



UNIVERSITY OF NAIROBI

CENTRE FOR ADVANCED STUDIES IN ENVIRONMENTAL LAW AND POLICY

(CASELAP)

**AN ASSESSMENT OF THE INFLUENCE OF NEWS MEDIA IN THE DEVELOPMENT  
OF ENVIRONMENTAL GOVERNANCE IN KENYA**

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**Z51/69372/2013**

A Thesis presented to the University of Nairobi in Partial Fulfillment of the Requirements for the Degree of  
Master of Arts in Environmental Law.

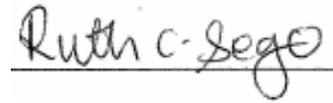
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**DECLARATION**

I certify that this research thesis is my original work and has not been presented for a degree in this or any other University.

**RUTH CHERONO SEGO**  
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**Signature:**



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The thesis has been approved with the consent of my supervisors.

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**DR. ROBERT KIBUGI**

**Signed:** .....

**Date:** \_\_\_\_\_

## **DEDICATION**

I dedicate my thesis work to Ms. Shereen Zorba, the former head of news and media at the UN Environment Programme for spurring my curiosity in understanding the influence of news media on the process of environmental policy formulation and dissemination. Ms. Zorba's experience and unmatched knowledge in high-level strategic communications played an incredibly useful role in enabling me to eventually examine and document this complex yet critical relationship. I cannot thank her enough.

I also dedicate my work to my father, Alexander Sego for his relentless support, encouragement and constant motivation to reach for the stars, never to rest on my laurels.

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## **ABSTRACT**

The influence that news media reporting brings to bear on the process of environmental governance is one that is arguably difficult to lucidly illustrate. This relationship can be obscure at times, with no clear lines of demarcation in direction of causality and effect. Despite this, there is a clear upward trend in volume of media coverage. The emergence of nascent communication technology tools coupled with the unprecedented rate of global connectivity, have bolstered the pace and reach of environmental news, including active media coverage of the occurrence of environmental events—magnitude notwithstanding.

From media interviews with communities affected by lead poisoning in Owino Uhuru in Mombasa, to impactful spatial images of vast swathes of forest land degraded by human encroachment aired alongside drastic tales of patterns of land-use change in the Mau Forest Complex, and even to the more familiar Maathai-led protests to protect public spaces from private development, Kenya's fourth estate continues to play the unique intermediary role of conveyor of public information and catalyzer of societal engagement on environmental issues.

Considering environmental actors – state, non-state actors and the general public as the primary recipients of media reports – this research integrated principles of public participation and environmental democracy to analyze the reception, interpretation and response of media coverage in the target audience. This thesis critically examined the volume and quality of environmental news coverage in Kenya over a five year period using statistical and content analysis methods. Multivariate regression analysis was then applied to evaluate the strength of the effect of two selected predictor variables; public participation and volume of thematic environmental coverage on the level of stringency in environmental policy (SEP). Weighted Kenya-country data drawn from the Environmental Performance Index (EPI) constituted the basis for the predicted variable. The EPI is a biennial index that contains indicators on environmental policy performance. These indicators are developed by “proximity-to-target” design, where a top performance benchmark, is defined primarily by 2 variables: policy goals at the international or national levels or established

scientific thresholds. The result was a strong positive linear association between the three variables.

Based on the output results, 49% of the variation in the predicted variable - Stringency in Environmental Policy (SEP) can be explained using the two predictor variables of public participation and thematic media coverage. This analysis is statistically useful and provides a model that can be replicated in future similar studies to explain 49% of the values. Otherwise put, 49% of observed levels of stringency in environmental policy (SEP) could be the result of a combination of effective public participation and corresponding media issue dominance.

In addition to the statistical model and three case studies included in this thesis, a survey of environmental journalists was conducted to better understand the underlying drivers of environmental news coverage from a media operations perspective. According to the poll, coverage of an environmental-related news or features was dependent on editorial decisions with 47% of respondents stating that such news would only be aired or published if no other 'seemingly competitive' news were available.

Based on the data outcomes, this thesis makes three key policy recommendations that can be implemented in the short-term, medium and long-term: Media capacity building through the Ministry of Environment, re-tooling regulatory policies communications through NEMA and lastly, active media monitoring of environmental coverage by key actors in environmental governance processes.

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Appendix 1: Dashboard screenshot of meltwater media monitoring software

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## *Acronyms*

**CoK 2010**— Constitution of Kenya 2010

**KICA**— Kenya Information and Communications Amendment Act 2013

**MCK**—Media Council of Kenya

**KLR**—Kenya Law Review

## *List of Statutes, International Instruments and Reports*

**African Charter for Popular Participation in Development and Transformation**, Section 17

**Agenda 21**. United Nations Conference on Environment and Development.

**Almaty Guidelines** on Promoting the Application of the Principles of the Aarhus Convention in International Forums, Article 3.7

**Bali Guidelines** –UNEP Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters

### **Ecology Law Quarterly**

**EDI**— Environmental Democracy Index

**EPI**—Environmental Performance Index

**EMCA 1999**—Environmental Management and Coordination Act, 1999 No 8 Of 1999

**East Africa Community Protocol** on Environment and Natural Resources Management

**The Hansard**, Parliament of Kenya

**International Covenant of Civil and Political Rights**, 1966

**Judicial Handbook on Environmental Law**. UN Environment Programme. DELC

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1974. Ministry of Environment, Japan

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KLR. HCCC, Civil Case No. 1067 of 1999

KLR. HCCC Civil Case No. 351 of 2013

KLR. HC Civil Suit Civil Suit 160 of 2010

KLR, 532 of 2013 & 12, 35, 36, 42, & 72 of 2014

KLR. Judicial Review Miscellaneous Application 61 of 2014

KLR, Petition No. 278 of 2011, High Court at Nairobi

### ***Definitions***

**Agenda 21-** A referendum and schedule for environmental protection, drafted at the United Nations' Earth Summit of 1992

**Media** - An organized means for communicating openly and at a distance to many receivers within a short span of time. Includes the infrastructure used to deliver the news. Also refers to the infrastructure for communicating to wider audience.

**The Press-** Refers to print media. Also used collectively in reference to journalists

**News Media-** Those media that provide news coverage for the public

**International Press Freedom Index-** An index developed by Reporters Without Border which ranks the performance of 180 countries according to a range of criteria that include media pluralism and independence, respect for the safety and freedom of journalists, and the legislative, institutional and infrastructural environment in which the media operate.

**Environmental Journalism-** A profession involving conveyance of news, information and opinion through mass media to various audiences with the aim of helping the public understand environmental science, along with economic and political issues about the environment.

# CHAPTER ONE

## 1.0 Introduction

This chapter evaluates the role of the media in environmental governance in Kenya and examines the interactions between the media as an institution and existing legal and policy structures anchored by the Constitution of Kenya 2010.

## 1.1 Background to Thesis

### 1.11 Evaluating the Role of the Media in Governance

Media is a key actor in environmental governance, a field largely underpinned by environmental law and policy. Platter notes that in all modern industrial democracies, “law and media are inextricably joined as two fundamental elements of the structure and process of societal governance.”<sup>1</sup> Media is a collective term which refers to “institutions and technologies that perform various communication functions.” They are apparatuses that “come in - between or mediate between two or more parties.” The term ‘mass media’ as alluded to severally in this study refers to the ‘organized means for communicating openly and at a distance to many receivers within a short space of time.’<sup>2</sup>

In Kenya, the media sector has rapidly expanded over the last 5 years<sup>3</sup>. Radio reaches 16.7 million Kenyans while close to 40% of the population watch television at least once daily. Newspaper readership stands at 23%.<sup>4</sup> As at the end of December 2014, the internet and data market accounted for 14.8 million subscriptions while mobile penetration increased 2.1% to stand at 82.6%.<sup>5</sup>

The media undoubtedly plays an important role in promoting good governance. Scholars, such as McNair<sup>6</sup> contend that the media has become critical to the consolidation and expansion of democracy because it “performs not only cognitive functions of information dissemination but also

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<sup>1</sup> Zygmunt J.B. Platter. "Law, Media, & Environmental Policy: A Fundamental Linkage in Sustainable Democratic Governance." *Boston College Environmental Affairs Law Review* 33, (2006): 511-550

<sup>2</sup> McQuail, D, McQuails. "Mass Communication Theory." SAGE Publishers (2005),UK: 17pp

<sup>3</sup> Ipsos Synovate, Annual report, 2008

<sup>4</sup> Mbeke P., Mshindi, T., Kenya Media Sector Analysis Report, 2008

<sup>5</sup> Communications Commission of Kenya, Quarterly Sector Statistics Report Second Quarter of the Financial Year 2014/15 (Oct-Dec 2014)

<sup>6</sup> McNair, Brian. "An Introduction to Political Communication." Taylor & Francis, UK. 2011

interpretative functions of analysis, assessment and comment”, all crucial functions which strengthen the process of societal governance.

In analyzing the constitutional role of the media in safeguarding democracy, Lippman<sup>7</sup>, Curran<sup>8</sup>, Nyamjoh<sup>9</sup>, Makali<sup>10</sup>, McNair<sup>11</sup>, Kadhi and Rutten, Jensen as well as Abdi and Deane all contend that the news media plays a vital role as a watchdog and gate keeper in the public sphere, the premise being that media literacy enhances citizen engagement in the establishment.

A plural and liberal media infrastructure enables the press to carry out its mandate by positioning the public to demand accountability and good governance from public and quasi-public agencies. By monitoring transparency and accountability of state agencies, the media fulfills its traditional role as ‘gatekeeper of democracy’. Abdi and Deane observe that the media has shaped and will continue to play a central role in shaping Kenya’s democracy,<sup>12</sup> thus implying that the media is a core component of the public sphere with demonstrated influence on systems of societal governance. In their analysis of the media’s contribution to the democratization process in Africa, Kadhi and Rutten, further argue that the strengthening of a democratic society is fostered by the existence of an informed citizenry and therefore, the freedom of expression must underlie all regulatory and policy proposals for society.<sup>13</sup>

Indeed, the influence of public opinion on the democratic process is aptly captured by political scientist V. O. Key Jr. who argues that "Unless mass views have some place in the shaping of policy, all the talk about democracy is nonsense".<sup>14</sup>

Agenda 21 notes explicitly the importance of the media in ensuring environmental sustainability. Chapter 8 states, *inter alia* that:

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<sup>7</sup> Lippmann, Walter. Public Opinion. New York: Harcourt, Brace and Co, 1922

<sup>8</sup> Curran, James “Media and Democracy (Communication and Society).” Routledge; 1st ed. 2011

<sup>9</sup> Nyamjoh, Francis, “Africa’s Media, Democracy and the Politics of Belonging.” Zed Books. 2005

<sup>10</sup> Makali, David, “Media Law & Practice: The Kenyan Jurisprudence, Phoenix Pub.” 2003

<sup>11</sup> Ibid

<sup>12</sup> Abdi, J.; Deane, J. The Kenyan 2007 elections and their aftermath: the role of media and communication. Policy Briefing No. 1 BBC World Service Trust, London.2008. pp 16

<sup>13</sup> Kadhi, J. and Rutten M., “Out of Count: ‘The Kenyan media in the 1997 General Elections’ . Fountain Publishers.Kampala, (2001).Pp:243-273

<sup>14</sup> Glynn, Caroll. Public Opinion Westview Press: Second Edition. 2004

*“Countries, in cooperation with national institutions and groups, the media and the international community, should promote awareness in the public at large, as well as in specialized circles, of the importance of considering environment and development in an integrated manner, and should establish mechanisms for facilitating a direct exchange of information and views with the public.”<sup>15</sup>*

While not explicitly referencing the media, the Rio+20 outcome document stresses the importance of raising public awareness on environmental matters.<sup>16</sup> Target 10 of goal 16 of the SDG’s clearly recognizes the role of the media as a positive factor for development, by requiring states to:

*“Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”<sup>17</sup>*

Narrowing down to environmental protection as a sub-category of the overall development agenda, the media still remains a vital player in fostering environmental protection. Ageyo argues that extensive news media reporting of the illegal attempts to demarcate the Karura forest canopy in the outskirts of Nairobi for private development in 1997 propelled the issue into the national and international spotlight and as a result, prompted politicians and social actors to rally around the campaign to successfully restore the forest.<sup>18</sup> N’eužil also recognizes the critical role of journalism in the social context of environmental reform and advocacy.<sup>19</sup> He notes that in order to catalyze change as a critical first step towards solving social problems such as environmental challenges, problem recognition, definition and legitimization is required. Mass media aids in the contextualization of environmental problems. By engaging in its more traditional role of promoting literacy through conveyance of information and knowledge, the media can also proactively influence meaningful behavioral change for environmental protection, in line with the ethos of environmental citizenship.

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<sup>15</sup> United Nations Conference on Environment and Development. Agenda 21. Chapter 8. 1992

<sup>16</sup>The Future We Want. A/RES/66/288\*. P.P 88(c), P.P 130, P.P 135 and P.P 231

<sup>17</sup> The Sustainable Development Goals. Goal 16 Target 10

<sup>18</sup> Ageyo, Joe. “Global Environmental Governance: Whither the Media?” Prepared for the Global Environmental Governance: the Post-Johannesburg Agenda. Yale Center for Environmental Law and Policy. 23-25 October 2003

<sup>19</sup> Neuzil, Mark. The Environment and the Press: From Adventure Writing to Advocacy. Northwestern University Press. 2010

The role of the media, including in shaping of ideas enjoys strong foundation through international law instruments. Article 19 of the U.N. Declaration of Human Rights (1948) established the foundation of press freedom by recognizing the right to freedom of opinion and expression including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. The U.N. Covenant on Civil and Political Rights (1966) further secured this freedom by specifically defining the extent to which the freedom applied. Under article 19, the right to freedom of expression has been defined to include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers; either orally, in writing or in print, in the form of art, or through any other media of choice. The article also specifies delimitations to this freedom. The right can be restricted in instances where it is deemed necessary for the respect of the rights or reputations of others or for the protection of national security or of public order or of public health and morals.

### **1.12 The Intersect Between the Media and Environmental Governance in Kenya**

The news media is a ubiquitous actor in the history and development of environmental law. Historically, milestones in environmental law have been spotlighted in the public agenda through prominent press publicity, both in providing information to the public through reporting, and shaping of opinions, through commentaries, and editorials. In the evolutionary process of environmental law, public interest environmental groups have followed this trajectory and employed various advocacy strategies such as media positioning which involves lobbying for a specific issue of environmental concern in the public sphere. These strategies have contributed to shaping wider public understanding of different environmental compartments, and have in the long-term, played a key role in the formulation and implementation of actionable policy towards the protection of these compartments.

Intersections between mass media and the environment gained greater prominence in the 1960s and 1970s. In the west in particular, the role of activist journalists have often stood out, such as the 1962 publication of the seminal book ‘Silent Spring’ by Rachel Carson, a journalist, editor and marine Biologist at the U.S. Fish and Wildlife Service. This publication largely focused on the ecological and health risks that arose from the extensive use of synthetic pesticides, including

Dichlorodiphenyltrichloroethane (DDT), and consequently set in motion the clamor for a safer, pollution-free environment among the wider public in the United States. Thus in 1963, as a result of the widespread media publicity of '*Silent Spring*', then President John F. Kennedy directed the Presidential Science Advisory Committee to investigate claims made by the publication. The committee recommended measures to regulate the industrial use of pesticides<sup>20</sup>. Based on the recommendations of the committee, the US congress launched investigations into the adverse impacts of pesticide pollution. The publication influenced Public Policy and heightened awareness on the dangers of intensive pesticide use among the general public.<sup>21</sup> Despite opposition from key pesticide industry manufacturers who labeled the publication as speculative; the Scientific Advisory Committee- in the midst of scientific uncertainty- proceeded to make recommendations guided strongly by the Precautionary principle.

Such political and policy actions differ distinctly across spatial and temporal scales. In Japan, the coverage of methyl mercury poisoning in Minamata Bay drastically varied from the 1930's when the pollution started to the 1960's when pollution analysis by the Tokyo Institute of Technology determined methyl mercury as pollutant. At the onset of the Minamata epidemic, media reports focused on the unusual epileptic behavior of cats in Minamata city. As the epidemic grew in such size and scale as to affect human populations, not much of it was reported by the Japanese national press. At the time, media organizations operated independently and prioritized regional news coverage over national news."<sup>22</sup>As the epidemic progressed, Mercury pollution emerged as a probable cause, albeit with inconclusive scientific evidence. The polluter, Chisso Co. Ltd convened several press conferences in Tokyo to dissuade opinion on Mercury as the cause of the epidemic.

The highly publicized and seemingly unending debate compelled patients, mostly fisher folk suffering health damage to agree to settle, receiving compensation payments of close up to 4 billion

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<sup>20</sup> Papers of John F. Kennedy. Presidential Papers. President's Office Files. Departments and Agencies. President's Science Advisory Committee (PSAC): Pesticides report, 15 May 1963

<sup>21</sup> H.Res.450 - Recognizing Rachel Carson, Ecologist and Author Whose Courage, Selfless Spirit, and Sense of Wonder Ushered in the Modern Environmental Movement. US Library of Congress

<sup>22</sup> The Asahi Shimbun Company. Media, propaganda and politics in 20th-century Japan: the Asahi Shimbun Company / translated and abridged by Barak Kushner; foreword by Funabashi Yoichi. London : Bloomsbury Academic, 2015

yen in 1973-74 FY to the original group of plaintiffs. The liability damage civil suit also set precedence for Japan's 1974 enactment of the *Pollution-Related Health Damage Compensation Law*, later renamed *The Law Concerning Compensation for Pollution-Related Health Damage and Other Measures*. This is consistent with the thinking by Upman who argues that lawsuits against the government tend to garner considerable attention from the Japanese media. While local government oversight was part of the compensation process, Tokyo was absolved of all damages related to Minamata.<sup>23</sup> In addition to the non-prioritization of regional news at the national level, the legal culture of Japan<sup>24</sup> abhorring legal recourse in disputes in favor of amicable settlements may have contributed to the non-litigious and non-adversarial nature of the Minamata case in the 1970's.

Several other journalists have over the years spotlighted environmental issues across the global media. In 1989, journalist and writer Bill McKibben sparked the wider discourse on climate change, making a compelling case for the crisis of global warming captured in the publication "*The End of Nature*." In 2008, McKibben co-founded 350.org, a climate change campaign movement that opposes fossil fuel extraction and lobbies for divestment from the fossil fuel industry. Renowned environment journalist Elizabeth Kolbert of the *New Yorker* followed with a detailed analysis of the effects of climate change in "*Field Notes from a Catastrophe*."

Boykoff notes that throughout the 20<sup>th</sup> Century, many books, essays, media reports, and texts considered environmental issues, thus provoking public attention and catalyzing progress in environmental politics.<sup>25</sup>

In Kenya, the magnitude of the policy and political response to the wide-scale deforestation in the Kenya's largest indigenous montane forest ecosystem, the Mau Forest Complex, was shaped by the role played by individual policy actors leading to and at the height of the devastation. This included civil society campaigns as well as the relentless portrayal of the crisis by the media. Both

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<sup>23</sup> Ecology Law Quarterly: After Minamata: Current Prospects and Problems in Japanese Environmental Litigation. 1979

<sup>24</sup> *Ibid.* Ref. The Tokugawa doctrine of societal harmony

<sup>25</sup> Maxwell Boykoff. "We Speak for Trees." *The Annual Review of Environment and Resources*(2009): 436

international and national media continued to lend a voice to the issue, highlighting the ensuing national political and policy response, including the news coverage of some proceedings of the Mau Forest Task Force constituted under the leadership of the Prime Minister, as well as extensive live-coverage of the ‘*Prime Minister’s Question Time*’ session<sup>26</sup> during which the former Prime Minister Raila Odinga’s appealed for non-politicization of government eviction efforts intended to restore the Mau forest ecosystem. From the Premier’s speech, several quotes that conveyed a sense of urgency and poignant call to action were picked up by the press and carried in national prime time news, including:

*“The gods are not responsible...the gods are not to blame. It is impossible for people to live inside the forest and claim to conserve it.”<sup>27</sup>*

This was in reference to specific recommendations published in the Task Forces’ report that called for a “Long-term solution for uncontrolled human settlement in and around the forest complex, including relocation of populations as may be necessary.”<sup>28</sup> This, and other policy recommendations of the report were implemented through an Interim Coordinating Secretariat established in September 2009 under the Office of the Prime Minister. The secretariat led the establishment of a Joint Enforcement Unit in July 2008 to monitor and prevent further degradation of forested area and oversaw the establishment of the Water Towers Conservation Fund gazetted by the Deputy Prime Minister and Minister for Finance on 23 July 2010.<sup>29</sup>

The activism years of Professor Wangari Maathai as played out in the public domain and media sphere created a groundswell of support for her and the wider democratic movement prior to the introduction of political pluralism in Kenya. While the press largely interpreted this activism as part of the overall clamor for multi-party democracy in Kenya, it significantly made nuanced contributions to heightening public awareness of environmental issues in Kenya.

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<sup>26</sup> The Hansard. July 2009. Kenya Government Printers

<sup>27</sup> Citizen TV News. <https://www.youtube.com/watch?v=7gk6L5UArfU>. Kenya

<sup>28</sup> Report of the Prime Minister’s Task Force on the Conservation of the Mau Forests Complex. GOK OPM. July 2009

<sup>29</sup> Brief on the Rehabilitation of the Mau Forests Complex. December 2010. Office of the Prime Minister, Kenya

Okidi, Mbote and Aketch<sup>30</sup> argue that Maathai's activism set the stage for future legislation in environmental law. The highly-publicized hallmark case *Wangari Maathai v. Kenya Times Media Trust*,<sup>31</sup> exemplifies the barriers to redress by a judiciary when it narrowly applies rules of standing in the case of public interest litigation.<sup>32</sup>

Media representations of the protest against the construction of the 60-storey high-rise building and ensuing court process was almost unanimous and largely painted a picture of a determined citizenry trying to redeem a public space with Maathai as the relentless face of the protest. The Los Angeles Times termed the protest, led by Maathai as 'Africa's most remarkable exercise in environmentalism'.<sup>33</sup> National media voiced the concern of the Kenyan public by publishing public letters to the editors of local newspapers - that the "60-story concrete-and-glass structure would turn Nairobi, into the 'gray city in the shade'" an obvious play-on-words on Nairobi's nickname as the 'City in the Sun.' The New York Times published excerpts from parliamentary sessions where MPs condemned Maathai's protest.<sup>34</sup> This heightened level of activism, resulted in a tidal wave of negative publicity. The reporting coupled by the publication of front-page pictures of police harassing protesting activists helped to exert sufficient domestic and international pressure to force the government to capitulate<sup>35</sup> and eventually, international investors withdrew financial backing of the project which was eventually abandoned in January 1990.<sup>36</sup>

While Maathai lost the court petition challenging the construction of the structure on the grounds of lack of *locus standi*<sup>37</sup>, this outcome is widely appreciated as contributing to the subsequent

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<sup>30</sup> Charles O. Okidi, Patricia Kameri-Mbote and Migai Akech, *Environmental Governance in Kenya -Implementing the Framework Law*. East African Educational Publisher, Ltd. Nairobi. 2008

<sup>31</sup> KLR. Civil Case No. 5403. High Court of Kenya at Nairobi, Dec. 11, 1989

<sup>33</sup> Hiltzig, Michael, "Skyscraper Prompts an Environmental Uproar: Kenya: The furore over the proposed high-rise in Nairobi is unusual for two reasons: Progress is rarely opposed, and political debate is almost non-existent." L.A Times. [http://articles.latimes.com/1989-12-17/news/mn-1678\\_1\\_kenya-times.Published\\_17\\_December\\_1989](http://articles.latimes.com/1989-12-17/news/mn-1678_1_kenya-times.Published_17_December_1989) Accessed 26/05/2015

<sup>34</sup> Perlex, Jane. "Plan for Sun-Hogging Tower Angers Kenyans." New York Times. <http://www.nytimes.com/1989/11/26/world/plan-for-sun-hogging-tower-angers-kenyans.html>. Published 26 November 1989. Accessed 26/05/2015.

<sup>35</sup> Ageyo, Joe. "Global Environmental Governance: Whither the Media?" Prepared for the Global Environmental Governance: the Post-Johannesburg Agenda. Yale Center for Environmental Law and Policy. 23-25 October 2003

<sup>36</sup> "The Good, the bad and the ugly." *The Ecologist*. Vol. 31 Issue 3. pp:24. April 2001.

<sup>37</sup> High Court of Kenya. Civil Case 5403 of 1989. eKLR

enactment of EMCA 1999 a decade later and the recognition that a person need not demonstrate personal loss or injury in bringing a matter before court in the event that their entitlement to a clean and healthy environment has been or is likely to be contravened.<sup>38</sup> Maathai's protest exemplifies how strategies employed by activist movements, including the effective use of media channels, can galvanize support for an environmental cause and eventually culminate in policy reform.

The UN Environment Programme defines Environmental Governance as a concept that encompasses "the rules, practices, policies and institutions that shape how humans interact with the environment."<sup>39</sup> As was the case of the Mau Forest, the media's advocacy role in spotlighting the extent of forest degradation effects to the wider public and transmitting it to a captive audience that was neither aware of nor previously concerned with the problem succinctly demonstrates the media's subtle influence in the process of environmental governance. However, this influence can at times be transient and is highly dependent on pre-existing power differentials between the media and other state institutions, as the analysis of media coverage of the Minamata mercury disaster appears to suggest.

Environmental Governance is in and of itself underpinned by Environmental Law. Civil litigation to prevent or remedy environmental harm is to a large extent anchored on common causes of action in tort law; Nuisance, Trespass, Negligence, Strict Liability, Prior appropriation, and Riparian rights. With reference to the Hohfeldian Schema of jural relations<sup>40</sup>, the media as tool of information generation and dissemination can contribute to strengthening the awareness of the public on their right to a clean and healthy environment. The media also promotes awareness of the public's duty as custodian over the environment by encouraging positive action for environmental conservation and protection. It also provides an advocacy platform for interest groups campaigning for environmental law reform while at times taking on a pro-active role in advocating for environmental law reform through targeted methods of agenda setting and issue-priming.

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<sup>38</sup> EMCA. Subsection 3 (4)

<sup>39</sup> Shelton, D., and Kiss, A., *Judicial Handbook on Environmental Law*. UN Environment Programme. DELC. 2005.

<sup>40</sup> Corbin, A. *Jural Relations and their Classification*. Yale Law School Legal Scholarship Repository. Yale Law School. [http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3877&context=fss\\_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3877&context=fss_papers)  
Accessed 8/10/2016

## 1.2 STATEMENT OF THE PROBLEM

The influence of the media on environmental public policy is not merely an academic question.<sup>41</sup> The framing of environmental issues by the media can bear practical implications for environmental public policy advocacy. Boykoff notes that media representations of the environment continue to bear multifarious implications on ongoing interactions between science, governance and public policy advocacy.<sup>42</sup> The agenda-setting role of news media cannot be overstated. In a 2010 World Bank survey of the media's role in civic education in Kenya, the media appeared to be far more widely trusted than most government institutions, and not many respondents reported hearing information directly from government officials on a regular basis.<sup>43</sup>

However, despite the unprecedented expansion of media liberalization in Kenya in the last 20 years<sup>44</sup>, media portrayal of environmental issues and the interconnected linkages that join different elements of the environment, policymaking institutions, the public and the media largely remain unanalyzed and continue to be obscured by prominent focus on the news media's portrayal of political issues.

Over- emphasis on what Ageyo describes as the 'novelty', 'shock' and 'conflict' aspects<sup>45</sup> in environmental reporting by the media leaves unexplained much of the nuanced variations that meaningfully influence citizen participation in environmental governance processes. Few conclusive empirical studies in Kenya have explicitly examined media influence on environmental policy advocacy.

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<sup>41</sup> As evidenced by S Suphachalasai's empirical model. Suphachalasai, S., "Development, Environmental Policy, and Mass Media: Theory and Evidence", Environmental Economy and Policy Research; University of Cambridge, 2005. <http://www.landecon.cam.ac.uk/repec/pdf/200515.pdf>. Accessed 4 May 2015

<sup>42</sup> Boykoff, Maxwell. "We Speak for Trees." The Annual Review of Environment and Resources(2009): 436

<sup>43</sup> Bowen, Hannah. Media's Role in Civic Education. Link:<http://blogs.worldbank.org/publicsphere/media-s-role-civic-education>. Last accessed 18/05/2015

<sup>44</sup> Musau, P.M, The Liberalization of the Mass Media In Africa and Its impact on Indigenous Languages, AAP 60 (1999) 137-146

<sup>45</sup> Ibid

The existing dichotomy between the public's concern of the environment and meaningful public participation in environmental governance processes can potentially be bridged through informative and transparent communication channels.<sup>46</sup> However, factors such as limited implementation of access to information provisions across the forty-seven counties further exacerbates the situation.<sup>47</sup> There is an obvious gaping need to provide solutions that enhance access to environmental information and improve media coverage of the environment through cost-effective and mass-scalable strategies.

### **1.3 OBJECTIVES OF THE STUDY**

#### ***1.31 General objectives***

The overall aim of the study is to appraise the contribution of news media to the development of environmental governance, including the legal framework that aw in Kenya.

#### ***1.32 Specific objectives***

1. To trace environmental laws and governance actions arising from news media influence on topical environmental issues.
2. To thematically and quantitatively document the recent media representation of the environment in Kenya. The research retrieves and monitors coverage over a five year timeline; from 2008 when the most recent significant coverage of national interest in an environmental story began, to the start of clippings compilation for the purposes of inclusion in this thesis.
3. To analyze the interlinkage between thematic environmental coverage and corresponding response from key relevant governance actors, including institutions.
4. To investigate the combined influence of environmental reporting and the role of actors in sectoral policy progress through induced stringency.

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<sup>46</sup> Section 9 (2) m of the EMCA of 1999

<sup>47</sup> Christopher Finch (World Bank) and Annette Omolo (World Bank) ; Working Paper Series; Building Public Participation in Kenya's Devolved Government; World Bank; February 2015

5. To make sectoral-based recommendations

#### **1.4 RESEARCH QUESTIONS**

1. What is the extent of news coverage of environmental issue by national media in Kenya?
2. What is the volume, quality, thematic focus of environmental media coverage and what media practices have influenced environmental media coverage in Kenya in the last 5 years?
3. Which thematic areas of the environment have gained more traction in the media and how do they compare to sectoral progress in environmental governance?
4. Is there a valid empirical link between the profile of environmental media coverage and public participation variables in the process of environmental public policy formulation in Kenya?

#### **1.5 RESEARCH HYPOTHESIS**

The null hypothesis  $H_0$  states that mass media coverage of the environment has no effect on public opinion and environmental policy determination.

The alternative hypotheses state that:

$H_1$ - The first alternative hypothesis states that there is a significant positive correlation between mass media coverage of the environment and public opinion to environmental policy determination.

$H_2$  – The second alternative hypothesis states that enhanced media reporting of the environment bears an influence on environmental public policy determination.

## **CHAPTER TWO**

The role that news media plays in shaping the development of environmental governance in Kenya is an area that has not been previously examined in much detail. As such, pre-existing literature on this topic was few and far between at the time of thesis research. In order to build a body of literature, extensive research had to be conducted as a critical first step in contextualizing this study.

### **2.0 LITERATURE REVIEW**

#### **2.1 Constitutional Safeguards for the Media**

##### **2.11 Introduction**

From the onset of multiparty democracy in Kenya, the media has increasingly gained a poignant voice and comparatively enjoys a greater degree of media freedom than most countries in the continent. Provisions under the Kenya's 2010 constitution have created an enabling regulatory environment for the media to fulfill its mandate by guaranteeing media freedom in addition to guarantees to the right to freedom of expression and access to information.

##### ***2.12 The right to freedom of expression***

Chapter 4 of the CoK 2010 draws from the 1948 U.N. Declaration of Human Rights and establishes an extensive Bill of Rights whose core objectives include the promotion of social justice. According to the Bill of Rights, every person has the right to freedom of conscience, religion, thought, belief and opinion. Further, the right to freedom of expression, which includes the freedom to seek, receive or impart information or ideas is safeguarded under Article 33 while Article 35, obligates the state to provide information to the public upon request. Despite these

provisions, the Kenyan courts have limited this right as applying only to natural persons, as seen in *Nairobi Law Monthly Company Limited V Kenya Electricity Generating Company & 2 Others* [2013] eKLR.<sup>48</sup>

In the petition, the *Nairobi Law Monthly* publication sought to compel the state corporation *Kenya Electricity Generating Company* (KenGen) to provide information on certain contracts entered into by KenGen and other companies for the purpose of drilling geothermal wells. The petition alleged a violation of its constitutional rights under articles 33 and 34 of the Constitution as a consequence of the failure by the respondents to provide the information sought. In its ruling, the court noted that the publication could not allege that it required information from the respondents for the protection of its rights under Article 33 and 34 since, in order to exercise the right under Article 35 (b), a citizen must not only show that the information is held by the person from whom it is claimed but is also required to demonstrate that the information sought is required for the exercise or protection of another right.<sup>49</sup>

The court also observed that the petitioner, as a legal person created under the provisions of the Companies Act, may enjoy the rights conferred by Article 35 (2), which are conferred on all ‘persons’ but is not a ‘citizen’ that may have a right of access to information as contemplated under article 35(1). The Court concluded that to rule otherwise would mean that any person, other than the state, had an obligation to give a journalist or media outlet whatever information they demanded to exercise their freedom of expression and freedom of the press (para. 67). Such interpretation “*would totally blur the distinction so clearly intended by the Constitution in making the two distinct provisions in Article 35(1)*” (para. 68). According to the Court, it would “*give the media a special status that elevates it above other entities in the state.*”

This ruling may hinder entities such as media organizations from accessing state-held information for public dissemination. However, for the media to operate effectively, it ought to be able to access information held by another entity for the purposes of fair and unbiased reporting. The 2014 Environmental Democracy Index (EDI) Kenya comparatively ranks poorly on the access to

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<sup>48</sup> KLR, *Nairobi Law Monthly Company Limited v. Kenya Electricity Generating Company (KENGEN) & 6 others* Petition No. 278 of 2011, High Court at Nairobi

<sup>49</sup>Constitution of Kenya 2010 Article 35 (1)(b)

information pillar as measured against the Access to Information pillar of the UNEP Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (“the Bali Guidelines”)

### ***2.13 Libel and Defamation***

By guaranteeing the freedom of the media, Article 34<sup>50</sup> of the CoK 2010 departs from the previous 1969 constitution by setting forth the framework for a free and independent media. While the previous CoK guaranteed the protection of freedom of expression under article 79, it failed to take into consideration circumstances specific to the media in crafting specific protections. Despite the progressive legislation, critics note the need to review other existing laws which contravene the imperatives of the CoK 2010 and international frameworks which protect media freedom and which Kenya is obligated to uphold.<sup>51</sup> For example, in the Books and Newspapers Act 1960 (as amended), Section 11 requires payment of a bond of USD\$12,000 with sureties as security towards any monetary penalty or damages that may be imposed, before authority is granted to print a newspaper. A second conviction for not paying a bond can result in a permanent ban on a publishing newspaper. Similarly, section 90 of the Kenya Information and Communications Amendment Act 2013 provides powers to search broadcasting establishments and seize equipment for the purpose of any legal proceedings, and section 17 provides disproportionate criminal fines and imprisonment for various offences relating to the use of radio frequencies.<sup>52</sup>

The definitive libel case that gained Kenya its reputation as the ‘libel capital of Africa’ resulted in the highest ever award of Ksh.30 million by a Kenyan court in libel damages to former Cabinet Minister Nicholas Biwott by Judge Visram in 2000. In delivering his judgment, Judge Visram noted disappointment in the ‘inordinately low awards’ in previously determined cases:

*.... “Time is propitious to send a clear message to all those who libel others with impunity, and who get away with ridiculously small awards, that the Courts of law will no longer condone their mischief. No person should be allowed to sell another person's reputation*

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<sup>50</sup> Constitution of Kenya 2010, Article 27 (4)

<sup>51</sup> Othieno, Nyanjom, “The impact of Kenya's legal and institutional frameworks on media freedom.” Article 19.. 2014

<sup>52</sup> Ibid

*for profit where such a person has calculated that his profit in so doing will greatly outweigh the damages at risk.”*<sup>53</sup>

Over a decade later, the risk of defamation remains a serious concern in the Kenyan media landscape, even after the repeal of sections 56, 57 and 58 of the Penal Code in the Statute Law (Miscellaneous Amendments) Act 1997. Journalists continue to be charged with “sedition” or “seditious libel” under Sections 194 and 196 of the Penal Code.<sup>54</sup> When Michela Wrong’s book ‘*It’s Our Turn to Eat*’ exposing state corruption was first released globally, bookstores in Kenya, did not distribute the publication primarily out of fear of risking defamation as was the case in *Text Book Centre Limited v Kipyator Nicholas Kiprono Biwott*<sup>55</sup>. Additionally, special protection against defamation charges is offered to the President, Cabinet Secretaries and to parliamentary officials in Section 198; this contradicts regional and international human rights standards, such as the African Union resolution on repealing criminal defamation laws in Africa (ACHPR/Res 169 2010) which urged States to ensure that public officials tolerate more criticism than ordinary citizens.<sup>56</sup>

### ***2.14 Media’s relationship with the Judiciary***

These restrictions notwithstanding, the current judiciary has over the last three years greatly enhanced its communication with the Media. In the 2013 State of the Judiciary and the Administration of Justice Annual Report, the Judiciary makes reference to its robust engagement with the media. The report notes that between 2012 and 2013, the Judiciary recorded a significant volume of press coverage.<sup>57</sup> Within that period, the judiciary granted regular interviews and several written opinion-editorial articles communicating important policy decisions as well as clarifying

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<sup>53</sup> KLR. HCCC, Civil Case No. 1067 of 1999, *Kipyator Nicholas Kiprono Biwott V Clays Limited & 5 Others*. Link: <http://kenyalaw.org/caselaw/cases/view/74909/>. Accessed 25/05/2015.

<sup>54</sup> *Uhuru Muigai Kenyatta v Baraza Limited T/A Kenya Television Network (KTN)*[2012]eKLR HCCC 351 of 2013, *Samuel Kazungu Kambi & another v Nation Media Group Limited* [2015] eKLR HC Civil Suit Civil Suit 160 of 2010, *Charles Wanjohi Wathuku v Sam Kiplangat & another* [2014] eKLR

<sup>55</sup> KLR, Civil Case Nos. NAI. 381, 382, 385 & 386 of 2001, *Text Book Centre Limited v Kipyator Nicholas Kiprono Biwott* [2002] eKLR. Link: <http://kenyalaw.org/caselaw/cases/view/773/>. Accessed 30/06/2015

<sup>56</sup> Ibid

<sup>57</sup> State of the Judiciary and Administration of Justice Report, 2012-2013, prepared in fulfilment of section 5 2(b) of the judicial Service Act

issues were published. Media trainings and regular discussions with Editors, Journalists and Media Managers were also organized.<sup>58</sup>

In October 2014, former Chief Justice Willy Mutunga unveiled a Media Centre at the Milimani Law Courts in Nairobi to ‘facilitate media operations in the Judiciary.’<sup>59</sup> The Chief Justice is quoted at the opening ceremony as saying “*The presence of the media in the Judiciary is not a favor extended at whim, but rather a demonstration of a genuine desire to be accountable to the Kenyan people and to involve the public in what the Judiciary is doing.*”<sup>60</sup> This gesture not only demonstrates the Judiciary’s willingness to be open to media scrutiny but also shows the positive aspects of the reforms the judiciary has undergone since the adoption of the new constitution.

### ***2.15 Press Freedom***

However, despite the three decades of advances in media freedom and the Constitutions’ inclusion of a progressive Bill of Rights, the states’ seemingly adversarial approach to the media and existing legislative and institutional inconsistencies, including the enactment of new legislation to pull the reins in on the media have affected the reform process and are widely perceived as curtailing press freedom.

In 2015, Kenya was ranked 100 out of 180 countries in the International Press Freedom Index, slipping 10 places down from its 2014 position. The ranking is based on a range of criteria that include media pluralism and independence, respect for the safety and freedom of journalists, and the legislative, institutional and infrastructural environment in which the media operate.

While the Constitution “prohibits the State from exercising any form of control over or interfere with any person engaged in the broadcasting, production or circulation of any publication nor penalize any person for any opinion or view or the content of any broadcast, publication or

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<sup>58</sup> Ibid

<sup>59</sup> <http://www.judiciary.go.ke/portal/chief-justice-willy-mutunga-opens-the-media-centre.html>, Sourced 19 October 2014

<sup>60</sup> Ibid

dissemination of information by any medium,”<sup>61</sup> sections of the Media Council Bill 2013, the KICA 2013 and the Security Laws (Amendment) Act 2014 are proving the contrary.

## **2.2 The Evolution of Media Fundamental Rights and Freedoms**

Petitions before the High Court<sup>62</sup> have challenged the constitutionality of the legislations described above to the extent to which they relate to media freedom. This has propelled the judiciary into the vital stakeholder role of safeguarding media freedom based on its prerogative to hear and determine applications for matters relating to protection of fundamental rights and freedoms.<sup>63</sup> The Constitution gives the judiciary the broad jurisdiction to rule on the constitutionality of legislative and administrative actions<sup>64</sup> through the power of Judicial Review and in line with the principles of proportionality’, ‘legitimate expectation’, ‘reasonableness’ and the laws of natural justice.

Petitioners challenging the constitutionality of the newly-enacted Security Laws (Amendment) Act (SLAA) No. 19 of 2014 had expressed concern over provisions in sections 12, 66, 72 and 73 which provided leeway for broad interpretation with the effect that it could possibly infringe on the freedom of expression and the freedom of the media.

The specific Sections which violate the freedom of expression and of the media are Sections 12 and 64.

Section 12 of the SLAA provides as follows:

*The Penal Code is amended by inserting the following new Section immediately after Section 66-*

“66A. (1) A person who publishes, broadcasts or causes to be published or distributed, through print, digital or electronic means, insulting, threatening, or inciting material or images of dead or injured persons which are likely to cause fear and alarm to the general public or disturb public peace commits an offence and is liable, upon conviction, to a fine

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<sup>61</sup> The Constitution of Kenya, Article 34(2)(a),

<sup>62</sup> Coalition for Reforms and Democracy & Another vs. Republic of Kenya & Another (2015) High Court Petition. Nos. 628 & 630 of 2014

<sup>63</sup> Constitution of Kenya 2010; Article 22 & Article 23 (3)(c)

<sup>64</sup> Constitution of Kenya 2010; Article 165 3 (d) (i)-(v)

not exceeding five million shillings or imprisonment for a term not exceeding three years or both.”

“(2) A person who publishes or broadcasts any information which undermines investigations or security operations by the National Police Service or the Kenya Defense Forces commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years, or both.”

Section 64 of the SLAA on the other hand introduces two sections (Section 30A & 30F) as follows:

*“30A. (1) A person who publishes or utters a statement that is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism commits an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years.”*

*“(2) For purposes of sub-section (1), statement is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism if:*

*“(a) The circumstances and manner of the publications are such that it can reasonably be inferred that it was so intended; or”*

*“(b) The intention is apparent from the contents of the statement.”*

*“(3) For purposes of this Section, it is irrelevant whether any person is in fact encouraged or induced to commit or prepare to commit an act of terrorism.”*

30F. (1) Any person who, without authorization from the National Police Service, broadcasts any information which undermines investigations or security operations relating to terrorism commits an offence and is liable on conviction to a term of imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings, or both.

(2) A person who publishes or broadcasts photographs of victims of a terrorist attack without the consent of the National Police Service and of the victim commits an offence

and is liable on conviction to a term of imprisonment for a period not exceed three years or to a fine of five million shillings, or both.

(3) Notwithstanding sub-section (2) any person may publish or broadcast factual information of a general nature to the public.

It was the Petitioner's case that both sections 12 & 64:

- a) Constitute prior restraint of freedom of expression and of the media;
- b) Make illegal the concept of investigative journalism;
- c) Were unconstitutional (against Article 34 of the Constitution) as they limit freedoms of expression and of the media by criminalizing publication of certain information in broad and vague terms. The sections in particular are void on the basis of legality and vagueness as they deploy broad and imprecise terminology. It was further their argument that loosely worded provisions may not be used to limit freedoms of expression.

The court ruling declared Section 12 of the Security Laws (Amendment) Act and Section 66A of the Penal Code as “unconstitutional for violating the freedom of expression and the freedom of the media, both guaranteed under Articles 33 and 34 of the Constitution.”<sup>65</sup>

It must however be observed that the courts have in the past exhibited caution in granting wide-sweeping freedoms to the media and these past decisions were used as criteria in determining the ruling on the unconstitutionality of the SLAA.

In *Media 24 Limited and Others vs National Prosecuting Authority and Others, re: S vs Mahlangu and Another* (55656/10) [2011] ZAGPPHC 64; 2011 (2) SACR 321 (GNP) (29 April 2011) cited with approval the decision of the English case of *Lion Laboratories Ltd vs Evans and Others* (1984) 2 ALL ER 417 where it was stated that: [C4]

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<sup>65</sup> KLR; Coalition for Reform and Democracy (CORD) & another v Republic of Kenya & another [2015] eKLR; Petition Nos 628 & 630 of 2014 (Consolidated), <http://kenyalaw.org/caselaw/cases/view/104799/>; Retrieved 29 April 2015

“One should bear in mind that the constitutional promise of a free press is not one that is made for the protection of the special interests of the press.... The constitutional promise is made rather to serve the interest that all citizens have in the free flow of information, which is possible only if there is a free press. To abridge the freedom of the press is to abridge the rights of all citizens and not merely the rights of the press itself.”

In *S. vs Mamabolo*<sup>66</sup>, Kriegler J, rejected the pre-eminence accorded to the right to freedom of expression in jurisprudence based on the First Amendment in the United States. He nonetheless emphasized the important constitutional place of this freedom by stating as follows:

“Freedom of expression, especially when gauged in conjunction with its accompanying fundamental freedoms, is of the utmost importance in the kind of open and democratic society the Constitution has set as our aspirational norm. Having regard to our recent past of thought control, censorship and enforced conformity to governmental theories, freedom of expression — the free and open exchange of ideas — is no less important than it is in the United States of America. It could actually be contended with much force that the public interest in the open market-place of ideas is all the more important to us in this country because our democracy is not yet firmly established and must feel its way. Therefore we should be particularly astute to outlaw any form of thought-control, however respectably dressed.”

The MCK and the Multimedia Appeals Tribunal created under the Media Council Act 2013<sup>67</sup> and the KICA, as amended in 2013, are respectively mandated to mediate or adjudicate in disputes between the government and the media, the public and the media and intra media and ensure adherence to high standards of journalism as provided for in the code of conduct for the practice of journalism in Kenya.<sup>68</sup>

Media organizations<sup>69</sup> challenged the constitutionality of the Media Council Bill 2013 (now Act). Petitions 30 and 31 of 2014 contested the appointment of members of both bodies under the

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<sup>66</sup> (CCT 44/00) [2001] ZACC 17; 2001 (3) SA 409 (CC); 2001 (5) BCLR 449 (CC) (11 April 2001)

<sup>67</sup> Media Council Act, 2013, Act No. 46 of 2013

<sup>68</sup> The Media Council Bill 2013, Section 32 (a)

<sup>69</sup> Joint petition by Nation Media Group, the Royal Media Services and the Standard Group and another joint petition by Kenya Editors’ Guild, Kenya Union of Journalists and the Kenya Correspondents Association

supervision of the Cabinet Secretary<sup>70</sup> noting that it was “contrary to the constitutional clause which provides for bodies established under these acts to be independent of control by government, political interests or commercial interests.”<sup>71</sup>In response, the court issued conservatory orders halting the selection and appointment of the chairperson and members of the MCK and the Communications, Multimedia Appeals Tribunal<sup>72</sup>, as well as the appointment of the Complaints Commission until the hearing and determination of the above Petition,<sup>73</sup> as was advertised and published in the Kenya Gazette.<sup>74</sup>

A free, independent and diverse press is often regarded as the cornerstone of an open and progressive democratic system. The fourth estate provides a forum for public scrutiny of the performance of state institutions and by doing so, plays a crucial role in ensuring checks and balances. Objective media reporting can contribute to the promotion of the rule of law by pro-actively highlighting breaches in fundamental constitutional protections. This can have a knock-on effect of encouraging collective public action to safeguard democratic freedoms.

Beyond this, the media’s influence can also extend to the realm of environmental governance. Here, the possibility of the media’s influence is two-fold. Through news features and media campaign, it can illustrate the violation of environmental rights and protections. For example, a story on toxic pollution and its deleterious impact on human health can illustrate the breach of the right to a clean and healthy environment. Drawing parallels with its knock-on effect on fundamental rights as previously described, the media can in this context galvanize positive public action for environmental protection. In the example of toxic pollution, the media helps raise public awareness of the problem. With heightened awareness comes a deep sense of recognition of the extent to which one’s rights have been violated. The informed populace is then better placed to seek legal recourse for health damages. This ‘knock-on effect’ is more poignant in the absence of prompt, corrective public policy action.

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<sup>70</sup> Section 8 (2) (6)(9) (10) (11) (13)

<sup>71</sup> CoK Article 34 (5)(a)

<sup>72</sup> Gazette Notices No 186 and 187 respectively

<sup>73</sup> KLR, Nation Media Group Limited & 6 others v Attorney General & 5 others [2014] eKLR; Petitions 30 & 31 of 2014 and Judicial Review Misc. Appl. 30 of 2014; <http://kenyalaw.org/caselaw/cases/view/94342/>; Retrieved 26 April 2015

<sup>74</sup> Special Issue of the Kenya Gazette Vol CXVI-No 6 of 15th January 2014

### 2.3 Media Agenda Setting in Environmental Governance

A principal objective of mass media communication is agenda setting.<sup>75</sup> Through agenda setting and priming, media emphasis increases public concern about the law and dispensation of justice.<sup>76</sup> In this context, the political inclination of a media outlet can affect editorial choice of stories reported with the ultimate aim of influencing public opinion.

By significantly influencing the way people think and the decisions they make, the media plays a key determinant role in shaping public opinion.<sup>77</sup> News media in particular can influence perceptions and opinion towards various societal issues, including citizen awareness of environmental matters.<sup>78</sup>

The news media provide factual information about public affairs matters to the general public and set the agenda by ascribing importance to certain issues over others. In fulfilling its role as an analyzer and a conduit of information, the media can set the public agenda by attaching weight to certain news topics and thus defining their newsworthy value. Occurrences that bear direct and widespread harm to human populations or to the environment, the more sensational and ‘newsworthy’ the media perceives the story to be. Ageyo notes that oftentimes, news media will portray environmental events in a manner that aligns with the traditional value judgments of newsworthiness. He observes that the media will emphasize ‘novelty and shock’ as well as ‘conflict’ in setting the agenda through its environmental reporting.<sup>79</sup>

A reorientation of human values, attitudes, and behaviors is essential in fostering a transition towards sustainability and the promotion of ecological citizenship.<sup>80</sup> In a study analyzing media coverage of climate change, how it interacts with individual traits (e.g. values, knowledge, attitudes) of national legislators in Peru, and how such interaction influences the design of policies,

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<sup>75</sup> Cook, T.F, “Governing with the news: The news media as a political institution, University of Chicago Press, 1998

<sup>76</sup> Ibid

<sup>77</sup> Nheu, N. and McDonald, H.M., *By the People, for the People?: Community Participation in Law Reform*, Sydney : Law and Justice Foundation of NSW, 2010

<sup>78</sup> Boykoff, M.Leiserowitz, A., Meisner, M

<sup>79</sup> Ibid

<sup>80</sup> P. Raskin et al., *Great Transition: The Promise and Lure of the Times Ahead* . Boston: Stockholm Environment Institute, 2002

Meisner and Takahashi found out that in a low information environment, the media helped shape the agenda and influenced how legislators perceived the climate change issue and acted upon it.

<sup>81</sup>Meisner and Takahashi's study signifies the media's impact in not only setting the agenda but also influencing behavior through a re-orientation of values in end recipients of environmental media messaging. Fostering environmental values, knowledge and attitudes in audiences boosts the ethos of environmental citizenship.

## **2.4 Mass Media and the Promotion of Environmental Citizenship**

Environmental Citizenship is a concept centered on the recognition that 'self-interested behavior will not always protect or sustain public goods such as the environment.'<sup>82</sup>

Environmental citizens therefore make a commitment to the common good and at the core of environmental citizenship lies the view that environmental responsibilities follow from environmental rights as a matter of natural justice. According to Dobson and Bell, "encouraging people to act according to the public environmental good, offers an alternative to the mainly market-based incentives used by most governments today."<sup>83</sup>

Media exposure contributes to broadening public understanding and awareness of environmental issues and can in turn catalyze behavioral change. Attitude-behavior models that seek to analyze the motives that promote Environmentally Responsible Behavior (ERB) in social psychology indicate that in order to develop environmental concern and pro-environmental attitudes, knowledge and awareness is required. In a 1986 meta-analysis of 128 pro-environmental behavioral studies, Hines, Hungerford and Tomera found that the following variables are associated with pro-environmental behavior<sup>84</sup>:

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<sup>81</sup> Takahashi, B. & Meisner, M. "Re-examining the Media-Policy Link: Climate Change and Government Elites in Peru," Chapter 6 in *Culture, Politics & Climate Change: How Information Shapes our Common Future*, Edited by Deserai A. Crow and Maxwell T. Boykoff. London: Routledge, 2014

<sup>82</sup> Dobson, A. and Bell D. *Environmental Citizenship*, MIT Press, London, 2006

<sup>83</sup> Ibid

<sup>84</sup> Hines & al. *Model of Responsible Environmental Behavior*. Results are based on Ajzen and Fishbein's theory of planned behaviour

- *Knowledge of issues where one has to be familiar with the environmental issue and its causes.*
- *Knowledge of action strategies in that one has to know how their actions can impact the quality of the environment.*<sup>85</sup>

In a research into community participation in law reform processes concerning housing, mental health, law and order, and civil procedure laws in New South Wales territory, Australia, Nheu and McDonald cite the media as a significant intermediary in the reform process. In the research, an overwhelming number of respondents identified the media as a primary source of public information about political and law reform issues.<sup>86</sup>

Dearing and Rogers<sup>87</sup> recognize that where robust governance structures exist, social issues that are widely recognized in the media's agenda often demand attention on the public sphere and in turn, slide up the policy agenda, creating policy changes.

## **2.5 Jurisprudential Basis of Environmental Citizenship through Public Participation**

Tang and Guan observe that the jurisprudential basis for supporting public participation in environmental matters are of two types: 1) democracy theory; 2) supportive laws and regulations as applicable within a said jurisdiction.<sup>88</sup>

In the context of this research, the normative frameworks that support public participation and access to information include the Constitution, the Environment Management Coordination Act 1999, the East Africa Community Protocol on Environment and Natural Resources Management and the Aarhus Convention on Access to Information, Public Participation in Decision-Making and

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<sup>85</sup> Kolmuss, A. and Agyeman, J. Mind the Gap: Why Do People Act Environmentally And What Are The Barriers To Pro-Environmental Behavior? *Environmental Education Research*, Vol. 8, No. 3, 2002

<sup>86</sup> Nheu, N., and McDonald, H.M., *By the People, for the People?: Community Participation in Law Reform*, Sydney : Law and Justice Foundation of NSW, 2010

<sup>87</sup> Dearing, W and Rogers E.M, *Communication Concepts Volume 5: Agenda Setting*, SAGE Publications; 1997

<sup>88</sup> Tang Meng and Guan Jingxiao, "Theoretical Analysis on Chinese Public's Participation in Environmental Matters—Institutionalization Approach." *Canadian Academy of Oriental and Occidental Culture*

Access to Justice in Environmental Matters. It is worth noting that despite the limitation of the UNECE Convention to the jurisdiction of European Union Courts, the text serves as a pivotal reference for the rights of the public in regard to environmental matters.

Public Participation in the development of policies, plans, processes and activities is a core principle of the EAC protocol.<sup>89</sup> Article 34 provides for Public Participation, Access to Justice and Information among member states<sup>90</sup> through the adoption of common policies, laws and programs, fostering participation of non-state actors in environmental and natural resource management and guaranteeing citizen rights to a clean and healthy environment.

Article 61(1), 2(a) of the Constitution prescribes public participation as a one of the values and principles of governance, alongside patriotism, national unity, sharing and devolution of power, rule of law and Democracy, and provides for public participation in Environmental matters. In respect of the environment, the state is mandated to “encourage public participation in the management, protection and conservation of the environment.”<sup>91</sup>

Under Article 35(1) (b), the Constitution guarantees the rights of “access to information held by the state or information held by another person and required for the exercise or protection of any right or fundamental freedom.” Article 35(3) obligates the state to “publish and publicize any important information affecting the nation.” Constitutional fundamental rights enshrined in the Bill of Rights further frame the basis for public participation. Article 36 that provides for freedom of association and Article 37 provides for the right to assemble. The role that people play in governance is based on the sovereign power that people hold either individually or collectively and exercise either directly or through democratically elected representatives.

Despite its limitation to application in the jurisdiction of European Union, the Aarhus Convention as hallmark agreement in international law provides useful principles for accountability and transparency in environmental governance. The Convention “acknowledges the importance of making use of the media, or of electronic or other, future forms of communication.”<sup>92</sup> Under the

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<sup>89</sup> EAC Protocol. Article 4.2.e

<sup>90</sup> EAC Protocol. Article 34 (1-5) The EA Community

<sup>91</sup> Constitution of Kenya, Article 69 1(d)

<sup>92</sup> UNECE Convention, Preamble Clause 15

convention, each party is obligated to ensure that “Environmental Information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks.” This clause presents an opportunity for mass media engagement in the dissemination of environmental information. The Convention has been widely interpreted as a basis for framing the concept of Environmental Democracy as it relates to environmental policy and law.<sup>93</sup>

Complemented by the UNEP 2010 Bali guidelines, the two documents capture the principle of equal rights and transparency for all actors including the public, community groups, advocates, industrial leaders, workers, governments, academics and other professionals to be involved in environmental governance.

An implied assumption of Public Participation is that by involving the public in strategic decision-making, the likelihood of their influencing the outcomes of policy making processes is quite high.

While Public Participation remains an important principle in governance, defining what actually constitutes the principle has been described as a ‘slippery concept’ by Blue who notes that Public Participation “can mean different things to different people, depending on the context of use.”<sup>94</sup> The definition of the term encompasses a broad spectrum of level of engagements at both the individual and community level and can include “individual attitudes, beliefs and lifestyle changes, as well as collective interactions in the form of formal facilitated deliberation, informal Public debates, and uninvited activist protests.”

In *Robert N. Gakuru & Others v Governor Kiambu County & 3 others*, the court noted the importance of clearly defining the concept of public participation.<sup>95</sup> It relied on prominent precedence established by the South African Constitutional Court in *Doctors for Life International vs. Speaker of the National Assembly and Others* (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC), Ngcobo, J.,

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<sup>93</sup> Muigua, K. Musyimi, P., *Enhancing Environmental Democracy in Kenya*. KMCO. 2008

<sup>94</sup> Blue, G. Public, ‘*Participation and Climate Governance: Opening up or Closing down Policy Options*’. Public participation and Climate Governance Working Paper Series. University of Calgary, (2015). PP: 4

<sup>95</sup> *Robert N. Gakuru & Others v Governor Kiambu County*, Petition 532 of 2013 & 12, 35, 36, 42, & 72 of 2014 & Judicial Review Miscellaneous Application 61 of 2014 (Consolidated) Link: <http://kenyalaw.org/caselaw/cases/view/97000/> Accessed 10 May 2015

The court however stressed on the caution expressed by Judge Sachs, J in *Merafong Demarcation Forum and Others vs. President of the Republic of South Africa and Others* (CCT 41/07) [2008] ZACC 10; 2008 (5) SA 171 (CC); 2008 (10) BCLR 968 (CC) where he stated:

*“Being involved does not mean that one’s views must necessarily prevail. There is no authority for the proposition that the views expressed by the public are binding on the legislature if they are in direct conflict with the policies of Government..... The public participation in the legislative process, which the Constitution envisages, is supposed to supplement and enhance the democratic nature of general elections and majority rule, not to conflict with or even overrule or veto them.”*<sup>96</sup>

The principles of public participation complement the fundamental roles of mass media communication which are to educate, entertain and inform. Agenda 21 recognizes education, public awareness and training as critical in promoting environmental awareness.<sup>97</sup> As Kibugi notes, education is a foundational element of public participation and training. Training promotes public awareness which can in turn enhance public sensitivity to environment and development challenges and solutions. <sup>98</sup>

In addition to its education role, the media is also a key extraneous factor forming an active part of the political environment which bears an influence on the functioning of courts<sup>99</sup>. It can play the effective role of promoting public awareness and ultimately contribute to the achievement of goals of environmental protection.

Principle 10 of the Rio declaration is a key formal rule governing national and global environmental decision-making processes and is contextualized by the Bali Guidelines which further define the development of domestic national laws in relation to this principle. The Bali guideline obliges government to make information on the environment publicly available. In upholding the principle tenet of access to information as defined by the Bali guidelines, state actors

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<sup>96</sup> Ibid

<sup>97</sup> UNECE Convention, Preamble Clause 15

<sup>98</sup> World Bank, *The World Bank Legal Review*, Volume 5; Robert Kibugi “The Constitutional basis of Public Participation in Environmental Governance; Framing equitable opportunities at National and County Governments.” IBRD 2014

<sup>99</sup> William M. Landes and Richard Posner “The Private Enforcement of Law.” 4 *Journal of Legal Studies* 1 1975

are obligated to ensure that information on environmental quality and environmental health and safety are made publicly available and accessible in a timely manner.

The Bali guidelines also encourage public actors to use traditional and new media forms as conveyors of information on the state of the environment.<sup>100</sup> Media engagement promotes public deliberation. Public deliberation collectively refers to processes of public discourse on a broad array of societal issues and forms a core component of holistic public participation. Taking note of the important role of public deliberation in enhancing public participation, Delli argues that through public deliberation, citizens become more enlightened about their own and others' needs and experiences. New knowledge enables them to better resolve deep conflict and become more engaged in governance. Through scaled-up engagement in governance, citizens can then be able to perceive their domestic political system as legitimate, a perception that in turn leads to a healthier civic life.<sup>101</sup> In contrast, an uninformed public cannot meaningfully participate in the policy making process, despite an abundance of legal frameworks for public participation in decision making for environmental governance.<sup>102</sup>

With the rising prominence of the environmental issues in the face of global environmental change and with new, consequential legislative developments in the media landscape in Kenya, the fate of environmental journalism is critical now more than ever. This research seeks to appraise the intricate nexus between mass media plurality, public opinion and environmental policy determination in Kenya and examines case studies where active media reporting has brought to bear on breaches in environmental protection.

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<sup>100</sup> UNEP, Putting Rio Principle 10 into Action: An Implementation Guide for the UNEP Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters.

<sup>101</sup> Delli Carpini, M. X., Cook, F. L., & Jacobs, L. R. (2004). Public Deliberations, Discursive Participation and Citizen Engagement: A Review of the Empirical Literature. *Annual Review of Political Science*, 7 (1), 315-344.

<sup>102</sup> Article 10 of the Constitution of Kenya 2010, Aarhus Convention, EMCA section CoK Arts:10, 174, 201, 232; CGA 47, 91, 99-100; PFMA 125, 128, 131, 137 UAC 2011, 21 and 22

## CHAPTER THREE

### 3.0 METHODOLOGY

#### 3.1 Introduction

The conceptual framework of this thesis links together various fundamental elements of media governance and media performance with core elements of public participation to demonstrate the step-by-step influence of both on the level of stringency in environmental governance. Applying this conceptual framework in examining the impact of press coverage on public policy presents an unqualified win for each entity in each step of the communication-policy formulation chain as illustrated in figure 1 below.

#### 3.2 Conceptual Framework

The conceptual framework depicted below demonstrates the interlinkage between thematic coverage of environmental issues and induced stringency in environmental policy. Media coverage of an ecological issue can directly influence the pace and stringency level of policy action, as noted by Besley and Burgess. They have examined this relationship and observe that constant media exposure induces the government to be more responsive when the public is informed.<sup>103</sup>

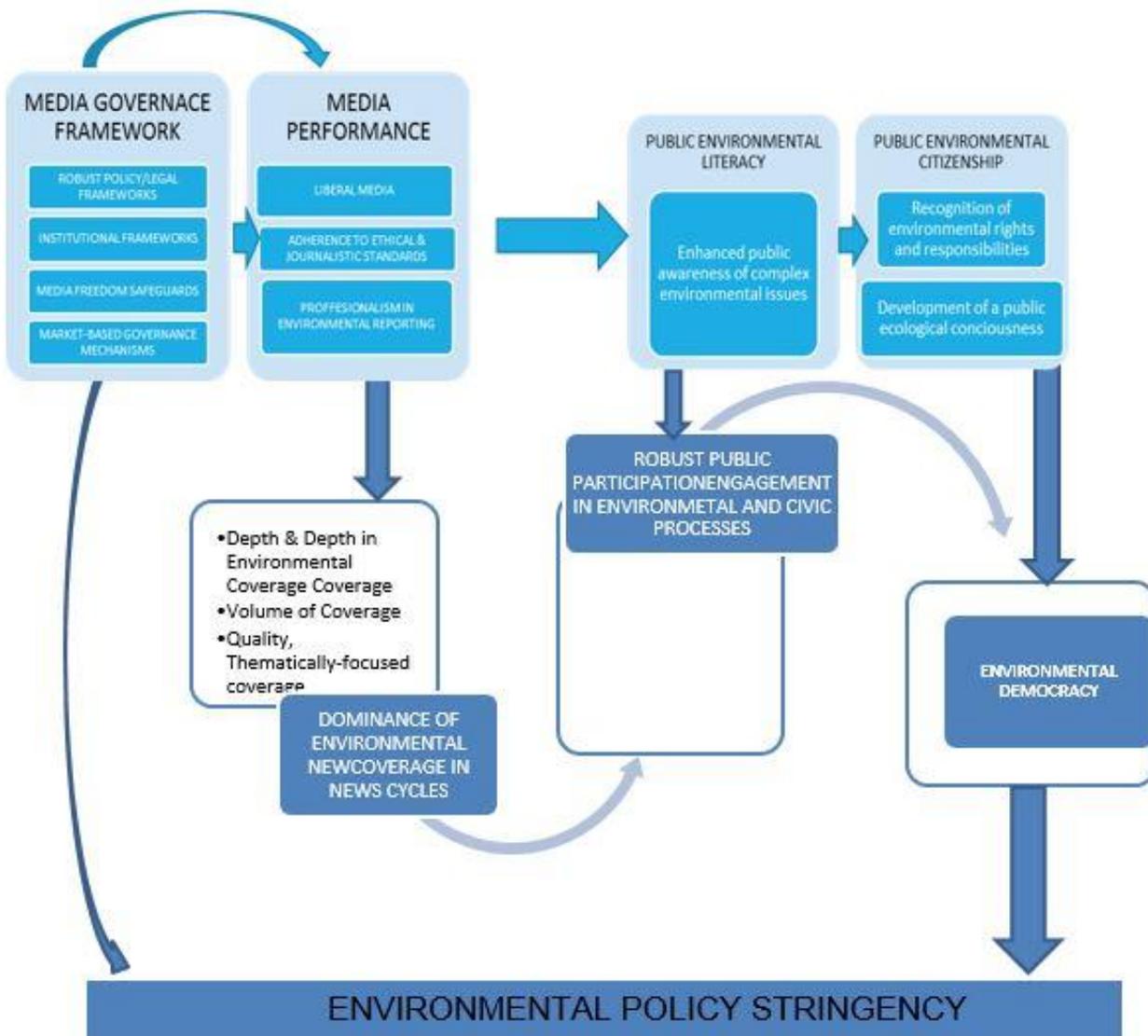
The media can also bear an indirect influence on the policies that govern an environmental issue. Through media priming—a communications term which encompasses duration of coverage and positioning of a news item in a news story cycle – the media can influence public opinion on an issue. Primed coverage raises public awareness and can at times include an explicit call to action. Public opinion can be a catalyst for policy stringency. The Liberal Democratic model postulates that public opinion drives media agenda setting which in-turn influences government action which could also encompass a policy response. However, as illustrated in the framework below, the media can effectively fulfill its role as defined by the Liberal Democratic model if it operates in an enabling regulatory environment, one which ensures safeguards for the press. In his prominent essay tracing the history and development of the Liberal democratic view, Jensen argues that press

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<sup>103</sup> Besley, T. And Burgess,R. The political economy of government responsiveness: Theory and evidence from India. *The Quarterly Journal of Economics*. 2002.

liberalization is an important determinant in the rise of Liberal Weltanschauung and the reshaping of ideas, thoughts and the cultures of Western societies.<sup>104</sup>

**Figure 1. Conceptual Framework**



<sup>104</sup> Jensen J., Liberalism, Democracy and the Mass Media, Pg. 51, 1976, University of Illinois at Urbana-Champaign Institute of Communications Research

Building on Jensen's essay, Ridout advances the argument that public opinion and news media can contribute to sound policy formulation, resulting in more rational and well thought-out policies.<sup>105</sup>The public and political visibility of environmental issues can also add complex dynamics to the process, and the more attention is given to an issue, the more likely it will be that simultaneous opportunities to influence public decisions will exist in legislative, executive, and judicial forums and at multiple levels of government.<sup>106</sup>Drawing on these perspectives, this thesis conceptualizes that by promoting environmental consciousness in society, the news media can shape public opinion on environmental ethics. In doing so, the media influences meaningful public participation which is a core principle in environmental governance.

### **3.3 Theoretical Framework**

The outcomes of this research point to agenda setting as the central avenue through which the media exerts its influence over processes of societal governance. As has been examined in this thesis, the processes of societal governance, anchored by key principles such as public participation, can be important influencers in how legal framework for environmental management are crafted and how policies which result from these frameworks are developed and implemented.

Agenda setting is a primordial function of many news media forms and is a fundamental theory in mass communications. It was initially advanced by McCombs and Shaw who built on Lippmann's work on public policy which first set forth the concept of media influence on political decision-making. Lippmann observed that the analysis of the nature of news seemed to show that the newspapers (and media) inevitably reflect and, in greater or lesser measure, intensify the organization of public opinion.<sup>107</sup>

McCombs and Shaw's empirical study investigated the agenda-setting capacity of the mass media during the 1968 presidential elections in the United States by attempting to match the public's perception of key electoral issues to issues as reported by the media.<sup>108</sup>

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<sup>105</sup> Travis N. Ridout, *New Directions in Media and Politics*

<sup>106</sup> Dietz, T. and Stern, P., *Public Participation in Environmental Assessment and Decision Making*, 2008, National Research Council

<sup>107</sup> Lippmann, Walter. *Public Opinion*. New York: Harcourt, Brace and Co, 1922

<sup>108</sup> McCombs and Shawn, *Public Opinion Quarterly* 4 (2): 143–158 P, 1972

The research resulted in a significant positive correlation of .967 between key campaign issues emphasized by the media and voter's independent judgment of what they perceived as key campaign issues. Controlling for external biases, the research concluded that interpreting evidence from the study to indicate mass media influence was the most plausible conclusion than alternative explanations.

Theoretically, this thesis draws from the environment-development-mass media model developed by Suphachalasai's. The empirical Environment-Development-Mass Media model posits that "mass media acts as a means through which concerns for environment or environmental awareness is translated to policy determination." According to the model, the political parties tend to factor citizens' preferences into their policy making consideration more frequently when voters are well informed and capable of making judgment on the parties' policy platforms.<sup>109</sup>

Suphalchalsai infers that in a political economy, a shift of the balance of power occurs in favor of voters as societies develop. Statistically put, the fraction of informed voters as a measure of public participation in policy making process (denoted by  $\sigma$ ) becomes larger. In the context of this thesis where the focus is on an information-driven society, the shift can occur to favor consumers of information. In a similar fashion, the fraction of informed consumers of environmental news as a measure of public participation becomes larger.

### 3.4 Variables

The research utilized a model similar to Suphachalasai's to analyze the role of mass media explanatory variables in the determination of Stringency in Environmental Policy (SEP).<sup>110</sup>

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<sup>109</sup> Suphachalasai, S., "Development, Environmental Policy, and Mass Media: Theory and Evidence", Environmental Economy and Policy Research; University of Cambridge, 2005.

<http://www.landecon.cam.ac.uk/repec/pdf/200515.pdf>. Accessed 4 May 2015

<sup>110</sup> Suphachalasai, S., "Development, Environmental Policy, and Mass Media: Theory and Evidence", Environmental Economy and Policy Research; University of Cambridge, 2005.

<http://www.landecon.cam.ac.uk/repec/pdf/200515.pdf>. Accessed 4 May 2015

Lambeth's structure of 10 possible functions of the media in the process of policy formulation – anchored by the 5-part framework developed by Jones' (1977) – provided a useful guide.<sup>111</sup>

### **3.41 Dependent Variable**

Stringency in domestic environmental policy (SEP) framework and institutional and legal regimes were bundled together to form the dependent variable used in this thesis. SEP is used as a prime measure of a country's environmental policy performance and provides a good indicator of how well a policy has been enforced. With the exception of the BRIC nations and Indonesia, SEP data developed by the OECD<sup>112</sup> limited ranking to only OECD-member countries at the time this research was conducted. These pre-existing gaps in data collection render SEP analysis inconclusive for non-OECD countries.

The stringency level of a given policy is a 'performance' indicator. It is determined by measuring the proximity of a sectoral environmental policy provision to an identified policy performance benchmark across various sectors.

Given the unavailability of stringency data in OECD rankings, SEP- equivalent data for Kenya was sourced from the global Environmental Performance Index (EPI)<sup>113</sup>. The EPI is a biennial index that features granular country data from 2010, 2012 and 2014. EPI indicators are developed using a "proximity-to-target" methodology, where a high performance benchmark, is defined primarily by international or national policy goals or established scientific thresholds.

### **3.42 Independent Variables**

The dataset then considered 2 categories of explanatory variables that defined and quantified various aspects of media coverage of the environment and various aspects of public participation. These are:

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<sup>111</sup> Fischer, John R.. News Media Functions in Policy Making. *Canadian Journal of Communication*, [S.l.], v. 16, n. 1, Jan. 1991. ISSN 1499-6642. Available at: <<http://cjc-online.ca/index.php/journal/article/view/589/495>>. Date accessed: 11/05/2015

<sup>112</sup> Organisation for Economic Cooperation and Development. Environmental Policy Stringency Index. <https://stats.oecd.org/Index.aspx?DataSetCode=EPS>. Date accessed: 26/03/2016

<sup>113</sup> The Environmental Policy Index Project. <http://epi.yale.edu/>

- i. *Media issue-dominance variables*
- ii. *Public participation variables*

### **Media Issue-dominance Variables**

Media issue-dominance variable category measured the weight attached to an environmental issue by the media across various news cycles. This variable category was comprised of:

- i. Volume, quality and thematic focus of environmental media coverage in Kenya in the last five years
- ii. The level of knowledge, attitudes, and practices of environmental journalists and editors in reporting on the environment.

The media dominance variable category matched the news media functions of agenda setting.

### **Public Participation Variable**

Public participation variable was used to analyze the relationship between public policy action and environmental media coverage. This variable category described the points of convergence in opinion between the participant and government sectors regarding what constituted action for the protection of the environment, equitable and rational use of natural resources as well as the protection of human health from pollution. Sub-variables included in this category were those that best defined the media's role as a two-way conveyor of information in the public participation process. The extent to which the law permitted the press to freely report on key issues under constitutional provisions in Articles 33 and 34 was also considered. These legal provisions were considered because they play an important role in determining how well informed the public is and enables the media fulfill its mandate as a public watchdog. Country performance data from the International Press Index was used to evaluate this variable.

Drawing from Malena, Forster and Singh as well as the 2014 EDI, key components of social accountability and their attendant variables were used in this study to assess the strength of this sub-variable.

### 3.5 Data Collection

This thesis used Boolean data analysis technique to collect and analyze the total volume of environment –related news coverage generated during the monitoring period. Boolean logic detects deterministic dependencies in data and is best suited for the collation of large volumes of data – such as Kenya-specific media coverage data – from a vast global array of environmental media coverage over the timeline of the research. Because of its ability to be retrospective, this technique bolsters the accuracy of data collected.

In-depth content analysis of four selected case-studies was used to define the quality of pickup and thematic focus areas. Data relating to journalistic knowledge and practices of environmental issues was collected using weighted questionnaires in key-informant interviews.

### 3.6 Data Collection Instruments

The research used three data collection instruments to execute the data functions described in the section above.

#### 1. *Media monitoring software*<sup>114</sup>

Licensed media monitoring software based on Boolean logic analysis technique was used. The online-based software platform was useful in collecting and pre-analyzing volume of news coverage based on defined search parameters.

#### 2. *Structured survey questionnaires*<sup>115</sup>

A survey questionnaire was designed, pre-tested and administered to the respondent pool.

The standardized questionnaire constituted of structured questions designed to determine the knowledge attitudes and practices of environmental journalists to the extent that it related to their work environmental reporting.

#### 3. *Case study analysis matrix*<sup>116</sup>

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<sup>114</sup> See Annex 1 for screenshot of the software dashboard

<sup>115</sup> See Annex 2

<sup>116</sup> See Annex 3

The matrix used in this research comprised of four case studies. Standard criteria were applied to eligible cases to determine which would eventually be included in the matrix. Selection criteria included frequency of coverage in news cycles, frequency of coverage across news forms, extent to which story dominated news headlines and the extent to which the story resulted in policy or legal action. The four selected case-studies included in this thesis fulfilled the selection criteria.

### **3.7 Data Collection Methods**

The data instruments above were then used to collect data as described below:

- i. Boolean analysis was used to generate volume of media coverage of the environment across 6 thematic areas
- ii. Structured questionnaires was used to analyze a sample population of journalists to determine the level, knowledge, attitudes towards environment and science reporting and practices in covering the environment.
- iii. Cross sectional case studies of media coverage of two prominent environmental issues provided a glimpse of the policy response to environmental issues highlighted by the media. Mau forest is a prominent conservation issue still dominating press coverage in Kenya to date. This research clearly demonstrates the evolution of the issue over a five year timeline. Owino Uhuru case study offers a clear example of media priming of an environmental issue under the devolved system of government.

### **3.8 Data Analysis**

A Multiple Linear Regression analysis was applied to investigate the best prediction between the dependent and explanatory variables.

## **CHAPTER FOUR**

### **4.0 RESULTS OF DATA ANALYSIS AND DISCUSSION**

#### **4.1 Introduction**

The objectives of environmental reporting have been defined differently by various authors. Ageyo notes that environmental reporting in Kenya has largely been defined by conflict which is one of the key measures of newsworthiness in the media arena. Examining the media's coverage of the attempted demarcation of Karura forest in the outskirts of Nairobi to private developers, Ageyo also observes that media reports largely portrayed the dramatic engagement between environmental campaigners and law enforcers, with newspapers describing the confrontation using dramatic phrases to illustrate conflict such as 'locked horns' or 'protesters clashed with'.<sup>117</sup>

Since then, environmental reporting in Kenya appears to have followed a uniform trajectory. Media coverage of issues which could and perhaps should be predominantly categorized as 'environmental' has constantly been 'validated' by dramatic political angles. Media coverage of the Kenya Pipeline Sinai tragedy only made cursory mention of the urban ecological impacts of the oil spill disaster. The spill was caused by a leaking gasket in a fuel storage system at the depot of state-owned corporation Kenya Pipeline Depot. The petroleum leaked through a manhole into

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<sup>117</sup> Ageyo, Joe. "Global Environmental Governance: Whither the Media?" Prepared for the Global Environmental Governance: the Post-Johannesburg Agenda. Yale Center for Environmental Law and Policy. 23-25 October 2003

an open sewer line which flowed through the Sinai informal settlement in Nairobi. The open spill caught fire and resulted in a massive catastrophic blaze. Despite the scale of the urban ecological impacts of the spill, the media solely focused on the ensuing human catastrophe. Follow-up news articles and analyses still failed to capture the ecological impact of the oil spill as well as the underlying institutional failures – key among them being poor management of urban environments. Months after the spill, reporting shifted focus to the victims’ compensation case that had been filed before the courts at the time. This case coverage was however frequently skewed by focus on political messages. Capital FM, a lead contemporary urban radio station in Kenya with a large digital presence carried this lead headline:

*“Sonko wails in court as Sinai victims case put off - Capital FM.”<sup>118</sup>*

Despite the wanting quality of reporting, environmentally-focused coverage has still registered growth in total volume over the last five years and some examples of good-quality, impactful reporting are described in detail in ensuing sections.

#### **4.2 Growth in Media Coverage of Environmental News**

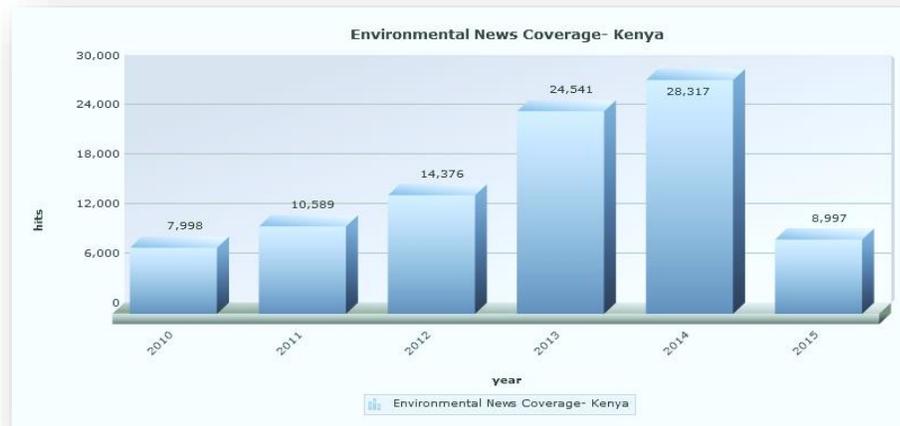
The volume of environmental news coverage in Kenya has grown progressively in the last 5 years attaining the highest peak in 2014.

In 2014 alone, approximately 28, 317 news articles spanning different environmental themes were published by Kenyan media compared to approximately 7, 998 articles. Articles with reference to difference aspects of the environment are also included in these estimates.

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<sup>118</sup> Capital FM Kenya. Sonko wails in court as Sinai victims’ case put off. Link: <http://www.capitalfm.co.ke/news/2014/01/sonko-wails-in-court-as-sinai-victims-case-put-off/>

**Figure 2.Total Volume of Environmental News Coverage in Kenya (2010-2015)**



The data also indicates growth in the potential audience for environmental news in Kenya. ‘Hits’ refer to the number of published articles.

### **4.3 Case studies of Select Environmental Media Coverage.**

#### ***4.3.1 News Media Coverage of the Mau Forest Complex***

The Maasai Mau forest complex is a vast closed-canopy indigenous forest measuring approximately 46,278 hectares. It provides critical ecosystem services which include natural assets, serves as a water catchment area, micro-climate regulation, biological diversity and tourism development.

The forest is a trust land managed by the county council of Narok. However, human encroachment into the forest land through illegal and irregular allocation of forest land has contributed to an

alarming rate of destruction. Surveys indicate that between 1973 and 2005, 39% of total forest cover was lost in the inside and on the outside boundaries of the forest.

Concerned by the heightened destruction of the Mau forest section of the complex, members of the public raised concern through the Kenya Forest Working Group in 2003. The KFWG presented a formal complain to the Public Complaints Committee of NEMA. The commission responded by sending an assessment mission to the Mau on 29 May 2003 following which it recommended : All title deeds that were irregularly issued to individuals be revoked forthwith, Prosecution of any offenders be commenced forthwith, there should be no new excision of forest and immediate plans to restore and regenerate the forest should be commenced forthwith.<sup>119</sup>

e) All people who have settled in the forest should be evicted. The complaints were forwarded to the National Environment Council which delayed taking any action.<sup>120</sup>

Recommendations were presented to the National Environment Council but the council did not act accordingly.<sup>121</sup> With government action not forthcoming, the KFWG decided to take an alternative channel and launched a media campaign in 2004 with the aim of highlighting the urgency of the situation and drawing public and government attention to the scale of destruction in the Mau Forest. The media advocacy was further strengthened by several stakeholder workshops organized by the KFWG and the Ewaso Ngiro South Development Authority (ENSDA) to which various government officials were invited to attend.

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<sup>119</sup> Nkako F, Lambrechts C, Gachanja M, & Woodley B (2005). Maasai Mau Forest Status Report 2005. Narok. Ewaso Ngiro South Development Authority. The Public Complaints Committee (PCC) is established under Sections 31 to 36 of the Environmental Management and Coordination Act (No.8 of 1999) and is mandated is to investigate complaints from the the public regarding the condition of the environment, or on its own motion, suspected cases of environmental degradation.

<sup>120</sup> Nkako F, Lambrechts C, Gachanja M, & Woodley B (2005). Maasai Mau Forest Status Report 2005. Narok. Ewaso Ngiro South Development Authority. The Public Complaints Committee (PCC) is established under Sections 31 to 36 of the Environmental Management and Coordination Act (No.8 of 1999) and is mandated is to investigate complaints from the the public regarding the condition of the environment, or on its own motion, suspected cases of environmental degradation.

<sup>121</sup> Ibid

UNEP and the Kenya Wildlife Service conducted an aerial survey documenting recent destruction of forest land and compiled the survey into the *Mau Status Report* published in 2005.<sup>122</sup> Findings were presented to concerned government ministries.

On 15 July 2008, a consultative stakeholder forum was constituted under the auspices of the Prime Minister's office to assess progress on the Mau and to find consensus regarding impending evictions. The high stakes forum brought together close to 300 representatives from the legislature, local and international and national non-government organizations (NGOs), the private sector and community-based organizations (CBOs). The session culminated in the publication of a detailed report on the extent of forest degradation, including illegal encroachment activities.

Findings of the report were discussed in parliament in a widely televised and publicized 'Prime Minister's Question Time' segment on 22 July 2009. The Kenya National Commission on Human rights estimated that close to 100,000 people were forcefully evicted from their homes in the Mau between 2004 and 2006.<sup>123</sup>

A fortnight later, then Prime Minister Raila Odinga constituted a special taskforce to undertake follow up action from the forum. On 28 July 2008, the PM made an impassioned appeal to Parliament over the Mau, arguing that hesitation over the eviction of illegal squatters not be used as a justification for inaction. The Kenya Hansard quotes the PM's address:

*"Out of the five water towers, Mau is the biggest yet we know what is happening there at the moment is a disaster.....That is a fact known to everybody yet nothing is being done to address the situation.....People are still moving into the forests, people are still destroying the forests yet we keep on hearing:" "Oh! This is a matter that still needs to be discussed. These things should not be done in a hurry! We need to first resettle!" "Yes- we know that people need to be resettled but we should not be claiming that as a right."*

Among key recommendations of the task force was the immediate removal of all encroached settlements. The committee also recommended the formation of a joint enforcement committee

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<sup>122</sup> Ibid

<sup>123</sup> No Where to Go: Forced Evictions in the Mau Forest. April 2007. Briefing Paper. Kenya National Commission on Human Rights. Link: <http://bit.ly/1Gvfb69>

under KWS to promote ‘community-based approaches in law enforcement’ as well as the formation of Mau Forest Complex Authority to oversee management of the complex.

The environmental degradation of the Mau forest dominated news headlines throughout 2009 and still makes headline news to date.

Prior to its formalization, the task force report was leaked to the press in April 2009, painting the picture of a divided committee who were unable to come to consensus regarding the recommendations of the report.

Even then, news headlines were more focused on the politics and the naming of individuals who had been illegally allocated large swathes of land in the forest. Media coverage made passing mention of the catastrophic ecologic threat the illegal encroachment posed to the forest.

*Revealed: Big names given Mau Forest land*<sup>124</sup>

Daily Nation| April 2009.

In June 2009, the full report was presented to the Prime Minister and officially made public. In September 2009, Parliament adopted the report thereby granting the Prime Ministers’ newly – formed Interim coordinating secretariat (ICS) on the Mau executive and parliamentary authority to evict settlers.

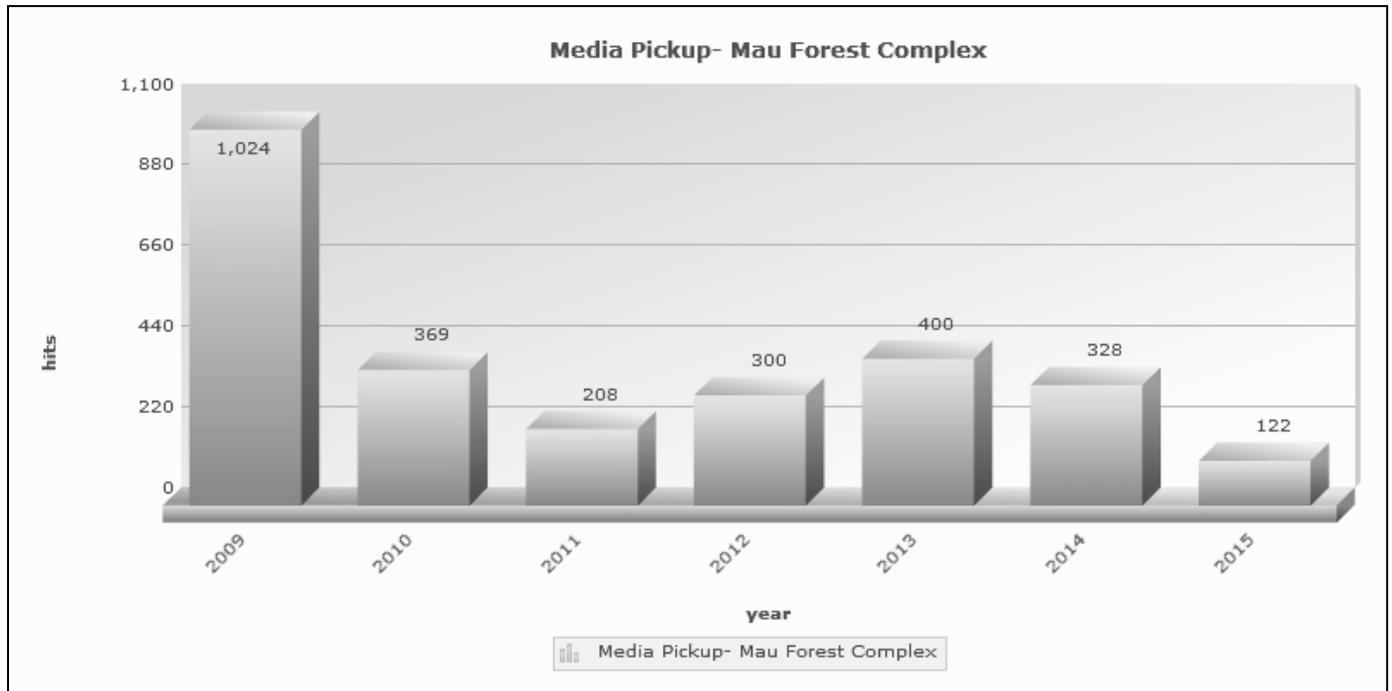
In the same month, key highlights of the Task force report were presented at an international press conference jointly organized by the Government of Kenya and the UN Environment Programme and the Prime Minister launched a multi-million dollar public funds appeal at a press to help restore the ecology of the Mau.

This prominent publicity contributed to the upsurge in media coverage of the Mau towards the last quarter of 2009. The press conference was widely reported by national and international media and broadcast in Kenya and around the world.

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<sup>124</sup> Revealed: Big names given Mau Forest land. Link: <http://www.nation.co.ke/news/-/1056/556332/-/4xe8nqz/-/index.html>. Daily Nation, April 2009.

**Figure 3. Distribution of Media Coverage of the Mau Forest Complex.  
(2009 – 2015)**



Analysis of press coverage from the 9 September 2009 press conference reveals contrasting perspectives between national media and international media coverage.

Kenyan media reporting primarily focused on individuals and the procedural or political issues linked to the Mau report.

*The Standard: MPs lose bid to refer Mau report to land committee*<sup>125</sup>

*Capital FM: Maathai chides Raila over Mau*<sup>126</sup>

*Daily Nation: Mau: Bid to defer adoption of report fails*<sup>127</sup>

<sup>125</sup> Standard Media Kenya. MPs lose bid to refer Mau report to land committee  
[http://www.standardmedia.co.ke/article/1144023617/mps-lose-bid-to-refer-mau-report-to-land-committee?articleID=1144023617&story\\_title=mps-lose-bid-to-refer-mau-report-to-land-committee&pageNo=2](http://www.standardmedia.co.ke/article/1144023617/mps-lose-bid-to-refer-mau-report-to-land-committee?articleID=1144023617&story_title=mps-lose-bid-to-refer-mau-report-to-land-committee&pageNo=2)

<sup>126</sup> Capital FM Kenya. Maathai Chides Raila over Mau. Link: <http://www.capitalfm.co.ke/news/2009/09/maathai-chides-raila-over-mau/>

<sup>127</sup> Daily Nation Kenya. Link: <http://allafrica.com/stories/200909090989.html>

However, the Daily Nation also carried a comprehensive article on the same day. The piece drew parallels between the ecological risks of the then ongoing destruction of the Kipkinur-Sokiot forest in Marakwet East and that of the Mau forest.

On the converse, international media outlets, with the exception of the news wires, carried detailed feature stories in their environmental sections. The BBC ran a full-length feature analysis complete with satellite images of the extent of forest destruction. The article examined different story angles to the Mau problem and provided a detailed historical context to the destruction. The article gave an in-depth understanding of the prevailing situation, the agony of the soon-to-be evicted squatters, the downstream impacts of the dwindling water sources upstream in the Mau as well as the political top-line messages from the Prime Minister and the conservationist Wangari Maathai who had also attended the press conference.

*BBC News: Kenya's heart stops pumping*<sup>128</sup>

Media coverage of the Mau Forest sharply declined after 2009. Of 20 articles sampled after 2009, over half only reported on the Mau forest as a contentious political issue in the lead up to the 2013 general elections in Kenya.

Of the 5 years after 2009, coverage rose above the 5-year annual average, peaking in 2013. Media coverage made reference to the evictions of squatters in the Mau as a key determinant in the 2013 general elections.

The most recent prominent media coverage of the Mau was at the end of 2014 when NTV released a documentary assessing progress made towards restoring the forest. Titled 'The Mau tragedy,' the piece documents the prevailing situation of squatters in the Mau with voices from opinion shapers, including academics and politicians.

Produced by Nimrod Taabu, the 45 minute documentary aired on NTV between September 14 and 19 2014 provides historical anecdotal accounts of residents who migrated years ago and have observed the alteration of the landscape overtime.

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<sup>128</sup> Kenya's heart stops pumping. BBC News. UK. <http://news.bbc.co.uk/2/hi/africa/8057316.stm>

Vivid, visual images portray wanton destruction of the forest. The documentary describes the destruction of the forest as “A catastrophic assault on what is essentially an environmental altar” ... destruction driven by greed, money, political power

This reinforces what Ageyo terms as the element of ‘shock’ as a measure of newsworthiness in environmental media reporting. This element is also reinforced by the title of the documentary ‘The Mau Tragedy.’

Land conservation seems to be the main concern of peasant farmers. Taabu interviews resident conservationists who claim that the rainfall patterns in the area have been altered drastically. Others argue that the problem lies in the unclear demarcation of boundaries.

The documentary addresses the plight of the thousands of squatters who have been evicted severally from different portions of the land.

But seems to ultimately point to the fact that the original residents of the Mau forest, the Maasai, have occupied several sections of the forest for generations with the objective of preserving the forest.

However, what seems to be the view of the Kenyan press to continuously highlight the element of politics in environmental coverage is not missed in this interview. The documentary prominently shows an exchange of words between Maasai and Kipsigis politicians. However, politicians and conservationists are interviewed and positioned at the second half of the documentary to give the summary perspective. The chair of the Kenya water towers also takes the political perspective but this lack of alternative perspective could have been motivated by leading questions from the journalist.

While it is generally appreciated as an environmental issue, the press coverage of the Mau forest complex has continuously been portrayed as a political contest. Most documentaries and news clippings from dominant media broadcasters in Kenya paint a picture of a national political contest with squatters and evictees being the casualties.

However, news outlets with a regional and global sources have insistently covered the Mau Forest Complex issue from an ecological angle. An article in *The Africa Report*, a pan-African magazine

published in France, vividly captures how environmental degradation is altering the livelihoods of many residents in and around the Mau complex.

*Saving Kenya's Mau forest*<sup>129</sup>

*“The canals emerging from the swamp were completely dry. Water drained from Enapuyiapuy to join other streams that then became the Mara River (lifeline of the Maasai Mara National Reserve), the Nderit River, which had once fed Lake Nakuru (source of water for a million people in the central Rift Valley) and others that fed Lake Victoria. The canals are now dry. Locals claimed that elephants had once sunk without trace in this swamp. Now sheep grazed across it, unafraid.”*

**4.32 Media Portrayal of Toxic Lead Pollution at Owino Uhuru, Mombasa County**

The escalated occurrence of lead pollution at Owino Uhuru in Mombasa County was first spotlighted globally in June 2014 when Human Rights Watch issued a press release as part of a media campaign to expose the environmental health effects of the toxic poisoning in the community - in support grass root efforts led by environmentalist Phyllis Omido. The pollution emanated from the smelting of lead batteries at the nearby Metal Refineries Company Ltd. Prior to the launch of the advocacy campaign, the community had submitted a petition “for the protection of the environment and other constitutionally protected rights and fundamental freedoms of the residents of Owino-Uhuru village in Mikindani Ward, Jomvu Constituency”<sup>130</sup> in March 2014 to the Senate Standing Committee on Health. To complement the parliamentary process, the campaigners adopted a media strategy to convey a sense of urgency on the matter.

Despite widespread media coverage of the Human Rights Watch statement, including in top outlets such as Reuters and France 24, the Daily Nation was the only news outlet that reported the story locally. In fact, the Nation published two news articles on the same day detailing the extent of the pollution crisis in Owino-Uhuru.

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<sup>129</sup> Saving Kenya's Mau forest. Link: <http://www.theafricareport.com/Columns/saving-kenyas-mau-forest.html>. The Africa Report. 21 September 2009

<sup>130</sup> The Senate Petitions Tracker. 11<sup>th</sup> Parliament. <http://bit.ly/1LzCMqJ>

*Daily Nation: Lead poisoning kills three in Mombasa slum, thousands more at risk*<sup>131</sup>

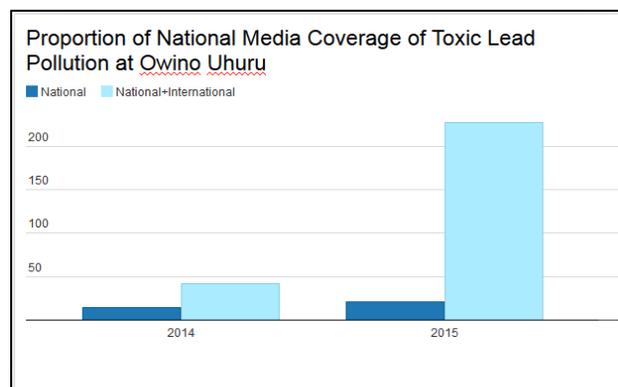
*Daily Nation: Alarm raised on lead poisoning risk*<sup>132</sup>

In one article, the Nation had attempted to reach NEMA officials who had been accused by campaigners for their apparent negligence and inaction by overruling an early decision by the Ministry of Public Health to close the smelter.

Following the initial article published by the Nation, national media then began to cover the story regularly. By the end of 2014, 5 news articles had been published by the Daily Nation<sup>133</sup>, The East African<sup>134</sup>, Business Daily<sup>135</sup> and The Star collectively.

In April 2015, Phyllis Omido was announced winner of the prestigious Goldman Environmental Prize for her work in highlighting the pollution at Owino Uhuru and for galvanizing the community to demand remediation and compensation from the Metal Refineries EPZ Ltd. Following the award, coverage by national media drastically increased, albeit marginally.

**Figure 4. Comparison of National Media Coverage of Total Global Coverage of Lead Poisoning in Owino Uhuru**



<sup>131</sup> Daily Nation. Link: <http://www.nation.co.ke/counties/mombasa/-/1954178/2360168/-/793g3fz/-/index.html>. 24 June 2014

<sup>132</sup> Daily Nation. Link: <http://www.nation.co.ke/counties/Alarm-raised-on-lead-poisoning-risk/-/1107872/2360436/-/13t9sy0/-/index.html>. 24 June 2014

<sup>133</sup> Daily Nation. <http://www.nation.co.ke/news/politics/Senate-Health-Committee-Lead-Poisoning-Factory-Mombasa/-/1064/2417366/-/7bccfrz/-/index.html>. 12 August 2014.

<sup>134</sup> The East Africa. <http://www.theeastafrican.co.ke/news/Probe-team-found-factory-negligent/-/2558/2398610/-/2jgp75/-/index.html>. 24 July 2014

<sup>135</sup> Business Daily. <http://www.businessdailyafrica.com/Mombasa-directed-to-screen-lead-poisoning-victims/-/539546/2416990/-/dwf8viz/-/index.html>. 12 August 2014.

Soon after Omido's award, KTN aired a one and a half hour documentary on the popular investigative program *The Inside Story*<sup>136</sup> and its Kiswahili version *Jicho Pevu*<sup>137</sup>. The documentary presented results of biomedical tests showing elevated levels of lead residues in residents especially children. The documentary investigated the disagreement between NEMA officials and Ministry of Public Health officials over the closing of the factory.

Following the broadcast of the documentary, the parliamentary committee on Environment and Natural Resources summoned NEMA to provide further information on the pollution incident. At the hearing, NEMA mentioned that it had embarked on a process to decommission the plant. NEMA also planned to immediately launch criminal proceedings at the Director of Public Prosecution against Metal Refineries EPZ Ltd.

While the matter is yet to reach a conclusive legal determination, the avalanche of national media focus on the lead poisoning at Owino Uhuru, including other advocacy strategies have contributed to hastening action by the senate committee and NEMA.

Besley and Burgess have observed that constant media exposure "induces the government to act more responsively" when a large proportion of the population is exposed and informed.<sup>138</sup>

#### **4.4 Analysis of Coverage across Thematic Areas.**

The volume of media coverage was also analyzed across seven pre-selected thematic areas, namely chemical pollution and hazardous waste, soil degradation, loss of biodiversity, climate change, extreme weather events, air pollution and renewable energy.

#### **Figure 5. Number of Articles published by the Kenyan Media across 7 thematic areas (2010-2015)**

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<sup>136</sup> Plague for profit. KTN. <https://www.youtube.com/watch?v=KQAFW4GM1AM>. 26 April 2015

<sup>137</sup> Futari ya Sumu. KTN. <https://www.youtube.com/watch?v=mIU1pmoIoWw>. 26 April 2015

<sup>138</sup> Besley, T. And Burgess, R. The Political Economy of Government Responsiveness: Theory and evidence from India. *The Quarterly Journal of Economics*. 2002.

Number of articles published per year							
Issue	Year	2010	2011	2012	2013	2014	2015
<b>Chemical pollution and hazardous waste</b>		369	616	563	1577	1062	349
<b>Soil Degradation</b>		748	1078	1076	1897	2632	968
<b>Loss of Biodiversity</b>		1030	1732	1996	4319	5014	1433
<b>Climate Change</b>		1519	2375	2118	3228	3786	1389
<b>Extreme weather events (Floods, Droughts)</b>		1523	3200	1932	2807	3206	1290
<b>Air Pollution</b>		364	568	345	636	709	243
<b>Renewable Energy</b>		509	672	851	1303	2249	781

The proportion of news articles whose content focused on, or was related to the theme of biodiversity, or loss of biodiversity ranked much higher than articles featuring the other themes. News articles published in the ‘Biodiversity’ category included stories focusing on policy pronouncements and policy processes, public campaigns on conservation, feature articles on fauna or flora and political statements on conservation wildlife fauna or flora. The bulk of articles published were on the illegal trade of wildlife products fueled by the illegal killing of wildlife and on deforestation or forest-management.

Risks from flooding or droughts was a news angle widely integrated into various news reports sampled, including those that were not even headlined as ‘environmental news’.

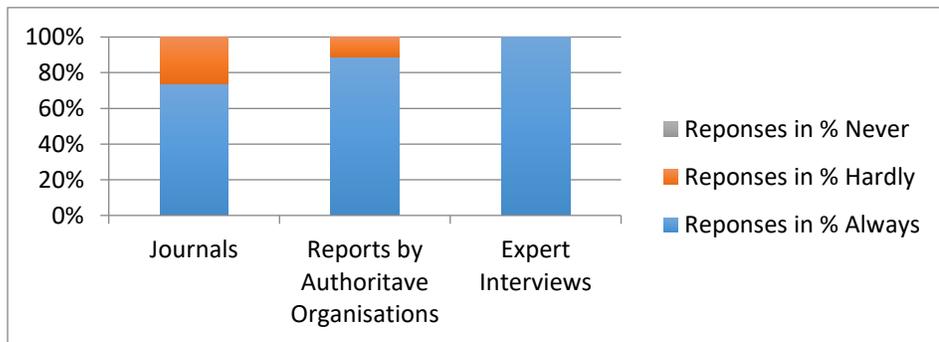
An article in the East African titled “Kenya banks get boost from returns on loans, advances, despite slow growth”<sup>139</sup> many focusing on sectorial growth in the banking sector still attributed drought as a key factor compounding economic growth in Kenya.

While there was significant coverage on Biodiversity-related issues by the Kenyan media, the depth of coverage has at times been cursory. When parliament passed the Wildlife Conservation and Management Bill among 91 other Bills at the end of 2014, some lead news outlets published stories that only mentioned this in passing. The Bill, who aspects include increased penalties for poachers, was only mentioned in a line despite the prominent public attention on the illegal trade in wildlife products.

Business Daily Africa, a prominent publication with wide circulation in East Africa only mentioned the passing of the Bill<sup>140</sup> but did make any linkages to the escalated poaching levels in East Africa.

#### 4.4 Sources of Information

**Figure 6. Journalists’ Sources of Environmental Information**



<sup>139</sup> The East African. Link: <http://www.theeastafrican.co.ke/business/Kenya-banks-get-boost-from-returns-on-loans-advances/-/2560/2570668/-/2oycph/-/index.html>

<sup>140</sup> Business Daily Africa. Link: National Assembly beats Senate in passage of Bills. Link: <http://www.businessdailyafrica.com/National-Assembly-beats-Senate-in-passage-of-Bills/-/539546/2571470/-/11279bjz/-/index.html>

Nearly all respondents cited expert surveys as their primary source of information. An average of 74% of respondents cited journals as their source of information. Reports by authoritative organizations were also very popular.

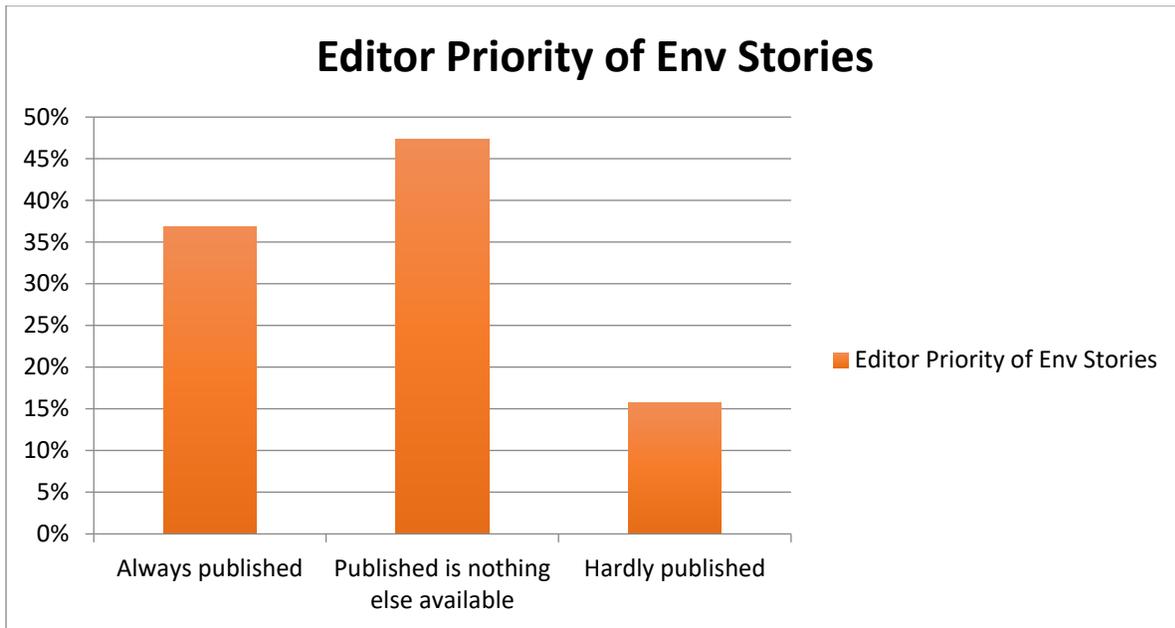
Less than 1% of the surveyed population said they hardly consulted any of the three sources.

79% of respondents had good knowledge of environmental legal mechanisms. It is also interesting to note that 89% of respondents reported having produced an environmental story affecting large communities in the last 3 years.

However, journalists' responses suggest a highly selective attitude to publishing or broadcasting environmental stories. Of the population sampled, 47% of respondents mentioned that their pieces would only be published if no other 'hard-hitting' news were available. This corresponds with the review of select published environmental articles were often; environmental headlines were substituted for catchy, dramatic titles, often with political messaging.

#### **4.5 Editorial Priority**

**Figure 7. Editorial Prioritization of Environmental Stories**



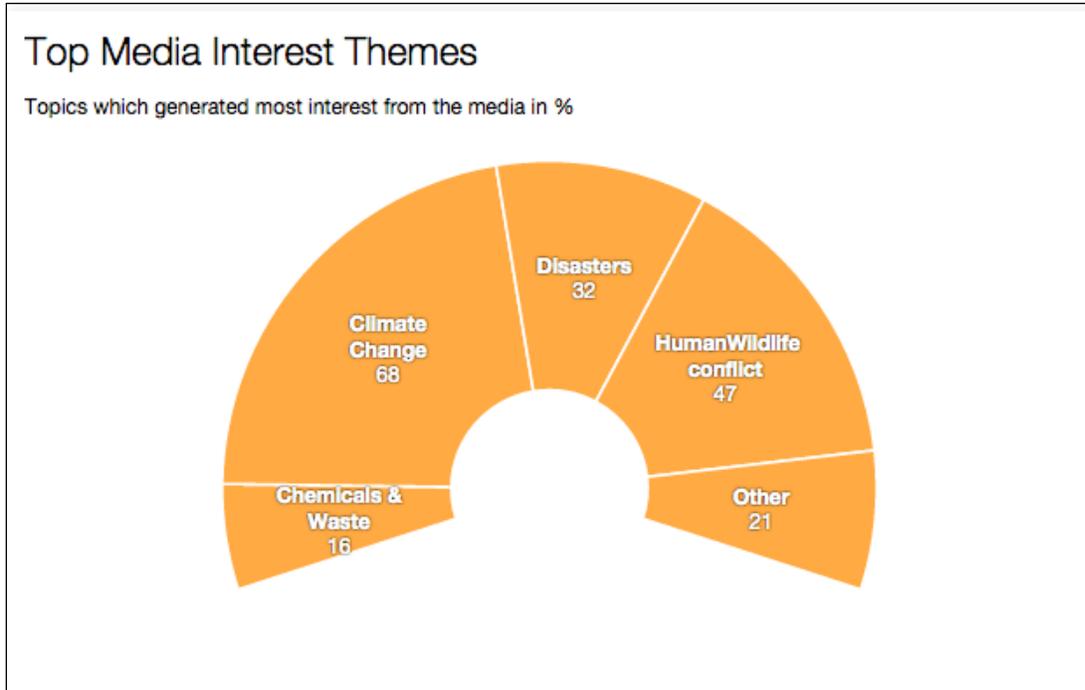
The lack of priority accorded to environmental stories in newsrooms is further evidenced by the lack of specialized news desks at the work place. Over half of all respondents mentioned that they did not have specialized environmental reporting units in contrast to other journalists who had business or sports desks.

Further, the concept of exclusive environmental journalism does not aptly describe the environmental media landscape in Kenya. Most respondents did not solely report on the environment but also covered on average 2 other areas. Most journalists who covered environmental stories also reported humanitarian affairs and political stories.

32% of respondents surveyed wrote for newspapers while 27% produced broadcast pieces for radio. Future environmental messaging would reach a greater captive audience by targeting these media.

## 4.6 Most Commonly Reported Themes

**Figure 8. Thematic areas of Top Media Interest.**



Well over half of all respondents reported having worked on a piece with a climate change angle. Human and Wildlife conflict and links to the illegal killing and the illicit trade in wildlife products was also a story angle of interest with 47% of all respondents reported having published a piece on this topic within the last two months.

21% of the sampled population reported on a range of environmental issues such plastic pollution and water management.

## 4.7 Analysis of Regression Output

### SUMMARY

### OUTPUT

<i>Regression Statistics</i>	
<b>Multiple R</b>	0.31
	9909
	794
<b>R Square</b>	0.10
	2342
	276
<b>Adjusted R Square</b>	-
	0.49
	6096
	207
<b>Standard Error</b>	35.2
	9704
	241
<b>Observations</b>	6

<b>ANOVA</b>					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
<b>Regression</b>	2	426.1301	213.06	0.171015	0.850484
			5	533	021
<b>Residual</b>	3	3737.644	1245.8		
			81		
<b>Total</b>	5	4163.774			

	<i>Coefficient</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>	<i>Lower 95.0%</i>
<i>s</i>							

<b>Intercept</b>	33.7	54.12165	0.6228	0.577533	-	205.9476	-138.5308341
	0842		27	649		138.5308	865
	619					341	
<b>Number of articles(00's)</b>	0.40	0.697648	0.5846	0.599868	-	2.628082	-1.812374546
	7853		12	16		1.812374	047
	751					546	
<b>PP Variables</b>	5.26	31.64142	0.1665	0.878325	-	105.9666	-95.42763552
	9487		38	63		95.42763	096
	053					552	

Practice indicators from the Environmental Democracy Index were categorized and weighted then used as proxies for evaluating public participation as closely aligns to the 6 environmental thematic areas included in this research. The indicators were rated on a scale of one to five, with 5 representing strong public participation practices and 1 indicating little or no room for public participation.

The Public Participation indicators are sourced from the Environmental Democracy Index Kenya country data. Practice indicators included in developing the composite index that rates a country's progress in the implementation of the Bali Guidelines and principle 10 were scored and included.

The multiple R of 0.31 indicates that the two explanatory variables are weakly but positively correlated to the predicted variable. The positive linear correlation indicates association between the variables and therefore, the null hypothesis is implicitly rejected. The adjusted R square indicates that there 49% of the variation in the explained variable - Stringency in Environmental Policy (SEP) can be explained by the two independent variables of Public Participation and the thematic media coverage that corresponds to the legal or policy regulation under observation. Otherwise put, 49% of the values are aligned with the model.

The F probability value is very high, indicating that some observations may be due to chance. Based on this value, it seems highly likely that media coverage and priming of a specific environmental issue in Kenya is yet to significantly contribute to the formulation of stringent environmental laws and policies addressing issue intensely highlighted by the media, hence an inclination to accept the null hypothesis.

However, a strong positive association exists between media coverage of different environmental issues and their corresponding governing mechanisms. For each observed indicator of environmental policy stringency, it is estimated that approximately 40 related news articles maybe published or broadcast across various news platforms, including online platforms. Data analysis further suggests that public participation variables have so far played a much greater role in ensuring higher environmental standards. The explanatory variable of public participation is positively correlated to Stringency in Environmental Policy.

## **CHAPTER FIVE**

### **5.0 SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS**

#### **5.1 Introduction**

As described by Neuzil, environmental journalists play a critical role in giving standing to environmental issues in the venue of the public arena.<sup>141</sup> But as environmental challenges grow in magnitude, the ability of journalists to deliver on this fundamental objective is becoming increasingly difficult. Environmental challenges have evolved over the years to become more complex and less visceral and with issue complexity comes the monumental challenge in effectively communicating environmental events, occurrences and policies. Initially, it was fairly simple to provide a visual description of top-layer soil erosion or water sources drying up but as the science of the environment evolves, it has become more difficult to illustrate complex issues such as ozone depletion or climate change financing using pre-existing strategies and limited communications resources.

The outcomes and policy recommendations of this research seek to provide critical direction that will enable the media adopt and scale up efforts in environmental reporting in the face of a rapidly changing environmental science and policy landscape. The recommendations are also tailored for state policy-making audiences, with the aim of providing beneficial guidance on harnessing media channels in the policy making process. Lastly, this research also makes recommendations on how activist entities, including public interest litigation practitioners can leverage media influence in furthering environmental causes.

#### **5.2 Summary and Conclusion**

Globally in the 1980s and 1990s, most media outlets had full-time staff positions for environmental journalists. However, as environmental concern gradually shifted to become a centerpiece of the global development agenda, contemporary growth trends in media reporting appear not to have

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<sup>141</sup> Mark Neuzil. *Environment and the Press: From Adventure Writing to Advocacy*. Evanston: Northwestern University Press, 2008.

moved in tandem with this catalytic shift. The number of full-time environmental journalists employed in print, broadcast and electronic media has also been eroded dramatically in comparison with other specialized domains of news reporting. For the period during which this research was conducted, no single national media outlet in Kenya had a dedicated environment desk. The research found that most journalists were assigned by editors to cover ‘development’ issues broadly. This loose term straddles across domains of health, environment, education, science and agriculture among others. The overwhelming array of coverage topics undoubtedly makes it difficult for journalists to develop specialized expertise in environmental reporting.<sup>142</sup>

Regardless of the underlying ethics shaping media coverage – whether altruistic, sensationalistic or profit-driven – it is clear that environmental reporting heightens public awareness of environment issues and implicitly catalyzes public action against environmental damage in a manner that can lead to appropriate and effective outcomes for environmental protection.

Environmental media coverage seems to play a central connector role in influencing public policy. While direct attribution may not be statistically significant, the output of the regression analysis in 4.7 above still suggests a correlation between media coverage and public participation. This positive but weak correlation indicates an indirect attribution role. The positive role played by the media in fostering public participation, as evidenced by the analysis, validates the following policy recommendations.

### **5.3 Policy Recommendations**

#### *1. Immediate to Short-Term Implementation: Media capacity building through the Ministry of Environment*

Media capacity building through the Ministry of Environment and Natural Resources can be applied immediately or within a short span of time. One of the key takeaways of the media survey was that there was lack of prioritization of environmental coverage in news cycles owing to other preferred news that were perceived as more ‘immediate’ and relevant to short duration news

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<sup>142</sup> UNEP Global Media Roundtables and Training Sessions Organised Annually between 2012-2015. UNEP NewsDesk. Nairobi.

cycles. Over 47% of journalists surveyed stated that environmental news coverage would only be highlighted in instances where there were no other competing news stories.<sup>143</sup> The intense competition for attention by different genres in the news room can be eased by educating editors on the critical role of environmental priming. While the argument that most environmental stories at times lack the popular angle and luster needed for headline news articles is reasonable, environmental reporters can be trained on strategies of environmental reporting for a public audience through structured media training workshops.

Drawing from the judiciary's model of training court reporters, state entities responsible for effecting environmental policies can organize trainings on topical areas or priority areas. The Ministry of Environment and Natural resources is particularly well placed to perform this function. The Ministry could consider engaging the media in training sessions through its communications department. However, the functions of the communications department are administrative and therefore more internal-facing. Given the structural challenges of accomplishing this through the communications department, the most preferable option for the Ministry would be to create a communications initiative to be housed under the Programs, Projects and Strategic Initiative (PP&SI). The new initiative could be designed to address broader communications challenges in key identified target audiences, including the media. Other potential audiences could include public interest environmental law groups, environmental enforcers at local government level and civil society representatives.

## *2. Medium-term Implementation: Active media monitoring of environmental coverage*

In addition to actively monitoring emerging environmental issues, the Ministry of Environment should actively monitor environmental media coverage. Active monitoring can be undertaken in the medium term. This research found that top thematic areas as reported in the media were loss of biodiversity, climate change and extreme weather events.<sup>144</sup> While environmental issues are to a great extent interconnected, it is still crucial to understand which areas are most emphasized on by the media because media such emphasis implicitly affects public perception of those

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<sup>143</sup> Reference: Survey results in table 7

<sup>144</sup> Reference: Table 5

environmental issues. Media emphasis of some topical areas over others creates a sense of importance of these issues in the public agenda.

Environmental stories are hardly one time occurrences but rather unfold over a long time period. The media data survey however suggests that only 11% of journalists were aware of the societal impact of stories they published. This lack of follow up is a downside in assessing the success of environmental reporting. Investing in media monitoring and analytics of environmental news and features will help government agencies to better understand the reach and impact of environmental news.

By keeping a finger on the pulse, the government will be able to improve its public facing communications and strategic messaging. The media monitoring can be a function of the communications initiative suggested in 5.3 above. The communications initiative will be housed under the Programs, Projects and Strategic Initiative (PP&SI) in the Ministry of Environment.

### *3. Long-term Implementation: Re-tooling regulatory policies communications*

This research reinforces the association between media reporting and public policy formulation and delivery using media influence as a key link facilitating public participation processes. State environmental regulatory agencies should consider strengthening communications approaches through investing in strategic external communications. Given that one of NEMA's core mandates is the enhancement of public awareness on environmental issues, the authority should consider ramping up its communication approach by creatively employing the use of appropriate media channels to communicate with the public. Currently, NEMA's main public-facing engagement involves issuing public notices on Environmental Impact Assessment hearings. While this function is clearly stipulated in NEMA's founding document, the strategy is not an optimal and effective means of engaging public audiences and may achieve minimal impact thresholds. More effective strategies would involve communicating announcements of public hearings through popular, easily accessible channels with documented wide reach.

Not only are choices of communication channels important, but the packaging of the public messages is equally crucial. External messages issued by NEMA could be re-designed to appeal

to public audience of varying ages and levels of education. A media survey of popular channels of accessing environmental information will be a useful guide for NEMA in particular and other public environmental agencies and stakeholders in structuring a targeted media approach. NEMA can commission this survey and use the results to inform its public engagement.

#### **5.4 Limitations of the Study**

The study was limited to observing news coverage of the environment retrospectively. The research conducted a cross-sectional sampling of observations. News items of the environmental coverage were included based on an inclusion criteria and in alignment with the pre and the initial phase of the research.

#### **5.5 Conclusion and Areas of Further Study**

Environmental media coverage that is vivid and persuasive can enhance public debate on environmental issues. Further iterative fused policy and communications analyses at the macro as well as at the micro level will be necessary in continuously assessing environmental policy in the context of a fast-changing policy landscape. Results of iterative analyses will provide factual information for re-tooling micro and macro environmental communication strategies.

Adequate and structured deployment of communication tools can reduce the cost of optimal public engagement in state and sub-national environmental governance processes. These tools, coupled with optimal communication strategies can enhance public participation principles by leveraging the impact of democracy's most essential information service – the media.

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