * Justice Frame

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	12.659 ^a	2	.002
Likelihood Ratio	12.365	2	.002
Linear-by-Linear Association	12.562	1	.000
N of Valid Cases	390		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 20.67.

However, observed percentages of cross tabulation between newspaper brand and justice frame shows noteworthy patterns in the interaction between the two variables.

Table 5.14: Justice Frame * Brand Crosstabulation

			Brand		Total
			Standard	Daily Nation	
Justice Frame	Justice-Centric	Count	58	159	217
		% within Justice Frame	26.7%	73.3%	100.0%
		% within Brand	44.6%	61.2%	55.6%
	Justice Negative	Count	41	70	111
		% within Justice Frame	36.9%	63.1%	100.0%
		% within Brand	31.5%	26.9%	28.5%
	Justice Neutral	Count	31	31	62
		% within Justice Frame	50.0%	50.0%	100.0%
		% within Brand	23.8%	11.9%	15.9%
Total	Count	130	260	390	
	% within Justice Frame	33.3%	66.7%	100.0%	
	% within Brand	100.0%	100.0%	100.0%	

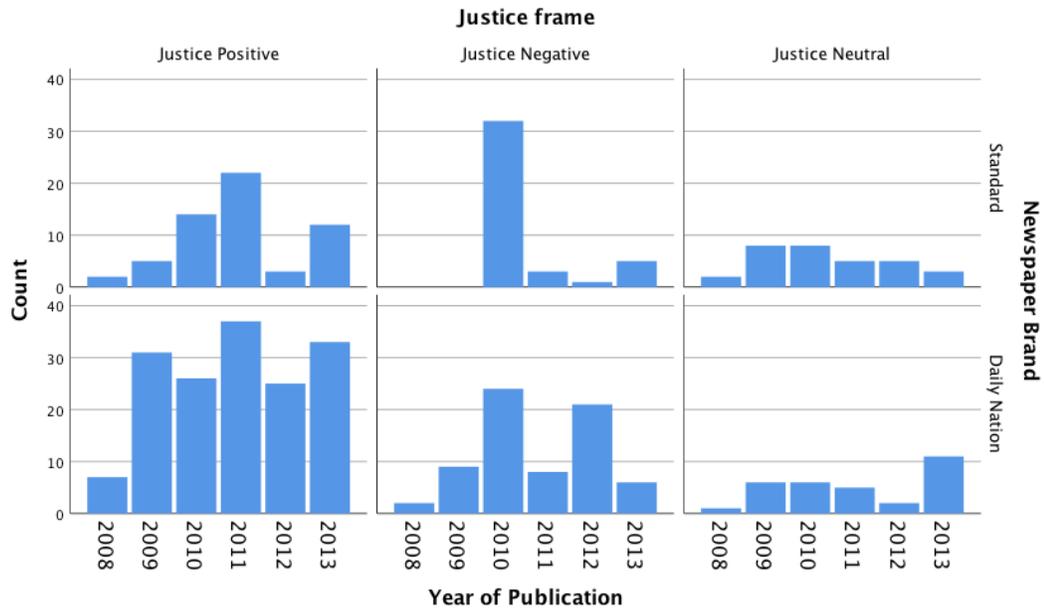
Within-brand associations show that the *Daily Nation* had a 61% of its 260 stories coded as justice centric, while *The Standard* had 45% of its 130 stories coded for the same. Within-justice frame association, *Daily Nation* is at 73% of its 159 justice-centric stories as compared to *The Standard's* 27% of its 58 stories coded for the same. From these percentages we learn that even though the *Daily Nation* had more coded stories than *The Standard*, the statistical analysis counts the association between and within the variables. For instance, the Standard has 41 justice-negative stories, representing 37% of these stories and 32% of its total 130 stories.

Table 5.15 below summarizes how both newspapers framed their news stories in ways that either supported or undermined justice. Both newspapers are almost at par when it comes to justice-neutral stories. In terms of TJRC timeline, both newspapers had the most justice-centric coverage in 2011 when the Commission was conducting public

hearings. Overall, the intermedia influence seems minimal but other factors such as commercial interests and journalistic logic that favor the elite class, allow prominence to determine newsworthiness.

Table 5.15: Justice Frame * Newspaper Brand * Year of Publication

Summary



DISCUSSION

In newspaper gatekeeping, there is competition for space, salience, and positioning of media message. From the multitude of news stories that are filed, not all get into the newspaper owing to limited space that is shared with other items like adverts, op-ed articles, obituaries, special supplements or pull outs, and other news genres. Even for those that are published as newsworthy, front-page or page lead status require gatekeeping prioritization. There are many “forces at the gates” from the time a story is preconceived: through editorial assignments and the beat system. With each gate, a

potential news story faces competition for success to be allowed inside and this competition varies in intensity and direction (Shoemaker et al, 2001). Some news stories find it easy to pass through the new gates especially in a competitive environment.

This chapter analyses data coded from the *Daily Nation* and *The Standard* (N=390). Findings reveal patterns emerging from the data coded. For one, the news media prioritized political sources of news over the victims and witnesses. When it comes to justice-centric frames, the witnesses and victims have a stronger showing but the local politicians are not very far behind. This could mean that news gatekeepers would trust politicians calling for justice or debating the justice problem. The more prominent the source, the easier it is to get past the gates. As it was expected to be different during such a pivotal time in the country's history, the gatekeeping priorities did not change. Elite centric news was dominant before PEV and this remained unchanged even during the transitional context. This corroborates earlier arguments (see Laplante & Phenicie, 2015) that journalistic practice is always expected to change during transitional justice but this does not happen. The news gatekeeping was therefore non-transformative. While the quantitative content analysis gives a manifest meaning at the routine forces level of gatekeeping, it would be insufficient to make conclusions on this finding without evaluating social system forces level of news gatekeeping. This would address commercial interests intersecting with other constructs like ethnicity, class and gender.

Another pattern that was observable is how the TJRC news shifted heavily, but only briefly to the victims during the public hearings. This pattern of coverage also aligns with the timeline of events in the life of the TJRC, including the resignations and the hearings. In 2010, resignations rocked the TJRC as the controversy over the chair's

credibility raged. This was the year TJRC received most coverage. Sensational stories of witnesses and those that involved prominent personalities seemed to pass through the news gates in 2011. For example, these are some of the headlines of 2011 news stories:

- Tears flow as truth team told of 1980 atrocities
- Women wail as they meet Truth team
- Tearful victims recall Kiambaa fire deaths
- Tears flow as Mt Elgon atrocities are revisited
- Serut weeps as he tells TJRC of his close shave

As news brands, *The Standard* and *Daily Nation* were selected for this study owing to their high circulation numbers and their popularity as Kenya's leading dailies since independence. Upon observation and experience, it is not uncommon to find journalists changing jobs between the two newsrooms. These journalists have developed alliances, friendships and comradeship. This study checked to see if this relationship could amount to familiarity and similarity in news gatekeeping patterns between the two brands. The data shows a weak relationship on the framing of justice unique to a newspaper brand. Instead, similarities occur in the coverage, e.g. the increased coverage of the TJRC actors in 2010 and the witnesses in 2011 and more justice-centric news frames in 2011 when the TJRC was traversing the country to hear from the masses. This could be an indication that news gatekeeping conventions are similar across board and both newspaper organizations tied at the hip by their relations to power through private ownership and commercial interests. The news is uniquely tailored to the brand even if news values overlap. This adds to the commercial goals of each news organization and the news paradigm that supports dominant voices as most "sellable".

The news coverage of the TJRC calls for reconceptualization of the flow of news from reporter to the medium. At the center of this process is the news desk, which acts as

a “situation room” in gatekeeping. The city desk is the central gate and the main focus of how news stories compete for attention. This study findings also underscore the hegemonic role of the city desk in news reporting. Its proximity and affinity to power gives it a unique professional and ideological position to decide what makes it to the news. Nairobi is Kenya’s capital city and the home of the presidency and national government. Nairobi is a leading business and economic hub in East and Central Africa. Therefore, it makes sense to have news organizations headquartered there. However, this superficial perception of Nairobi hides its controlling position in news making. As home to the most powerful and the elite, Nairobi as a news center winnows what makes it to the news and what does not including news coming from the bureaus.

Media content outline the contours of power in a society (Shoemaker & Reese, 2014). The way journalists collect information is often shrouded in mystery and each day is not the same, yet political prominence is the favorable yardstick for newsworthiness. The centrality of Nairobi as Kenya’s media center, its proximity to national politicians, the Executive and the Nairobi Securities Exchange should not be downplayed. As a business hub with the stock exchange in the middle of the center, Nairobi is the economic base of Kenya that supports the ideological superstructure for the business of news, making it an ideological elite state apparatus. In a transitional context, Nairobi as the center of news can only do so much as it is amenable to elite control social and political narratives. That the majority of news stories favored local politicians more than victims, indicates how an elite-centric approach to making news influences the newsworthiness of stories. It also raises questions about inequality in the newsroom and how an elite news making system intersects with other social constructs such as class, ethnicity, tribalism,

nationality, gender, religion, and age could have contributed to the elitist take-over of the news even during a period of national reflection and dialogue.

The quantitative content analysis only shows patterns of coverage but raises more questions that can only be addressed through deeper understanding of journalistic practice from a social systems level of analysis. The next three sections attempt to do that.

CHAPTER VI

TJRC'S STRATEGIC ENGAGEMENT WITH THE MEDIA

This chapter discusses the findings of the qualitative document analysis of the TJRC Final Report, a 2,100-page document that was the Truth Commission's legacy. In this document, the Truth Commission outlines its composition, challenges, thematic areas of investigations, findings and recommendations. This document analysis addresses my second set of research questions: In what ways does the TJRC Final Report reveal strategic dependence on media products for investigations into Kenya's historical injustices? In what ways does the TJRC Final Report unearth the truth about journalism in Kenya?

The TJRC Final Report was handed over to the Kenyan government in May 2013. The Report was not made available to the public but one of the international commissioners, Ron Slye has made it [available here](#) under a digital commons license. This document was analyzed to explore the ways in which the TJRC strategically interacted with media products in its investigations. It also examines the report's content in relation to media rights and media representation in Kenya in the context of injustice and inequality.

Critical Document Analysis

A close reading of all volumes of the report generates salient issues that highlight the Truth Commission's communication strategies for visibility and outreach, dependency for investigational records, addressing media representation and freedom of expression. This is important because it evaluates the role of the Truth Commission at the social institutional level of analysis in news gatekeeping and finds that the

interdependency and interaction between the Commission and the local media is contradictory, complicated, and multifaceted.

Access to TJRC Final Report: A Hidden Truth

The first finding of the document analysis is the accessibility of the Final Report. In all four volumes of the Report, the first page begins with a copyright notice, which states that “This publication is available as a PDF on the website of the Truth, Justice and Reconciliation Commission (and upon its dissolution, on the website of its successor in law”). The final report is a Truth Commission’s legacy and provides feedback and accountability to all those who participated in the process (Slye, 2018). In 2013 the TJRC completed its work and handed over a report to the government. The report was supposed to be discussed and approved by Parliament, and after adoption it would be available to the public. Parliament never adopted the report and the government never made it public. The TJRC website was pulled down and copies of the report never made available, without any explanation, to thousands of Kenyans who expected the truth about past injustices. It was a repudiation of the truth-seeking process.

According to Commissioner Slye, efforts were made to reproduce the report in formats that were accessible to all Kenyans whether literate or not and in summarized versions since the report was 2100 pages long. Efforts by the Commission to produce thousands of copies of the report to educational institutions and other areas outside Nairobi were thwarted when the Government Printer refused to run the copies, apparently on orders from government officials (Slye, 2018). He adds that, “the website on which we made available the final report was taken over by the government, and a few months later the website was taken down” (p. 82).

Lack of official release of this report mirrors the Kenyan government's custom practice of hiding reports it deemed damaging to the reputation of the ruling elite. Indeed, access to public records was one of the factors that hindered the work of the TJRC and has also been the case for other previous commissions of inquiry set up to investigate injustices. This has led to what Lynch (2018) termed, "familiar performances" that are cemented by the elite establishment's arguments for nationalism and patriotism. Denying the public's right to know erases the transformative goal of transitional justice. This has implications on national dialogue about injustice and inequality. For one, Kenyans cannot access the Commission's findings and recommendations. Secondly, journalists and opinion leaders cannot access the report to follow up on the recommendations of the Commission. Without official government access, journalists would hesitate to dig deeper into the report's findings.

Composition of TJRC: An Obstacle to Truth?

The composition of the TJRC was controversial right from the start. Civil society groups protested at the inclusion of Ambassador Bethwel Kiplagat as chairperson over allegations that he was complicit in some of the major atrocities committed by the regime of President Daniel Moi. Nonetheless, the TJRC Final Report states that the selection of the Kenyan Commissioners was done through "a broadly consultative process that involved civil society and Parliament" (Vol. I., p. 22). A selection panel included individuals who were nominated by various religious and professional groups and was seen as inclusive.

However, among the professional groups that contributed to the nomination of these individuals, there were none from the broader media sector according to the Truth Commission's Final Report. The Kenya Union of Journalists (KUJ), Media Council of Kenya (MCK) and the Association of Media Women in Kenya (AMWIK) were conspicuously missing from the list of professional groups picked to nominate people to the selection panel. These groups, it can be assumed, were represented by other umbrella groups on the list such as the Federation of Women Lawyers (FIDA-Kenya) and the Kenya Private Sector Alliance. Ironically, in April 2009, the Selection Panel placed an advertisement in the *Kenya Gazette* and in three daily newspapers inviting applications from persons who met the qualifications set forth in the Act for nomination as commissioners.

The panel was looking for individuals “with knowledge and experience in human rights law, forensic audit, investigations, psycho-sociology, anthropology, social relations, conflict management, religion and gender issues” (Vol. I, p. 23). The panel received applications from 254 people. It is not known if any journalist applied or not. The final list of six did not have a journalist. But that is not an issue to belabor, since the Commission could not comprise all groups. The only concern for purposes of this study was that the media were not part of the consultative process to guide the Commission on its organizational and routine awareness in producing news, and possibly reaching an agreement for a quota in the news including a beat assignment. If it was done, the Commission did not acknowledge it in the Report.

Thus, the Report indicates that the Commission's selection panel nomination process did not allow for media's contribution. Such a missed opportunity reduces the media's role during times of political crisis and transition to their normative operations, thus reinforcing a status quo approach to public awareness. This would later affect the strategic communication needs of the Truth Communication as it faced a media driven by commercial and elite political interests.

Media Engagement and Dependency

While the media sector went missing from the selection panel, the Truth Commission adopted ways of engagement with the media. Its media engagement rules included a policy that members were "not to give press or other interviews, on or off the record, without the express written authority from the director of communications or CEO" (Vol I, p. 26). This policy was flouted as the media published leaked information from the Commission or impromptu press conferences from the commissioners when faced with controversial wrangles such as the chair's credibility woes.

Within the Commission's hearing procedure rules, the media were asked to avoid references that might reveal the identity of individuals who were granted personal confidentiality or allowed to testify anonymously. This rule, however noble, was not tenable because individuals who required confidentiality while testifying before the commission, presented themselves *in camera* where not a single journalist was allowed. This hearing procedure collided with gatekeeping conventions that thrive on values of newness and sensationalism.

The Commission's engagement with the media also involved a dependency on media resources for its investigations. In one instance, the TJRC Final Report references media definitions of the term "massacre", while acknowledging that "the media influence public discourse around an event. People are more likely to refer to an incident as a massacre if that is how the media first reports the incident" (Vol IIA, p. 149). This direct adoption of the media definition of the term massacre is uncritical of a term that had been widely used to describe state repressive attacks on civilian groups as "single events", erasing the broader context of neocolonial, neoliberal and exclusionary nationalistic rhetoric that has cemented structural oppression among marginalized communities especially in northern Kenya. In adopting this definition, the Commission failed to challenge the Kenyan media's hegemonic subservience to the voices of the political class in appropriating voices of the masses for their own advancement.

The Truth Commission relied on archived news stories for its work. For example, in an overview of Kenya's history and how President Jomo Kenyatta consolidated power, the TJRC Final Report cites a newspaper article that quoted a Member of Parliament's views on oath-taking among the Kikuyu to block Luos from power following the assassination of Cabinet minister Tom Mboya in 1969:

KPU MP Okelo-Odongo claimed that those being oathed were stripped naked, tied with a rope around their neck and forced to swear to fight the Luo and not to allow any other tribe to lead Kenya (Vol II A, p. 22).
Source: Okelo-Odongo (1969). *East Africa Standard*, 12 August 1969.

In another example of how the Commission borrowed heavily from archived news sources, news reports documented witness accounts of the "Turbi Massacre" of July 2005, where 95 people were gunned down including 20 children who were shot and killed while in school.

The Headmaster, Mr. Guyo Isacko, told news reporters that he had arrived at the school that morning when he heard shooting from the lower side of the village. When he went outside to check what was happening he saw armed raiders had surrounded the school. He quickly ran to warn the pupils in the lower classes to run and hide. Unfortunately the bandits followed the children. The Headmaster managed to hide himself in the bush as the raiders pursued the children into the villages (Vol IIA, p. 379). Source: Njeru M. (2005) "Survivors tell of their battle with the raiders on how they cheated death," *Daily Nation*, July 14.

Below are other examples of news references in this volume:

Vol IIA, p. 645: Nyayo House Torture Chambers

- *Sunday Nation* May 6, 2012
- *Sunday Nation* May 6, 2012

Vol IIA, p. 551: Extra judicial killings by the military

- *Daily Nation*, Nairobi, March 28, 2008

Vol IIA, p. 548: Extra judicial killings and forced disappearances by the police

- *Daily Nation*, July 7, 2008

Vol IIA, p. 545: State inaction and cover-up for extra judicial killings

- *The Standard*, May 1, 2011
- *The Standard* October 8, 2002
- *Daily Nation* October 8, 2002
- *The Standard* October 9, 2002
- *Daily Nation* October 9, 2002
- *Daily Nation* October 10, 2002
- *Daily Nation* October 19, 2002
- *Saturday Nation* October 26, 2002
- *The Standard* October 6, 2002

The Commission makes reference (Vol. IIA, p. 537) to a media report about a police officer captured on video kicking the lifeless bodies of two youths who had been shot dead in Naivasha. The police constable responsible was charged with murder but later released for lack of evidence. (Oywa J. "Fury as evidence of police killings left out by judges" *The Standard* April 6 2011 also available at www.standardmedia.co.ke/headlines.php?id=2000032711). Through its reliance on archived news reports, the Commission was able to piece together injustices, but uncritical borrowing from news records do not paint a complete picture of events. In instances where the Commission borrowed heavily from these news records, it is not

clear whether these were followed up with interviews. The Commission does state whether it interviewed journalists who were witnesses of some of the injustices they had written about.

The Commission's engagement with the news media extended to its expectation that the media would help push for enforcing its recommendations as availed in the Report. The Commission recognized the advocacy role of the media (Vol IV, p. 31), and recommended inclusion of the media in implementation of its recommendations through public awareness of each stage of the process (Vol IV, p. 77). The Commission also recommended that perpetrators of injustices issue apologies in the media:

That among other things, we would like the Government of Kenya to be compelled to give a public apology via print media on the way they have handled the investigation of the late J. M Kariuki's murder, and the involvement of the state in the numerous cover-ups that have ensued. (Vol IV p. 26, 116)

In March 2015, President Uhuru Kenyatta apologized for past wrongs in a state of the nation address in Parliament. He promised a KES 10 billion Restorative Justice Fund for victims of past injustices. The funds have not been released to date. He also urged Members of Parliament to fast-track the implementation of the TJRC recommendations. That has not been done to date. The apology was not issued via print media as the Commission had recommended and did not mention any particular case of injustice. The media covered the president's address like any other since he is considered a dominant news source. In this news report by the *Daily Nation*, the story does not mention the TJRC or the fact that previous governments had failed to award damages to victims of state terror. The Final Report shows how the Commission expected the mainstream media to be a partner in fighting injustice by holding the powerful to account. The Commission's strategic expectations proved to be non-disruptive, as media treatment of

politicians did not change during the period under study and beyond. The Commission, sought to maximize its outreach efforts by complementing these mainstream media expectations with other media platforms.

Outreach: Bringing the Public In

One of the Truth Commission’s foundational tasks was “informing the public about the Commission’s existence and the purpose of its work” (Vol I, p. 25). The Report states that the “detailed aspects of these foundational tasks were performed by nine thematic working groups,” which included the Outreach and Public Awareness, and Communications and Media working groups. The Commission also had administrative committees created to provide policy guidance to the Commission. The Committee on Communications and Civic Education was one of these.

The technical operations of the Commission were carried out by eight departments, one of which was for Communications. All these units’ operations were harmonized “to ensure coherence and efficiency in the execution of the Commission’s mandate” (Vol 1. p. 28). The Civic Education and Outreach Department, for instance, was:

responsible for educating, engaging, and encouraging the public to contribute positively to the achievement of the objectives of the Commission. In particular, the Unit: (a) coordinated the dissemination of information about the Commission to the general public through education and public awareness campaigns and other forums; (b) coordinated reconciliation initiatives; and (c) developed and updated the Commission’s civic education and advocacy materials. (p. 28)

The Communications Department, on the other hand, “was the link between the Commission and the media” and “managed the Commission’s media and public relations” (p. 29). The creation of these units indicates an effort by the Commission to engage the public by reaching out through various organs. The Commission also used the

Kenya Gazette, an official government publication to make special announcements such as public hearings. The Commission hired Kathleen Openda, a former journalist with KTN, as the director of Communications. Most of the other people hired at the Commission to promote outreach and media relations were former journalists and/or communication specialists.

The Commission employed various strategies of awareness creation: from newspaper ads, to radio announcements and even sound trucks driven across the neighborhoods with loudspeakers. The outreach team participated in “training of stakeholders, hosting workshops and meetings” (Vol. I, p. 82). It is not expressly clear if these stakeholders included journalists. The team conducted pre-hearing civic education drives across the country and these were designed to be as participatory as possible. The Commission also published information and communication materials such as brochures and branded materials like t-shirts and posters. The Report states that these activities effectively enabled the Commission to reach people in the heart of the country.

With such a robust communications focus for outreach and press relations, the Commission expected to receive wide coverage in the mainstream press and alternative media. Commissioner Slye (2018) mentions efforts to “use the launch of our hearings to insert the Commission and its mandate into the public discourse” (p. 175). He also reveals that the Commission deliberated on making their first hearing newsworthy by packaging it as a “significant event or issue” and inviting a prominent personality to the hearing. Unfortunately, the prominent personalities they invited (the president and prime minister) could only attend if the launch was held in Nairobi, which would also be an added advantage to the Commission because “given that the main media outlets were all

present in Nairobi, it was more likely that we would receive extensive media coverage” (p. 176). When the invited guests turned down their requests, the Commission opted to begin its hearings outside Nairobi.

The Truth Commission in its operations relied on its various communication units to maximize their various capabilities and build a cohesive outreach and media relations strategy. Working with former journalists and communication specialists was expected to help the Commission reach out to the political class, the media and the masses. The results were mixed, but the Commission has documented its challenges with bad press and low media visibility.

Low Media Visibility and Negative Press

Several sections of the TJRC Report explain how the Commission had to endure negative media coverage even with its investment in media relations and outreach. Media reports accused the Commission of corruption and financial mismanagement. This further damaged the Commission’s credibility as internal investigations revealed documents had been leaked to journalists by an insider.

Reports surfaced in the media alleging corruption within the Commission. The media reports appeared to reference internal documentation... This prompted the Commission to undertake urgent internal investigations. It was found that the media reports were unfounded... The Commission was dismayed to learn that the information was based on selective release of misleading information from within the Commission by individuals linked to Ambassador Kiplagat. (Vol. I, pp. 34-35)

Later in 2011 and 2012 new stories of financial mismanagement surfaced in the press again after an audit report was leaked to the media. The *Nairobi Law Monthly*, an alternative news publication named certain commissioners as having defrauded the

Commission. Yet according to the Report, “Commissioners had in fact lent money to the Commission at a time when it had not received quarterly funding from the Treasury to enable the Commission to perform its core functions” (p. 35).

According to the Report, an evaluation by the International Commission of Jurists (ICJ) revealed that dissemination of information relating to the public hearings fell below expectation. In January 2012, the Commission produced a series of 30-minute discussion programs based on the subjects covered during the Commission’s thematic hearings, which were televised on Kenya Television Network (KTN). The program entitled *Kenya’s Unheard Truth* was launched on 9 February 2012. It was broadcast at 10 p.m. every Thursday.

A total of eight programs were aired between February and April 2012. These were paid programs. In addition, the commission launched a website and initiated social media presence. Still, the Commission decried low media visibility as disappointing given the expectations that public hearings would receive broad coverage as was the case in the South African TRC. The Commission expected the public broadcaster Kenya Broadcasting Corporation (KBC) to air the hearings live, while arguing that “The media plays a central role given its ability and capacity to reach out to the masses” (Vol. I, p. 111). However, the Commission’s hearings were aired live on television only twice. The Commission blamed this low media interest on a number of factors. First is the competition for “news coverage with more dramatic and unfolding events such as those surrounding the International Criminal Court.” (Vol. I, p. 112)

The Commission states that it did not have adequate funds to pay for live media coverage and blamed the media for not finding the hearings worthy of unpaid coverage in

the public interest. KBC as a taxpayer public broadcaster should have been able to air live proceedings without payment. The Commission attributes this media snub to the commercialized environment in which the media operated but does not critically assess how this could have historically undermined efforts to fight injustice and inequality. The Commission's next strategy was to carry weekly roundups of its work in documentary format, yet this was met with obstacles along the way as the Commission struggled to find a suitable channel. When it finally did, prime time slot was rejected. The Commission settled for weekend broadcasts but that also did not work out and was dropped altogether. Finally, the Commission turned to KBC, which accepted weekly broadcasts at a fee. The Commission soon suffered a setback in its KBC broadcasts.

KBC failed to air the Commission's round-up on 5 October 2011 without notice. In response to the Commission's demand for an explanation, KBC's Managing Director, Chris Mutungi, wrote that the round-up scheduled for that day "was found unsuitable for transmission based on KBC's editorial programming policy." (p. 112)

The Commission believes the KBC broadcast was censored because it would paint the president in negative light. The broadcasts were then moved to Kenya Television Network (KTN). It is not clear how long these broadcasts lasted. However, the negative news coverage did not stop. In an outreach trip to the coast, demonstrators accosted the Commissioners, an event that was covered in prime time news that evening and was major news in the next day's newspapers (Slye, 2018).

The TJRC received feedback about its public hearings and determined through monitoring and evaluation that its dissemination of information was below par. The Commission then rebranded its website on 26 August 2011. Other new media strategies used included social media platforms. These included:

Twitter: In 2018, @tjrckkenya the Twitter handle of the TJRC had 869 followers.

Currently, it has 864 followers. It has 1422 Tweets and was launched in April 2011.

<https://twitter.com/tjrckkenya>

Facebook:

<https://www.facebook.com/TJRC-Kenya-118713254870490/> (237 likes, 239 follows)

<https://www.facebook.com/groups/181786171976338/> (TJRC-Kenya's Final Report Group created on April 30, 2013. Had 1,144 members)

Blog: <https://tjrckkenya.blogspot.com>

For a national institution investigating historical injustices, these social media engagement metrics were below par. Understandably, many Kenyans were not able to engage with the Commission online due to discrepancies in digital access across board. However, even the level of engagement with those who had internet access was low.

Media of Nairobi for Nairobi

The location of Kenya's largest media outlets in Nairobi has contributed to the privileging of the elite political class as authoritative sources of news. Northern Kenya, which has suffered some of the worst forms of state repression has been marginalized in media agenda setting. The Commission alludes to this imbalance in news coverage in its Report. The "Wagalla Massacre" of February 1984, according to the commission, is an example of how lack of media coverage of events in far flung areas of the country reproduced their Othering. According to the Commission, the "Wagalla Massacre" was, "by far, the most spoken about massacre in Kenya and represents a tragic story of how a

government can turn against and massacre its own citizens” (Vol. IIA, p. 221). The

Commission adds that:

Only a handful of people outside of government circles knew about Wagalla during these early days. The main reason for this was a lag in the reporting of the incident in the papers and other local media... it took about three weeks for the Wagalla story to hit the newspapers. This meant that Nairobi was curiously silent in the days and weeks after the operation; there was no public hue and cry and no commentary...Wagalla, to put it simply, was weakly reported particularly by the local press who latched onto the events long after international correspondents. (Vol. IIA, pp. 290-291)

The Commission’s investigations revealed that the wire service agency, United Press International (UPI) filed the first reports about the operation. International wire service Reuters then reported the Kenyan government’s denial of the UPI reports as “mischief and falsehoods” through its ruling party newspaper *Kenya Times*. (The UPI reports were: “2 Kenyan Officials Make Massacre Charges,” *The New York Times*, 1st, March 1984; *Reuters*: “Kenyans Assail Press for Massacre Reports,” *The New York Times*, 3 March 1984). It was after three weeks that the local media first reported about the Wagalla killings (“Kenyan security forces accused of mass-killing,” *Daily Nation* March 22nd, 1984). The Wagalla story was published in the local newspapers when Ahmed Khalif, the Member of Parliament for Wajir East, made an extraordinary and charged appearance in Parliament in Nairobi. Khalif presented a number of photographs in the House showing the dead, the injured, the security forces and their vehicles. These were not reproduced in the newspapers.

The government’s response was covered in the news when local newspapers gave Justus ole Tipis’ statement prominent coverage under the headings “57 killed by troops in Wajir” in the *Daily Nation* and “59 killed in violence” in *The Standard*. The Commission laments that this was the beginning of the news media’s reproduction of the

government's position on the killings at Wagalla airstrip in Wajir, "the ole Tipis statement in Parliament formed the foundation of most official representations of the operation over the past three decades" (Vol IIA, p. 294). The Commission observed that other than *The Standard*, which put the death toll at 59 (the government had indicated 57 died), "the newspapers presented relatively straightforward accounts of the minister's statement without any commentary or editorializing" (p. 295).

Yet still, the government accused the dailies for misinterpreting facts in the Wagalla coverage.

Meanwhile, the Commission noted that international coverage of Wagalla was more dynamic than local coverage. While the local dailies focused on the official exchanges, "international coverage was much more victim and impact-oriented" (p. 297), citing a detailed article that appeared in the *Philadelphia Inquirer* on April 8, 1984, which provided witness accounts from survivors. In the end, as the government sought to put a lid on public discussions of Wagalla, the *Daily Nation* reproduced the minister's statement in its entirety to apparently have on record the minister's response. According to the Commission, this article ("Wajir troubles political – Tipis" *Daily Nation* 13, April 1984) represented the end of the immediate and contemporary news coverage of the Wagalla operation.

About ten years later, media coverage of Wagalla killings emerged as individuals and groups started demanding further investigations ("15 leaders defect from Kanu over 'massacre'," *Daily Nation* 12 January, 1992) and debated ethnic strife in the region ("Arrest inciters of Wajir clashes," *Daily Nation* July 15, 1993; "Clan not to blame for Wajir clashes," *Daily Nation* August 10, 1993). According to the Commission, "there

were occasional reports and articles in the press but nothing else. It would take another few years before Wagalla became an issue that the Kenya media would speak about with any kind of regularity” (p. 300).

One of the biggest issues of concern about the Wagalla atrocities has been the dispute surrounding the number of people who died. In 2000, a BBC report incorrectly quoted the Kenyan government as revising the number of the dead from 57 to 380. The Commission noted that the BBC never retracted this error but observed that the BBC and the BBC Somali service’s reputation for solid and reliable coverage of the northern Kenya region, led local activists and advocates to perceive the BBC Somali Service as sympathetic to their cause (p. 328). This was problematic because the BBC report cemented the position that only hundreds died at Wagalla, yet the Commission documented witness testimonies of between 3000-4000 deaths (p. 329).

The “Wagalla Massacre” is an example of how the media concentration in Nairobi has influenced the privileging of news sources from city-based politicians and elite class as authoritative sources, also connected to commercial interests in the country. The Wagalla news coverage highlights the role of the international press, especially the BBC that has had a strong presence since its colonial days in Kenya. That the BBC and Voice of America (VoA) are trusted, sometimes more than Kenyan news outlets because of their wide reach, critically challenges the Nairobi hegemony in newsmaking, which sometimes results in collision with the government. Still, the inconsistencies in the relations between the Kenyan political and business class and their Anglo-American counterparts have only served to maintain a friendship that benefits both parties, at the

expense of transformative change. The BBC coverage of the “Wagalla Massacre” was an example of such conflicted coverage, according to the Commission’s Report.

Media Freedom: The Missing Theme

The TJRC Report mentions a media workshop that was held as a hearing for journalists on Feb 23rd, 2012.

This workshop was similar to a thematic hearing. It brought together journalists, media houses and associations representing journalists and media houses. They testified about their experiences relating to state control and repression of the media during the mandate period (Vol. I, p. 115).

The outcome of the session is not included in the Report, as the Commission had done for other groups. The Commission does not expressly discuss Kenya’s mainstream media system or freedom of the press as one of its thematic areas or any interviews it held with journalists. Issues of media independence are scattered across the four volumes. The Commission’s Report documents how President Mwai Kibaki’s administration increasingly consolidated power and became intolerant to opposition after its defeat in Kenya’s first constitutional referendum in 2005. It is within this context that The Standard Group was raided:

In the early hours of 2 March, a team of armed men stormed *The Standard* newspaper offices in central Nairobi, right in the middle of the central business district. At the same time, another armed group stormed the newspaper’s printing plant and destroyed copies of that day’s edition, which were awaiting collection and distribution. (Vol. IIA, p. 29).

The Report does not give more details about the raid, but media reports cite the then Internal Security minister as saying that ‘if you rattle a snake, be prepared to be bitten by it’. The minister said the raid at *The Standard* was necessary in the interest of national security. This was not an isolated case of state control of media and information

space. During the presidency of Daniel Moi, the Commission documents many instances when the state targeted with torture, murder or detention those it deemed as enemies. Members of the *Mwakenya* Movement which led the clamor for a pluralistic democracy, social justice and human rights, were routinely detained and tortured. For example, “between March 1986 and March 1987, at least 75 journalists, academics, and university students were jailed for crimes such as the possession of seditious literature that opposed Moi’s repressive rule” (Vol IIA, p. 26).

Notably, the Commission blacklists Kenya’s security forces as the worst perpetrators of terror against Kenyans. The Commission established that a special task force was established to interrogate and torture individuals who were suspected to be a threat to national security or were suspected members of *Mwakenya* and other such underground movements. Many *Mwakenya* suspects were arrested in their homes, mostly in the night and in the presence of family members. This cannot be downplayed for three reasons: For one, as one witness said, “When somebody is imprisoned, their families is (sic) imprisoned together with them” (Vol IIA, p. 636). There were occasions where the torture and detention extended to relatives of suspected members of *Mwakenya* (Vol IIA, p. 637). Secondly, the Moi era set a precedent for state repression that has long been normalized in Kenya and has impinged on media freedom.

A repressive state apparatus has contributed to other social ills, including poor governance and systemic corruption which the Commission attributed to “inadequate legislative controls, no independent judiciary, or oversight, and where independent media and civil society agencies are absent”. The Commission adds that even though in Kenya the judiciary and media are now relatively independent and civil society is largely free

there is still more to be done (Vol. IIB p. 348). In its recommendations the Commission calls for “fast-tracking of the enactment of human rights related laws as envisaged by the Constitution of Kenya, including on freedom of the media; fair hearing; and rights of persons held in custody or detained (Vol. IV, pp. 9, 65). Kenya’s constitution has strong laws on media freedom. It is therefore not an issue of laws, but one of impunity where the rule of law is not respected and where the rights of journalists and their families are trampled upon.

A Gender Agenda

The Commission’s Report documents how it embraced a gender mainstreaming approach in its activities, right from composition to its hearings, while acknowledging that hegemonic patriarchy had historically relegated women to a subordinate status. Indeed, the Commission summarized the story of the Kenyan woman as twofold: sad, shameful and heartbreaking (Vol. IIC, p.2) and triumphant, bringing change into their lives, families, communities and the nation at large (Vol. IIC, p. 3).

The Commission therefore dedicated a chapter in its Report to *Gender and Gross Violation of Human Rights: Focus on Women*. The outreach division developed information, education and communication (IEC) messages and materials specifically targeting and suited for women. Additionally, the Commission “particularly rallied women to attend the hearings through announcements in local markets and vernacular radio stations” (Vol IIC. p. 9). The women’s hearings formed one of the Commission’s greatest legacies as many turned up to narrate their experiences under oppressive systems.

To its credit, the Commission went beyond bodily integrity rights of women and addressed systemic discrimination based on gender. Overall, the Commission addressed gender equality, discrimination against women, traditional harmful practices, and violence against women. The Commission concluded that though strides had been made in the advancement of women in Kenya, they “continue to be the subject of deeply rooted discriminatory norms and practices” (Vol. IV, p. 37). Gender equality was still elusive, attributed to patriarchal customary norms and practices which relegated women to a subordinate status.

These norms and practices, many of which still remain pervasive today, include disinheritance, preference for boys, polygamy, payment of dowry, cultural traditions relating to burial, early and forced marriages, chastisement of wives, female genital mutilation and widow inheritance. These norms and practices have, over the years, not only been entrenched but were also protected and permitted by legislation and sanctioned by the state itself. (Vol. IV, p. 37).

The missing gap though in the Commission’s Report is the voices of women in media professions who have faced discrimination based on their gender and other intersecting constructs such as ethnicity, class and religion. Neither did the Commission mention gender representation in the media and its implications on hegemonic perceptions towards women as secondary citizens. In the next Chapter, it becomes clear that the gender agenda did not include gender in journalism as the media hearing session ended without any mention of gender. The Commission recommended a raft of measures to ensure gender equality.

The Media Message of Division

The Commission’s Report addresses the plight of minority groups too by acknowledging their vulnerability to injustices and inequality. The Report, for example, has documented the Commission’s findings on the systemic discrimination of northern

Kenyan communities who were mainly pastoralist and Muslim. The Commission notes its frustration in obtaining from the government of Mwai Kibaki a report of a committee set up in 2007 to look into claims of discrimination by Kenya's Muslim community (p. 234). The report was never released to the public. The Commission nevertheless obtained a copy of the report "from a credible unofficial source" (Vol. IIC, p. 235) and published it. Among the issues the Commission sought to address was the portrayal of minorities. During the committee hearings from Muslims, witnesses lamented that they did not feel treated as Kenyan citizens:

A representative of the Kisumu Muslim Association pointed out to the Committee several issues including discrimination; harassment on allegations of terrorism, wrongful detentions (renditions) and arbitrary searches by Police. This presenter was of the view that the media is being used to discriminate against Muslims by reporting negatively on Muslims "engaged" in criminal activities. (p. 306).

At a different hearing in Kakamega town, "presenters decried the fact that media has been highlighting Muslims as "criminals" which in effect has victimized and criminalized them unfairly in society" (p. 309). In Eldoret town, "the role of the media was again termed as divisive in society as it has been used to cause hatred amongst and against Muslims" (p. 311). In yet another hearing in Eldoret town, "presenters complained of lack of regulation of media against negative portrayal of Muslim teachings and morals" (p. 312). In its Report, the Commission recommended that among other things, "the Government should ensure that the media plays its rightful role particularly in its portrayal of the Muslim community"(p. 340). The Commission notes that the voices of many Kenyans had been suppressed and marginalized. The truth-seeking process allowed them to speak publicly for the first time about their pain, anger and suffering. Many of them said the Commission was the "first public agency to show concern for

their situation” (Vol. III, p. 90). This was a public indictment on the elite political class and the commercial based media on their part illuminating only those voices that benefited their interests.

The Commission documents that the media in Kenya contributed to PEV, “including through the broadcast of messages that incited their listeners” (Vol. IIA, p. 539). Witnesses who testified during the hearings told the Commission that the media were irresponsible in their coverage of politic rhetoric ahead of the 2007 election. One witness stated that, “the media played a role in sowing disunity among Kenyans. There is need to ensure that broadcasters are professionals capable of sieving information from their callers” (p. 539).

According to the Commission, the media in Kenya contributed to PEV by sowing ethnic divisions and inciting audiences especially in the Rift Valley that the election would be rigged in favor of PNU, Mwai Kibaki’s party. A critical examination of these statements in the Report, however, recognizes that the media in this case received blanket blame, another indication of the uncritical understanding of the media, where there are different platforms and layers of gatekeeping. And in its list of adversely mentioned persons, no journalist or media institution was held accountable for the unjust practices. The Commission also addressed how ethnicity and access to public office had favored Kenya’s larger tribes, especially the Kikuyu and Kalenjin to the extent that they dominated public service opportunities. The Commission lost an opportunity to interrogate the influence of ethnic dominance on news gatekeeping either at macro or micro levels. The Commission would have identified how ethnic dominance intersects

with other social markers such as gender, class, and religion to marginalize some groups while rewarding others both in media recruitment and media messaging (representation).

DISCUSSION

The Kenyan Truth Commission was mandated to investigate historical injustices that had plagued Kenya since independence and had resulted in gross inequality. This chapter has critically analyzed the Commission's Final Report for its strategic ways of engaging with the media and the public in unearthing truths about Kenya's history of repression. The Commission's Report makes a strong emphasis on the challenges it faced during its tenure including negative press reports that hurt its public image.

Overall, I argue that the normative expectations of journalistic practices in Kenya was one of the factors that hurt the Commission's media image through poor media visibility and representation that bordered mostly on its tribulations and mediocre coverage of the public hearings. A critical understanding of the media system would have unearthed how the prevailing news paradigm structured stories in ways that reflected the media's subservience to the narratives of powerful interests favorable to the "big men", "big tribes", and "big money" in Kenya. For instance, round tables with media associations and consultations with media scholars could have helped mitigate such circumstances that did not augur well for the Commission. The Commission's Report does not indicate whether such consultations occurred. These consultations would have ensured a specific theme for media rights. The theme would have shed light on the "truth" about journalistic practice in Kenya and factors that were behind gatekeeping conventions. The lack of political will and the preference for Nairobi spotlight among politicians were setbacks the

Commission could have foreseen and countered through critical understandings of how media capture by the “big men” and their commercial, tribal interests structurally influenced national conversations about injustice.

That the Commission failed to make the public hearings a media event for public engagement and national dialogue was not in a vacuum. A critical understanding of the media recognizes the challenges ahead in media relations, news coverage and the public image of the institution. An uncritical approach to engaging the media adopts a taken-for-granted normative role of the media, assuming that it would make news and therefore attract media attention. Having the TJRC as a social institution trying to negotiate media channels of gatekeeping, faces other forces that influence newsworthiness at the “gates”. At the social institutional level, the Commission is a source of news that interacts and competes with other social institutional influences within a broader social system (structural and ideological). In this case, the ICC, politicians, witnesses, victims and advocacy groups are all sources of news that interact and compete with one another for media and public attention. As a social institution, the Commission’s engagement with the media also collides with other actors such as advertisers. In Kenya, media advertising interests are known to be linked to the political elite class (Wasserman & Maweu, 2014).

Secondly, the Commission’s disruptive agenda would not align with the media’s pro establishment agenda. The TJRC Report does not mention the contribution of media groups in the composition of the selection panel that nominated commissioners.

Understanding the media’s role during transition is imperative for the process since journalists are citizens too and their rights are human rights. Journalists enter the period of transition from a unique perspective as those who check power, but who are bound by

the interests of those whose power they check. Indeed, one of the biggest challenges of the media in Kenya is to balance their ethical considerations to promote public interest with commercial interests of media owners (Wasserman & Maweu, 2014). A disruptive truth-seeking process requires that the media disrupt their focus on the establishment, requires open communication among themselves, their owners and representatives.

The Commission's *in camera* (private) hearings interacted with media routines and values of newsworthiness to justify the lack of interest in the hearings. Most of the issues that were covered in public, were well known to journalists and had been covered before (e.g. Wagalla killings, Ouko murder, ethnic violence, extra judicial killings and land disputes). Furthermore, Wagalla received more interest from the media because of the influence of advocacy groups and its connection to the controversy surrounding the Chairperson's credibility. The Commission and the media would have worked to develop a framework of understanding on how to cover *in camera* hearings. The media's commercial interests and interlocking relations with powerful political interests meant that the commission would face challenges in its efforts towards visibility. That the concurrent ICC indictments received prominent coverage and the Commission headlines focused on its woes and scandals is an indication of enduring news values that favored the elite political class at a time when the country was meant to be healing. In South Africa, the hearings were public, with a stronger public engagement than in the Kenyan situation.

Furthermore, the TJRC-Media relations were often rocky. Commission suffered from bad press in relation to its chairperson's credibility. Press leaks were rampant, reinforcing an image of a divided institution. The resignations too captured media

attention. This, combined with the low media visibility, seemed to have shaken the Commission. The Commission also accuses the media of publishing false information regarding its financial woes and poor interpretation of events, e.g., the chairperson's "stepping aside". Media interpretation of the court ruling on the chair's lawsuit was also criticized as misinformation. That the media reported misappropriation of funds by the Commission and the latter's statement that they had been denied funding to the extent that they borrowed from one another, illustrates the contentious media-TJRC relations. Considering that the Commission had a media working group and a communications department, this kind of disconnect hurt the goals of transitional justice. It is worth noting that the Truth Commission hired former journalists and individuals who seemed to understand the mainstream press in Kenya. This was not helpful because the goals of transitional justice were not aligned with the "truth" about the media in Kenya right from the design of the Truth Commission which assumed a responsible press would be in lock step with its goals. The former as counter hegemonic, the latter as hegemonic and subservient to the dictates of the elite political class and a patriarchy-capitalist supremacist alliance.

While the Commission complained of poor media coverage, the Final Report did not consider information and communication rights as a theme. Because of this, the Commission's contribution to media freedoms is scattered, contradictory and incoherent. The report mentions a media-themed workshop but nothing else is said about journalistic testimonies during the event. This again leaves the Commission's Report without direct input from journalists who had suffered injustices for their work as Kenyans and as journalists. The Report covers the experiences of *Mwakenya*, an underground social

movement of journalists during the Moi years that were arrested and tortured for alleged seditious publications. The Commission however, left out the mainstream press, only mentioning the Standard Group raid in passing and recommending respect for media freedoms. The Commission noted that the “media are now relatively independent and civil society is largely free to operate without restrictions.” This statement is contradictory and indicates a lack of understanding of media ownership and editorial structures. The “relatively independent” statement also corroborates the conflicting and confusing characterization of Kenyan media as “partly free”.

The Truth Commission however, acknowledged the role of the media in its work, commended the advocacy role of the media and recommended inclusion of media in implementation of its recommendations. It is not clear if this speaks to the traditional forms of news production at the time. It also raises questions as to the evolving nature of media in the age of convergence, where digital technologies are increasingly replacing the dominance of print and broadcast media. The media are oftentimes mentioned as an umbrella body, erasing the reality of a hierarchical decision-making order that includes editorial, advertising, PR and executive leadership. Given that the political economy of the media favors interlocking business, political, elite and tribal interests, the media’s advocacy could only go so far.

Also, within the Truth Report, the TJRC used archived media reports extensively for reference. This indicates a sense of trust in media reporting. It also underscores media work as mnemonic in memory making and documentation. It could be a double-edged sword, though, as news reports do not exist in an ideological vacuum, do not consistently question power, and can be divisive in a country where ethnicity is emotive. Do

journalists know or expect their work to be available for generations long after they are gone? Archived news influence history in ways that can be transformative in bringing about social change or ways that can retain status quo social relations through historical revisionism.

According to the Report, the majority of victims and witnesses spoke publicly for the first time to the Commission about their pain, anger and suffering. Many of them said the Commission was the first public agency to show concern for their situation. Some witnesses testified about media discrimination especially affecting minority groups (e.g. Muslims). The Commission's findings unearth the media representation of minority groups influenced by preference for dominant voices at the intersection of tribe, ethnicity, class, gender and religion. Tribalism and ethnicity have especially influenced news reporting in favor of dominant tribes, religion and regions. This intersectional representation in favor of the political elite class, perpetuates a cycle of exploitation, marginalization and oppression of minorities. The Commission did not address this intersectional connection to the representation of minorities in the media, but addressed ethnicity and access to public office, with the Kikuyu/Kalenjin dominating public service. The Standard Group (SG) and Nation Media Group (NMG) in terms of ownership, shareholding and interlocking directorships, are dominated by a network of powerful groups from Kenya's most visible tribes especially the Kikuyu and Kalenjin. And ethnicity influences new gatekeeping in Kenya (Wasserman & Maweu, 2014). The ethnic make-up of journalists in leading Kenyan newsroom is also skewed in favor of the big tribes, with the Kikuyu leading in the numbers (Ireru, 2015).

There were no media practitioners as Adversely Mentioned Persons (AMPs) in the TJRC Report. This is understandable because the TJRC did not investigate the media system in Kenya. Also, the State received blame for press freedom violations, yet some journalists, editors, and media owners have been complicit in promoting a culture of impunity in Kenya. The Commission was established as part of the Kenya National Dialogue and Reconciliation process, which led to the initiation of numerous reforms and mechanisms intended to address long-standing historical issues. By choosing to treat the media normatively, the TJRC did not dig deeper to understand the media and, as such, missed an opportunity to call for reforms in the news media sector. Given that witnesses had testified in public hearings about incitement to violence via media channels, misrepresentation and underrepresentation of minorities in the media, the Commission's awareness of *The Standard* raid and torture of unfriendly journalists, the Commission failed to address injustice and inequality in an important sector of the Kenyan society.

In conclusion, this chapter allows the conceptualization of the Truth Commission at the social institutional level of analysis in news gatekeeping. The complications in its engagement with the public and the media indicates that the social systems, routines and social institutional levels of analysis constituted the "forces at the gates" to block any influence strong media visibility would have aided the TJRC in its investigations. This chapter also illuminates journalistic identity as witnesses. Journalists have to be aware that their work can be used to understand history. The Truth Commission relied heavily on media reports of injustices.

CHAPTER VII

JOURNALISTIC PARTICIPATION IN THE TRUTH-SEEKING CAMPAIGN

The last two chapters have focused on direct ways in which the Kenya's truth-seeking moment was represented in news narratives and the Commission's Report. The two chapters have revealed how political prominence defeated justice-centric news and how an uncritical assessment of the media as part of the Commission's investigations failed to unearth a system of media capture by the "big men". This chapter extends questions about normalization of political prominence in news and its interlocking associations with corporate and state interests. As established Chapter VI, the Truth Commission's Report does not address media rights and freedom as a theme, nor does it offer coherent mitigating guidelines on media sector reforms. However, unbeknownst to many, Kenyan journalists too had their day before the Commission where they presented testimonies about journalism in Kenya. This chapter discusses findings from a thematic analysis of transcripts of journalistic testimonies from the hearing, to address my third set of research questions: How did journalists engage with and participate in the truth-telling process? What "truth" did Kenyan journalists reveal about media capture in Kenya? How have historical injustices influenced journalistic practice in Kenya? A critical inductive thematic analysis extracts salient themes from a close reading of the workshop transcripts.

TJRC COMMISSIONERS' OPENING STATEMENTS

The opening statements from the commissioners contextualizes the journalistic truth-telling environment. In the thematic hearings, experts, academics and activists presented their memoranda before the Commissioners and answered their questions.

These were held in Nairobi and were poorly attended by the public (Lynch, 2018). In the thematic session for journalists and media practitioners, the Commissioner's opening statements are considered important because they set the tone for the hearing. It is important to note that while the Commission held a thematic session with journalists, there is no such special space allocated for journalists or the media in Kenya in the Final Report. In the opening remarks, the following themes capture the Commission's perceptions towards the media in Kenya.

Journalism as “Connective Tissue” for Kenyan Victims

The Commission highlighted the news media's coverage of the public hearings as a *connective tissue* for victims of injustice in Kenya. The media, the commissioners said, had amplified the voices of the victims as they shared their experiences with the Truth Commission. Acting chairperson Tecla Namachanja said:

...the way the witnesses shared their stories with us, according to them and their world, they thought that they are the only ones who have suffered historical injustices in this country.... As you highlighted the stories They realized that they are not the only ones who have suffered. So, through your coverage you brought out the painful stories that this Commission has heard. Each part of the region now is aware of the historical injustices that each and every part of this region has suffered. (p. 1)

Notably, TJRC received most coverage when it began statement taking in 2010 and hearings in 2011 (see table 5.4 in Chapter 4). In 2011, victims, witnesses and survivors got the most visibility through media coverage of the hearings, which was not the case in 2010 when scandals and resignations plagued the commission. This media session was held in February 2012. Thus, the Commission acknowledged that journalists, were the connective tissue that

broadly represented Kenya's dark past. The commissioners do not make reference to any particular media organization or medium but rather treated the media as one homogenous group.

Journalists as “Conduits for Justice”

The commissioners perceived journalists as conduits for justice in helping advocate for the implementation of the Commission's recommendations. The TJRC commissioners reminded journalists of how their work was important for the process of reconciliation. The acting chairperson Tecla Namachanja urged the journalists present to “continue journeying with us and continue being there even after the end of the term of this Commission to ensure that our recommendations are implemented”. Such support for journalists and placing responsibility on their shoulders to support the work of the Truth Commission suggests a normative expectation of the media to help fight injustice and inequality. was She added:

we are going to depend on you as one of the watchdogs to ensure that the people and the leaders who will be in a position to implement our recommendations are kept on their toes. We hope that you are going to watch out and remind the people concerned to implement the recommendations in the report. (p. 2)

This dependency rests on the perception of journalists as the bridge between the commission and those in positions of power in representing the voices of those who had suffered injustice and inequality. Indeed, this marks an element of trust between the Commission and journalists that the Report does not expressly reveal. Furthermore, it is the social responsibility of the media to use their alliances with

powerful people to engage them in conversations that promote accountability, good governance and the rule of law.

Kenyan Journalists' Rights are Human Rights

During the session, the Commissioners made it clear that journalists were key actors in the process of truth-seeking, not only in their professional capacities, but also as Kenyans through truth-telling: “We also know that this report will be incomplete without us hearing from the media because you are also Kenyans,” Ms Namachanja stated. The Commission acknowledged that journalists had also witnessed or experienced injustices that had been a stain on Kenya’s history.

JOURNALISTIC TESTIMONIES

In this section, testimonies place journalists at the center of historical injustices and systemic inequality. Journalists testified about their experiences in engaging with powerful individuals in their work. They narrated the structural and physical challenges they had faced as their media routines of news gathering, news values and gatekeeping for newsworthiness collided with state, corporate and other interests to shape their work. In this section, the PEV becomes a critical incident as journalists shine the spotlight inward and attempt to reframe the *whys and hows* of their professional work. The themes are divided into categories and sub-categories.

JOURNALISM OF FEAR

The following themes represent a context of fear among journalists as they seek to hold state and non-state actors accountable. Testimonies portrayed journalists as victims of harassment, trauma, torture, insecurity, unlawful detentions, physical attacks, murder, forced displacement, manipulation, threats, intimidation, and disappearances. Fear is embedded in their decision-making and forms a critical part of their experiences of injustice that rewards and punishes journalism. This context of fear reinforces journalistic victimization through coercion and control by state and non-state actors working in collusion to shape the message as favorable to their interests. This element of fear manifests in the gatekeeping of news as political prominence is achieved along with its narrative, where the elite establishment, even at a time of post-conflict reconstruction receives priority attention. It also explains the Commission's frustration at getting free live coverage of its proceedings even at the public broadcaster KBC.

Journalists as Victims of State Control and Repression

In their testimonies, journalists acknowledged that Kenya was (and has been) a refuge for journalists fleeing repression in other countries within the East African region, including Eritrea, Ethiopia, Uganda, Somalia and Sudan. But Kenyan journalists, too, had been subjected to repressive actions by state agencies before, during and after PEV.

At the height of PEV, the State came in and banned live broadcasts. That is still fresh in our minds. There are cases of KTN cameramen being harassed for doing what a journalist is supposed to do. — Jaindi Kiseru.

State security and intelligence agencies were dominantly mentioned as a threat to journalistic freedoms in Kenya. These include various arms of the police, intelligence agencies and administrative officers.

The police, the Provincial Administration, and powerful politicians have largely been guilty in terms of harassing journalists and putting them through a lot of suffering...There has been dialogue around the issue of safety of journalists in this country. But there is a major concern about the security of journalists. Much more needs to be done. — William Janak

The police are used by the politicians or influential people when (news) stories are published or when they are still under investigations. On the other hand, police officers blacklist journalists who expose them on corruption, misconduct, abuse of human rights or failure to do their duty. As a result of harassment and little support or none at all from media institutions, most journalists are compromised by the police. — Waigwa Maina

Apart from the police and state security agencies, journalists also narrated how private security officers and vigilante thugs/goons/assassins/militia were often hired to attack journalists perceived as enemies to the political and business elite class.

Kisungusungu [sic]¹⁵ is a gang some businessmen, politicians, or the police use to achieve their “justice” to people they have differences with. In Kisii whenever you have any difference with anybody, they can use *Kisungusungu* [sic] to eliminate you. So, I am told by the journalists that they fear even testifying like I am doing today. — Samuel Owidi

The security agents often got away with the crimes against journalists, mostly by protecting one another or by the transfer of officers facing investigations over attacks on journalists:

An investigation [on the murder of journalist Nyaruri] by the CPJ found that senior officials had engaged in a large-scale effort to obstruct investigations into Nyaruri’s murder. The then Attorney General, Amos Wako, seemed to agree. In a letter in 2009, Mr. Wako said: “There is strong suspicion that police officers could have executed the deceased.” Nearly three years later, no police official has ever been charged or even questioned in connection with the killing. — Macharia Gaitho

¹⁵ SunguSungu is a vigilante group in Kisii region of Kenya

The implications of unresolved cases frightened other journalists into keeping the powerful in check.

Killing a journalist obviously has a chilling effect and it obviously stops that particular journalist, but also cautions and, perhaps, even stops other journalists and, therefore, leads to the lack of unearthing of injustices, corruption and other things. So, that particular incident [murder of journalist Nyaruri] is particularly worrying in terms of the health of the democratic process here. — Macharia Gaitho

The police and government security agents are “authoritative sources of news” about social problems of public concern. If journalists navigate such stories from a position of fear for their lives, then this fear is constitutive of the social system within which journalists work and results in their condition of unfreedom (Freire, 2005). The “forces at the gates” thus diminish the strength of the individual journalist in the hierarchical model.

Testimonies also represented journalists as vulnerable to politicians who saw them as enemies and used their positions of power to punish and reward them. Journalists narrated to the Commission how attacks by political actors led to economic, physical and mental suffering.

[a journalist called] Munene Kamau was a reporter with the Kenya News Agency, and because of the political forces in Kerugoya at that time, he was deemed to be a member of *Mwakenya*. During a visit by President Moi, a senior politician from that area pointed him out and a few days later, he was arrested. He was brought to Nyayo House torture chambers where he stayed with other detainees. He lost his mother while in detention and his children suffered so much.— William Janak

Threats to independent journalism come from multiple actors. Non-state political actors have targeted journalists they deem were against them. This is especially common during

election campaigns where politicians and other political groupings seek favorable journalistic coverage, without which journalists are made to suffer.

We have a multiplicity of pressures, not just the State, but rather from groupings, either within or outside the State. We have all kinds of political parties and political leaders who are all having an interest in what the media is saying about them or about their opponents. I think our politicians operate on the principle that “if you are not with me, you are against me.” for them, the issue of balance and fairness does not make sense; either you support me, if not, it means you are against me. —
Macharia Gaitho

Some of the politicians or people who feel that journalists have aggrieved them are not following the law. They are not even going to the Media Council to lodge their complaints. They want to hire hit men to target journalists. Right now, politicians have marked out journalists in terms of the ones they perceive as “anti-them.” As we move towards that, unless something is done, then we are going to see many more journalists suffer. — William Janak

Journalists explained their vulnerability in the face of these threats from politicians and security agents. They always grappled with insecurity, as failure to protect journalists contributed to a culture of fear that persisted even after PEV and into the period of transition. This indifference to journalistic safety led some journalists to believe the government did not care about them at all and was complicit in their suffering. Samuel Owidi said: “The government has nothing to do with you because, to it, it is like you do not even exist in the first place.” Others blamed their employers’ inaction.

I suffered at the hands of police, [Sabaot Land Defense Force]SLDF¹⁶, politicians and the media houses I was working for. I am still traumatized for all that I had undergone for the past three years. — Bernard Kwalia

...our colleagues from Mt. Elgon, Oyugis and Murang’a have been victims of police harassment and torture. In the case of Mt. Elgon, we are talking about an organized gang that the Government was not able to deal with at the time they were harassing journalists. The Government was guilty of inability to protect journalists in some of those circumstances. —
William Janak

¹⁶ Sabaot Land Defense Force was a militia group in western part of Kenya

During PEV journalists, like other Kenyans were targeted for attacks and some had to flee and hide from their homes. The volatile situation led to displacement from their homes and places of work. The experience was traumatizing.

In Eldoret, some of our colleagues had to hide in offices for two weeks because they could not go home. One of them was nearly killed by a mob. The police were there and they did not intervene. — William Janak

About four months ago, some of our investigative journalists had content that revealed three years of human rights violations and those who were included as part of the content happened to be senior police officers. When this happened, you could, therefore, imagine how difficult it was for these journalists. They were getting direct threats from even their traditional sources within the police. Basically, there was nowhere for them to hide. — Paul Melly

Baraza Kalama recorded a case where police officers shot dead two young boys. The case went to court and the police were freed but our colleague had to hide for a long time. — William Janak

After post-election violence, we recorded cases of trauma that journalists went through. During that period, we had journalists whom we referred to as Internally Displaced Journalists (IDJ). Some fled from Narok or Nakuru and have never returned to their places of work...some journalists could not board certain vehicles or work in certain areas. When we were doing trauma counseling, some requested to go elsewhere other than where we asked them to go because they feared for their lives. — William Janak

The commission was told of how some journalists were targeted with threats over their reporting of ICC cases.

Some journalists in North Rift particularly, have had threats especially over the ICC affair. One or two have had to run and seek refuge in Nairobi once in a while. — William Janak

The testimonies pointed out a legacy of State interference in media work, despite repeated references to the common perception that the media in Kenya is vibrant:

There is [a] need to catalogue and tell the story of State interference to media freedom through independence. We have a situation where private media houses were forced into co-option by the State — Jaindi Kisero

We can describe the Kenya media as fairly free and robust but I must add that underlying that perception is an inherent atmosphere of suspicion, intolerance and conflict; largely this centers on the conflict between the media and the State, in fact the State agencies as well as the corporate one.
— Paul Melly

This kind of state interference reinforces media identity as an ideological state apparatus, where repressive state apparatus coerce journalists into subservience to the ruling ideology.

Criminalization of Journalism

Journalists told the commission about a history of retrogressive media laws and regulations that had inhibited press freedom in Kenya.

The legal and regulatory framework for interaction between the State and media was coined in the colonial days. That framework has not changed and over the years, it has been tinkered with [even] as the society progressed and became more and more open...There is the penal code which creates sedition. Seditious operates on the premise that people can be imprisoned for things that they say. For us, journalists, we believe that free speech no matter how distasteful can never justify repression. We have the Books and Newspapers Act and many other laws. — Jaindi Kiseru

These retrogressive laws, commercial pressures and violation of journalistic rights were all constitutive of a repressive environment for the Kenyan media.

When you talk of affront to the media, I will say this is twofold. One, commercial affront or legal affront and of course there is the third one which is the affront through intimidation, actual harassment and sometimes threats to journalists. We have seen several. — Paul Melly

The Legislative and Executive arms of the Kenya Government have worked to censure media organizations by refusing to change these laws and even create new ones with the intention to impinge on press freedom.

We have several cases where Motions were moved in Parliament (which makes laws) to censure media houses for reporting what the political elite did not like.— Jaindi Kiseru

The Judiciary too has been used by politicians, government officials and business tycoons to evade justice. The Commission was told that courts have (ab)used laws to “punish” journalists and their news organizations by awarding large defamation suits to claimants.

The Defamation Act and libel laws exist all over the world, but in our experience, the way in which defamation has inhibited press freedom was the large court awards that they gave to a claimant that nearly bankrupted institutions. — Jaindi Kisero

[there are] decisions of the courts that denied the media to report on matters of public interest affecting individuals who are serving either influential positions in government or have direct participation in government. With respect to quantum of libel awards, we have seen a consistent rise in amounts that do not give the impression that the intention is to make it punitive and deterrent to recklessness as far as management of editorial function by the media houses is concerned; they are actually intended to have the consequences of financial paralysis and cripple media houses.” — Paul Melly

The criminalization of the media is another justification for self-censorship. These awards have disproportionately favored rich people and organizations that seek to protect their reputation. Politicians who receive these awards receive dominant treatment in the news and the cycle continues. Apart from politicians and businesspeople, judges and lawyers have also received hefty awards on allegations of defamation and libel. This media capture by the courts accounts for *eggshell journalism*: a situation where newsrooms are cautious about corruption cases against powerful personalities. Subsequently, the news media continue to cover stories of corruption in big front page bold headlines, but only as conveyor belts of courtroom events.

JOURNALISM AS 'FACE OF SUFFERING'

Themes under this category dig into journalistic suffering due to economic inequality and classism among employees, especially the treatment of correspondents. These experiences are also linked to the previous themes of state repression. Subjecting journalists to material dependency and vulnerability for exploitation is a climate of suffering that is manifest in their work routines and contributes to corruption in the field where they work.

Victims of Inequality and Exploitation

PEV exposed the inequality and oppression within Kenyan journalism practice. At the TJRC media workshop, William Janak described the poor working conditions of correspondents. Correspondents are contracted journalists and are critical in gathering information at the grassroots outside Nairobi. Though terms of employment vary from organization to organization, correspondents are generally paid for stories published, not submitted. And the price ranges according to story placement. The bigger the story the bigger the paycheck. Testimonies exposed their exploitation and poor employment terms:

The structure of the media in this country is such that correspondents are largely not on permanent employment. That alone represents a face of suffering. Essentially, they are being exploited. When they are out in the field, they are not facilitated well. During conflicts, they bear the brunt of the conflict. Over the years especially the period that the Commission is dealing with, the correspondents have suffered a lot because they are at the center of the conflicts that we have had in this country. — William Janak

However, Mr Macharia Gaitho of the Editors Guild responded that correspondents sometimes lacked the capacity and professional training to do their work:

The other is the capacity of some of the correspondents out there, particularly in some of the more remote areas. We will often find that many of them are not trained journalists and it is not their full time

occupation. It is something they do as a hobby or it is something they do basically when they have the time aside from what might be their main income generating activity. — Macharia Gaitho

The Commission was told that even journalists on permanent employment terms were suffering in silence:

... journalists in this country have suffered. Unfortunately, many journalists are unwilling to talk about their own stories. We had to coax them to talk about that. There are many journalists even based in the newsrooms in Nairobi who are suffering silently. That is because politics in this country tends to divide people, even within the media. During that time [post-election violence], many of them suffered and had arguments in the newsrooms. — William Janak

The suffering journalists underwent in detention, through torture and harassment negatively impacted their families too. Thus their families were soft targets, a strategy the police were especially keen on using to destabilize targeted journalists.

I left my family of three children and a wife. I could not concentrate on my job as I was on the run every now and again...I am not in touch with the family, a lot of things have happened. I am not in control of what happens to my children because I am the bread winner.” — Samuel Owidi

In some cases, the police or security agents harass a journalist’s family to reveal his whereabouts. The family members are threatened that failure to do so will be harmful to their loved ones.

In the company of two CID Officers, the fellow [a politician] raided my home early in the morning after the story had been published. They arrived just after I had left and so they harassed my family members and demanded to know my whereabouts. — Maina Waigwa

The lack of justice for journalists’ families caused more pain to their families. In some cases the targeted journalist is the breadwinner in the family, responsible for the economic wellbeing of their loved ones.

The late journalist Nyaruri died and left behind a widow and two children of five and two years. You can imagine what the widow and the children are going through. So, apart from me, those children as well as their

mother and even the entire family who had a lot of hope in their son; need justice. — Samuel Owidi

This kind of injustice that journalists face that extends to their families has economic implications in a capitalist patriarchal society such as Kenya. These sufferings are therefore not gender neutral but serve as a reminder that repressive acts have economic gains for the oppressor while denying the oppressed any motivation to fight injustice lest they lose their economic lifeline and their breadwinner status.

“Nairobi Capture”: City-desk Gatekeeping

The commissioners and some journalists raised concerns that news was more concentrated in Nairobi and about Nairobi-based actors to the detriment of Kenyans who lived outside of the city and other urban towns in the country, creating news deserts there. According to Macharia Gaitho, “access to some of those places can be sometimes very difficult and very expensive.” But he added that the creation of county governments under the new constitution was an opportunity for the devolution of news production to the counties:

Nairobi will no longer be the center of everything. Every media is running to strengthen its presence outside Nairobi in the counties. So, counties will be the new centers. That is where most of the news will be generated. That is the shift we are talking about. — Macharia Gaitho

Macharia Gaitho also noted the disconnect between the correspondents and the news desks in Nairobi in their ways of seeing things, and this was the reason sometimes news reporters were sent from Nairobi to go and cover big breaking news even if there were correspondents in the area.

Quite often, we find that the correspondents out there do not see the story. That is a big problem we face with the correspondents in the field. It so happens that when you are in a certain place, which is the way things are, you do not see a story in what, to you, is part of the normal conditions. — Macharia Gaitho

The testimonies at the public hearing indicated how Kenyans had been subjected to a political news culture in which the voices of politicians, the elite class, state agencies and prominent personalities were dominant as news sources and how this had implications for the reproduction of injustices perpetrated/enabled by the same dominant voices. This imbalance in favor of the political class had been a traditional expectation of news consumers.

The mainstream media and even the media consumers in Kenya have actually been socialized in terms of consuming more political news over the years. This has defined how the media often looks at news...it will also take a while to change the media consumers' perception. If you put something that is agriculture-based and something apolitical (on the front page), perhaps, your newspaper will not sell on that day — William Janak

If there was any time that East Africa needed non-profit and developmental journalism I think these are the times. — Jaindi Kisero

Paul Melly, who was the Standard Group CEO at the time of the hearing, blamed this on supporters who elected such leaders who made news but were not transformative in their contribution to good governance.

We have seen the political class every year rallying supporters and causing them to elect leaders who you wonder why we would elect them in the first place. So, I think Kenyans are themselves to blame if they elect leaders who are not fit and proper to run for offices or who cannot contribute to good governance in this country.” — Paul Melly

Macharia Gaitho, who was then an editor at the *Daily Nation*, confronted this allegation with the statement that front page news alone should not be used to judge a newspaper's agenda.

Within a single day's newspaper often the (front page) headlines will look very stereotyped. It is always the politician and everything else. However, within that newspaper, there will be so much else which may not make headlines. There will be very important business finance pullouts, pullouts on technology, pullouts on gender issues and so many other things. I work for the Daily Nation. We introduced the DN2 which is the magazine section... You must learn to pick the section you want and let your daughter pick the section she wants and the driver too. Then you will all be happy. — Macharia Gaitho

The political front page is not a surprising feature of Kenyan newspapers. It should not be downplayed however, as this page influences the decision to buy the newspaper.

Newspapers world over have pullouts and the mantra has been to share the paper with other readers, probably family members. The “big men” factor in Kenya’s public sphere constitutes the “evil triumvirate of patronage, corruption and tribalism” (Berman, 1998, p. 306). Commercial goals of the news organizations are behind the newspaper pull outs, which anchor the political alignment of the newspaper. The newspaper pullouts do not check power but soothe and entertain readers while reinforcing the centrality of “big men” in public consciousness as the leaders whose voices matter and whose front page status not only sell newspapers, but reproduce their “indispensability”. These pullouts, I argue, are non-disruptive, pro-establishment and pro-status quo attempts by journalists and news organizations to hoodwink the public that they could shape public perceptions. These pull outs are not transformative. In a transitional context they cannot trigger social change that is much needed for sustainable equality.

News for Profit, for-profit news

Scholars have documented the influence of commercialization on the Kenyan media (Wasserman & Maweu, 2014; Maweu, 2014; Ogola, 2011a). Journalistic testimonies corroborated these earlier studies by narrating the pressure for profit on news

journalism practice in Kenya and how advertising pressure was at odds with editorial independence. Advertisers use withdrawal and retaliation to control media interests.

There are also commercial pressures and they are the ones that sometimes we tend to ignore. We will always have situations where big corporations and big advertisers expect to be treated leniently; expect special treatment; expect that anything wrong they do, they will not be exposed, and they always have a very powerful weapon - they withdraw their advertising. That is a big pressure on editors and reporters and it always put editors and reporters at odds with the commercial side of the business. — Macharia Gaitho

...you will find that media content may not be favorable all the time to either the corporate consumers, or public agencies, including [the] government. Therefore, the general reaction by these actors and partners would be to retaliate... The retaliation takes the form of stopping advertisement as leverage to dictating favorable editorial content. The area of tension largely is a commercial interest where the commercial interests of the shareholders may be inconsistent with public interest.— Paul Melly

One thing that is happening, and these are trends I am witnessing in the whole of East Africa, is that journalism has become commercialized. They look at issues from the prism of “we are very urban” and it is the profit imperative that makes them operate like that.— Jaindi Kisero

Apparently, negotiating commercial constraints had proven difficult because some journalists are also entangled in the web of commercial interests as they are promised bonuses and access to company shareholding. Working for a private commercial media was already going to be a challenge because of the pressure to maximize revenue.

they [media] have their own constraints. They want to survive in the market. They are under pressure to sell and so on. Some of them [journalists] are shareholders, owners. — William Janak

The fact that some journalists are shareholders means they would treat their work as a business, even if their shareholding was minimal. The Commission did not ask for more information about this at the hearing. It however maintains the

mystery surrounding media ownership in Kenya. It also raised questions about who is a journalist beyond the normative professional roles if they can buy shares in the news company they work for?

News organizations have commercial departments that handle the business side of the company. In corporate news organizations such as the Standard Group and the Nation Media Group, commercial interests are crucial for the survival of the company. The editorial and commercial departments are thus expected to work together. How they do this, adds to the mysteries of news gatekeeping. The Commission was told that editors have to find ways of navigating the relations between these units.

Journalists are not very good at the commercial side of the business, but every newspaper has a whole army of accountants, the marketing people and the advertising salesmen, who have different priorities. Their priority is to maximize revenue. We have to live with them and find ways of getting around them.” — Macharia Gaitho

The commercial side of a news company is therefore involved in news making routines. Any news story making the front-page and other leading headlines almost always aligns with the commercial side of the news business. This commercialization of news in turn favors the gatekeeping conventions determined by profits.

“FRIENDLY” JOURNALISM

One of the factors that has contributed to the state of unfreedom in the Kenyan media is the cooption of journalists by state operatives and other actors into supporting their interests through their journalistic work. Journalists have thus found ways of negotiating this terrain using different bargaining tactics.

These tactics have normalized and institutionalized corruption between journalists and their sources of news. Corruption among journalists is not new. It is well known that journalists receive all manner of rewards for their work (see Ireri, 2016 and Orlale et al, 2010). It was therefore not surprising that the Commission got to hear about some of the tactics journalists engage in to supplement their salaries. Critically, this has meant that the fight against corruption is inconsistent.

Rewards as Censorship

Journalists testified that their colleagues employed strategies of “friendliness” as a form of self-censorship that shields them from being targets of repression. On the other hand, the Commission was told that “friendly journalists” are often rewarded with access to senior politicians and police officers for news stories. Those who do not comply face harassment and humiliation. For correspondents who are paid according to stories published, being a “friendly” journalist can be an option of survival rather than of social responsibility.

Journalist Waigwa Maina who narrated how he had suffered from police brutality, also revealed how his colleagues benefited from alliances with the police through uncritical reporting.

Once a journalist is blacklisted by the police, they are denied public information in custody of the police such as crime-related stories; they are scolded in public and go through arbitrary arrests. Performance of journalists is affected as their freedom of movement and association is endangered. — Waigwa Maina

The “friendliness” strategy earned complicit journalists protection from harassment and ready supply of news. The economic inequality that divided Kenyans, and which the

Commission was investigating as one of its themes, is also pervasive in the newsroom. As such, journalists testified that corruption was rampant as journalists sought to supplement their income through bribes and other rewards. This reward system, was only limited to lower cadre journalists but also stretched even to the pockets of senior editors. The result is that corruption has always influenced news gatekeeping to “subvert the truth”.

Corruption in the media does not just end at the correspondents’ level. There have been cases where senior journalists have also received bribes... Because of the very nature or circumstances of journalists, they are amenable to manipulation by new sources, including politicians and others who want to subvert the truth. — William Janak

Journalists are often forced to accept “facilitation” favors from their news sources, like lunches and rides in choppers. “If they are going for functions and they are not facilitated, they may take a ride on a politician’s vehicle or have lunch with him. That constitutes a degree of influence on how they report,” William Janak added.

For Macharia Gaitho, the biggest threat was the danger that “some of us – journalists, editors, and managers in the media houses – may become captive to political forces and try to slant the news towards their favored side.” Testimonies also included bribes by PR agencies at press conferences. “There are PR agencies that are known to give reporters after press conference lunch money in envelopes — this is an indirect way of influencing them,” Paul Melly said. These realities, coupled with a repressive state of doing journalism, were accompanied by statements of self-reflection on what needed to be done for journalism in Kenya to turn things around in the spirit and letter of transitional justice.

It was clear from the testimonies that these “friendly” strategies normalized a form of status quo reporting that enables the uncritical prioritization of dominant narratives. One of the commissioners asked Macharia Gaitho about representing opinion polls in the news without objective analysis.

We are working on a whole range of training programs for editors and reporters on elections. Apart from issues of ethics, balance, fair play and everything else, one of the elements we have in mind is understanding, interpreting and reporting opinion polls. — Macharia Gaitho

Opinion polling is another avenue for conveyor belt reporting where pollsters send their results to newsrooms and they are published with little or no critical questioning.

CRITICAL SELF REFLECTION

For all the concerns raised about the historical trajectory of journalistic suffering, the testimonies at the hearing were not without a critical self-reflection, and journalists opened up about ways in which their organizations were looking to improve in their ethics and values amidst challenges faced.

Newspapers and media houses in general are constantly involved in reflection. We sit every day to find out why we splashed this story and not the other one, but I always believe that the people looking at you from the outside can give you perspectives that you ordinarily do not see. — Jaindi Kisero

Paul Melly, the Standard CEO commented on journalists’ commitment to peace during the PEV conflict by censoring content deemed alarming.

they [news media] contributed positively in resolving the post-election violence rather than undermining or exacerbating it. There is a lot of content that was not used by media houses through the process of reflection and not causing incitement. — Paul Melly

The testimonies were filled with statements of motivation. As Bernard Kwalia said, “Journalism is a calling. Not all of us can take that risk. It is about what you believe in.”

Journalist Maina Waigwa, who narrated how he had been targeted by local police officers for his investigative work, explained to the Commission why he still persisted and kept on working despite the numerous cases of harassment by the police and politicians in Central Kenya.

It is not possible to run away from the truth. Something is happening like in the case of the police officers who are stealing from the members of the public they are supposed to protect. This community depends on me to highlight those issues and I have no option, but I am driven by that passion to perform my duty. — Waigwa Maina

Journalists emphasized increased security for colleagues in the field by their employers. As Janak said, “the first duty is for the media organizations to ensure that the journalists that are deployed to the field are protected.” As head of the Correspondents Association, he also urged for better employment packages for reporters working outside Nairobi, to curb the temptation for favors from people seeking favorable news coverage.

[to news organizations] do not engage journalists across the country and then you are not able to pay them. For a whole day, for example, they are monitoring elections and then you expect that they will go without lunch; the nearest person, who is influential, maybe able to provide them with lunch. — William Janak

The journalists also challenged their colleagues to adhere to professional norms that would show responsibility, especially during elections when ethnic tensions are always high.

What can we do to make sure that whatever the media does is responsible? We avoid provoking communities, parties or individuals; we avoid getting entangled ourselves in the politics of the day in the political and ethnic hatred that sometimes come up during the elections. We need to cascade

them downwards to all the reporters and correspondents, and also upwards to the employers – the media owners or the media houses. Our main concern is that, at a critical period when there are elections, professionalism must override any other factor when it comes to reporting.— Macharia Gaitho.

We must also ask journalists to uphold professional ethics, because that is important if they have to survive in the industry. — William Janak

In their reflection, journalists acknowledged that pursuit of vested interests in journalism undermined calls for media freedom. But they also saw in social media a space that could enable open conversations unhindered by commercial and political pressures.

The fact that we have multiple outlets and with the role of the social media it is also actively influencing the direction of things, the public has more access to media content through non-traditional sources than before. So, we are seeing growing room and space for the journalists to exercise their rights and responsibilities. — Paul Melly

Another suggestion was for self-regulatory mechanisms instead of oversight regulation from the government. These self-regulatory mechanisms would take into consideration the notion of news as a business, commercial product, and informational resource. In the end, the journalists admitted that unless the industry changed, another critical period would emerge. “While we may have made great strides, there are still these dangers...there is no guarantee that they cannot happen again as we move to another critical period.” Macharia Gaitho noted.

The media workshop ended with the TJRC acting chairperson Tecla Namachanja asking journalists to “continue journeying with us and continue being there even after the end of the term of this Commission to ensure that our recommendations are implemented.”

DISCUSSION

The dominant reference to journalists as professionals has been an uncritical way of looking at their work beyond common notions of objectivity and balance (Zelizer, 1998). This “professional” tag has made much of journalistic practice concealed from the public, yet this work shapes public consciousness. Journalists’ roles are pivotal for addressing the challenges of constructing collective memory within transitional justice scenarios; therefore their work during times of transition really needs attention, as their personal interest in human rights violations and their perceptions as agents of memory can motivate them to be persistent and get over restrictive routines that favor immediacy, newness and format (Salgado, 2018; Edy, 1999). Journalists do not require the trappings of professionalism and seek to reidentify themselves as an interpretive community (Zelizer 1993). As interpretive communities, journalists often display a shared discourse of how they see themselves in defining appropriate practice. In critical incidents, journalists get to air, challenge and negotiate the boundaries of their practice (Zelizer, 1992).

The Kenyan Truth Commission held a hearing session with local journalists and media practitioners to learn about the injustices and inequality that had plagued the industry over the years and impacted its work as a watchdog over powerful interests. Journalists on the other hand embraced this unprecedented opportunity, after PEV, to reframe the boundaries of their practice, to ask the *whys and hows* of their work with a view to critically engage the truth about journalism in Kenya. The journalists testified before the commission about their experiences and forces that had influenced their work. It is not because some in the public were unaware of the repressive system within the

media in Kenya, but the journalistic testimonies gave legitimacy to their experiences, allowing them to reconstruct their experiences using their own narratives that defied their taken-for-granted identities. This within the context of transitional justice, makes journalists emerge as victims and witnesses of repression. The testimonies also identify journalists as either directly or indirectly complicit in their cooption into the oppressive structure of a commercialized political and patriarchal system of governance in Kenya.

From their testimonies, journalists express state interference into their work in repressive and subtle ways of media capture. For one, repressive state apparatuses have been used to coerce journalists to conform to the ruling class's dominance by adopting to them as authoritative news sources. The torture, detention, killings, of journalists occurred largely within the repressive rule of Daniel Moi. In the period following PEV, journalists feared for their lives and some went into hiding after they were targeted for attacks by the police and vigilante groups. This fear is embedded in an environment of inaction by law enforcement agencies and in some cases the journalists' employer. Journalists also narrated how they and their families have suffered the consequences of arrests, detention torture and even murder. These revelations defy Kenya's image as a refuge (or safe haven) for journalists fleeing conflict in neighboring countries. The testimonies also upend the "partly free" image that international ranking organizations have given Kenya or the "relatively free" characterization by the TJRC without delving deeper into the systemic inequality that has accompanied the injustices. There are a few takeaways from this historical trajectory of media capture in Kenya.

These attacks on journalists are not gender neutral. Political news reporting in Kenya is male dominated and is the closest genre of journalism that is closest to power.

According to the testimonies, in the contestation of power and the media visibility that comes with it, political actors treat journalists as either “with us or against us”. Journalists are targeted in a reward and punishment system that influences their work. Those who are punished, suffer along with their families. When the media are consolidated in a dominant ethno-political capitalist-patriarchal order, the punishment of male journalists as narrated to the Commission, extends to their wives who are left widowed or in poverty for lack of a breadwinner. Even where they are co-breadwinners, the stigma and loss of livelihood disproportionately affects women. Thus media capture through repressive acts that harm journalists result into a cycle of feminization of poverty. Some of the journalists narrated how they were humiliated in front of their families to “teach them a lesson”. This can be analyzed as a way to push the male journalists into a perceived “feminized space of weakness” seen as the utmost form of humiliation in a gender stratified society where hegemonic masculinity is privileged. In the end, both the journalist and his family are vulnerable to social stigma. Indeed, it is also questionable that no female journalist testified at the hearing and no one mentioned the implications of the gendered division of labor in Kenyan newsrooms on the publication of media content.

The testimonies also brought into light the Judiciary as another “force at the gates” that has pushed journalists into *eggshell journalism*, where news stories undergo a rigorous check for libel or defamation. As stated in the testimonies, the quantum awards hurt journalism as a business and its social responsibility to its audience. Prominent politician Nicholas Biwott is said to have received the largest libel award in Kenya’s history, for a total of KES67 million (Muthoni, 2017). The table below shows a summary

of awards that have been granted to plaintiffs over unfavorable media coverage.¹⁷ Libel claims in some cases are due to unethical reporting, but the awards tend to be too high that the deterrence effect criminalizes journalism.

Table 7.1: Libel and Defamation Awards

Plaintiff	Defendant	Award
Justice Alnasir Visram	The Standard	KES26 million
Charles Kariuki	The Standard	KES20 million
Nicholas Biwott	People Daily	KES20 million
Samuel Ndung’u Mukunya	Daily Nation	KES20 million
Nicholas Biwott	People Daily	KES20 million
John Joseph Kamotho	Daily Nation	KES14 million
John Patrick Machira	Daily Nation	KES10.2 million
Kalya & Company Advocates	The Standard	KES9 million
AB Shah & Another	The Standard	KES6.1 million
Daniel Musinga	Daily Nation	KES10 million
Uhuru Muigai Kenyatta	Baraza Ltd (KTN TV)	KES7 million

The Kenyan Parliament has on many occasions attempted to pass laws that impede media freedom. In December 2013, the president signed into law the Kenya Information and Communication (Amendment) Act and the Media Council Act in which individual journalists can be fined KES 500,000 (USD5,000) in breach of government-dictated code of conduct. While Members of Parliament have had a strong visibility in the media due to their prominence in the political scene, collision with journalists over unfavorable news has driven their efforts to gag the media. A report by Human Rights Watch (2019) blames Kenya’s Parliament for blocking the adoption of implementation of

¹⁷ Sources: <https://ifex.org/media-group-ordered-to-pay-us131000-in-defamation-case/>
<https://www.standardmedia.co.ke/article/2000214201/court-orders-standard-to-pay-judge-sh26m-for-defamation>
<https://www.standardmedia.co.ke/article/2001247208/nicholas-biwott-set-record-in-libel-claims>
<https://www.standardmedia.co.ke/article/2000214956/awards-against-media-in-kenya-akin-to-censorship>

the TJRC Report recommendations and forestalling the release of the KES10 billion Restorative Justice Fund by failing to pass enabling laws. Parliament's locality in Nairobi means that the institution is at the center of powerful politics and commercial interests with implications on the media's gatekeeping of news.

Perhaps the biggest force at the gate of newsworthiness is the tripartite influence of the "big men", commercial power and ethnicity. The colonial legacy of patron-client networks has persisted, only to undermine efforts towards development in Africa (Berman, 1998). The post-colonial rise of the African "big man" contributed to authoritarianism (Workneh, 2017). This one man rule phenomenon was anchored by the neocolonial domination by foreign powers through neoliberal economic arrangements that only helped drive a wedge between the haves and have-nots. The commercialization of the media sector have neoliberal roots with ownership structures through shareholding and interlocking directorships gaining root in companies such as NMG and SG. These neoliberal commercial arrangements have continued to thrive through ethnic loyalties in the scramble for power and resources in what Berman (1998) refers to the "evil triumvirate of patronage, corruption and tribalism" (p. 306).

Another major observation from the testimonies was *what was not said* at the hearing. The testimonies, some from well-known veteran journalists in Kenya, failed to mention how tribalism, patronage and corruption had invaded newsrooms. More importantly, the Commission was not told of how media ownership structures had influenced gatekeeping and why journalists were subservient to the powers that be. The Commission was also not told of how ethnic dominance of the Kikuyu and the Kalenjin in Kenya's politics, public service, business and other service sectors mirrored the

division of labor in the newsrooms and in turn influenced how politicians and businesses dominated the news. The Commission did not hear from any female journalist and was not told of the experiences of female journalists. This is a major omission as the Commission dedicated a whole chapter of its Report to the gender equality. A powerful presidency is the apex of power in Kenya. The ethnicity of the presidency has always mattered and Kenyans largely vote along tribal lines. The Big Men, the Big Tribes, the Big Businesses, the Big Media, make up the public sphere in Kenya. These were conspicuously left out of these proceedings, denying the Commission, and Kenyan journalists a critical moment of truth-telling.

CHAPTER VIII

MEDIA CAPTURE, INJUSTICE AND INEQUALITY

This chapter is the base upon which the previous three are built. It extends the debates surrounding journalism in Kenya as the Truth Commission dug up past injustices. Previous chapters have shown how Kenyan journalists are victims, witnesses, and friendly to forms of state and media capture through their work and that of their colleagues. This chapter discusses findings from my interviews with human rights analysts and Kenyan journalists to discuss the factors that have impinged on journalism in Kenya, the social role of journalists and broader assessment of media in Kenya. The interviews findings and analysis in this section were aimed at addressing my fourth set of related questions: What were some of the contributions of the Kenyan media towards the Truth Commission's work? How do journalists describe the media coverage of the truth-seeking campaign? What factors shaped this coverage? What does the media coverage of the truth-seeking campaign unearth about journalism practice in Kenya? The interview findings are divided into two groups: interviews with the experts and journalists.

TRANSITIONAL JUSTICE/ HUMAN RIGHTS ANALYSTS

Of the analysts interviewed, two worked for the TJRC at senior levels in various capacities, and two are respected human rights scholars, who have written widely and commented on Kenya's human rights and transitional justice legacies. Two of the interview participants are Kenyan, two others are non-Kenyans. One of the Kenyans previously worked as a journalist in Nairobi. The purpose of including participants with expertise in human rights in the study was to expand the understanding of media beyond

a transitional justice context, into the realm of socio-economic development. The TJRC boldly covered the painful truth about Kenya's unjust and unequal climate. This truth rubbed the powers that be the wrong way. The TJRC Report was repudiated and has never been officially released. To respect interviewee request for confidentiality the quotes below use numbered codes. Semi-structured interviews were conducted asking participants various questions concerning Kenya's Truth Commission and the search for truth. The following shows the discursive themes across the participants.

Media Representation of TJRC as “Political Project”

Interviewees with analysts emphasized the politicization of the post-conflict processes as a lost opportunity for Kenyans to come to terms with what was ailing the country and how meaningful change could be realized through truth, justice and reconciliation. Rooted in a moment of radical politics of competing narratives in a post-conflict context, it was not surprising that media coverage and public discourse shifted heavily toward elite politicians and their interests. “Truth and justice are always politicized – always. That was especially true for Kenya,” Expert 00500 stated.

This politicization of the truth campaign, for the most part, minimized the visibility of the Truth Commission in advocating for the rights of victims and their families. This victim-centric approach of the Commission clashed with the media system of capture that controlled political news journalism and political power. This clash of values between the news media and the truth Commission, could not guarantee dominant mediated spaces for victims of injustice.

We [the TJRC] didn't get on the media agenda as the ICC and politicians because there was nothing sexy about any of what we were doing. People were crying, people were talking about things that are difficult to talk about. They weren't sexy stories for front page headlines. — Expert 00300

With the politicization of the Truth project, the profit oriented media took the bait and ran with it. It was a political spectacle and competed with other political events in the media. There was much pessimism among journalists that nothing much was going to come out of it [the TJRC]. — Expert 001600

The analysts observed the media agenda as episodic, failing to check the powerful or push for policy reforms in the media sector. Instead, they noted how the news media coverage of the TJRC was based on politicians as the authoritative sources of news. In newsmaking, journalistic critical interpretive skills came into question.

I think a lot of coverage in Kenya tends to be focused on he said; she said, in terms of politician x and politician y and there's less time spent on really trying to look at and critically analyze major policy issues that are being debated or if they are not being debated why aren't they being debated. — Expert 00200

The politicization of the transitional justice period exposed Kenya's weaknesses in seeking truth and justice. With a history of injustices, which included assassinations, the truth-seeking campaign required independent institutions that would not bow to political pressure.

Only a truly independent body can dig for the truth without fear or favor and let the record stand. Knowing the truth itself – who did what, to who, when, where, and why – is key. Then that truth must be published without varnish. — Expert 00500

However, as previously stated, the Kenyan government never officially released the TJRC Report. The Commission states in its Report how political interference stood in the way of justice, even though the masses who had witnessed years of exclusion from socio-economic advancement were hurting.

Kenyans Supported Truth and Justice

After PEV that Kenyans wanted change. Opinion polls showed high demands for justice and reforms. But as the 2013 election drew to a close, the tide had changed and the numbers asking for change had dwindled. “The [public] support for the Truth Commission was very strong right at the beginning, declined in the better part because of the challenges with the chairman as well as the challenges the Commission had with the government,” said Expert 00200, who attributed this to the media coverage of the TJRC chairperson’s credibility crisis and the lack of political will to support the Commission.

Even though there was strong support for both TJRC and ICC, the media’s preoccupation with the ICC and the entry of Prosecutor Louis Moreno-Ocampo into Kenya’s public sphere was conspicuous. Expert analysis seemed to align with that of journalists that the ICC was more newsworthy than TJRC. However, even with ICC coverage taking main page news, politicians dominated the popular narratives.

There were high expectations about what the international criminal court would be able to do, and I think a lot of energy, including media, was expended and focused on the ICC and supporting the ICC. That was some part to the detriment of the Truth Commission. In fact, some people felt that the Truth Commission was set up in opposition to the ICC which was not the case...Now when the ICC started to fall apart, I think interest started to shift back to the Truth Commission.
— Expert 00200

It is understandable that the media tended to focus on the ICC, for the first time, powerful people were facing a direct challenge. Something that had not happened before.— Expert 00500

Support for the TJRC even among politicians was high before the ICC stepped in. The TJRC Act was passed in Parliament and signed into law before the ICC prosecutor arrived in Nairobi. The ICC cases created divisions within the political class, which

extended well into the peak of the transitional justice period when both ICC cases and TJRC hearings were running concurrently. With the bulk of front page news in their favor, these political divisions shaped the popular narrative.

There were some people within the government and some people within the political elite who wanted something to happen. I think there were some clearly within the government and within the political elite who definitely did not want anything to happen ...I think there was a lot of indifference and lack of support out of indifference yet this was something they had agreed to during negotiations with Kofi Annan.— Expert 00200

The TJRC Final Report implicated politicians and top leaders of state agencies in the perpetuation of historical injustices. The list of recommendations for action affects politicians, foreigners, business tycoons, bringing together the divided political class in repudiating it as soon as an abridged version was published in the dailies. One by one, the politicians that had been implicated in past injustices, came out strongly in news reports¹⁸ denying the allegations. Once again, through mediated narratives, they became the victims of injustice.

The Nairobi Bias

Participants narrated how many Kenyans out of Nairobi wanted to be heard and justice served. These people felt so far away from the popular narratives at the time and all the time. One participant explained that the Commission was a missed opportunity for decentering the voices of oppressors and replacing them with marginalized voices of the masses.

¹⁸ <https://mobile.nation.co.ke/News/Jubilee+leaders+plot+to+clear+their+names+from++TJRC+report+/-/1950946/1958078/-/format/xhtml/-/5vdaov/-/index.html>
<https://mobile.nation.co.ke/news/MPs-criticise-Truth-commission-as-debate-on-Bill-starts/1950946-2091690-format-xhtml-9fqgcd/index.html>

The Nairobi dominance in the news agenda propagated the voices of the rich, well-educated class, well-served groups. The underserved, underrepresented and underdeveloped found themselves at the periphery of the news agenda as prominent personalities appropriated their narratives. The Nairobi dominance in news gatekeeping again favored Nairobi-based politicians and groups, including Members of Parliament and civil society groups. The TJRC also had its main office in Nairobi. “Our engagement with the top media brass just reflected the complete disconnect between Nairobi and the rest of the country,” stated Expert 00300.

Another interview participant underscored how Kenyans living outside Nairobi really hope that justice would prevail so that there could be healing in the land.

Outside of Nairobi most Kenyans wanted justice. They wanted some form of truth, some form of acknowledgement and some form of reparations. The political elite tend to dominate the narrative as well as civil society but when you get outside of Nairobi there was quite a large urge for something. —Expert 00200

As the TJRC began traversing the country and excavating hidden secrets of some of Kenya’s worst atrocities, the media began to take notice and cover these hearings. Still, the ICC received the most attention.

They [news media] got consumed by their own narrative until they began to hear stories like the Wagalla Massacre or the Mt Elgon atrocities, then they would be like what's really happened? So that’s when they began to understand the importance of the Commission’s work. But I'm not sure that it changed their engagement very much because then the ICC came up and that consumed a lot of the time. —Expert 00300

The competing political interests meant that the citizen stories outside Nairobi received coverage that was overshadowed by the political class based in Nairobi. Correspondents largely carry out the news gathering outside Nairobi. It is worth noting that they informed the Commission of their suffering from secondary status treatment in the news media

industry. And their reporting is influenced by “friendly” strategies they employ to make up for their meager pay: bribes, facilitated transport, lunches and accommodation.

Media as a Platform for Social Change

Experts interviewed expressed the critical role of media institutions as a tool for understanding the goals of transitional justice, which they said preceded social change in a community that has undergone waves of injustices. It is through the media that the public heard about the Commission’s work as well as other events that were going on at the time. The public debates were driven by media narratives.

Public debate pushes social issues to the fore, therefore the place of media in transitional justice is central in driving these debates. Public hearings require a wide audience and the media are important platforms of dissemination to reach this audience. This can spearhead calls for change, some call to action. — Expert 001600

The media of record, *Nation*, *Standard*, *Citizen*, and all their platforms are key because people believe what they report. So their voice, if they can report transitional justice work in a truthful and honest way – that’s sympathetic to the project – can go a long way in legitimizing it and creating public support so that elites don’t sabotage it. — Expert 00500

Another theme that emerged from interviews with these analysts was the experimental nature of transitional justice mechanisms, because in most instances they occur at a critical juncture in a society’s history when dominant — and in most cases oppressive — socio-political structures are shaken.

Transitional justice is a tool for social change and transformation. We need to remember that transitional justice is nothing more than an experiment in the long history of other experiments meant to overcome deep-seated demons that prevent societies from achieving social justice based on economic, social, and political inequities and disequilibria. The assumption is that the language and the medium

of rights can get to these dysfunctions through the rule of law, human rights, and political democracy. —Expert 00500

Questions arose on whether the transitional justice mechanisms, as disruptive as their language was, would offer hope for the change Kenyans yearned for. Prior to 2007, Kenya had not been on a path towards change and many consider the Truth Commission as having failed to achieve its goals of truth, justice, and reconciliation. Was it the right moment, and were expectations too high?

Key questions we needed to ask ourselves: to what extent should we put our hopes for social reclamation on transitional justice? The second question is whether there is a right moment to carry out a transitional justice project, and whether Kenya was ripe for it? —Expert 00500

Participants argued that the ICC running concurrently with the TJRC was problematic given that the same group of people — politicians, activists, foreign NGOs, and foreign governments — would dominate the competing sets of truth. The push for reforms by civil society groups some of which were funded by foreign governments or organizations contributed to perceptions that western powers were meddling in Kenya's affairs. This hurt the reform agenda of the TJRC.

Kenya wasn't ready for transitional justice. That's because contending elites weren't committed to the heavy lifting [giving up interests and reconceptualizing politics] that would have been required by an effective transitional justice program. They sabotaged the ICC, most either didn't understand, or had opposed the 2010 Constitution, and lastly they saw the TJRC as a public relations exercise to check a box for civil society and the West. — Expert 00500

The political class took this argument and run away with it to convince their supporters that they were sacrificial lambs hated by the west because they did not tow their neocolonial lines. With time this narrative began to take effect. The TJRC was also seen as a checked box to please the international community and Kofi Annan. Some critics in government believed Annan was working at the behest of western countries. The National Accord signed between Odinga and Kibaki was read as pressure from the international community to act. No one wanted another Rwanda. So the TJRC and ICC came out as projects facilitated by the west. — Expert 00300

Some NGOs and foreign diplomatic agencies stopped funding the TJRC after it became clear that politics had taken over the Commission's work. The chairman's credibility did not help things at all. At the time, the political class was going around the country dismissing western countries as neocolonial and imperialistic. It was really challenging. — Expert 00200

Ultimately, the political class did not honor the Kenyan TJRC project. Its recommendations have not been implemented, in line with a pattern of non-commitment from political leaders in previous commissions of inquiry. Kenyans who had wanted justice had their hopes dashed.

Mediating a “Credibility Crisis”

In its report the TJRC highlights how one of its biggest challenges during its tenure was the credibility crisis over its chairperson. Slye (2018) and Lynch (2018) have both written about the credibility challenge of the chairperson as a dark cloud in the truth-seeking process. Furthermore, the TJRC also acknowledges the civil society concerns about the composition of the Commission. Participants in this study contributed to this debate.

In Kenya, one needed a credible TJRC led and staffed by people committed to the idea. That's not what happened. A perpetrator of past abuses headed the TJRC. Several commissioners were political hacks. The institution was captured by elements of retrogression from its conception. —Expert 00500

The participants weighed in on whether the TJRC composition required a seat at the table for media practitioners.

The media are important but the design need not cater to them. They are an important stakeholder because they are the megaphone that will amplify the message of transitional justice – through electronic and print media. However, they are simply one of the many stakeholders – and not the most important. — Expert 00500

The media can be part of a truth-seeking campaign in a unique position. They can play a double role of informing the public about the work of the Commission. And they can also be the ones who hold the powerful accountable for the actions that have hurt people in this country. Every Truth Commission needs the media to amplify the voices of the victims more than the oppressors. That was not the case. —Expert 00300

Maybe the media could have helped in the vetting of the selection panel nominees, digging into their pasts to unearth their reforms credentials. We could have avoided the credibility crises that we found ourselves in. The media should also have had a budget to send their journalists to cover all our hearings. In some cases, there was not a single journalist around. The fact that we had journalists going to The Hague tells a lot. — Expert 00200

There was consensus among participants that the media's role beyond its normative professional roles within a transitional context was still open to discussion and was subject to unique contexts. The performance of the Kenyan media towards the TJRC was much different from that of the South African TRC where media coverage was almost unlimited. Cookie cutter arrangements cannot be applied to each and every situation in the same way.

TJRC-Media Strategic Communication

The commission had a communications department that was created to work with the media strategically for outreach and news about the truth-seeking campaign. The strategy however did not work to the satisfaction of the Commission. The news media covered the many scandals bedeviling the Commission: the resignations, the chair's credibility, and the disagreements between the commissioners over the contents of the land chapter where the president's family was negatively mentioned. Participants interviewed believed there was a disconnect in priorities and expectations between the

two institutions, as the news media largely trained its sights on the woes bedeviling the Commission.

We considered the media's role in our work. We had a communications team. But a lot of the negative coverage focused on the chairman, personal disputes as opposed to the principal issues we were handling. The TJRC Report is our legacy of the work we did, talking to Kenyans whose voices had never been heard. The media were only interested in the scandals—Expert 00200

However, the commissioners were also engaged in public squabbles that affected their image among journalists and the public. “Public wrangling within the commission about the chairman's woes was a massive contributor to the misinformation campaign,” expert 001600 noted.

When asked about the strategic communication plan, experts said it was key to engaging with victims who were central stakeholders in the truth-seeking process. More importantly, it was necessary to reach the victims with information about the process to counter news that was focused on the controversies surrounding the Commission.

Communication was a key component of the Commission because we had to engage with our key stakeholders, especially the victims to ensure that they understood what our role is and how they could engage with us and how that would be of benefit to them and to the country. It was also important, especially in the face of all the controversy around the truth for people to understand that it was a commission that could be trusted with their secrets. — Expert 00300

Other strategies involved using vernacular and community-based radio to reach the masses, which would be cheaper than mainstream media marketing and advertising.

...the ideal communication plan would have been massive marketing and media advertising, but now we had to find innovative ways to reach our target audiences and ensure that our messages got through. Our target audience were victims and survivors, so we also went for vernacular radio, and community-based radio. — Expert 00300

When asked if they reached out to journalists as victims of repressive structures of governance, expert 00300 said they were aware of the media capture in the country even

before holding a hearing session for journalists. Even then, only a few turned up to address the Commission about the hidden pains behind news reporting. Nevertheless, the Commission saw the media workshop as a milestone. The Truth team listened to the journalists and saw their struggles through their narratives. “It led to the understanding that we needed the media and they needed us, that’s why we depended on them to push for our recommendations,” the expert added.

The Commission’s social media presence was not robust, but according to Expert 00300, the social media strategy helped with visibility and in countering negative media coverage. “But it wasn't as vibrant then as it is now. Not as many Kenyans had access to social media then as is the case now.” She explained that they also did not depend entirely on journalists to file stories on their behalf. There were instances where the commission wrote news releases in journalistic style that would be filed and published by the media houses. These strategies by the Commission were criticized by other experts, who argued that the communication plan was not well executed if the goal was to reach as many publics as possible. One expert said:

The TJRC communications strategy was ineffective. Even their social media campaign failed to attract more attention to supplement visibility in mainstream news media. They paid for short documentaries to be aired on TV. They tried to facilitate media coverage but it was not sustainable. At one point, the Commission debated whether it really mattered or whether they got media coverage or whether making the findings of the report very strong would be the legacy of the Commission. Focus shifted at that point.

— Expert 001600

She added:

The media didn’t see much point in covering the Commission because they didn’t see much public interest from it. The lack of media coverage based on this assumption then feeds into public interest by lessening it, and the ICC was new and exciting to cover.

Indeed the Commission’s social media campaign failed to gain traction. The paid media programs too did not last for long and some were blocked due to unfavorable political references. The Commission’s community outreach efforts may have worked to reach the communities especially for the public hearings. The communication disconnect between the Commission and the media was also evident in the way the public hearing sessions were managed. Scholar 001600 noted:

The media handled TJRC by largely ignoring many hearings, with the exception of few individual journalists, though some of the issues like Wagalla and Ouko murder got ample media coverage. Also operational and logistical incentives for local journalists to turn up at TJRC hearings were fairly low, especially in small towns where bureaus had to rely on correspondents. Journalists were also not allowed in some sessions like women’s hearings...male journalists were turned away because they were men. — Expert 001600

This point adds to the problem of concentration of media interests in Nairobi and other large towns such as Mombasa, Kisumu, Nakuru and Eldoret. Most non-urban parts of Kenya have poor transport infrastructure that require special vehicles and security. This would have been an additional expense to journalists and their employers, so they picked the most “newsworthy” stories to cover: Wagalla, Ouko murder and land conflict...that the TJRC chairperson was entangled in these three investigations as a complicit player made them even more convenient for journalists.

Hostile Press

Participants stated in agreement that despite the strategic communication efforts of the Commission, it received “hostile press” that eventually influenced its impact on the ground. The result was a doubtful and divided public and lack of political goodwill from the Kenyan political class. One expert said: “ the media influenced what people’s

perception was of its work, and so I think what the media was recording regardless of whether it was just sufficient or not true or not inevitably would affect what they were doing.” Another expert explained that there was no interest within the media in getting the truth.

The truth was suppressed and completely distorted to fit the political narrative that we could all get along again. There was no interest in exposing the truth, let alone telling it. When it was told, there was a sense by the national media of what I call “victim pornography” – reporting the victims as an “exotic other” who is curious. So there was an element “the gaze” of marginalized minority groups or communities. This was regrettable but I don’t even think the press was aware of what they were doing. —Expert 00500

As seen in previous chapters, the news articles about victims had sensational headlines that focused on weeping and wailing women, tearful witnesses, and so on. A case in point is the Wagalla story that has been told for decades using “tears and wailing” in news headlines yet justice remains elusive. With the credibility crisis of the chairman and the resignation of the vice chair, the local media advanced a negative rhetoric about the Commission. The hostile press really hurt the work of the Commission, which was facing many other challenges that needed cooperation from the government to resolve. “The media environment was not conducive for the work of the Truth Commission. And it still isn’t, expert 00500 added.

There were some actively hostile press. We had to fight to get money, the government was supposed to give us information, documents and some of them we never got, even though the documentation was clear that the government was obligated to give us that information. There were constraints and roadblocks thrown before us and that sort of story never really got told because again there was a lot of focus on issues of Kiplagat and other things like the ICC. —Expert 00200

Ultimately, these scholars and activists echoed similar disappointments with the way the TJRC was handled collectively by the media and the political class. For something that

research had shown was in the public's interest, it was a failure by the government, leaders and the media to have it promoted to a transformative end. The Commission too had its share of responsibility in its failures especially the divisions that threatened to tear them apart. As Slye (2018) mentions in his book about the Commission, there was a time when commissioners were divided along tribal lines while the international commissioners were treated with suspicion.

FORMER AND CURRENT JOURNALISTS

This section highlights the salient themes that emerged from interviews with current and former journalists. These themes complement each other and bear some similarities with a few of those raised by journalists who testified before the Commission (see Chapter 7). The major overarching themes that emerged from these intensive interviews were media routines; news values; journalistic identity and roles; newsroom inequality; corruption as a problem of ethics; media ownership; commercialization and commodification of news; freedom, rights and responsibilities; the Commission's poor communication strategy; gender, religion and ethnicity; media self-interrogation and honesty; and prioritizing justice. All but one journalist interviewed had read the Commission's Report, others did not even know where to find it. They said it had been a long time and the TJRC had been forgotten...Kenyan, they said, had moved on with their lives. Unfortunately, this moving on has meant the continued normalization of poor governance, lack of respect for the rule of law and human rights.

MEDIA ROUTINES

Routine forces in media gatekeeping influence what news is filtered through the “gates” (Shoemaker, et al, 2001). Every newsroom has within it procedures for the flow of news from inception to production. This is a critical force in newsmaking as it engages journalism practice at the individual, organizational and social institutional level.

Routinized processes are medium-specific and may include deadline pressures, editorial policies, news assignments, newspaper templates etc. While this may be a physical process, it is also ideological since in subtle ways it conforms to or dismantles power arrangements in a society by defining who are the sources of news and which narratives make it into the public sphere. The interviews demystify some of these routines. Participants were asked to comment on if and how their roles changed to adopt to a transitional context.

Competing Narratives Amidst Information Overload

The media had prioritized political journalism as a selling genre of news for decades, the aftermath of the PEV ushered in a period of even greater political activity. Hence, the newsroom was a space for competing political narratives. As one journalist put it, “this was bigger than the 1998 terror attack at the US embassy”.

After post-election violence, there was a lot happening at the time. Journalists had to cover all events. The Annan mediation was trying to play a part in trying to help the country heal, there were calls for a Truth Commission, we had the Agenda Four items to report on. We also had the Waki Commission and ICC. Our hands were full.— Journalist 00100

With the arrival of ICC prosecutor Luis Moreno-Ocampo in Kenya to investigate the planning and execution of PEV, the ICC became the dominant news narrative.

Another journalist said: “The TJRC could not beat the ICC in terms of prominence and the realignment of Ruto and Uhuru to join hands. That was news.” Deciding what was news and what was the most important news amidst competing interests unraveled how journalists reflected on the issues. Journalists were quick to defend their decisions.

ICC was new. It was big, it was unprecedented. You cannot compare that with mothers who were crying that their babies disappeared in 1970. PEV was still very fresh. It was a turning point for the country. If you look at the way people who were killed and the number of people who were displaced...and then you have a woman saying her rich neighbor took her one-acre piece of land. The coverage of the ICC was logical and in tandem with the time. — Journalist 001300

From a newsman point of view, I defend dominant coverage of the ICC process being more recent and the country had just come out of a very harrowing experience. We had collapsed as a country and the personalities involved were still actively prominent in our politics and they were going to shape the future of our country. For anyone sitting on the news desk, they would take the decision that that was a more prominent story to give more prominence. —Journalist 00100

A former journalist who worked as an editor at the time suggested that even for the ICC cases, the media only focused on the politicians in the guise that they were supporting justice for victims, yet the political class that received prominent attention was against justice. Ultimately, journalists reported on what these politicians were saying.

The way negotiations happened: the first three agenda items were political issues. To get underlying causes of the violence was a problem to be placed before Annan mediation teams pushed by civil society, but the media wasn't reporting that. The political team was not interested, the media too were not interested. So on agenda four, politicians when pushed, wanted just a Truth and Reconciliation Commission [like in South Africa], but civil society said no, we need the justice component as well. — Journalist 00700

The South African TRC had pushed for truth, reconciliation and amnesty rather than judicial trials of perpetrators.

Conveyor Belt journalism

Newsrooms rely on routine processes of making news editorially sound for publication. Journalists, when reporting about politicians tend to resort to a “he; said, she said” form of attributive narrative. This was evident during the period of transition and is seen as a safe way to regurgitate the message of the news source. During the transitional period, this form of journalism continued unabated. The justification was that Kenyans were looking forward to hearing from politicians and religious leaders. Even the experts interviewed saw this as a hindrance to the critical interpretation of events by journalists.

The news reporting was about what the leaders were saying. Not the painful bitter truth, more of conveyor belt journalism just regurgitating what all the leaders, including what the religious leaders were saying. He said, she said. It had to be attributed to some news source and these were predominantly political wars, politicians pulling us on all sides. Dividing us along tribal lines with she said, he said. Raila says, Uhuru says, Ruto says, the archbishop says, and all that. That was the truth Kenyans were subjected to. And really, that is what Kenyans looked forward to. — Journalist 00100

I think it’s again lack of skills. Reporting it from he said, she said point of view then diluted the whole process. Instead of reporting the proceedings and you know that is what people want in this country, you’re reporting he said she said, the magistrate said the witness said, the lawyer said, it’s just she said he said. But nobody comes in to analytically look at issues that are bringing in the questions of he said she said. — Journalist 001100

Participants explained that the regurgitation of news from sources is sometimes a shortcut strategy for journalists to cover news holes without leaving the newsroom. In some cases, pre-packaged news accounts sent to newsrooms as press releases end up as news, process scholars have termed as *churnalism* (Johnstone & Ford, 2017; Lewis et al., 2008). In Kenya reliance on information subsidies from PR officials was not unique to the transitional context. It was a tactic that journalists said they used whenever there was information overload and scarce resources to send them out to cover events.

The conveyor belt storytelling was also linked to the fact that at both *The Standard* and the *Daily Nation*, there was little concerted effort to spare resources for a special desks or beat to cover the Truth Commission as was the case with the ICC. In hindsight, journalists acknowledged that they were operating from a lack of expertise in the coverage of the TJRC. Assignments were handed out to political journalists who had covered Parliament and other political news, treating the TJRC as another political story. This indifference towards the TJRC relegated it to secondary status in news gatekeeping.

The media was thrown into the deep end of reporting on a commission proceeding from lack of experience. Commission reporting are not things that are given to any journalist and dedicating airtime and space and also coming out to analytically look at the issues that the Commission was raising, the media was not able to come out with that. It really needs expertise because what the TJRC was doing is not a case of reporting she said, he said. It's a case of delving deeper and being able to pull out the salient issues. —Journalist 001100

The overload of political news and conveyor belt storytelling were just some of the salient issues that emanated from interviews with journalists on the disruptive goals of transitional justice and the hegemonic processes that underpinned news production at the time. Meanwhile, as the TJRC Final Report remained under lock and key, journalists lamented that it was difficult to follow up on its implementation. This situation had led to the TJRC issues taking a back burner in news coverage over the years.

Right now the report is not available. media cannot report without evidence. The media must have a supporting document and right now if any journalist was to tell that story would that journalist survive to see the next day? That is the biggest challenge, so it puts the media between a rock and a hard place in terms of telling the truth. For affected families having hope that something is going to be done to them actually diminished because then the report is put under lock and key. — Journalist 001100

This is an indication that the media require official documentation so that their stories are libel-proof enough to take on the powers that be. When questioned if they would take on

the TJRC issues if the document was released, one journalist pointed to the selective amnesia inherent in news media routine processes.

The media has a very short attention span. It picks this and that and puts it on the paper, and very soon within a week or inside a week, you know, they tell you that the story is now stale. It's about the way the media works and what they consider to be novelty and what they consider to be stale. — Journalist 001200

This perceived selective amnesia is not to be downplayed. It is linked to enduring news values that prioritize profits and submission to political power.

Sensationalism as News

Participants pointed to the sensationalism in the news during the transitional justice period to drive sales. One journalist noted that the media were more attracted to the drama surrounding the events: “We covered the important issues but added sensationalism,” he said. Sensationalism was evident through large front-page headlines, more space in newspapers and TV coverage. The scandalization of the TJRC news added more sensationalism to the Commission’s coverage. Journalists acknowledged that the controversy surrounding the composition of the TJRC was problematic enough to drive such sensational headlines and stories. Participants also noted that the TJRC got some media attention when it traversed the country to hear from the masses.

Coverage of the TJRC was also about its composition and mandate. Opposition to Bethwel Kiplagat was indeed the news. He dominated news coverage. The TJRC also suffered some other image problems like resignations and other scandals. But we also covered some of the public hearings, Wagalla, Ouko murder and the land case. The Bethwel Kiplagat fiasco actually brought these things to light but we never delved into these deeply until the report was released. I think some editorials covered them. —Journalist 00100

The coverage of Wagalla and Ouko took up much media attention. There was something new to cover as more evidence came out from the people concerned. Other than these public hearings, the TJRC faced many credibility challenges.

They had journalists working for them, but this did not help. I don't think that after the political class criticized them they ever came back to reclaim trust. — Journalist 00900

It is important to note that the TJRC chair's credibility controversy was linked to his alleged involvement in the injustices that occurred at Wagalla airstrip in Wajir, northern Kenya. He was also a Cabinet minister in the Daniel Moi government and is alleged to have had some involvement in the gruesome murder of Cabinet colleague Robert Ouko. These two cases took up a huge chunk of the TJRC investigations and therefore generated public interest. Bethwel Kiplagat denied all these allegations.

Oppressors as News Sources

Along with sensationalism and related to conveyor belt journalism was the continued dependency of the media on elite sources for information. The presence of elite male actors during peacebuilding events mirrored the normalization of pre-conflict moment of a rich, powerful, male, tribal leader as the dominant news source.

We were focused on elite news sources for news. The ruling class, the politicians were going to determine how the victims are treated. The formations of the coalition government, the naming of ministers, those were the priority at the time. They would inform how we moved forward as a country. — Journalist 00100

...of course in the media whenever politicians are interviewed whatever they are saying would be more attractive. Even commercially definitely you know people would focus on them, as opposed to (Irene, for example) so I think that is a normal way of handling some of these things especially in the media. — Journalist 00900

In Kenya personalities tend to overshadow processes. In the news, there was no avoiding the Kiplagat issue. Plus prominent personalities failed to support the Truth Commission, for example PM Raila and President Kibaki. So the TJRC failed the test of newsworthiness many times as compared to other events and processes that were taking place. — Journalist 001500

Indeed the political leadership failed to support the truth process. Slye (2018) who was a commissioner at TJRC corroborates this with an account of how the Commission sought the presence of the two leaders during the launch of public hearings. None of them attended. But Raila Odinga later met the commissioners and has since been vocal in calling for the report's recommendations to be implemented. It remains to be seen if he would do so if he ever gets elected to the presidency: the Commission has named some of his political allies as contributors to Kenya's culture of impunity.

The news agenda that favored politicians left victims as secondary subjects. One former editor reflected that the media did not push for investigations due to their reliance on politicians and the police for news. "Politicians and police who were accused of injustices, were the ones given the onus to investigate PEV cases. They were also authoritative sources of news," he said.

JOURNALISTIC IDENTITIES AND ROLES IN TRUTH-SEEKING

Journalists take part in truth-seeking to offer their own interpretations of events. This shapes a country's memorialization. In this case they were asked to comment of their roles as watchdogs during Kenya's critical moment of transition. They could choose to be objective bystanders or disruptors of the political arrangements that had enabled, and in some instances constrained a culture of injustice and inequality.

Clash of Role Perceptions

Journalists faced blame for inciting Kenyans to violence. But they could not agree on their roles during the transitional context. Some described themselves as disengaged

actors for purposes of objectivity, others saw the newsroom division of labor as influencing various journalistic roles. One editor recounted how these newsroom divisions led to different reflections on roles between reporters and editors.

In our way of doing things we were never seen as victims but as perpetrators. We did not even see it ourselves. You see, reporters, especially correspondents are the ones who suffer most. Editors experience desk-suffering, if you know what I mean. Theirs is a memo or a phone call, but correspondents are on the ground during such conflicts. Their lives are on the line. —Journalist 00100

One other participant, an editor, described journalists as witnesses, by documenting the work of the TJRC.

The mass media's role was to report the proceedings of the Commission. When the Final Report was released, we highlighted major issues. We focused on big stories with national interest like the Wagalla Massacre. The media was a witness. And we told that (Wagalla) story through our news coverage. — Journalist 001300

Other journalist were of the view that the media represented a different stakeholder in the truth-seeking campaign. Based on traditional journalistic practice, the media's watchdog role was to check the political class and nothing else.

The role of media was to rally around the importance of the truth-telling process, the objectives of what it was going to achieve and to carry them along. Although the truth process is supposed to be a nationally owned, it is very ideal, elitist, academic I would say...the idea of justice is a very academic process so we were trying to rally around and break it down to the people. — Journalist 001500

The media is not a constituency like religious leaders, civil society, etc.. The media is not considered a stakeholder in politics. Not even the politics of the TJRC. The media works to check excesses of the political class. They cannot sit with them at the same table. —Journalist 001300

One interviewee, a journalist who covered the truth process, thought the media were roped into the process as members of the civil society and that they shaped the structure of the conversation.

I consider media as civil society. And civil society was engaged with the Annan team.

The Editors' Guild had some breakfast meeting with the selection panel. The media had a lot of sessions with Justice ministry on some of the initiatives under them as concerns the Truth Commission. And even when they were passing the laws and through our engagement with our platforms and commentaries and reporting about the laws which were being passed, including the issues of amnesty, we had an input as part of the national conversation. We shaped the structure of the conversation. — Journalist 001500

The role of journalism in post-conflict contexts is not to be downplayed. Their role perceptions motivate their gatekeeping capabilities and resource allocation towards an event. As the TJRC Report indicates, they struggled to find a media platform that could air their live proceedings. Ultimately this was not sustainable. The ICC proceedings were aired live from The Hague and journalists were assigned to travel to the Netherlands. Other corruption cases like the Anglo Leasing scandal had been aired live for free. But not the TJRC. At least not until the final report was ready. Even then, the Commission purchased newspaper space as “advertiser’s supplement”.

Threats to Journalistic Roles: “No story is worth one’s life”

Some local journalists endured attacks when over unfavorable coverage of politicians and wealthy individuals who were mentioned in TJRC proceedings. Like the journalists who testified before the Commission as discussed in the previous chapter, journalists interviewed also echoed similar sentiments on the security and safety of reporters, editors and correspondents. With the ICC running concurrently with the TJRC, bold coverage threatened journalistic safety because they involved powerful people in business and government.

Media security was more like the ICC issue. Even some civil society members who tried to campaign for the implementation of the TJRC Report had to flee Kenya for their safety. The media can't report sensitive issues for fear of the government's response... They target individuals with threats. Senior government officials sometimes called individual journalists and warn them not to write a particular story. — Journalist 00700

One journalist, who was working as a senior political news reporter at the time, told me he was sure the National Intelligence Service members were closely monitoring newsrooms after PEV and during the TJRC hearings.

I remember the NIS guys. Normally, that was an area [the TJRC] that they were really monitoring. There were editors who were also working for the NIS who were really feared at that time. Some of the witnesses and victims made outrageous comments in some sessions. The NIS also had their own agents attending these meetings in some sessions. — Journalist 00900

This was a very serious allegation. When questioned further, the journalist insisted that the government had spies in the newsroom to check published news stories that would be harmful to national security interests. One female journalist said she always suspected someone was watching her, especially after an investigative story that she wrote involving senior people in government and the police.

Sometimes the editor will tell me the police are trailing you. They know that you've been to such and such a place. Eventually you're told you better leave that story because the police are trailing you. You also get to a point where you sense that you are being watched. — Journalist 001200

Interviews also corroborated earlier testimonies before the Truth Commission on the insecurity of journalism after the violence. Attacks were mainly targeted at journalists covering ICC and this caused a lot of fear and silence among those who wanted to dig deeper into TJRC cases.

You remember the case of a journalist who was killed because he spoke up about the issue of The Hague in a paper that he was running in Eldoret. The issue of safety for journalists then played a role because threats were coming in, not only from the ICC suspects but also from their communities, so you didn't know who was who. I remember going to Uasin Gishu and you're told to be careful about what you say because some journalists would record you with their phones. You think they are recording your story then they would take to politicians and say look at what xyz just said about you, xyz is against you. Meaning these people are putting your life at risk. Is this story worth your life? So these fears played out strongly for the TJRC coverage. Journalists themselves had self-censorship. — Journalist 001100.

Uasin Gishu is a county in Kenya's vast Rift Valley region, which was the epicenter of the violence after the 2007 election. It is predominantly the home of the Kalenjin community. William Ruto, who was then an ICC suspect and is currently the deputy president, has a strong following in this region. Another journalist narrated how she was warned by her editor when her stories were ruffling feathers and told to keep away for her safety.

When it's negative, they [politicians] run to court and threaten the newsroom. Very soon your editor tells you, do you have this, or you better keep off. You know we have got this letter. That's just a report, it is not privileged. No story is worth one's life. You will be considered foolhardy if you put yourself in the line of fire. — Journalist 001200

There were occasions when journalists were placed under witness protection when their lives were in danger. A senior editor explained that "Those in positions of authority will always try to intimidate the media. It happens all the time. Safety is one of the realities we have to live with. We have mechanisms in place to address journalistic insecurity and we have had to evacuate journalists when their lives were in danger," he said. This statement contradicted others, especially the testimonies of journalists before the Commission who decried the indifference of their employers over their safety and

security. The safety of journalists remains an issue in Kenya to date, as cases of missing or murdered journalists have been documented.

Newsrooms of Division, Fear and Silence

As the TJRC investigated inequality and injustice in Kenya, very few were aware of newsroom divisions at the intersection of class, gender and tribe. Some journalists interviewed narrated their experiences of fear, silence and marginalization in the newsroom based on their ethnicity, gender and class. These divisions resulted in suspicion, speculation and economic discrimination (loss of jobs). Consequently, many women and minority journalists maintain self-censorship or employ strategies of co-option and acceptance to the dominant way of doing news.

“I do my work and go home. If I say or do anything different, it will be perceived to be influenced by my ethnic loyalty,” an editor said. Another editor narrated how in one incident, “there were subtle attempts to try and influence news. They [powerful interests] tried to bypass an editor who was not from one of the large tribes.”

A former female editor addressed gender discrimination she had experienced while in the newsroom. And these experiences were not unique to the transitional period, she said, but had been normalized in the newsmaking culture. This did not change, she added, even as the TJRC investigated gender inequality as a social problem in Kenya. Instead, she was aware of sexual favors as gender strategies some female journalists had to contend with so that they receive fair treatment.

As a woman, I have seen male colleagues treat women as they would treat their wives and mistresses. Good treatment only comes when the women succumb to sexual advances. Otherwise, those who refuse to comply are ill-treated. Most women prefer to suffer in silence, their education and exposure to sexual harassment policies notwithstanding. —Journalist 00400

Both The Standard Group and NMG have sexual harassment policies in place.

On newsroom divisions, a former editor explained that this had been the norm for many years and journalists knew about it but chose to keep silent.

We have had newsroom divisions for a long time. There's a spiral of silence, but even news workers who know how the media works, do not know everything. So much secrecy in the processes of assignments, gathering, reporting, writing, editing and publishing. — Journalist 00700

Indeed, the interviews revealed that the dynamics of news reporting and editing are shrouded in mystery, speculation, fear and silence. A senior editor said that, "in the end you want to protect your job and your life. You do what's best. Journalists just work for salaries."

As for ethnicity in the newsroom, it was the elephant in the room that participants said no one wanted to talk about openly. Yet it had become like a way of life.

In the normal graph if you look at the demographics it [ethnicity] is inevitable but even in law you'll find that kind of mixture, in teaching you'll find that kind of mixture, in medicine you'll find that kind of mixture so I think it's just the normal graph of politics.— Journalist 001000

The predicament of correspondents was seen as a problem of class inequality. These are contracted individuals, many of whom have not been trained as journalists.

There is the issue of cheap labor, the leading cause of corruption in the media. Correspondents are not treated like professional journalists. Freelancers too are underpaid. Some journalists live like hawkers. They are vulnerable, have to survive on bribes, it is demoralizing. They look like they never went to school. — Journalist 00400

At the time of the interviews between 2018 and 2019, some journalists said their news organizations had changed policies concerning employment of correspondents. A senior editor was optimistic that his company had improved the employment terms of correspondents. He also added that in some cases, correspondents were content working in that capacity.

Times have changed. Fortunes have changed for correspondents: All correspondents [at NMG] have retainers, medical cover, there's an initiative to make them become reporters. Still many correspondents do not want to become reporters. — Journalist 001300

Correspondents make up an army of reporters who are employed on contractual terms. From the testimonies before the Commission, it remains to be seen how their plight has changed. As different news organizations have different employment terms, their experiences out of the city requires a special inquiry.

OWNERSHIP-REVENUE CONUNDRUM

The issue of ownership always comes up in critical analyses of media in Kenya, and it came up in my study, connecting corporate interests to the truth commission's investigation into historical injustices. The biggest concern was the dual position of government as major advertiser and news source. At the time of the transition, the coalition government was made up of powerful politicians who were also business tycoons. They and their allies had ownership or shareholding interests, interlocking directorships at the Standard Group and the Nation Media Group. Some of them were adversely mentioned in the TJRC investigations. As commercial organizations, it is not surprising that the news has been commodified to the extent that publication is calculated on the basis of circulation and readership of newspapers or viewership, listenership

ratings in broadcasting and digital media platforms. During interviews for this study, the issue of ownership was closely linked to other factors such as ethnicity to influence gatekeeping.

Clash of Political and Commercial Interests

Media ownership in Kenya is not as straight forward as expected. Furthermore, with increased licensing of media platforms, these ownership structures are shrouded in mystery. Politicians who double as businesspeople are known to buy and sell shares in media companies at will. Participants were asked to comment on how media ownership had historically influenced journalism in Kenya, including during the transitional period. This was a heated debate that most interviewees seemed to be passionate about.

When you look at the media ownership and the way it is tied to the political interests you'll realize that most of revenue comes from government advertising and corporates who are actually avenues of the ruling elite. So sometimes the media tend to go on some form of self-censorship so that they don't upset the powers that be in government or in the corporate world. This probably played a role in coverage of the TJRC because some of the historical atrocities were committed by people in government and people who were in the corporate world, the elite. —Journalist 00100

He added that the reverent treatment of the Moi family at the Standard was a gatekeeping factor to consider when writing about past injustices. He said:

I was working with the Standard and if you look at ownership, the Standard is owned by the family of the former president. And the former president is at the heart of some of these claims of injustice. So, if we were to report about those issues, you know that it would never really happen, you know you'll not really last in that media organization. You had to be very careful with how you really report these issues. That's why reporters and editors focused on the drama.

Another journalist brought up the issue of reliance on advertising revenue that influenced how these injustices would be reported.

The government will use carrot and stick methods to deny you ads. This causes conflict between editorial directors and newsrooms, where journalists are asked to tone down by editorial directors, CEOs and management. This definitely affected how the truth process was covered. — Journalist 00700

The participants also commented on the interconnected network of powerful individuals who control the media message either directly or indirectly. Publishing injustice stories would be too disruptive to the system.

We all know who owns the media in this country. The big personalities who own the media have friends in other industries. If you fight one you fight another. And they will come for you with all manner of punitive measures. You can be sacked. There are those who have paid the ultimate price. No one is immune. These people are dangerous. — Journalist 00600

Who is the media? As far as I am concerned our media is extremely compromised. If you are talking of reporters, yes. But the reporter is not the media owner. The reporter is not the editor in chief. And the editor in chief is under the board, answers to the board. And if the board answers to the president, for goodness sake! — Journalist 001200

There's no watchdog journalism in Kenya. What we are taught in journalism school is not what happens in the newsroom, it's a totally different story. What sells: sensational, scandal, politics and sex/sleaze. It is a business. It is always about the angle. Kenyans love personalities, they love politics. There is a lot of secrecy, mystery, surrounding media operations. There are political factions in the newsroom along tribal lines or coalitions, there are fights, there are even spies. — Journalist 00400

Interviewees acknowledged that political parallelism, ownership and advertising mutually contributed to the gatekeeping by mainstream media at the time. This kind of gatekeeping influenced ethical considerations and values in the newsroom. Corruption, lack of transparency and outright bias were the order of the day. Interviews corroborated testimonies before the commission that while correspondents were more liable to corruption because of their low pay, the editors who are better remunerated also indulged in bribery.

Bribery, free money give corrupt editors a sense of power, fame, wealth...class act. Power, corruption and greed go together. The higher you climb the more money you get. And there is no free money. — Journalist 00400

It was revealing to hear that some journalists were on the payroll of powerful actors during the transitional period, including within the president's inner circle.

You feel so bad when you're told that one has two payrolls, one here at Nation [Media Group] the other one at State House. And it's in the public domain. Some of them are people whom you feel very sad for because you had some regards for them so when you hear that they are on the State House payroll also it's hurting. — Journalist 001200

In this environment of suspicion and distrust in the newsroom, the media's collective efforts to shape the narrative in line with the victim and justice centered transitional justice goals were bound to be unproductive. With profit incentives in mind, the local media was not keen on the TJRC agenda.

...operational costs, lack of champions for the truth, lack of awareness on the part of many journalists on what that process meant and what it would have meant for the country if truly supported by politicians and the media. That awareness is most of the time missing in coverage of national processes. Sourcing of stories, access of materials, training to understand the concept of transitional justice. Was Kenya really in transition? After the Peace Accord, there was no transitional justice period. It was back to business as usual. — Journalist 001500

This business-as-usual attitude was problematic because it reinforced status quo journalism and reinforced corruption in the newsroom. As a participant added, "the moment they are in so and so's pocket do you think they will say anything against that person? Her comments were echoed by another journalist who blamed senior editors for setting the precedent on bribery as a norm in journalistic practice.

If prominence gets one front or main page attention, it is revealing that they have to sustain the pace of visibility with bribes. Politicians have complained about journalists asking for bribes, and it is a well-known secret among journalists. Still this remains

common practice. In a report published by governance watchdog AfriCOG (see Namwaya, 2010), bribery in the newsroom is rampant and news organizations know about it even though they have always denied such allegations. The facilitation of journalists to attend events seems to be an acceptable position and tends to blur the line between bribery and just facilitation for convenience.

MEDIA-TJRC RELATIONS

Source-media relationships shape media representations of events and groups in the news. The TJRC, as seen in Chapter V, engaged the media in its efforts to investigate atrocities and to reach the masses. The media in Kenya also engaged the TJRC as a source of news. This relationship was shaped by gatekeeping dynamics that had been held captive by routine, organizational and social system forces. Participants were asked to comment on the symbiotic (or antagonistic) relationship with the Truth Commission.

Poor Communication Strategy of the Commission

Journalists interviewed believed they were well prepared for the truth-telling process during the initial phases of transition, despite lack of training. However, they were unable to overcome the poor communication strategy of the Commission.

I think we [journalists] did our best to inform Kenyans of the truth telling process, in preparation before the laws were put in place. After the post-election violence there was a moment where clearly we needed a truth-telling process, which had been postponed for quite some time. Kenyans were seized of and mentally geared for that process through the initiatives of the grand coalition government, the Annan process, Agenda Four. So we were just passing across that awareness or consciousness to get really ready for a truth telling process. — Journalist 001500

The Truth Commission's *in camera* (private) hearings were unpopular among journalists. No one except the commissioners and interpreters were allowed into these sessions.

Journalists believed they needed to be present to expose injustices that would have a strong impact on the country's leadership.

You want good coverage throughout but you don't want people to look at what is behind the closed door. So you cannot say the media should focus on the work of the Commission, not on the leadership problems. It is not possible. You cannot dictate how the media covers you and that's the problem they were having. You cannot control the narrative. It's the media which has got the responsibility to cover. Journalists ask, what's the most important story from here? —Journalist 001300

There was also the concern that since the media had been blamed for fanning the flames of violence, they had to be cautious in their reporting. For this reason, "the media was pushing a peace agenda, not a justice agenda. Walking on eggshells, "they wanted to do it right," according to Journalist 00700.

Another journalist blamed to the TJRC communication team, which he said was unprofessional in dealing with journalists. "This affected the correspondents because the media handlers at TJRC were very hostile to the media people on the ground," he said, adding that:

The commission's media handlers were also very sensitive, disagreeing with some correspondents over what they wrote. A former correspondent at the Nation was kicked out. The media handlers at the Commission actually instigated his removal, after writing something unfavorable about the TJRC. It was worse that he was a correspondent. A correspondent can be fired by a news editor. He can send you a text message that "don't write anything from now on" then you just go like that. The coverage of the TJRC was happening in the countryside the people who were covering were actually correspondents. Some of them feared, they would rather be on the good side of the TJRC.— Journalist 00900

The TJRC points of focus were in dissonance with the kind of niche audience that the mainstream media targeted, a senior journalist who actually covered the public hearings explained.

I think the issues that the TJRC was looking at were very idealistic for an elitist readership. Either the TJRC commission was not marketed properly by the

commissioners or by the government. The personalities were not guys who inspired any content planner to look at it as a major news story, because if you're investing resources human and material you need to be sure that you're getting a big story out of this. — Journalist 001000

When asked about the media workshop organized by the Truth Commission, participants said they did not know about it. None of them knew about it. “It is a case of the right hand no knowing what the left hand is doing,” said one journalist who was reporting on politics at the time. Even a news editor said he was not aware of the media workshop. “I wish they told me. I am always here to support my reporters and would have loved to have such discussions with them,” he said. Another participant attributed the media workshop communication breakdown to the news overload at the time. “In 2012, there was so much happening, the ICC, Ruto and Uhuru joining hands, electoral changes and many more. It was a busy time for the newsroom,” she said. A few others felt they were well represented by the Editors Guild¹⁹. Journalists were also asked if they had read the TJRC Report after it was released to the President. Only one responded in the affirmative. The others had read the newspaper supplement that was published in 2013 when the Commission wrapped up its work.

Ultimately, journalists believed they were part and parcel of the truth process, even in their silence about the issues that plagued journalism. Interviews revealed that journalists were bound by written and unwritten codes of ethics and values.

Unfortunately, the end product was not in support of justice but in support of political power.

¹⁹ I reached out to the chair of the Editors Guild for an interview but he never responded to my emails.

THEIR “TRUTH”

At the end of the interview sessions, I invited participants to say any last words on ‘the truth’ about journalism in Kenya. In addition to an awareness of the many external influences on their working environment, they were reflexive as well and admitted that the newsroom needed its own moment of truth for social change to be realized. Here are selected responses:

News organizations in Kenya needed to face the truth, the internal truth before turning to the national stage. There is a culture of silence that has affected the way the media produces news. — Journalist 00400

The truth is out there, but nobody wants to take responsibility for justice. — Journalist 001100

The Truth report was officially received but not officially released. — Journalist 001200

The Truth was contested because those in power were adversely mentioned. If the people in power can’t shape the narrative, they will deny it. — Journalist 001300

Truth is when you know something and you know it is true. Justice is when you know that something and you act on it so that the person who is affected is able to get compensation. — Journalist 001100

...even within the media, there's opportunity for truth and justice to be done. I mean the story's about the media and its complicity to the system. A journalist who's suffered, whose rights also have been had been violated by media ownership. Even things like remuneration or even just their rights as journalists. The media have got their work to do as well. — Expert 00300

The mainstream media helped the commission deliver on its mandate but that was not successful. The commission did not achieve what it was supposed to do. — 001500

Interference remains no matter who leads the newsroom. The nocturnal calls are still there. Pent up hatred still there. Always lies low until triggered. We are inching closer to Rwanda. — Journalist 001200

When a government fails to recognize an injustice it means it is looking forward for a repeat of the same and that is what we saw in the 2013, 2017 elections. — Journalist 001100

Discussion: Justice Expected. Justice Under-Delivered

The purpose of this chapter was to continue with the debates surrounding the Truth Commission's work during Kenya's transitional context. In essence, this chapter sought the input of individuals who worked as part of the Commission and those who closely followed its work of investigating Kenya's history of injustices. Also interviewed were journalists who were actively working at either *The Standard* or *Daily Nation* during this time of transition. Some of them have left the media industry to pursue other careers. The semi-structured interviews revealed salient themes about the TJRC and media coverage, but there were some other points that are commonly held within Kenyan public sphere. The following is an overview of some of the major findings.

Among the experts, the politicization of the TJRC hurt its agenda. The Commission had expected that with the huge public support for truth, justice and reconciliation, the truth-seeking campaign would be acceptable across the board. Additionally, this was one of the key requirements to fulfil Agenda Four under the peace accord signed by rivals Raila Odinga and Mwai Kibaki. To the detriment of the Commission, political rhetoric changed as soon as commissioners were inaugurated. The Kenyan media tucked away the TJRC's victim-centric agenda and represented the Commission's work through the lens of politicians.

All experts interviewed could not emphasize enough how the controversy surrounding the composition of the Commission almost shattered the whole process. The credibility of some commissioners was questionable, with special focus on the chairperson, Bethwel Kiplagat, who had served as a Cabinet minister under the authoritarian regime of Daniel Moi. The Commission thus began its work on a negative

step and even though proceeded to the end, the chairperson's credibility crisis bogged its work throughout. Some journalists insisted it was their responsibility to highlight the TJRC scandals rather than sweep them under the carpet.

Secondly, lack of political will from the political class was a challenge to the Commission in propagating its message. Since politicians dominated news headlines, the Commission expected their supportive rhetoric to reverberate through the country. The political class largely shunned the Commission, sometimes divided over whether it should be disbanded or not. Ultimately, the TJRC was perceived as a political project and treated as one by the political class. However, the Commission managed to shake off any influence from this lack of support and traversed the country gathering information from the masses.

The experts perceived the media as a central player in mitigating injustices and inequality. They believed the media was a tool that could be harnessed to bring about social change by the design of its news agenda. However, they acknowledged that the TJRC-media relations was not transformative. One of the experts had worked as a journalist before and therefore was aware of the prevailing media system. Other experts noted the lack of independence among journalists. In fact in the previous chapter one of the commissioners had explained how he was surprised to learn that journalists were allowed to take rides with the Commission to functions, something that correspondents said always resulted in biased reporting. The emerging themes in interviews with experts pointed to a disconnect between the media and the TJRC in understanding each other's dynamics. Experts noted a lack of critical interpretive skills in news writing with phrases of he said, she said dominating news content. Focus on individuals and personalities, the

said, was common in media stories about the TJRC. The experts were divided though on whether the media should have been included in the design of the TJRC.

The experts also noted the nature of ICC cases and involvement of foreigners had a double negative effect on the Commission. First of all, politicians used the presence of international players to downplay the role of truth-seeking and truth-telling as western driven. Also, they considered the ICC as more “newsworthy” than the TJRC, not because there was competition, but because both had been instituted within a short time frame to run concurrently with other political events. This contributed to diminished support and attention to the TJRC. Even then the little attention was mostly directed at the wrangles within the Commission. For instance, in 2010 Kenyans voted for a new constitution and the ICC indicted six Kenyans for war crimes charges. It is also the same year that the TJRC was rocked by resignations of commissioners. In 2012, bitter rivals Uhuru Kenyatta and William Ruto, who were facing charges at the ICC agreed to run on a joint ticket. Their newfound friendship dominated news until they were declared winners of the election in March 2013.

Perhaps the most significant take away from the interviews are two key points. One, journalists expressed pessimism that anything would come out of the Truth Commission. Following a history of past commissions of inquiry, the Commission’s work was seen as, what Lynch (2018) describes as another “familiar performance”. The TJRC, Lynch says, became “just another commission of inquiry that helped to confirm the country’s long history of impunity...thus constituting a sense of *once-againness*,” (p. 97). This taken-for-granted attitude was not unexpected. When the Standard Group was attacked in 2006, the president set up a commission to investigate the incident and the

intruders involved. Its report was never released to the public. The Ouko murder had been subjected to numerous investigations and commissions of inquiry but none has ever been revealed to the public and to date Kenyans do not know who killed the Cabinet minister and many others who have been assassinated. The Wagalla killings that left thousands of people dead has been investigated for years but no one has been held responsible for the atrocities. The heated debate over land ownership in Kenya has been subjected to investigations through the Commission of Inquiry into the illegal/irregular Allocation of Public Land (popularly known as the Ndung'u Land Commission). Its recommendations have never been implemented. Finally the Akiwumi Commission of Inquiry into Tribal Clashes had its report made public through a court order. Even for those journalists who really wanted change, this pessimism was a “force at the gate”.

Secondly, the disconnect in the TJRC communication strategy and the media was bound to produce a clash of goals. The TJRC had a communications department that was well aware of the media system in Kenya. Media editors were coming into the relationship with a strong dose of pessimism arising out of their experiences outlined above. As one expert said, operational and logistical incentives for local journalists to turn up at TJRC hearings were fairly low. While media consultants understand the structural challenges in media gatekeeping, newsworthiness is influenced by a combination of media routines and organizational forces. It is through media routines that assignments are developed based on editorial decisions to target “authoritative news sources” who influence meaning and interpretation of social issues (Riffe, 2011; Strömbäck & Dimitrova, 2011). Organizational forces determine budget allocation and target markets (Hackett & Uzelman, 2003). Also, news deadlines matter a lot for

newspaper sales. Since some public hearings were taking place outside Nairobi and other big cities, the local media needed to get their journalists prepared for these events, to ensure stories are sent to Nairobi and edited on deadline. This they did, but the result was inconsistent. Even then journalists went for the drama.

Women's hearings were rarely covered because men were not allowed into the venues when journalists assigned to majority of the hearings were men (Lynch, 2018). It can be argued that the normalization and institutionalization of pro-establishment routines and organizational policies, combined with editorial pessimism among editors contributed to the status quo approach towards the Truth Commission in Kenyan newsrooms.

Interviews with journalists raised overlapping concerns with those of experts. Journalists interviewed were doubtful that the Commission, even with the help of the media, would have achieved its goals of meeting victims, witnesses and survivors' expectations of justice. However, for many journalists PEV was a moment of reckoning. It was an opportunity to unearth the truth about journalism in Kenya amidst a culture of injustice and inequality. Salient themes emerge about media capture, the control of media production (news making) by powerful and vested interests (Shiffrin, 2018). Despite having a reputation of being one of the most dynamic media markets in Africa, the media system in Kenya was too subservient to the interests of the powers that be that they relied on them to shape the TJRC narrative.

From the interviews, it emerged that politicization of the Truth Commission was not unexpected. It was only a surprise to the TJRC because the Commission expected the political class to adhere to the Agenda Four agreement in letter and spirit. Lack of

political will hurt the Commission's chances of propagating a transformative communication strategy in conjunction with the local media. With the support of the political class, it can be argued, the Commission would have benefited from the media's reliance on the powerful individuals as dominant voices in shaping public narratives. But this would have been a daunting task. For one, competing commercial and political interests were skewed in favor of the ICC cases as more newsworthy.

The ICC cases were perceived as newsworthy because they appealed to the journalistic values of newness, prominence, impact and conflict. However, the mainstream space given to the ICC was not necessarily disruptive of Kenya's power arrangements. The politicians became the victims of injustice. A key take away from these conversations is the political economic influences on news values. When prominent politicians are dominant sources, the intended high circulation figures is also tied to advertising space and other commercial considerations. One of the most common is the 60:40 advert:editorial content ratio (Maweu, 2014). The profit imperative does not favor justice because it disrupts not only political arrangements, but their commercial interests as well. According to Herman & Chomsky's (1988) Propaganda Model, "by reliance on market forces, internalized assumptions, and self-censorship and without overt coercion, the media manufacture consent" (p. 306). The ownership structure of the two major news organizations, with The Standard Group believed to be linked to the family of former president Daniel Moi and the NMG connected to major corporates owned and affiliated to the Aga Khan network, influenced the status quo coverage of the events at the time. This status quo coverage again benefited the political class. Sourcing of news from the political class and propagating the dominant ideology of the political and ruling class

complete the media's manufacture of public consent. From the interviews it emerged that while journalists may have intended to do their work for the public good, they were constrained by a compounded set of market pressures, media routines, and organizational policies that favored individual personalities and big business.

From these conversations with journalists, two salient issues emerge about their work that had most impact on this study. First, the issue of *in camera* hearings disincentivized journalists. Most of the injustices that the commission was investigating had been covered in the media before PEV. Therefore, journalistic instinct eyed the *in camera* sessions as the meat of their coverage. Lack of access to these sessions rendered them helpless and reliant on information subsidies from the Commission's communication team. This form of relationship went counter to news media routines which work in hand with news values.

Secondly, in conversations with journalists, the issue of safety and security of journalists during the period of transition was salient. This was coupled with speculation and conviction that there were spies planted in the newsrooms, including intelligence officials who monitored news production work. Subsequently, a culture of silence and submission influenced not only which news was covered but also how it was framed. Journalists were warned to drop stories. The notion of "no story is worth one's life" was pervasive. Some journalists recalled receiving threats when working. In her comprehensive account of how the PEV changed her life, former journalist Omwa Ombara (2018) writes that she fled Kenya and sought asylum after she declined to take bribes from a politician. Her problems increased when the ICC approached her to be one of its witnesses. Her story confirms that these were perilous times for Kenyan journalists.

CHAPTER IX

SUMMARY AND CONCLUSIONS

Peace is not the product of terror or fear. Peace is not the silence of cemeteries. Peace is not the silent result of violent repression. Peace is the generous, tranquil contribution of all to the good of all. Peace is dynamism. Peace is generosity. It is right and it is duty

— Oscar Romero, Archbishop of San Salvador

Much has happened since the Truth, Justice and Reconciliation Commission submitted its report to Kenya's president in May 2013. As Kenyans have moved on and anticipate future elections, this study reassesses historical truths and how these continue to influence the rule of law, governance and accountability in Kenya. This study argues that the media has played a key role in democratization politics in Kenya from the independence era to recent times, and this has had profound implications on socio-economic relations in the country. However, this role is not well articulated even within journalistic circles, and for this reason, I argue, PEV was a critical moment of truth seeking for the Fourth Estate to reassess its relationship with power.

This research has examined the different ways journalists engaged and participated in the truth-seeking and truth-telling processes of the Kenyan Truth Commission and the implications of their revelations on the fight against injustice and inequality. In essence, this study re-centers journalistic narratives in transitional moments that attempt demystify their critical roles in shaping power arrangements and public consciousness. This study also enriches debates on the nexus between the media, journalism practice, inequality and injustice and how underdevelopment, unfreedom and insecurity are tied to the relations between journalism and political power in a transitional context.

Summary of Findings

This study aimed to unearth media and journalistic roles, perceptions and interactions with the truth-seeking process in Kenya between 2008 and 2013. Research questions complemented one another to examine and demystify news gatekeeping within a system that was influenced by social, economic, political factors during the truth-seeking campaign of the Truth Commission. This concluding chapter summarizes and discusses the key findings from the data analysis and their contributions to the study of transitional justice, journalism practice and the media systems. The questions below emerged from the context of the situation, theory, extant literature and the epistemological position of the researcher:

RQ 1: a. To what extent did media coverage of the Truth Commission's work campaign align with the victim- and justice-centric goals of transitional justice?

d. What can patterns in media coverage of the Truth Commission expose about news gatekeeping and the goals of transitional justice?

An observation of the news revealed that the TJRC garnered negative coverage on its composition, mandate, finances, as well as on challenges to the final report. The empirical analysis corroborated the common observation that the mediation and representation of the Truth Commission and the truth-seeking campaign were not aligned with the victim- and justice-centric goals of transitional justice. A major finding of the quantitative content analysis of the *Daily Nation* and *The Standard* news articles was that the gatekeeping conventions did not change as expected at a critical moment for the country and for journalism. Instead, the confluence of news gatekeeping at media routine level and news values meant that "prominence" was key to determining newsworthiness

of the story. For this reason, prominent personalities received dominant coverage, including for justice-centric news, meaning that their voices were preferred over others in debates cover the truth-seeking and truth-telling processes. This message appropriation where prominent personalities spoke on behalf of victims and were quoted more, indicates the affinity of prominent sources to get past the “news gates”.

Patterns of coverage also show that the news followed the TJRC timeline of events. In 2010, the Commission had majority stories in which the dominant source was TJRC actors, including commissioners and other officials. This is the year that resignations overshadowed the Commission’s cause for truth and justice as it rolled out statement taking across the country. In 2011, the Commission embarked on hearing from witnesses and victims of past atrocities. Justice-centric news coverage increased as victims and witnesses received dominant coverage, closely followed by local politicians. However, in this year, sensational headlines focused on “weeping and wailing” witnesses that enhanced a “gaze” tactic to attract readership.

Nairobi emerged as a symbol of institutional concentration of power in news filings. Contracted journalists (correspondents) were employed to file stories outside Nairobi as the Commission traversed Kenya to collect testimonies. These stories had to pass through the decision-making structures in Nairobi supposedly for layers of gatekeeping including editorial conferences, to determine how the news would be covered and which storytelling angles would be adopted. The normalization of Nairobi as the center of news should not be downplayed, as it symbolizes the proximity to state ideological and repressive power.

Finally, the data analysis checked for similarities in gatekeeping conventions between the two dailies based on the camaraderie among journalists. Findings show that both dailies had similarities in most, if not all variables (dominant source, year of publication) where the dominant voices overall are local politicians with the exception of 2010 (TJRC actors) and 2011 (Victims/witnesses). However, there is weak evidence that “friendships” among journalists could have contributed to this similarity in gatekeeping. The intermedia influence was minimal. However, focus on “prominence” and Nairobi power points to each newspaper brand having its unique ways of interacting with power. It was also notable that while the media did cover the plight of victims to some great extent, this small amount of coverage competed with other news and events at the time, including on the ICC, the new constitution and other reform processes.

- RQ 2. a. In what ways did the Truth Commission’s strategic dependence on media platforms and products influence its investigations into historical injustices?
- b. In what ways does the TJRC Final Report unearth the truth about journalism in Kenya?

The qualitative document analysis corroborated the findings of the quantitative analysis in which media coverage paid more attention to the elite politicians and the woes that bedeviled the commission. For the Commission, its Final Report documents various modes of engagement with the media, the public and challenges it faced in seeking visibility that unearth truths about the Kenyan media. In summary, this study argues that the uncritical approach to media relations was a foundational problem for the Commission. Unlike in the South African TRC where media freedom advocacy

organizations took an aggressive role in pushing for their right to be heard (Krabill, 1998), in Kenya the Report does not indicate official engagement with media groups. At the media hearing, the Kenya Association of Correspondents and Editors Guild were present. Others like Kenya Union of Journalists and Media Council of Kenya were not present to testify before the Commission. Their contribution to the composition of the Commission is not documented in the Report, but other organizations are mentioned. The absence of a united and aggressive front, I argue, was a missed opportunity to face the “truth” about freedom of expression and media freedom in Kenya.

Secondly, the Commission relied heavily on archived media reports for its investigations into past atrocities. This shows an element of trust for the news as reported. Indeed, it extends the common argument that “journalism is the first draft of history”. While this was beneficial in helping the Commission with its archival work, an uncritical look at factors that influence newsmaking can result in revisionism where a media system is captured by powerful state and corporate interests. Historians are advised to consider social, political, economic and historical contexts of media reports and the newspapers which may have political and social agendas (Newby & Hardy, 2011). It is not known if the Commission confronted this challenge. Overall, newspapers can be valuable sources of information in digging up the past.

The Commission made an elaborate effort to reach the public in its outreach program. This was also met with many challenges. The TJRC was modelled after the South African TRC, which received free, wall-to-wall media coverage through the South African Broadcasting Corporation (SABC), while Kenya’s the public broadcaster KBC declined to air TJRC proceedings for free. Mainstream media’s coverage of the

Commission's events was underwhelming and failed to trigger enthusiastic public engagement (Lynch, 2018). The Commission failed to capture media attention for dominant visibility and instead received negative coverage almost throughout its tenure. The Commission also faced obstacles in finding consistent and reliable media coverage of its hearings outside Nairobi.

The Commission's Report lists core thematic areas in its investigations but reference to media freedom is scattered. There was no cohesive effort to muster the relevance and power of the media in a democracy especially at such a reflective time. This is seen as a missed opportunity for the Commission to address the problem of media capture in Kenya. There is also a conspicuous shortcoming in addressing gender inequality where representation of women in the news, and as media industry workers does not come up in the Report.

Overall, the Commission's Report was a comprehensive assessment of injustice and inequality as problems that had plagued Kenya since independence. As the Commission states, the Report is not a perfect reflection of Kenya's culture of injustice.

RQ 3. a. How did journalists engage with and participate in the truth-telling process?

b. What "truth" did Kenyan journalists reveal about media capture in Kenya?

c. How have historical injustices influenced journalistic practice in Kenya?

Critical incidents in journalism offer journalists a stage on which to evaluate, negotiate, and ultimately reconsider ideas about their professional practice and appropriate boundaries of journalistic authority (Zelizer, 1992). This study considers the PEV as a critical incident in which Kenyan journalists reflected on their profession to

determine their identities as either victims of an oppressive system or complicit co-oppressors in the media industry. A group of journalists appeared before the Commission to testify about their experiences in relation to Kenya's past injustices.

Journalistic testimonies before the Truth Commission corroborated findings of the content and document analyses by revealing systematic media capture by a combination of state and corporate interests. The critical incident of PEV unearths journalistic identities as victims of atrocities they faced in their work. They are also witnesses and documenters/archivists of the atrocities others had faced, including their colleagues. The testimonies also reveal friendly journalists who are coopted by the powers that be to report favorable news about their "friends" in high places.

Overall, journalists as co-perpetrators deliberately or sometimes unconsciously were co-opted in efforts to suppress media freedom via a reward and punishment system. Even those who were not co-perpetrators found strategies to avoid collision with state agencies through self-censorship or negotiated gatekeeping. As witnesses, some journalists saw first-hand the injustice and inequities that plagued the news media system. As documenters and archivists, journalists recorded some of the historical injustices that the Truth Commission was investigating. Their archived stories were mnemonic, helping the Commission to analyze press records as resources for reference. As victims, journalists narrated how they had borne the brunt of injustice and other challenges to editorial independence. Like other Kenyans, they too were subjects of a repressive culture. Their testimonies reveal security agencies as the single biggest threat to media freedom in Kenya. They are used alongside militia and vigilante groups to target journalists over their messages. Consequently, through state terrorism, there is a culture

of fear, silence and subservience. The testimonies also revealed a “face of suffering” where economic inequality in newsroom has enabled corruption among journalists.

RQ 4. a. What were some of the contributions of the Kenyan media towards the Truth Commission’s work?

a. How do Kenyan journalists describe factors that influenced news coverage of the Truth Commission?

This study established that several factors impinged on the media representation of the Truth Commission and its work. As one expert noted: “Kenya was not ready for a Truth Commission. And there was no political will.” Kenya here means the Kenyan society. The media as part and parcel of the Kenyan society were also not ready for the Truth Commission. As evidenced from the interviews and news analysis, in the initial years of the post conflict season (2008-2009), the justice narrative was dominant. But prominence in news coverage was given to trials of indicted post-election violence perpetrators. The journalists interviewed made it clear that according to gatekeeping conventions they had known for years, the ICC was justified to occupy more space in the news agenda than the Truth Commission. In fact, they contend that other reform processes like the referendum for a new constitution also received wide coverage.

Reconceptualizing the Hierarchical Model

The development of Kenya’s news-media system is closely tied to the country’s political history (Ogola, 2011a; 2011b). The truth-seeking and truth-telling processes occurred under the shadow of this political history that privileges the voices of the

political class. When political, state and commercial interests influence media coverage an intersecting form of media capture keeps the media subservient to these forces (Atal, 2017). The findings in this study reveal that at the social systems level, the Kenyan Truth Commission's victim-centric and justice-centric agenda competed at the "gates" of news media gatekeeping with the interests of the dominant, elite political class. From Kenya's history of power politics, the picture created of this group of news subjects is male, tribal leader, Christian, wealthy, businessmen, media owners and "untouchable". This was the case of prominent politicians who dominated justice narratives. Their connectedness to other power structures in the liberalized economy and global markets, impinged on the media's independence to disrupt their hegemonic hold on dominant narratives.

At the routine levels in news gatekeeping, the Commission's agenda had to contend with a news culture of commercial pressures, authoritative and official news sources, competing news events, editorial conferences and unofficial editorial rules. At the organizational level, management and ownership as well as allocation of resources for beat assignments shaped the news coverage. At the social institutional level of analysis, the media has partnerships with other institutional members of society, in relationships that can be "coercive or collusive" (Shoemaker & Reese, 2014, p. 95). These relations can be symbiotic or antagonistic, shaping media content. The level of newsworthiness will depend on how powerful and interdependent the relationship is between the media and the institution. The Truth Commission interacted with the media's subservience to other power centers within Nairobi like the corporates, the Legislative and Judiciary that had historically impinged on media rights and freedoms.

At the individual level, I argue, the journalist as subjugated by a captured system must work within the confines of other levels of analysis to have any meaningful impact on the gatekeeping process. The individual journalist is thus constrained by media routines, organizational, social institutional and social systems factors that can reinforce the journalist's identity (as a victim or by-stander or co-oppressor) based on intersecting social markers of tribe, ethnicity, nationality, religion, gender and class. Therefore, at the individual level, a journalist is less influential as a sole player in this media system. The individual journalist in conformity to the prevailing unjust system, faces rewards or punishment for non-conformity.

The media in Kenya operating under a captured system lost an opportunity during the truth-seeking process to help mitigate the trajectory of repression, injustice and inequality. Through media routines, organizational and social institutional forces, and a powerful social system, this study believes that a reconceptualization of the hierarchical model is necessary in helping point the "truth" about journalism practice in Kenya as one where individual journalists are under a system capture. This social system must be upended for transformative journalism to be realized.



Figure 9.1: Reconceptualizing the hierarchical model. The individual level as a force at the ‘gate’ is least impactful in news process. For meaningful effect on gatekeeping, the individual force is subject to other forces. The strongest force for transformation is under social systems level.

In the reconceptualization of the hierarchical model above, this study finds that the individual force of influence is the least intrusive, if the media in Kenya were to work towards disrupting systems of injustice and inequality. An individual journalist’s consciousness is conditioned by a system that influences their work. Whether they support the system or not, they are rewarded or punished accordingly. It is their choice to comply; it is also their choice to accept the rewards of complicity. When they choose to

conform or are co-opted by the oppressors, they become sub-oppressors. As Freire (2005) states, their fear of freedom contributes to their state of unfreedom.

The social system on the other hand, places journalists in a system of ideological and structural domination. The supremacy of the “big men, the big tribes, big money”, is attached to the political economy of media in Kenya. Ideological polarity also enables this complex system or interconnecting political and economic relations in a neoliberal economy and an international system of interdependence. When “big money, big men, big tribes” find allyship in transnational corporations, bilateral relations, international corruption networks, they influence national narratives. Media ownership in Kenya, as has been shown, extends to foreign businesses.

The Aga Khan business network is an example of how powerful interests penetrate the Nation Media Group. As presidents and their families own media shares through other companies or their families, their business dealings, interests are interconnected. The families of President Moi and Uhuru Kenyatta are among the richest in Kenya. As mentioned before, their business dealings are shrouded in secrecy, but the Truth Commission implicated their families in corrupt dealings. Interview findings underscore classism in newsrooms. Different layers of gatekeeping ensure that some journalists in senior level positions are among Kenya’s elite group that constitutes the upper class that is “more cohesive than the lower class, assisted by connections and exchange of personnel between these sectors” (Shoemaker & Reese, 2014; p. 81). Correspondents in the Kenyan media find themselves at the lower end of the ranks in employment.

The social system is connected to and shapes organizational and social institutional level of forces in news gatekeeping. In a concentrated model of media ownership, the duopoly of the Standard Group and Nation Media Group consolidates power among the elite establishment within media circles. This connection between the social systems level and the organizational level cannot be downplayed. Organizations have the power to hire and fire. Organizations set editorial guidelines that influence the routine processes. Layers of gatekeeping and editorial conferences that are prevalent routine processes are reflective of a news organization's power to assign, re-assign, set the agenda and frame the news. hire and fire. Knowing these critical truths are important in disrupting newsroom policies, or journalistic actions that support media independence.

Summary of Factors that Impinged on the News

LACK OF FAITH IN THE TRUTH PROCESS

One reality that became clear from the interviews was that journalists and experts doubted the value of the truth seeking process and any implementation of recommendations from the very beginning. Journalists' pessimism and skepticism was attributed to earlier inaction and knowledge in the industry that the "big men" would be untouchable as had always been the case. Some interviewees pointed to Kenya's history of undermining transparency in releasing reports from commissions of inquiry. Some of the issues at stake that the Truth Commission was investigating had earlier been investigated by previous commissions whose findings had been hidden from the public. With this in mind, interviewees believed that the Truth project, in hindsight, was "dead on arrival" and thus they did not expect the political class to follow through with its

mission. Compared to other ongoing reform projects, interviewees believed the Truth project, while noble, would do little to change Kenya.

LACK OF TRAINING FOR TJRC REPORTING

According to the interviews conducted, not one media organization involved in this study held any training sessions for its journalists to cover the TJRC work. Nor did editorial policies change after the post-election conflict. Instead, many journalists were implored to “embrace peace”, especially before the 2013 election. The peace narrative was thus an excuse to undermine the search for truth and erase the country’s urgency to investigate historical injustices. Peace messaging in Kenya’s 2013 election has been studied before, but in this study, journalistic experiences point to a culture of “egg-shell journalism” equated as peace journalism. Meanwhile, some journalists were taken through conflict reporting workshops. Some were taken through trauma counselling but this was not done uniformly. Participants stated that the counselling sessions were partly funded by donor organizations.

PERSONALITY FETISH IN GATEKEEPING

The composition of the Truth Commission, as expressed in the TJRC Final Report and by former commissioner Slye (2018), was the single most challenging factor that almost brought the process to its knees. Particularly salient was the controversy surrounding Chairman Bethwel Kiplangat’s credibility to lead the process. From the beginning Kiplangat’s inclusion in the commission was opposed, and this dragged on until 2012 when the commission was nearing the end of its mandate. Interviewees decried the

salience of Kiplagat's position on the commission as having contributed to the negative narrativization of the TJRC's work.

The TJRC Report also articulates its prioritization of investigations into the issues surrounding Chairman Kiplagat: the Ouko assassination, the irregular allocation of land and the infamous Wagalla massacre. Accusations that Kiplagat was involved in three of the major atrocities that the commission was investigating made it even more difficult for the media to focus on the victim-centered image the commission sought to inculcate. To this end, Kiplagat featured prominently in the news discourse in his capacity as a witness and a controversial figure, affecting perceptions of doubt against the Commission's effectiveness in realizing its goals.

As Slye (2018) indicates, the Kiplagat controversy was a manifestation of the tribal enclave the Commission had become. Ironically, the Commission was investigating tribalism as a factor that had contributed to Kenya's history of injustice. While politicians from the Kalenjin tribe may have been sympathetic to Kiplagat, journalists interviewed in this study varied in their assessment of the role of tribe and ethnicity in media work. Kiplagat's prominence as a news subject also explains the media's pre-occupation with narrative appropriation where prominent personalities during the truth-seeking period were dominant speakers for victims, witnesses and for themselves. Single name headlines and news stories that reinforced the politicization of news rendered such dominant voices as the victims, while de-centering minority voices.

NON-DISRUPTIVE ROUTINIZATION IN TJRC NEWSMAKING

The TJRC was a source of news for the duration of its tenure. However, as journalists revealed, there was no special desk or beat for the Commission's work. Assignments were made in a business as usual manner, compared to the ICC, which had designated journalists. According to journalists interviewed, political journalists who had covered different beats like Parliament and other correspondents were regularly assigned political stories including the Truth Commission. The ICC had journalists dedicated to it, as noted above, though in some instances when there was news overload, journalists collaborated in reporting these events.

COMMERCIAL INTERESTS TRUMPED THE TRUTH

This study's findings reinforce the economic base and ideological superstructure position of the news ecosystem in Kenya. The political economy of news also goes beyond the monetization and financialization of journalism; it also reveals a dominant ideology of power that runs through gatekeeping processes. Notably, in the testimonies presented before the Truth Commission, senior representatives of two media organizations decried commercial interests as a hindrance to a free press but fell short of mentioning how ownership structures had direct and indirect influence in news production. For instance, the Standard Group is owned by powerful businesspeople, including members of the family of former president Moi through majority shareholding. The Nation Media Group on the other hand, is owned by the Aga Khan Fund for Economic Development, a business venture with wide commercial interests in East Africa. This organization is owned by The Aga Khan a Paris-based religious leader,

philanthropist and businessman with a network of businesses across the world. Journalists are also able to buy shares in these companies, which could complicate their loyalty to the brand amid other competing interests.

IDENTITY AND INTERSECTIONALITY

This study calls for an intersectional analysis of journalistic identity in Kenya. In reference to the truth-seeking campaign, this study reveals a matrix of dominance in news sources, ownership, and editorial management based on intersecting social markers: class, tribe, ethnicity, religion, nationality, gender, and more. The news media ecosystem at the time of transition historically did not favor marginalized groups. The elitist approach to news making created a disconnect between the victims' plight and that of senior news managers and political journalists based in Nairobi and those working as bureau chiefs. In essence, correspondents seemed to have been more involved in the Commission's work, but their stories had to go through the "gates" in Nairobi.

Secondly, prominent journalists in Kenya were all from the major tribes in the country. As indicated earlier, members of the Kikuyu tribe dominate the media industry, as well as other sectors of the Kenyan society. As a country with a powerful presidency, Kenyans have had three presidents from the Kikuyu community and one from the Kalenjin tribe. Given that Kikuyus and Kalenjins featured prominently in PEV, Uhuru Kenyatta and William Ruto's indictments by the ICC prosecutor cemented their dominance as news sources alongside other prominent politicians as the ICC debate raged on. In the end, the ICC, the Kikuyu-dominated business elite and the political class controlled the narrative. The victim-centered TJRC stood little chance.

Major Themes From the Study

In view of the above factors that impinged on news media gatekeeping, this study draws on the major findings to extract salient issues that arose out of the truth-seeking and truth-telling process. These include the “truths” journalists perceive to have contributed to the media capture in the country. Also included are historical “truths” that have shaped journalism in Kenya.

JOURNALISTIC INTERPRETATION OF PEV AS A CRITICAL INCIDENT

Journalists interviewed and those who testified before the Truth Commission acknowledged the PEV as a defining moment that triggered “peace journalism” in the 2013 election. Interviewees also saw the PEV as an opportunity to hold accountable the political class. Despite many gatekeeping challenges, journalists navigated concerns about the truth-seeking process through op-eds and public feedback. Thus, even if the news headlines splashed political figures, the editorials spoke directly to the heart of the politicians demanding that they fight impunity once and for all. According to interviewees, journalists saw PEV as a turning point in intra-newsroom relations. They spoke openly about newsroom tensions brought about by divisions, especially regarding election politics. Newsrooms had conversations about these tensions and at the Nation Media Group, the management launched a process for accountability and transparency in news work, and better working conditions for employees. Interviewees from the media organization said this did not have any disruptive effect on news gatekeeping.

PEV led to the displacement of journalists and launched a fear of working outside one’s home region or *jimbo*. Journalists testified at the Commission that the violence

exposed Kenya's ethnic divisions inside newsrooms. Outside the newsroom, ethnic Othering affected journalists who were considered "outsiders" as they worked in violence hotspots. This kind of ethnic displacement was not new, as tribal clashes have been common in Kenya every election year. In 2007, the stakes were high and the Kenya descended into chaos and violence. It was a moment of reckoning for journalists assigned to report on the election. Some journalists had to go into hiding, and others fled for their lives and sought asylum outside Kenya. One notable example is that of Omwa Ombara, a journalist with The Standard Group. While working as a bureau chief in Mombasa, Omwa discovered mega corruption between journalists and politicians. In her autobiography, *God's Child on the Run*, Omwa (2018) reveals how she faced threats to her life and eventually fled Kenya for the US.

JOURNALISTS' MEMORIALIZATION OF INJUSTICE

Journalists remember PEV very well, while the Truth Commission seems to be a process they do not wish to remember or even take seriously. Some of the senior journalists approached for an interview in this study, despite having many years of experience and being former colleagues, declined to be interviewed or evaded my efforts to talk about the Truth Commission's work. The TJRC submitted its work in 2013, and so much has happened in Kenya's public sphere since that time. However, it is my contention that even though the TJRC has completed its work, there is still much evidence that Kenyans should take the Final Report seriously. Just last year, the government pulled from the air television stations that had broadcast live the "swearing in" ceremony of opposition leader Raila Odinga as the "people's president". This is a

reminder that media manipulation and control are far from over. That the government gets away with this kind of impunity is telling. Worse yet, such authoritarian tendencies do not occur in a vacuum. They have a context and a past and have not yet been deterred. More importantly for this study, the Kenyan press is back to its “vibrancy”. This purported “vibrancy”, however, is a temporary lull, until the next “storm”. Still many journalists approached in this study insist that the Truth Commission happened too long ago to be relevant to the present.

Journalistic remembrance in this study was based on individual and collective memory of rights abuses against journalists targeted for their work challenging the powerful. When journalists testified before the Truth Commission, they memorialized their plight at the hands of state operatives. Indeed the police and politicians were the biggest culprits. As such they have succeeded in censoring the media through a culture of fear. The Commission also heard how journalists had been subjected to years of suffering and neglect.

While giving an impassioned speech, the Kenya Correspondents Association chairperson asserted that journalists in Kenya bore the face of suffering. His submission and that of other journalists before the commission reinforced the human rights violations that journalists had endured through successive regimes of Presidents Moi and Kibaki. The testimonies before the commission revealed how journalists had borne the brunt of the post-election conflict; how journalists had been subjected to exploitation, harassment, torture, insecurity, arbitrary arrests, unlawful detentions, threats, extortion, and murder.

We also remember the case of Wallace Gichere who was thrown from the second floor of his apartment here in Nairobi. He got injured and remained in a wheelchair for a very long time. He sued the Government, but the compensation was long in coming. He died two years ago. (TJRC Media Workshop, p.4.)

Table 9.1²⁰ provides a non-exhaustive list of journalists who were killed for their work after PEV and whose murders remain unresolved.

Table 9.1: Journalists killed after PEV

Name of Journalist	Media Employer	Year of death	Nature of death
Francis Nyaruri	The Standard/Citizen Weekly	2009	Murder
Wallace Gichere	Kenya Times	2008	Paralyzed after being thrown out of 4 th floor by 15 police officers in 1991.
John Kituyi	Mirror Weekly	2015	Bludgeoned to death
Samuel Nduati	Citizen Radio	2000	Murdered by gunmen
Dennis Otieno	Freelance Photojournalist	2016	Murdered by gunmen
Joseph Masha	The Standard	2016	Suspected poisoning

RQ. 4. c.) How does the truth about journalism in Kenya influence the quest for sustainable peace and development?

From the findings above, the Commission’s truth-seeking process unearths several “truths” about journalism in Kenya. Journalistic truth-telling before the Commission, news analysis and interviews with journalists all reveal some salient features of journalism practice in Kenya: One, the news media patterns of reporting never changed during the transitional period. Prominence of political personalities defeated the

²⁰ https://www.ifex.org/kenya/2002/07/22/journalist_on_hunger_strike_in/
<https://allafrica.com/stories/200804281104.html>
<https://cpj.org/2004/02/cpj-concerned-about-paralyzed-journalist.php>
<https://cpj.org/2015/05/kenyan-editor-murdered-by-unknown-assailants-in-el.php>
<https://cpj.org/data/people/samuel-nduati/>
<https://www.africanews.com/2016/09/08/kenyan-journalists-demonstrate-against-attacks/>
<https://owaahh.com/7-kenyan-journalists-killed-job/>
<https://www.standardmedia.co.ke/article/2000214659/mp-met-standard-journalist-two-days-before-his-saturday-death>

transitional justice goal of prioritizing victim-centric and justice-centric voices. Secondly, the TJRC's Final Report shows that the Commission's engagement with the media was rocky and there wasn't official consultation with media organizations as it did with other professional groups at the beginning of the truth-seeking process. If there were consultations with media groups, these are not mentioned in the report. The Commission did not thematize or problematize the media's relationship with power but rather approached media freedom within a broader context of freedom of expression in Kenya and held a workshop with journalists and representatives of media organizations.

The journalists who participated in the media workshop with the Commission expressed concerns about the repressive actions of the state and corporate interests that were hurting independent journalism in Kenya. However, this study contends that *what was not said* at this media workshop represents a missed opportunity to genuinely confront the truth about journalism in Kenya. Finally, the narratives of journalists who testified before the Commission and those who were interviewed for this study reveal a social system that has constrained the full realization of media independence in Kenya. Kenyan journalists are subservient to this system of power that is constitutive of "big men, big money and big tribes".

What implications do these findings have on sustainable peace and development in Kenya? Transitional justice is a development issue for several reasons. For one, transitional justice mechanisms connect human rights violations with underdevelopment and inequality. As such, this study argues that the media as an institution are stakeholders in transitional justice initiatives to mitigate injustice and inequality. Through their coverage of transitional justice news, journalists can promote memorialization, national

dialogue on past wrongs and promote reparative, retributive or restorative justice. As victims of human rights violations, journalists have the unique positions to tell their narrative truths in ways that can highlight re-center conversations about injustice and inequality.

United Nations Sustainable Goal (SDG) #16 is meant to “promote just, peaceful and inclusive societies.” It also calls for “access to justice for all, and building effective, accountable institutions at all levels.” One of the targets of Goal #16 is that state parties ensure “public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”

The United Nations promotes SDGs as:

the blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including those related to poverty, inequality, climate change, environmental degradation, peace and justice. The 17 Goals are all interconnected, and in order to leave no one behind, it is important that we achieve them all by 2030. (About SDGs)

Sen (2000) defines development as freedom, and freedom as the foundation of justice. More importantly, Sen outlines “the need for an integrated analysis of economic, social and political activities, involving a variety of institutions and many interactive agencies” (p. xii). The media, transitional justice mechanisms and sustainable development goals can synergistically integrate as constituent components of development to ensure substantive freedoms and rights: right to education, quality and affordable healthcare, right to civic participation, right to housing and right to work among other rights. The Truth Commission missed an opportunity to examine the “critical truth” about media capture in Kenya in relation to an enduring scourge of injustice. From this study, new conceptualizations of journalistic experiences and identities emerge within the context of a

“big men-big-tribes-big money” system of governance. Subservience to this social system has enabled a lack of media freedom.

With the end of settler colonialism, many African states were optimistic that the days ahead would be better in the areas of democratic governance, rule of law, economic development and national building (Workneh, 2017). That was not be, as sub-Saharan Africa has seen efforts towards advancement of rights and socio-economic growth enabled and constrained by an enduring legacy of strongmen, whose rise resulted in neopatrimonialism (Workneh, 2017; Diamond; 2008; Berman, 1998). According to Freedom House (2020), democratization in sub-Saharan Africa continues on a downward trajectory as countries suffer setbacks in ensuring peaceful transfers of power and freedom of expression. Ranking indices Reporters Without Borders (RSF) and Committee to Protect Journalists (CPJ) also illustrate how several African leaders are punishing dissent and rewarding sycophancy. Diamond (2008) explains:

The longstanding organization of African politics and states around autocratic personal rulers; highly centralized and overpowering presidencies; and steeply hierarchical, informal networks of patron-client relations that draw their symbolic and emotional glue from ethnic bonds (p. 138).

These autocratic rulers or the big men often thrive on unchecked presidencies and have co-existed with other formal institutions of democracy while balancing “informal practices of clientelism, corruption, ethnic mobilization and personal rule (Diamond, 2008, p. 138). In Kenya, the powerful presidency has been an antecedent or precursor to electoral violence (CIPEV, 2009). This study has established the power of the presidency and competitive politics as a hindrance to independent journalism. Through news values that prioritize “prominence”, the disruptive agenda of the Truth Commission clashed with the pro-status quo system of media ownership and state capture of the media. Journalists were

faced with de-centering prominent political voices — some of whom had been adversely named as human rights violators — and re-centering the voices of minorities. Beating this gatekeeping dilemma was contingent on the economic survival of the media conglomerates.

As victims of injustice and inequality, journalists in Kenya have suffered under a repressive system of governance. While Kenya has a robust media network, the false consciousness of stability has erased the ways in which the big man syndrome subjects journalists to suffering through the criminalization of dissent, detentions, arrests, torture, killings, threats and intimidation. Journalists are also divided by class, with those who are based in Nairobi better remunerated while lower cadres of reporters like correspondents have to settle for less. The reliance on poorly-resourced correspondents has meant that the voices of marginalized communities have been stifled. The repercussions are reflected in the disproportionate representation of these marginalized groups in journalistic labor and in news content. Victimization of journalists has fueled a culture of impunity and inequality.

As witnesses of injustice and inequality, this study argues that journalists are invaluable in documenting narratives of injustice. Their witnessing though is considered within the broader socio-economic contexts of their work. In the context of truth-seeking, the Kenyan Truth Commission relied on archived news among other methods of data collection for investigations into past atrocities. This journalistic witnessing carries with it the burden of ideological baggage based on experiences of colleagues or self-experiences. For instance, self-censorship and conveyor-belt reporting can be a way to avoid punishment in a media system grounded in repressive violence. Witnessing in the Kenyan truth-seeking context also unveiled an attitude of pessimism that the Commission would propel Kenya to transformative change. Based on past experiences covering commissions of inquiry,

journalists were skeptical about the Commission's work being honored by the political class. Journalists testified before the Commission as victims and witnesses of injustice. However, their testimonies were devoid of critical truths about journalism in Kenya. This kind of censored witnessing has also enabled a culture of injustice and inequality.

As complicit co-oppressors, this study argues that a section of journalists in Kenya have developed strategies of "friendliness" to the political class to reap rewards of favorable reporting or gatekeeping. By-stander journalists are aware of these bargains within the newsroom but choose silence and fear, resulting in a vicious cycle of corruption and (brown or white) envelope journalism. By-stander bargaining contributes to personality fetish where only a few names of politicians feature prominently in Kenyan news, it also leads to inconsistent and uncoordinated efforts to check power and fight corruption. Those who have tried to hold presidents and other leading politicians accountable have been punished (see the epilogue below). By-stander bargaining tactics on gatekeeping and friendly journalism, I argue, constitute what Paolo Freire terms as "fear of freedom". This is a helpful concept in the deconstruction of media messaging in relation to historically and culturally contingent media cultures.

As Freire (2005) explains this concept:

...the oppressed, instead of striving for liberation, tend themselves to become oppressors, or "sub-oppressors". The very structure of their thought has been conditioned by the contradictions of the concrete, existential situation by which they were shaped. Their ideal is to be men; but for them, to be men is to be oppressors. This is their model of humanity. (p. 45)

The fear of freedom, a culture of silence and fear have contributed to status quo journalism, where journalists have to balance between their roles as change actors and

their subservience to a powerful political system. As co-oppressors, journalists contribute to injustice and inequality.

Recommendations for Future Directions in Journalism and Truth-seeking: Critical Journalistic Legacy

This study argues that for a critical journalistic legacy in societies that are going through truth-seeking as a process for restorative justice. It involves a critical understanding of journalistic practices, news paradigms and media capture systems that can enable productive engagements between truth commissions and the media. For this reason, I recommend:

1. Truth Commissions should deliberately establish media freedom/freedom of expression as a major theme in their work. In doing so, they should set aside a budget for media research to aid their critical understanding of the local media sphere.
2. Media thematic hearings should be exhaustive and awareness for such events spread to all who work in the industry through concerted efforts with partners in the industry. This will be determined by contextual definitions of “who is a journalist”.
3. Media managers should change their routines during transitional moments by creating a conspicuous space, budget and beat dedicated to truth-seeking and truth-telling. The budgetary allocation can be supplemented with funding from government or crowdfunding initiatives.

4. There must be concerted effort by state actors to consider the safety and security of journalists with a goal of transforming media independence. Laws on media security that is specifically aimed at protecting whistleblowers should be enacted. Journalists on the other hand, can use such protections to secure justice by collaborating with their colleagues to check power.
5. Newsrooms should have their own truth moment to address intra-newsroom divisions based on intersecting social markers such as gender, class, ethnicity and religion, especially ahead of politically charged periods such as elections.
6. Media organizations should produce in their platforms, ‘dedicated non elitist truth’ spaces where they engage their publics on matters governance, human rights and the rule of law. This is especially necessary in between elections to educate the public on their rights and resources for keeping elected officials in check.
7. As social institutions, the media and truth commissions should be prepared for a transitional environment through training and capacity building to deeply understand the goals of transitional justice and the implications of their work on these processes.
8. News archives should be accessible to researchers for free during and after transitional moments. Scholars have argued that transitional justice should not just be limited to reductionist post-conflict narratives of peacebuilding, but should be normalized as localized emancipatory processes (Sharp, 2015). Local archives provide journalists and other human rights actors the resources needed for investigations and memorialization of the past. They normalize the emancipatory

processes even when the transitional period is long forgotten. In addition to news archival access, a memorial site for those journalists who have paid the ultimate price for doing their work should house a library with journalistic records of events as published, whether in print, broadcasting or digital formats. I recommend an International Day of Journalism and Memory.

This journalistic legacy is a framework that underscores the contribution of journalism's normative roles to discourses, investigations and extensions of historical chapters in a society. The transitional justice turn in journalism offers news ways to approach the media-transitional justice-development nexus: the three concepts treated as mutually constitutive tools for the realization of sustainable development goals for societies that have undergone a period of human rights violations or war. The journalism-transitional justice nexus revisits the critical junctures approach, which treats both institutions as shaped by historical antecedents. These antecedents capture their institutional processes, structural influences, symbiotic and antagonistic relations.

Limitations of Study and Recommendations

This is an exploratory study. To my knowledge, there has been no previous study of the Kenyan Truth Commission and the media, but this study cannot claim to be complete. This study was undertaken without the input of all senior media managers at NMG and Standard Group, some of whom turned down my requests for interview. Furthermore, the study was largely focused on newspaper journalists, leaving out many other players in the industry who work in other print sectors and broadcast journalism. While this study benefitted from the analysis of the two leading dailies, it is worth noting

that the TJRC used a variety of outreach platforms such as community radio programs. Future studies could extend these discussions by examining community radio and mobile telephony as avenues of reaching the sub-altern masses with messages of truth, justice and reconciliation.

The quantitative content analysis too, is limited by the relatively small number of sampled articles. Its findings are therefore not fully representative or generalizable but give a rich insight into patterns and extent of reporting. Further studies on the representation and framing of PEV actors should include a larger sample and/or a critical discourse analysis of news frames.

I suggest further studies to extend conversations on transitional justice and the media within interdisciplinary fields. For example, using feminist political economy lenses would be useful in analyzing the corporate media and gender justice in a transitional context. In Kenya, the journalists who were detained, tortured and killed were bread winners in their families. In a patriarchal society, their wives had to employ alternative gender strategies for economic survival while undergoing the subjugation of widowhood. In testimonies before the Truth Commission, three journalists narrated how the murder of journalist Francis Nyaruri had negatively impacted his family.

At that time, his phone could not be accessed after he had talked to his wife. The wife tried to reach him at around midday but she could not....after the lady realized that the police were not co-operative, she went to her rural home about 15 kilometers away from Nyamira Town and reported the matter to the father of the late journalist. (TJRC Media Workshop, p. 46)

Another journalist, Samuel Otieno Owida of the *Daily Nation*, who testified before the Commission, said his life was constantly in danger and also feared for the survival of his family of three children and a wife.

I could not concentrate on my job as I was on the run every now and again...I have been living in fear up to recently when I was diagnosed with high blood pressure...I am not in touch with the family, a lot of things have happened. I am not in control of what happens to my children because I am the bread winner (TJRC Media Workshop, p. 49).

These experiences reveal how state persecution of journalists extended to their families. In a patriarchal society where the male breadwinner is expected to take care of his wife and children, and sometimes extended family members as well, hurting the journalist reproduces the subjugation of the immediate kin. For the wives of these journalists, the search for justice is a long and arduous process that has rarely yields any justice. The women become widows while at the same time fitting into new roles as economic providers for their children. Already jeopardized by their subjugated cultural status, their stories remain in the margins. Women testified separately during the Truth Commission's hearing about the suffering, stigma and ostracization they had undergone after losing their husbands to the hands of security agents. The women's hearings were hugely popular. However, some newsrooms assigned male journalists to cover such events but they were turned away (Lynch, 2018). Future studies should navigate the gendered division of labor in the media and what it means for such gendered sessions in a truth-seeking process. Why would news managers and editors send male journalists to cover women's hearings when these were designated as women's only? Undertaking future research on gender justice and the media in such contexts should seek disruptive definitions of justice. Truth commissions should not just call for gender mainstreaming using a status quo approach, but seek transformative approaches that defy privilege, embrace intersectionality and de-marginalize minority narratives. Without gender justice in transitional justice, there cannot be sustainable peace (Akanle, 2011). In mainstream

transitional justice contexts, debates that shape national dialogue are dependent on the androcentric notions of the nation, national identity and power (Brown & Ní Aoláin, 2015). Braun (2011) suggests a framework for engaging gender justice from a sustainability perspective by suggesting an economics that values women and their work, their lives and their bodies, that values equity and supports both structural and interpersonal non-violence in gender relations” (p. 210).

Secondly, future studies should expand on media and transitional contexts in countries that are generally peaceful without antecedents of war. Future studies should also embrace comparative frameworks in studying media and social relations in societies that have undergone transitional contexts. It is recommended that studies focus on critically examining media messaging during transitional justice periods using critical-cultural approaches and qualitative methods such as critical discourse analysis and/or narrative analysis of texts, images and/or social media contributions.

Finally, technological advancements in the digital age have had a huge impact on journalism and news production. Future studies on media and transitional justice should look at how news producers use digital platforms for new ways of storytelling and engagement in conflict and post-conflict situations. For example, in my extensive studies, I have found that platform capture and data bias — through interlocking forms of oppression and domination — are emerging forms of constraints that hinder efforts towards sustainable peace and development in transitional contexts .

EPILOGUE: THE STRUGGLE CONTINUES

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.— Article 19 UN Declaration of Human Rights

On January 20, 2016, a senior editor at Nation Media Group was suspended for an editorial he wrote that criticized the administration’s poor governance record. The editor, Denis Galava, wrote on his *Twitter* handle:



In the editorial, the editor had castigated the president over his ‘executive myopia’ and ‘incompetence in managing the Kenyan economy.’

Mr President, unemployment, corruption, bureaucratic incompetence and economic paralysis are the bane of your regime. The country today is crying for action — practical measures to guarantee the citizens that the government has been seized of their concerns. Instead of providing this leadership, you and your lieutenants — the Deputy President, the Cabinet, MPs and Senators — have adopted a default campaign mode of regaling the public with tales of largesse to come.

The NMG later explained that Galava had been suspended for not following a chain of command (lack of consultation) in writing the editorial.

On January 30, 2018, Officials from the broadcast regulator the Communications Authority, accompanied by police, switched off transmitters as the stations were broadcasting a live “swearing-in” ceremony of opposition leader Raila Odinga. According to the Committee to Protect Journalists and the Editors’ Guild, the order came after President Uhuru Kenyatta and other senior government officials “summoned senior media managers and editors on January 26 and threatened to shut their stations down and revoke their licenses if they broadcast live an event in which Kenya's opposition leader, Raila Odinga, took an oath as the “people's president” in protest of the disputed elections last year.”

In a statement by the chairperson of the Editors Guild, “the meeting was held under an atmosphere of intimidation for the media representatives present”. Consequently, on January 31, a day after TV transmitters were switched off, three NMG journalists spent the night in the newsroom after security sources warned them of imminent arrests because they broadcast the live “swearing in” event. They had to work with lawyers for their freedom after plainclothes police officers camped outside their offices in the center of the city. Two of the journalists were later sacked from the media house, including the Editors Guild chairperson who was also the NMG managing editor for NTV. These events happened within the context of another disputed election in August 2017, where the Supreme Court nullified the election of Uhuru Kenyatta as president and ordered fresh elections. A week before the election, a senior official at the Independent Electoral and Boundaries Commission (IEBC) was found murdered in cold blood, triggering widespread fears among opposition supporters and human rights activists that he was assassinated. His killers have never been brought to justice.

In March 2018, eight columnists resigned from the Nation Media Group, citing the Executive and NMG's actions that suggested state capture of the media. In their statement they wrote: "Censoring individual columnists signals official intolerance for dissenting views and suggests Executive willingness to go to any length – even co-opting editors – to achieve its aims," (Statement by independent columnists, 2018).

These stories bring this study to a pause in the hope that this conversation will continue in Kenya and beyond borders. Because it is a conversation we must have if we are to regain the trust of journalism to inform and shape our consciousness. State capture and media control have in many ways hindered journalistic independence in Kenya. Consequently, fighting inequality and injustice remains ineffective. Within our newsrooms, journalistic self-reflexivity helps individual journalists to reassess their relations with power and its influence on their work and the lives of many Kenyans who appeared before the Truth Commission seeking justice. May the "truth" prevail.

APPENDICES

APPENDIX A: ACRONYMS

ABC	Audit Bureau of Circulations
AfriCOG	Africa Center for Open Governance
AKFED	Aga Khan Fund for Economic Development
AMP	Adversely Mentioned Person
AMWIK	Association of Media Women in Kenya
BBC	British Broadcasting Corporation
BRICS	Brazil, Russia, India, China, South Africa
CCK	Communications Commission of Kenya
CCTV	Closed Circuit Television
CID	Criminal Investigations Department
CIPEV	Commission of Inquiry into Post-Election Violence
CITI	Collaborative Institutional Training Initiative
CMS	Content Management System
CNN	Cable News Network
CPJ	Committee to Protect Journalists
CVR	<i>Comisión de la Verdad y Reconciliación</i>
EU	European Union
FIDA-Kenya	International Federation of Women Lawyers
HRW	Human Rights Watch
ICC	International Criminal Court
ICJ	International Commission of Jurists
ICT	Information Communication Technology
ICTJ	International Center for Truth and Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IFEX	(formerly) International Freedom of Expression Exchange
IRB	Institutional Review Board
KBC	Kenya Broadcasting Corporation
KCA	Kenya Correspondents Association
KNDR	Kenya National Dialogue and Reconciliation
KTN	TV Kenya Television Network TV
KUJ	Kenya Union of Journalists
MCK	Media Council of Kenya
NATO	North Atlantic Treaty Organization
NIS	National Intelligence Service
NMG	Nation Media Group
NWICO	New World Information and Communication Order
ODM	Orange Democratic Movement
OIRB	Oregon Institutional Review Board
OPHS	Office for the Protection of Human Subjects
PEV	Post-election Violence
PNU	Party of National Unity

PPU	Presidential Press Unit
PR.....	Public Relations
PSB	Public Service Broadcasting
RCS.....	Research Compliance Services
RSF	Reporters Without Borders
SDG	Sustainable Development Goals
SG	Standard Group
SPSS.....	Statistical Package for the Social Sciences
TJRC	Truth, Justice and Reconciliation Commission
TRC.....	Truth and Reconciliation Commission
UNDP.....	United Nations Development Program
UPI.....	United Press International
USAID	United States Agency for International Development
US(A).....	United States of America
USIP.....	United States Institute of Peace
UK.....	United Kingdom
VoA.....	Voice of America
VPPU	Vice Presidential Press Unit

APPENDIX B: CONTENT ANALYSIS CODEBOOK

The following is a codebook that was used for the quantitative content analysis in this study. It is divided into a synopsis and then the coding variables follow next. This is the final version of the codebook after a revision to refine variable definitions and terms.

Synopsis

On December 30 2007, Kenya's electoral commission chair announced Mwai Kibaki as the winner of a closely contested presidential election. The announcement was made late in the evening and Kibaki was sworn in at 7pm. What followed was a wave of killings that left 1,300 people dead and more than 600,000 violently uprooted from their homes. Kenya long considered "an island of peace", was on the brink. The violence ended when an AU Panel of Eminent Personalities - led by former UN Secretary-General Kofi Annan - secured a deal between the main protagonists Mwai Kibaki and Raila Odinga, leading to a coalition government. There was a strong push from the public for justice. The Truth, Justice and Reconciliation Commission (TJRC) was set up and the International Criminal Court (ICC) opened cases against five prominent Kenyans and a radio presenter accusing them of masterminding the post-election violence. Kenya entered a period of transitional justice.

According to the International Center for Transitional Justice, "Transitional Justice is rooted in accountability and redress for victims. It recognizes their dignity as citizens and as human beings. Ignoring massive abuses is an easy way out but it destroys the values on which any decent society can be built". You can read more about Transitional Justice [here](#). Some of the most publicized transitional justice measures include truth commissions, large-scale reparations programs for victims, and prosecutions of the architects of the crimes. This study is about journalistic participation in the truth-seeking process of the TJRC. The media have a unique position within which they can choose the news agenda, and how the news is framed. In this context, they had the opportunity to "transform a divisive war of narratives about the past into a constructive dialogue that can be fertile ground for acknowledgement and accountability". This quantitative content analysis is aimed at revealing dominant news actors in the news media. It is a basic descriptive methodology that will reveal patterns of news coverage of the Truth Commission's work to inform other parts of this study.

VARIABLES

A. Article ID # 1-390: This variable enters the number of news article in order of coding. It has no meaningful impact on the study other than for organization and order

B. Coder Name: This codes for the researchers engaged in the coding.

1. Coder A
2. Coder B

C. Newspaper Title: These are the titles of Kenya's leading newspapers, produced by the top media organizations in the region: the Nation Media Group and Standard Group. They have sister publications like *The Sunday Standard*, *Sunday Nation*, *Business Daily*, *Standard on Saturday*, *Saturday Nation*, etc. The selected news stories can only be from one of these two news publishers. The stories coded were retrieved from their online platforms.

1. The Standard
2. Daily Nation

D. News category: All news stories have different homes that reflect the news production routines of a newspaper. Each story should fit into one genre category, based on its content. Underneath each news story title or headline is the bibliographic information (meta data) which includes the genre under which the story was published.

1. Politics/News
2. Africa News
3. Feature story
4. Oped/Letters/Opinion
5. Business
6. World News
7. Other/Not indicated/Can't tell

E. Byline: Every news story should have an author identified in many forms. Some stories will have more than one named authors, others will be written by collaborative news teams. Yet still, there are those stories with missing bylines. Correspondents are contracted journalists who largely cover stories outside Nairobi and they can be identified by name on the byline or not..

1. By Nation Reporter(s)
2. By Standard Reporter(s)
3. By Nation Correspondent(s)
4. By Standard Correspondent(s)
5. By Nation Team
6. By Standard Team
7. By Agencies (or agency name given e.g. *Xinhua*)
8. Combo (e.g. Nation Reporter and Agencies)
9. By (Name of writer, reporter(s))
10. By KNA (Kenya News Agency)
11. Missing byline
12. Other (VPPS, PPS, PMPS)

F. Location of filing: Stories are filed at city desks, where senior news editors sit. News stories can also be filed at regional bureaus spread across different Kenyan towns. Some news stories are filed by Wire Agencies. Stories will always show their location of filing under bibliographic information

1. Nairobi (city/central desk)
2. Bureau (any other Kenyan town e.g. Mombasa, Busia, Kisumu, Nakuru)

3. Western cities (in US, Europe)
4. African cities e.g. Addis Ababa, etc.
5. Asia e.g. China
6. Combo of any two or more towns
7. None (not indicated)

G. Year: This is very important as timelines reveal a trajectory of events as they are covered in the news. For the Kenyan Truth Commission this was even more important because the TJRC had a tenure, and its processes were based on a timeline. Each article coded falls within a specific year. The TJRC was inaugurated in 2009, but conversations about justice and reforms were part of the peace agreement talks between Raila Odinga and Mwai Kibaki.

1. 2008
2. 2009
3. 2010
4. 2011
5. 2012
6. 2013

H. Sequence: News articles can be filed in weekday or weekend newspapers. This is also indicated within the bibliographic information of the text.

1. Daily
2. Weekend

I. Article Length: This variable reveals the amount of space allocated for a story and therefore its importance. The longer a news story the more time was spent on it and the more important it is to editors.

1. Less than 500 words
2. 500-1000 words
3. 1000+

J. Dominant Source of news: This variable represents sources QUOTED in the first five paragraphs of the story. In this case, the source is dominant if his/her/their quote comes earliest in the article, and if quoted more than the rest. This makes for a DOMINANT VOICE.*

1. Anonymous
2. Local Politicians
3. Civil Society/NGOs: professional groups, religious, women, elders,)
4. Political Parties
5. Judiciary/AG/CJ/State agencies
6. Security actors
7. International actors
8. TJRC Act/Officials/Report/Commissioners
9. Business elite/corporates/pollsters
10. Citizens/the public/bloggers/*Wananchi*

11. Victims/Witnesses/Survivors
12. Professionals (individual doctors, scholars, experts, lawyers)
13. Others
14. Missing

*Some of these categories were later merged during analysis.

K. JUSTICE FRAME: The news media should reflect the values of truth, justice, healing and reconciliation. In a transitional justice context, they should also reflect the voices of victims and witnesses to guide the country into a moment of national dialogue. The media are crucial to promoting victim's rights, championing accountability and even catalyzing transitional justice processes by uncovering hidden truths about crimes and their perpetrators. Does this article's tone *support* or *promote* truth and justice mechanisms? Is it helpful in the cause for truth and justice?

1. Justice-Positive (critical, probes, watchdog role, investigative, seeks solutions, demands answers, has voices that promote truth and justice, voices that seek truth and justice like witnesses, victims, is thematic)
2. Justice-Negative (sensational, scandalous, tabloid, personalities whose stories promote self-interests, indifference, arrogance, or political agenda, partisan politics)
3. Neutral (indifferent, says nothing more, just informs, episodic, also shows competing and divisive narratives on reforms, TJRC)

APPENDIX C: NEWS ARTICLES

The following is a list of relevant articles retrieved from database for pre-coding analysis.

The Daily Nation

2008

1. <http://www.nation.co.ke/news/politics/1064-492812-88oyklz/index.html> Review Truth Bill in line with Waki report, urges don
2. <http://www.nation.co.ke/news/1056-236234-ltfqfkz/index.html> Change law on Truth commission, says lobby
3. <http://www.nation.co.ke/news/politics/1064-445484-8bpo28z/index.html> Members want team to probe beyond 1963
4. <http://www.nation.co.ke/news/politics/1064-453160-8b517iz/index.html> Bill to defer Truth Bill fails
5. <http://www.nation.co.ke/news/1056-468544-koe79jz/index.html> Majority back Truth team, study shows (support) 88%
6. <http://www.nation.co.ke/news/1056-229606-lu04b5z/index.html> Truth body must deal firmly with poll violence perpetrators
7. <http://www.nation.co.ke/news/1056-232198-ltjcaz/index.html> Pardon for poll violence crimes
8. <http://www.nation.co.ke/news/1056-444866-kpoywnz/index.html> Target of the truth and justice Bill
9. <http://www.nation.co.ke/news/politics/1064-504998-7u4o9mz/index.html> Sh700m 'wasted' on inquiry commissions

2009

1. <http://www.nation.co.ke/news/1056-619704-joaoh3z/index.html> Waki list suspects may face truth commission
2. <http://www.nation.co.ke/news/politics/1064-832252-663elpz/index.html> The men in whose hands our collective destiny lies
3. <http://www.nation.co.ke/news/1056-640346-jmmeowz/index.html> US ups pressure on Kibaki and Raila to sack police and justice chiefs
4. <http://www.nation.co.ke/news/1056-611358-jogclqz/index.html> Proposed peace team awaits Kibaki approval
5. <http://www.nation.co.ke/news/1056-638658-jn3bnjz/index.html> TJ mandate will not be expanded, says Mutula
6. <http://www.nation.co.ke/news/politics/1064-636004-7965hsz/index.html> Religious group oppose review of TJRC mandate
7. <http://www.nation.co.ke/news/1056-659470-jltl34z/index.html> Suit hindering TJRC work, court told
8. <http://www.nation.co.ke/news/politics/1064-636608-7960rxz/index.html> TJRC with trial powers is a risky gamble

9. <http://www.nation.co.ke/news/regional/1070-636482-avadgvz/index.html> Civil society urges House to disband TJRC
10. <http://www.nation.co.ke/news/1056-634592-jn64mbz/index.html> Former detainees move to court over TJRC
11. <http://www.nation.co.ke/news/politics/1064-629882-79pexwz/index.html> Political figures may sabotage Kenyan Truth team, lawyers warn
12. <http://www.nation.co.ke/news/1056-654946-jlwxt6z/index.html> Court urged to dismiss TJRC case
13. <http://www.nation.co.ke/news/politics/1064-638344-794oejz/index.html> Truth team will not end impunity, says Maathai
14. <http://www.nation.co.ke/news/politics/CJ-picks-tribunal-to-investigate-Kiplagat-/1064-1043148-64868wz/index.html> 1. CJ picks tribunal to investigate Kiplagat
15. <http://www.nation.co.ke/news/1056-673604-jkpmsoz/index.html> Nyayo torture victims renew opposition to TJRC boss
16. <http://www.nation.co.ke/news/1056-629312-jno8orz/index.html> UN praises creation of TJRC
17. <http://www.nation.co.ke/news/1056-637304-jn43gmz/index.html> Truth commission unlikely to try suspects
18. <http://www.nation.co.ke/news/1056-638772-jn3athz/index.html> TJRC mandate 'will not change'
19. <http://www.nation.co.ke/news/1056-634080-jn68kjz/index.html> EU writes to PM, Kilonzo over Truth Commission
20. <http://www.nation.co.ke/news/1056-632382-jn7jugz/index.html> Kenya Cabinet agrees on TJRC
21. <http://www.nation.co.ke/news/1056-627950-jnphivz/index.html> Kibaki names Kenya Truth Commission
22. <http://www.nation.co.ke/news/politics/1064-635516-796puqz/index.html> Raila defends Cabinet pick on TJRC option
23. <http://www.nation.co.ke/news/1056-629078-jnoavnz/index.html> Annan seeks world support for Kenya Truth team
24. <http://www.nation.co.ke/news/1056-636270-jn4se6z/index.html> EU mulls withholding TJRC funds
25. <http://www.nation.co.ke/news/politics/1064-629888-79pexqz/index.html> Reconciling Kenya proves to be tearful affair
26. <http://www.nation.co.ke/news/1056-636296-jn4sc8z/index.html> Two years 'not enough for Truth team'
27. <http://www.nation.co.ke/news/1056-628872-jnosxcz/index.html> Forgive and forget, but face truth first
28. <http://www.nation.co.ke/news/1056-636586-jn4q0qz/index.html> Government faces rebellion over Truth commission
29. <http://www.nation.co.ke/news/1056-628256-jnoxoqz/index.html> The man with the hardest job in Kenya
30. <http://www.nation.co.ke/news/politics/1064-629880-79pexyz/index.html> Mutula: TJRC is no option for trying post-poll suspects
31. <http://www.nation.co.ke/news/1056-631048-jn8bmdz/index.html> Support Truth team, VP urges Kenyans

32. <http://www.nation.co.ke/news/1056-631846-jn85crz/index.html> Foreigner should head Truth team, says Mazrui
33. <http://www.nation.co.ke/news/1056-629316-jno8onz/index.html> First to face the Truth test
34. <http://www.nation.co.ke/news/1056-562714-k5fkxkz/index.html> Truth team nominees selected
35. <http://www.nation.co.ke/news/1056-666298-jla6n8z/index.html> Raila wants action on past ills
36. <http://www.nation.co.ke/news/1056-672054-jkqgp6z/index.html> Kenya PM defends govt over reforms
37. <http://www.nation.co.ke/news/politics/1064-557272-7r02doz/index.html> Issues that must be addressed to speed up reforms
38. <http://www.nation.co.ke/news/1056-633972-jn6pufz/index.html> Kenyan MPs vow to push for Hague trials
39. <http://www.nation.co.ke/news/1056-680212-jk69yvz/index.html> Ocampo urges unity over reforms
40. <http://www.nation.co.ke/news/politics/1064-667778-77ant6z/index.html> Kenya govt defends pace of reforms
41. <http://www.nation.co.ke/news/1056-640178-jmmg74z/index.html> ODM says will back Kenya Tribunal Bill
42. <http://www.nation.co.ke/news/1056-613816-joetkpz/index.html> Raila pledges reforms by June next year
43. <http://www.nation.co.ke/news/1056-670996-jkrm6sz/index.html> Law review team to give status report
44. <http://www.nation.co.ke/news/politics/1064-547466-7rljpuz/index.html> Return of hate speech as Kenyan politicians form tribal alliances ahead of polls
45. <http://www.nation.co.ke/news/1056-636582-jn4q0uz/index.html> Secrets of Clinton private meetings
46. <http://www.nation.co.ke/news/politics/1064-637086-795fyhz/index.html> Truth team 'will not bring justice' (by Anglican Church)
47. <http://www.nation.co.ke/news/1056-629150-jnoa67z/index.html> Muslims vow to reject Truth team

2010

1. <http://www.nation.co.ke/news/politics/1064-870326-63nlxvz/index.html> Revealed: Plot to end Annan mandate
2. <http://www.nation.co.ke/news/1056-856376-iiq8cfz/index.html> Bethwel Kiplagat responds to allegations
3. <http://www.nation.co.ke/news/Former-detective-reveals-how-Bishop-Muge-met-his-death-/1056-1013658-1589eoqz/index.html>
4. <http://www.nation.co.ke/news/Wagalla-massacre/1056-923254-13wtmrvz/index.html> Wagalla massacre: The anatomy of atrocity in North Eastern
5. <http://www.nation.co.ke/news/Kenya-to-give-rights-scorecard/1056-898418-15jpnjny/index.html>

6. <http://www.nation.co.ke/news/Justice-minister-vows-new-quest-for-Kenya-violence-tribunal/1056-884922-cmgsmqz/index.html>
7. <http://www.nation.co.ke/news/Former-soldiers-say-ignored-over-failed-coup/1056-1075560-283eq3z/index.html>
8. <http://www.nation.co.ke/news/Truth-witnesses-seek-protection-/1056-925842-70117wz/index.html>
9. <http://www.nation.co.ke/news/1056-869796-ii2ib0z/index.html> Truth team selection panel on the spot
10. <http://www.nation.co.ke/news/MPs-seek-ways-to-disband-truth-team/1056-943938-127v983/index.html>
11. <http://www.nation.co.ke/news/Militia-turned-well-into-a-mass-grave/1056-926542-nkktoo/index.html>
12. <http://www.nation.co.ke/news/regional/North-Rift-leaders-back-Kiplagat-/1070-890702-146kiohz/index.html> ethnicity/tribalism
13. <http://www.nation.co.ke/news/Kalonzo-comes-to-the-defence-of-Kiplagat-/1056-874700-14sulf4z/index.html>
14. <http://www.nation.co.ke/news/politics/TJRC-chair-Kiplagat-steps-aside-/1064-1045222-10rrcp9z/index.html> Kiplagat resigns
15. <http://www.nation.co.ke/news/Kilonzo-tells-TJRC-team-to-quit/1056-902226-2600x4/index.html>
16. <http://www.nation.co.ke/news/Rights-group-petitions-CJ-over-Kiplagat-/1056-1007234-nl89rfz/index.html>
17. <http://www.nation.co.ke/news/Karua-backs-calls-to-send-Truth-team-home-/1056-900364-ula3i3/index.html>
18. <http://www.nation.co.ke/news/House-team-consults-on--fate-of-TJRC-/1056-905622-m7kqsfz/index.html>
19. <http://www.nation.co.ke/news/MP-to-move-motion-for-TJRC-ouster-/1056-909272-14e5gww/index.html>
20. <http://www.nation.co.ke/news/TJRC-reaches-out-to-Mt-Elgon-victims-/1056-1003454-k1bphr/index.html>
21. <http://www.nation.co.ke/news/Witnesses-doubt-TJRC-protection-programme/1056-1036106-6grs3pz/index.html>
22. <http://www.nation.co.ke/news/TJRC-can-probe-Kiplagats-record/1056-875702-nrtw8z/index.html>
23. <http://www.nation.co.ke/news/1056-902660-i2sw1mz/index.html> Why Betty quit as vice-chair
24. <http://www.nation.co.ke/news/1056-859796-ii027bz/index.html> Justice minister defends Kiplagat over calls to quit
25. <http://www.nation.co.ke/news/politics/Hidden-hand-behind-the-crisis-at-Kenya-Truth-commission-/1064-1038986-11ugs5rz/index.html>
26. <http://www.nation.co.ke/news/1056-852648-iisxccz/index.html> Public walk out of TJRC meeting
27. <http://www.nation.co.ke/news/CJ-holds-key-to-survival-of-Truth-commission-/1056-906170-70vtmpz/index.html>
28. <http://www.nation.co.ke/news/1056-1035592-15anjy7/index.html> Kiplagat team runs out of cash for operations

29. <http://www.nation.co.ke/news/1056-975434-hxg3gdz/index.html> Truth team recruits victims of historical injustices
30. <http://www.nation.co.ke/news/Shunned-by-partners-truth-body-wobbles-to-final-days-/1056-1048386-8pjd6/index.html>
31. <http://www.nation.co.ke/news/UN-official-cautions-TJRC-over-handling-of-past-injustices/1056-1001890-owauguz/index.html>
32. <http://www.nation.co.ke/news/Truth-team-fights-for-survival-/1056-1003914-ke33yo/index.html>
33. <http://www.nation.co.ke/news/1056-853372-iisbb2z/index.html> Kiplagat under pressure to quit
34. <http://www.nation.co.ke/news/Deputy-speaker-defends-Kiplagat/1056-905190-1plyetz/index.html>
35. <http://www.nation.co.ke/news/regional/Truth-team-receives-statements-on-rights-abuses/1070-1030262-p8ho88/index.html>
36. <http://www.nation.co.ke/news/politics/1064-860432-64a51yz/index.html> Case to stop Kiplagat team put on hold
37. <http://www.nation.co.ke/news/1056-1041736-15b7d0j/index.html> Kiplagat insists only tribunal key to his fate
38. <http://www.nation.co.ke/news/House-urged-to-drop-motion-against-TJRC-/1056-913782-bmm5pa/index.html>
39. <http://www.nation.co.ke/news/1056-870356-ihmbilz/index.html> TJRC official offers to quit
40. <http://www.nation.co.ke/news/Queries-raised-over-TJRC-funds-/1056-909848-m5cpmz/index.html>
41. <http://www.nation.co.ke/news/Truth-team-now-wants-Kiplagat-suspended-/1056-1043690-115rdx1z/index.html>
42. <http://www.nation.co.ke/news/Kenya-search-for-truth--justice-on-course/1056-1006932-hcwnci/index.html>
43. <http://www.nation.co.ke/news/Commissioners-ask-Kiplagat-to-resign-/1056-888172-w8wdle/index.html>
44. <http://www.nation.co.ke/news/Truth-witnesses-to-get-State-protection/1056-928810-7rsqtw/index.html>
45. <http://www.nation.co.ke/news/Lobby-demands-Kiplagat-resignation/1056-899754-jrhmtz/index.html>
46. <http://www.nation.co.ke/news/1056-1038090-15apj0d/index.html> Amend law to ease Kiplagat's ouster
47. <http://www.nation.co.ke/news/Civil-society-divided-over-truth-team-role-/1056-1003416-fqysglz/index.html>
48. <http://www.nation.co.ke/news/Truth-team-seeks-Sh1bn-for-its-work-/1056-1047810-r3s464/index.html>
49. <http://www.nation.co.ke/news/Truth-team-picks-new-vice-chair-as-Kiplagat-stays-put/1056-890750-y2b3b6z/index.html>
50. <http://www.nation.co.ke/news/regional/SLDF-victims-want-to-testify-in-safety/1070-931080-7d35wiz/index.html>
51. <http://www.nation.co.ke/news/Truth-team-beyond-redemption-Kibaki-told/1056-1053838-r3gpor/index.html>

52. <http://www.nation.co.ke/news/1056-869372-ii2lhpz/index.html> Kiplagat seeks court protection
53. <http://www.nation.co.ke/news/Truth-team-boss-resigns-in-protest-/1056-888808-e9htb5/index.html>
54. <http://www.nation.co.ke/news/1056-1043268-15b8msb/index.html> TJRC's Kiplagat running out of options
55. <http://www.nation.co.ke/news/politics/Judge-rejects-offer-to-chair-Kiplagat-tribunal-/1064-1052572-rxhq3o/index.html>
56. <http://www.nation.co.ke/news/1056-869166-ii2n3ez/index.html> TJRC boss denies he had a hand in past injustices
57. <http://www.nation.co.ke/news/politics/1064-856018-64rl7oz/index.html> The law has gagged us, Truth team told
58. <http://www.nation.co.ke/news/1056-856382-iiq8bnz/index.html> The other commissioners
59. <http://www.nation.co.ke/news/Truth-team-public-hearings-to-begin-November/1056-980202-hnaims/index.html>
60. <http://www.nation.co.ke/news/Kiplagat-likely-to-face-tribunal-/1056-898346-vjptfxz/index.html>
61. <http://www.nation.co.ke/news/1056-865374-ii5drcz/index.html> Bill to repeal law protecting Shifta war soldiers
62. <http://www.nation.co.ke/news/Shape-up-or-ship-out-MPs-tell-Kenya-Truth-commission---/1056-1042094-r4cyrf/index.html>
63. <http://www.nation.co.ke/news/1056-857040-iiplggz/index.html> Job and pay queries hit Truth commission
64. <http://www.nation.co.ke/news/Kiplagat-urged-to-leave-Kenya-Truth-team-post/1056-898618-1tentg/index.html>
65. <http://www.nation.co.ke/news/1056-868684-ii38fkz/index.html> Kiplagat faces MPs as Tutu backs quit calls
66. <http://www.nation.co.ke/news/Murungi-leaves-Kenya-truth-body-/1056-902118-ov7p4ez/index.html>
67. <http://www.nation.co.ke/news/1056-899056-ig827sz/index.html> Kiplagat now an isolated man
68. <http://www.nation.co.ke/news/politics/Kiplagat-blamed-over-Somali-deal-/1064-876764-j9mo0wz/index.html>
69. <http://www.nation.co.ke/news/Kenya-torture-victims-compensated/1056-962524-10yfpui/index.html>
70. <http://www.nation.co.ke/news/Kiplagat-to-announce-resignation/1056-1045048-k3eq65z/index.html>
71. <http://www.nation.co.ke/news/1056-850818-iiuahfz/index.html> Kenya Truth team needs Sh3bn for work
72. <http://www.nation.co.ke/news/1056-857550-iiphiaz/index.html> Mass action planned in bid to eject Kiplagat
73. <http://www.nation.co.ke/news/Kiplagat-seeks-to-heal-ethnic-divisions-/1056-926546-qkv9tcz/index.html>
74. <http://www.nation.co.ke/news/Kiplagat-team-future-in-doubt/1056-1041116-asp1od/index.html>

75. <http://www.nation.co.ke/news/Truth-team--backs-torture-victims-ruling-/1056-966556-1dteqp/index.html>
76. <http://www.nation.co.ke/news/politics/1064-859178-64phbez/index.html>
Imanyara: Truth team was poorly recruited
77. <http://www.nation.co.ke/news/Fresh-row-erupts-in-the-truth-team/1056-927380-t5egfe/index.html>
78. <http://www.nation.co.ke/news/Fresh-row-erupts-in-the-truth-team/1056-927380-t5egfe/index.html>
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34. [Parliament gives Kiplagatprobe team one month : The Standard](#)
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37. [Commissioners petition CJ for tribunal to probe Kiplagat: The ...](#)
38. [Kiplagatcommission announces new vice-chairperson : The Standard](#)
39. [Kiplagatrebut claims of irregular land acquisition : The Standard](#)
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49. <https://www.standardmedia.co.ke/?id=2000004614&cid=159&articleID=2000004614> MPs urge Kiplagat to resign
50. <https://www.standardmedia.co.ke/?incl=blogComment&id=2000005119&cid=159&articleID=2000005119> Moi defends Kiplagat, asks him not to resign
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2011

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5. [Time for justice, reconciliation and healing : The Standard](#)
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9. [Jaramogi bought Kibaki his first car, former aide alleges : The ...](#)
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17. [Civil society wants Truth team disbanded : The Standard](#)
18. [PLO team seeks amnesty laws for corruption lords : The Standard](#)
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2012

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4. [Commissioners welcome Kiplagat back to TJRC: The Standard.](#)
5. [Truth team defends calls for more time : The Standard](#)
6. [Investigate police killings, says Omar :: Kenya - The Standard](#)
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2013

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3. [Commission's mandate as outlined in statute : The Standard](#)
4. [TJRC's explosive secrets spark threats : The Standard](#)

5. [Bid to stop TJRCreport rollout flops : The Standard](#)
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APPENDIX D: INTERVIEW GUIDES

Guide 1: Analysts

Codename _____

Working for TJRC as: _____

Professional affiliation _____

Interview Questions

A. Transitional Justice in Kenya

1. Why do you think Kenya's transitional justice mechanisms in Kenya largely failed even after successful constitutional reforms?
2. In a country where truth and justice are contested concepts, what's the way forward?

B. Transitional Justice and the Media

1. Could you comment on the role of the media in the design of transitional justice strategies? Should media representatives be part of negotiations, commissions and any other reform processes? Should the media support truth and justice processes? Why?
2. How would you characterize news media coverage of the TJRC's work? Media here refers to the mainstream; Nation Media Group and Standard Group's products/platforms (Newspapers, TV stations, Social Media, Online etc.)
3. Please explain how this coverage in your opinion supported or hurt the TJRC's goals of addressing injustices and inequality.
4. While all Kenyans had a right to know about the truth and justice processes, do you think the informational ecosystem during the post-conflict period was conducive for this goal?
5. Support was high for justice between 2008 and 2010. After that support plummeted. What in your view, could have happened to public consciousness to that influenced this change of heart?
6. Given that the ICC and TJRC were all competing for dominance in popular narratives, was it prudent to have them run concurrently?

7. Why did the TJRC fail to have a media event? How can you explain the Commission's engagement with journalists and the public?
8. Any other comments you might have about the Kenyan media that you would wish to share?

Guide 2: Journalists

Codename _____

Years worked as a journalist _____

Where worked _____

Positions held _____

My research study examines the Kenyan media's participation and engagement in the truth-seeking process of the TJRC. My study seeks to find out what we can learn from this participation about the journalism practice in Kenya. I view the PEV as a critical moment for journalists to assess the boundaries of their profession.

Interview Questions

1. The media in Kenya no doubt played an important role in keeping the public engaged during the transitional justice period. What was your experience at that time?
2. As an editor/reporter, could you comment on your gatekeeping work during the truth-seeking moment? Were there any new challenges or opportunities in news making routines, editorial policies, beat assignments, budgets, training?
3. Could you know if media representatives included in the design of transitional justice strategies like the Truth Commission? Do you think this was important?
4. You must have had to contend with competing frames of truth and justice from various actors as sources of news. Could you comment on how you negotiated this terrain?
5. How would you compare news coverage of ICC cases and the TJRC?
6. Support for justice was high at the beginning of 2008 following the Annan talks, but this had plummeted by 2013. What do you think contributed to this change?

7. Were you aware that journalists had their day of testimonies before the Truth Commission?
8. Have you read the TJRC Report?
9. Are you aware that journalists presented petitions before the TJRC?
10. What are some of the factors that you believe have influenced gatekeeping in Kenyan media even before the PEV? Do you think PEV was a critical moment for change?
11. Can you comment on media ownership, reliance on political personalities for news and Kenya's culture of injustice?
12. Do you have any other additional comments about journalism in Kenya?

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